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FINDING A FOOTING: A THEOLOGICAL PERSPECTIVE ON LAW AND THE WORK OF JOSEPH VINING

REV. JOHN L. MCCAUSELAND*

My presence among the speakers today may bring to mind that little jingle from Sesame Street: “One of these things is not like the others; one of these things doesn’t belong.” You remember: three vegetables and a fruit, four mammals and a bird. Here am I, the parish priest in a program full of lawyers. I did go to law school, and practiced for a number of years before a midlife career change. Indeed it was at a picnic for new members of the Harvard Law Review in the summer of 1962 that Joseph Vining and I met. But lawyer I am no longer.

So I speak as what I am, a pastor with an interest in law and lawyers, some distant experience in law, but one who thinks now primarily in theological terms. I want to try to reflect with you about a theological or spiritual aspect of the legal enterprise—one particularly salient to the work of our friend Joe: the attempt to find an epistemological and existential grounding, or “footing” as I have called it in my title, from which to think and work in the law, and indeed in life. To find, moreover, a footing that preserves and honors the “personal” in a culture of increasing depersonalization.

Joe’s work has always recalled to me an observation that the late George Buttrick, Preacher to Harvard University, made in a sermon I heard as an undergraduate: “To the astronomer,” Dr. Buttrick said, looking out over that congregation of university professors and students, “man [sic] is nothing” (here the dramatic homiletic pause); “but, man is the astronomer.” Throughout Joe’s career, his concern has been with the crucial paradox that whatever our intellectual discipline, we are, even in pursuing it, irredescibly persons, unique individuals; in the language of faith, children of God. This is especially true of the law, for like religion it is with the human that the law is ultimately concerned. Men and women are the subject of the law, and men and women are the lawyers. When the law (and, I would add, religion) forgets this paradox, it becomes demonic, an instrument of repression and violence.

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In preparation for today, I asked Joe to trace for me briefly his spiritual autobiography. So I begin with the person of Joe himself: namesake of his grandfather and great grandfather, first born son, and of course, child of God. Joe grew up in the 1940s and ’50s in a milieu that later gained the label Southern WASP (White Anglo-Saxon Protestant). His

family was Episcopalian, but his exposure to the Episcopal Church in
Charlottesville, where his father was a professor of economics at the Uni-
versity of Virginia, and later in chapel at boarding school, while leaving
him with a sense of the obligations of privilege, touched, he has said, no
spiritual dimension in his being. The Virginia Episcopal Church in those
days was distinctly “Low”—Morning Prayer on Sundays instead of Mass, an
emphasis on “all things bright and beautiful,” “all things decently and in
order,” in other words, ministry to the “frozen chosen.” It was as bound by
ethnicity and class as any inner city Catholic parish of the time. It was only
Joe’s reading of the great nineteenth century Russian novels in later ado-
dlescence that opened to him the wider vista of Christian mysticism and the
struggles over ultimate meaning in life that sprawl over the pages of Tol-
stoy and Dostoevsky.

As an undergraduate at Yale, Joe “felt the need, all alone, to seek out
a ‘High’ Episcopal church—my first experience at Mass, with incense!”¹
He went to that church with some regularity for a while, “but made no
human contact there. I think I was instinctively seeking some contact with
the holy. I knew no holy person.” The part of Joe expressed in these
experiences was in tension, during those formative years, with the part
influenced by his father, who regarded mathematics as the ultimate ex-
pression of truth and strongly pushed Joe in the direction of math and
science. Yielding to his father, from his sophomore year Joe concentrated
in biology with a specialty, interestingly enough in light of his later con-
cern for “life” issues, in embryology.

He continued to be troubled, however, over what was left out by the
positivism and relativism blooming in the 1950s—things that he sensed
were essential to the fullness of human reality. So he abandoned the
thought of post-graduate study in science and took the LSAT. Law study
was postponed when Joe received a fellowship to Clare College, Cam-
bidge, where, again significantly, he decided to study medieval history.
This for the first time brought him into contact with the thought and his-
tory of the Roman Catholic Church. Among his tutors was Dom David
Knowles, O.S.B.,² “the first monk I had ever encountered.” Knowles
“wrote and spoke in an extraordinarily beautiful way.” This new intel-
lectual interest, and the ancient buildings and rituals of Cambridge Univer-
sity, lifted a weight that had settled on Joe. In a letter to friends in his first
fall in Cambridge, he wrote: “The faculties that I feared had withered
quite away, the soul that I knew had shrunk, and the mind that I was
watching fill up with a sediment of groundless sorrow, are moving and
expanding again.” Joe’s Cambridge years did not include participation in

¹. The church was Christ Church on the Green in New Haven. I quote
throughout this paper, without further annotation, from very helpful notes that
Joe supplied me concerning his “spiritual autobiography.”

². David Knowles (1896-1974) was Regius Professor of Modern History at
Cambridge, an authority on monasticism and the dissolution of the monasteries
under Henry VIII.
worship, but the bells of the college chapels, the comings and goings of Anglican clergy in the quads, and the music he overheard as the Kings College choir practiced next door, were part of the richer human milieu he found at Cambridge.

After Cambridge, Joe entered Harvard Law School. He has written about his time there, particularly the influence of Lon Fuller and Fuller’s dismissal of “fashionable positivism” and “insistence that substantive value was intrinsic to law if it is law.”3 Joseph Vining’s vocation was essentially set from this time on. In his first book, *Legal Identity*,4 he opened the question of the nature of the “person” in law, whether litigant, advocate, judge or legislator. The book is full of words and passages that strive to evoke and encompass realities beyond the merely nominal or mechanical. A Michigan Law School colleague at the time, reading the manuscript for the book, “quipped,” Joe recalls, “that the subject was my identity—and he was right.” Right, Joe now says, looking back, “in the sense that the human identity I saw being gradually recognized in legal thought was an identity as both a person and an individual—person and individual fused in the way reflected in the Chalcedonian creedal definition of the Godhead—which might be recognized and spoken to by the Church. I did not deny myself that humanity, though I do not think I consciously noted the [theological] connection. Public identity, speaking or identifying, I saw as based on value and purpose, and close to personal identity.”

Almost immediately after completing *Legal Identity*, Joe began work on *The Authoritative and the Authoritarian*.5 Here he expanded his inquiry, to make the case that for law to be intrinsically authoritative, not merely the authoritarian implement of superior force, it must acknowledge and draw on its nature as rooted in the fullness of human life and being. It was at this point that Joe began to sense that religion and theology must be given a place in his attempt to understand and convey what was meant by fullness of human life and being. In those years, I was leaving the practice of law, going to seminary and beginning parish ministry. Joe was intensely interested in my career change, coming to visit me at seminary (where there was lots of incense!). I helped to point him towards some theologians whom I thought might further his quest, as they had mine, among them the Anglican John Macquarrie and the Catholics Bernard Lonergan and Karl Rahner.6


6. John Macquarrie (1919-2007), was Lady Margaret Professor of Divinity at Oxford University, author among many other works of *Principles of Christian Theology* (1966), and the leading Anglican theologian in the last half of the twentieth
Joe was kind enough to invite me to be a guest at a seminar on law and theology which he taught for several years at Michigan Law School. We talked there a lot about “open systems,” capital-M Mystery, and the nature of theology in relation to other human disciplines like law—its potential usefulness in keeping other disciplines humble and its need to be humble about its own pretensions. Joe was particularly interested in epistemological and methodological analogies between the two disciplines, their sources and uses of authority. The Joseph Vining whom I observed in those seminar sessions was intensely engaged with both his subject matter and his students. These were not merely “classes” in “subjects,” but more than a little like worship services with communicants, Joe presiding at the celebration. (No incense, however!)

Joe’s formal practice of religion during this time did not keep pace with his intellectual curiosity about it. The Episcopal church Joe and his family had been attending failed to provide them the spiritual nurture they sought. It was still using the 1928 Book of Common Prayer, with its Cranmerian English, impersonal collects and Reformation emphasis on sin. The non-denominational Protestant church at their summer house in Vermont “generally left me with a feeling of good will towards all, [but] the Real Presence was not there.”

A grave illness in 1986, the year of the publication of The Authoritative and the Authoritarian, necessitated long hospitalization and recuperation. It led Joe to a renewed quest for a religious faith that he could personally connect with, not merely intellectualize about. This quest is reflected in his next book, From Newton’s Sleep. Newton’s Sleep brought Joe into contact with the Catholic intellectual legal community, people like Mary Ann Glendon and John Noonan. It is striking that in this book Joe abandons most of the traditions of legal scholarly writing for a freer, even fragment-century. He is best known for his attempt to incorporate existentialism into traditional Thomistic thought. Bernard Lonergan, S.J. (1904-1984), taught at Toronto, Rome and Boston College. His primary works are Insight: A Study of Human Understanding (1957) and Method in Theology (1973). Working also from the Thomist tradition, Lonergan was concerned to establish the dynamic openness of the human mind and spirit as the basis for obtaining objective knowledge. Joe was very much interested in the ways in which Lonergan’s epistemological theory complemented, and extended into the religious realm, the thought of Michael Polanyi, to whose book, Personal Knowledge, Joe’s father, Rutledge Vining, had introduced Joe. Like Polanyi, Lonergan espouses a phenomenological approach, proceeding inductively from the way people actually think and act, rather than deductively from prior theoretical assumptions. Joe often points out that lawyers do not in practice follow the mechanistic calculations of which theoreticians of the legal academy are so fond. Karl Rahner, S.J. (1904-1984), is considered one of the fathers of the Second Vatican Council. A prolific writer, his thought finds its great expression in Foundations of Christian Faith: An Introduction to the Idea of Christianity (1978). More about Rahner below. All of these theologians share the concerns that Joseph Vining has brought to his study of the law: what is the human person, how do we “know,” and how can we express and protect our sense of the transcendent in a post-Enlightenment secularist world?

tary presentation—in effect a series of pensées. Form following substance, Joe can be seen reaching out for something that ultimately, and I think inevitably, exceeds his grasp. I don’t know whether Joe would agree, but I myself read Newton’s Sleep, with all its brilliance, as the effort that effectively demonstrated to him that his spiritual quest could not be satisfied solely by intellectual life in the academy. Be that as it may, it was at this time that Joe’s friend and colleague, James Boyd White, was also embracing and expressing more explicitly his religious commitment (in the Episcopal Church), and Joe found support in his personal search from Jim and from Steven Smith (a Mormon) and H. Jefferson Powell (again, an Episcopalian).

The eccentricity of Newton’s Sleep from the standpoint of secular law school norms reflected a growing sense in Joe of estrangement from the “general intellectual and social atmosphere at Michigan and other law schools I knew something about.” Providentially he was invited in 1995 to give a lecture at Notre Dame as part of a symposium in connection with Professor Powell’s first treatise on constitutional law, which brought to constitutional law analysis an explicitly theological perspective. Joe found the atmosphere at Notre Dame strikingly different, much as he had found the atmosphere at Cambridge different from Yale decades earlier: “Notre Dame seemed to me a place of great freedom—I seemed to be breathing a different air.” The difference, of course, had to do with the fact that what Joe had been struggling with against the grain in his secular law environment was the assumed norm of the Catholic university.

Energized by his new colleagues and the forums of expression opened to him in the Catholic scholarly environment, Joe began traveling to deliver papers, attend symposia, and forge fresh institutional connections. These culminated in The Song Sparrow and the Child, published in 2004, which constituted a full frontal attack on the “total[ist] claims being made on the mind in the name of science and mathematics.”

Similarly paradigmatic changes occurred in this period in Joe’s personal life. His mother had died in 1994 and his father followed at the end of 1999. That winter, at the suggestion of Jim White, Joe began attend-


10. Joe has named a novel, John L’Heureux’s, The Shrine at Altamira (Grove Press 1992), as having a powerful affect on him at this juncture. L’Heureux, poet, novelist and short story writer, is a former Jesuit priest who teaches at Stanford University. The Shrine at Altamira is about the bonds of love, antagonism and violence running through three generations between fathers and sons. It can be taken as a meditation on the doctrine of the atonement and also, as the title indicates, on the Virgin Mary. (The wife and mother in the story is named Maria. She is left behind by her husband’s and son’s deaths, “perplexed in her heart” like Mary. Maria’s mother’s name is Ana Luisa, evocative of the Virgin’s mother, St. Ann.) The story treats in novelistic terms the personal issues that in some sense Joe had been dealing with. Its resolution (the sacrificial death of fa-
ing St. Mary’s Student Parish in Ann Arbor, the Catholic chaplaincy at the university, sitting in a back row. In what are telling words, Joe has described the impact of his experience at Mass there: “It was unlike anything I had ever experienced in a church, or indeed anywhere else. It was as if I were joining the human race . . . . The invitation to a direct relationship, individual as well as in community, with the personal in the universe beyond the human person, and in the human person as well. The sense, along with this new blending of the experience of church with the experience of ordinary life, that something holy was actually happening in the sacraments.” An acquaintance suggested that Joe enroll in the Rite of Christian Initiation for Adults. He did so and was received into the Catholic Church in 2001, “blessed head, eyes, ears, down to my feet, and given a wooden cross to wear. It was the first time I felt blessed by another, and I wore that cross for years.”

This, then, is the personal story out of which Joseph Vining’s intellectual contributions to the law have been made. The traditional Christian understanding of the connection between personal biography and its expression in career and life choices goes by the name vocation. It is interesting that while the theological concept of vocation honors and values biographical origins, treating them essentially as God given, secular thought is uneasy (except in a psychoanalytic sense) with any biographical grounding of vocation. To the secular mind, biography is a limitation on the freedom of the individual to choose his or her course in life. Biography is to be escaped or transcended, not embraced and fulfilled. But again, “Man is the astronomer.” From a theological perspective, it is necessary to embrace as God given who we are (including who our fathers and mothers were) if we are to understand who God calls us to become and then to respond to that call.

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Discovering the significance of vocation in this theological sense was a crucial turning point in my own life, and I want to share with you as my contribution to this conference the theological framework in which I owned this discovery. Shortly after entering seminary, our class was given the assignment of writing a paper on nothing less than: “What is truth, what is reality, what is salvation, and what is the role of theology?” You may imagine how this assignment hit me. Given an equivalent task as the corporate lawyer I had been, I would have produced (with the help of a platoon of associates) an exhaustive treatise covering every possible authority, every nuance, every contingency. This would have been rendered

ther and son) is tragic when viewed from a secular perspective, but points to a mystical redemption when viewed in religious terms.

11. For an excellent treatment of this difference, see A.J. Conyers, The Listening Heart: Vocation and the Crisis of Modern Culture (Spence Publishing Co. 2006).
to a client over the signature of my firm, "very respectfully yours"—together with a bill, no doubt, for tens of thousands of dollars. But now, no associates to do the research, no statutes and cases for authority, no remuneration to seal the bottom line of endeavor. So what to do?

My crisis in the face of that assignment was, I think, the crisis that underlies struggles with the "personal" in the field of law—with the nature of law as a humane discipline. Where to stand, where to begin, where to ground our arguments, our claims to authority—the whole grand, critical human enterprise of law (or for that matter of mathematics, economics, or any other discipline)? And beyond that, where to ground the human person, how to know at last who we are? Where to "find a footing"? I do not remember what I wrote in that seminar paper. But I do remember, and want to share with you, what became the turning point in my search for a footing on which to stand and a theological framework for accepting myself and my vocation in life as a child of God. It was in the writings of Karl Rahner, S.J., perhaps the preeminent Catholic theologian of the Second Vatican Council and indeed of the twentieth century. There are three foundational Mysteries, Professor Rahner wrote (I will here give them that capital-M)—Mysteries in the sense that human inquiry cannot get behind them, but must simply accept them in faith as divinely revealed givens: Grace, the Incarnation, and the Holy Trinity.¹²

The Mystery of Grace. First Grace: A seminary classmate of mine, a not very academic young man, was failed in his oral canonical examination because, when asked to define Grace, he said, "Well, I guess it's that thing that God gives you." But in fact, this is not a bad definition of Grace (except for the reification suggested by the word "thing"). Grace, as Rahner says far more learnedly and eloquently, is simply the out-reaching initiative of the Divine Mystery which touches a human person and leads that person to embrace, as Joe Vining has, a way of seeing reality and living life that presupposes the existence of a living, loving and active God. By saying that in the end Grace is a Mystery, Rahner is saying simply that it must be accepted as a starting point, a free gift at the initiative of an Other. It cannot be argued into or proven from outside, though it can certainly be talked about, illustrated and, above all, practiced and lived out.

Grace may seem at first glance too simplistic or inadequate a footing for human thought, human law, human life and vocation. Why not mathematics or physics or evolutionary biology or economics? But by accepting Grace as our starting point we are not excluding these or other modes of thought; rather, we are acknowledging that all of them necessarily involve the human person as the thinker—once more, man as the astronomer.

¹² Rahner wrote about this subject in a number of publications. I draw here on his article Mystery, in ENCYCLOPEDIA OF THEOLOGY: THE CONCISE SACRAMENTUM MUNDI 1000 (Karl Rahner ed., Seabury Press 1975). See also Karl Rahner, Grace: II Theological, in ENCYCLOPEDIA OF THEOLOGY, supra, at 587; Incarnation, in ENCYCLOPEDIA OF THEOLOGY, supra, at 690; Trinity, Divine, in ENCYCLOPEDIA OF THEOLOGY, supra, at 1755.
To begin with Grace engenders an important humility for our endeavors; it reminds us that everything is limited by our own humanity. It also creates an important freedom, for if everything is founded in Grace, then nothing can rule or confine us in a deterministic sense. We can accept ourselves as the product of evolution, but not merely or mechanistically such; as responding to economic considerations, but not as being ruled by them—and so forth. Grace, in other words, is a “footing” peculiarly suited to a humane or personalist understanding of vocation and life.

If we follow Rahner’s thought here, I think we can say that the work of Joseph Vining has been an exercise in demonstrating the importance of recognizing Grace in the operation of the law. That would be a shocking, even risible, statement in the secular legal academy today. Joe knows the patronizing politeness with which, at best, the academic establishment can greet efforts to speak of Grace, even if one avoids using this term. That is why much of Joe’s argument has had to be “through the back door,” a via negativa, showing the sterility and danger of proceeding to treat law as though something like Grace did not and could not exist.13

But the point here is that there is nothing to apologize for. Though Grace is an absolute Mystery in Rahner’s terms, that does not mean it is not real, indeed is not essential if law is to be maintained as an enterprise by and for human beings—if human beings are to remain human. As Rahner said, “the only question is whether [the human person] lives with mystery willingly, obediently and trustingly, or represses it and will not admit it, ‘suppressing’ it, as [Saint] Paul says.”14 Recognized as such, Grace can bring its liberating and forgiving power to the legal enterprise. For to accept the reality of Grace frees human beings from having to be gods: that is, from having to justify legal theories by devising totalist systems, whether based on economics or other disciplines; from having to promulgate opinions that appear to have been generated deus ex machina because their authors fear admitting their humanity; from having to ground every-

13. It should be remembered that Rahner was making his case for Grace against the dominant mindset of the pre-Vatican II Church. The neo-scholasticism of the confessional manuals and the Baltimore Catechism reflected a positivistic conception of revelation, rather than the mystical one taken by Rahner and other Council Fathers. The distinction has broad consequences. For example, an intriguing suggestion has been made by Patrick McKinley Brennan that Justice Antonin Scalia’s “originalist” theory of constitutional interpretation, with its static conception of authority, may be a product of his religious formation in the days of the Baltimore Catechism. See Patrick M. Brennan, Locating Authority in Law, in Civilization Authority: Society, State, and Church 161, 170-71 (Patrick M. Brennan ed., 2007).

14. Rahner, Mystery, supra note 12, at 1002. Rahner goes on to point out that atheism is really a rejection of “ideas of God which falsely present him as finite.” Id. at 1003. This is essentially the premise of the current spate of neo-atheist books by people like Richard Dawkins, Sam Harris and Christopher Hitchens.
thing in apparently “objective” sciences or in the threat of force and violence.\textsuperscript{15}

When I graduated from seminary, was ordained, and began parish ministry, I was quickly struck by a contrast with my former life as a practicing lawyer that I had not expected. In law, while we deal with human clients, we are trained to eliminate what is “irrelevant” in their human particularity as we frame the situations they present to us so that these can be processed in legal terms. As a pastor, this is a fatal mistake. I will present below the example of a woman who came to me for counsel in connection with an unwanted pregnancy. The lawyer’s approach would be simply to apply the Church’s teaching on abortion (i.e., the “law”) to the “facts” of the woman’s case. But while elucidating that teaching would surely be part of the pastor’s job, it would not be the whole of it. The woman weeping in his study or confessional is a person; she brings a rich array of particularities, a complex story, to this crisis in her life. Seeing her as a child of God, resting on Grace (and seeing himself as such also), her pastor will minister to her in a very different way than might her lawyer, if this situation were transposed into legal terms.

The legal and the pastoral each have a role to play, but realizing how dehumanizing the legal approach can push us to be, made me reconsider whether it really needed to be taken to the limits that I, at least, often took it when I was practicing law. For instance, one of the clients I had in legal practice was an electric utility in the Southwest. Its chief executive officer, who had risen through the engineering side of the company, was a powerful and ambitious man. He was determined to build the first nuclear power plant in his region. As his attorney, I considered it my role to help him do this, pointing out the obstacles to success, but setting out to overcome them. In fact, I believed that the project he had conceived was an exercise in ego and that rather than dragging his company into a problematic and expensive undertaking, he might have done better to take himself and his ego into spiritual direction or psychotherapy. As his priest, I could have raised with him such personal considerations. As his lawyer, I felt I could not. But would not the legal profession be a better one if the line were not so absolutely drawn (as once upon a time, when corporate lawyers were counselors, not hired guns, it was not)? The end of this story is that the nuclear plant was eventually cancelled as financially impractical and the chief executive demoted, but not until several hundred millions of dollars had been wasted.

The Mystery of the Incarnation. Now let us turn to Rahner’s second Mystery: the Incarnation. Rahner talks here not simply of the Incarnation as a phenomenon encapsulated in the person of Jesus Christ. Rather, as he points out, the Mystery supremely embodied in Christ is in fact characteristic of the nature of all reality, all truths that seek to know and express the

“really real.” Against positivisms, incarnational thought embraces the depth and paradox in reality: again, that man is the astronomer, the economist, the lawyer. Thus nothing is simple, nothing is one-dimensional; everything is contextual, historically and socially and geographically presented. And precisely in that contextuality—not by escaping it—are transcendent meaning and value to be found. The lawyer who embraces this Mystery, just as the lawyer who embraces the Mystery of Grace, will be a different kind of teacher and scholar, a different kind of advocate and counselor, a different kind of legislator and judge.

An illustration: When I was a practicing attorney I spent relatively little time in court. I have spent much more time there as a parish priest. In the working class congregation I serve, people go to court for criminal violations, usually minor, for domestic abuse, divorce and custody disputes, and for landlord-tenant cases. Because they can seldom afford a lawyer, I go with them, to calm their fears, whisper an occasional word of explanation or advice, and demonstrate by my black suit and collar that they are not as forlorn and reprobate as they might otherwise appear. Most of my “court appearances” are at the Goffstown District Court, in the New Hampshire town next to the one I serve. The Goffstown District Court sits in a building that was once the county poor farm, prison and insane asylum—an imposing brick structure surrounded by fields once farmed by the inmates. The Court has but a single judge, and he part-time, a man named Paul Lawrence.

Day after day, Judge Lawrence hears the same sorts of cases, involving the same sorts of people, dealing with the same police and prosecutors, the same public defenders and social workers. But always Judge Lawrence is patient, courteous, thoughtful, kind, and wise in his application of the law. He takes the time he needs. Though his docket is long, one always has the sense that one’s own case is, for the moment, his only case. He considers not just the statutes and precedents that he must apply, but the character of the individuals before him, the context of the stories they tell him. He is, as Joe Vining would remind us, a person, not just a judge. In being this, he enables his litigants and court officers to be persons too. Though they may or may not be happy with the decisions he renders, I have never had a parishioner leave that courtroom otherwise than satisfied with the justice Judge Lawrence has dispensed. I once said to a lawyer waiting like me outside the courtroom, that from what I saw of him I thought Paul Lawrence was a good judge. “Not a good judge,” he replied; “a great judge.” I know nothing of Judge Lawrence’s personal life, let alone his religious faith, but he represents for me incarnational justice, incarnational law.

The Mystery of the Trinity. And, finally now, the Mystery of the Trinity. Again, Rahner speaks of this Mystery not as an encapsulated religious tenet but as a characteristic of reality and truth in general. As the Incarnation speaks to the contextual nature of all reality, the Trinity speaks to its
relational nature. All things are related to one another; all things exist in living, interacting community or communion; whatever affects one affects all. Like theology and religion (which also, to their detriment, can and do assert totalist claims), law must be open to and converse with all modes of insight and knowledge if it is to function as a living system capable of sustaining and promoting human community. Law, like theology and religion, is essentially an integrative discipline, drawing together other ways of knowing and understanding. It may best be thought of, again like theology and religion, not as an object but as a conversation. It is the task of law to integrate knowledge in a way that enables and enhances community. (This may perhaps be thought of as an example of the unitive dynamic of the Holy Trinity.)

I want to draw again here for an example from my personal pastoral experience. With some trepidation, I will use that of the young woman, referred to above, who came to me for counsel about having an abortion. I need to begin by saying that, in the abstract, my position would be that abortion is a sin, the taking of a life, and that "personhood" begins in some sense at conception. In general that is the position too of the Episcopal Church, of which I am a priest. But young women thinking about abortion, if indeed they come to their priest at all, are not coming simply to be told a theoretical position. They come because they seek a relationship of trust with someone who represents God, someone who is at the same time a fellow human being acquainted with life's tragedies; and they come to talk about relationships. In the case of this particular young woman, the relationships included that between herself and her unborn child (a relationship of which she was acutely conscious); that with the child's father, a man she did not want to marry or live with and who would not have been a good parent; that with her family of origin, which had many complications including a history of violence and incest; but also her relationships with her schooling, her work, and her prospects for a stable and productive future. Every one of these relationships was important, even critical, to her decision. It would be possible to claim—and many moral theologians would—that the relationship with the unborn child trumped all the others, since this alone involved a decision between life and death. In my counseling with this woman, however, she was weighing this relationship against the sum of all the others, not just each of them seriatim, which rather altered the balance. It was the resulting quandary that she brought to her pastor.

As her pastor, of course, I was in relation not only with her but with the Church I represent. I acted in that relationship by telling her what the Church taught and why, but also telling her that in the end she alone would need to make the decision and that I and the Church would respect

her judgment, whether or not we agreed with it, if it was thoughtfully and prayerfully made. I told her that right and wrong are seldom absolute, seldom presented as simple choices. I found as I talked with her that my own “abstract” convictions about justice in cases of abortion were not sufficient to comprehend all the particulars of the relationships involved in her decision. Indeed, all of these relationships, not just the one between her and her child, were in a very real sense relationships of “life.” Some decisions are more life-giving than others, but in the end life, like personhood, transcends reification. The young woman’s quandary became mine as her pastor, but her decision had to remain hers. To make it for her would have been to diminish in some sense her humanity, her personhood. And so, after some tears on both our parts, and some praying, I sent her off with my blessing—whatever way she decided. I have to say that I did not expect or plan to do this ahead of time; I ended up doing it because of what I experienced in the context of my relationship with her as we talked.

She decided to have the abortion. I did not feel good about that decision, but I might not have felt good about her decision had she kept the child—if “feeling good” means being satisfied that a decision has resolved all the complexities of life. I find I think about her and her child from time to time, including them in my prayers, commending them both to the mercy of God. One of the things I have realized in these prayers is that moral theology, like law, is not simply about right and wrong. It does have a judgmental function, and properly so. But in exercising this function, it must leave room for dimensions that exceed its competence: dimensions like joy and tragedy, repentance and forgiveness, hope and trust, faith and love, poetry, song and story. Judgment is never the whole or even the last word. The God of Mystery of whom Karl Rahner spoke is not simply the Father of judgment, but the Son of crucifixion and resurrection, and the Spirit of new birth. It is perhaps not incidental that the young woman, who rarely attended church before this crisis in her life, has become a regular communicant, was confirmed, and served a term on the vestry of her present parish. The crisis brought her into a deeper relationship with the Church and God, even as it ended the relationship with her child. Trinitarian life is full of such happenings; it can never be reduced to a single issue or perspective, even that of physical existence.

I think that this appreciation of relationship, of relationship as a sacred element derived from the Mystery of the Trinity, has bearing on the life and thought of the lawyer as well. Much has been written about the degradation of all the professions in recent years, as they have become more and more reduced to the exigencies of business and profit, losing their authority as stewards of intellectual and moral integrity accountable to public values and community concerns beyond a client’s particular objectives and values. Joseph Vining has shown us how legal theory must take account of humane considerations. Legal practitioners too must consider themselves as in relationship with a wider and more complex uni-
verse than simply the aims of the client and the fee for services rendered. Clients need wise lawyers, not simply sharp lawyers, fellow human beings, not simply technical experts.

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Having hazarded these thoughts about how theological insights can give confidence and grounding to the legal enterprise, I want to conclude by returning to the biographical subject—our friend Joe, but as well all of us. Embracing the personal in legal theory, and anchoring that embrace in the Mystery of a God who is beyond us, has implications for the law. But it comes, as we have hinted, with equally profound consequences for the human persons who are doing the lawyering. This has nowhere been pointed out more powerfully than by Rowan Williams, the Archbishop of Canterbury. In his most recent book, *Dostoevsky: Language, Faith and Fiction*, Dr. Williams speaks about the "depthlessness" of our current "cultural setting." Confirming what we have been talking about, he says that when we lose sight of what we owe to each other, we resort to an "instrumental mentality" to deal with, which leads to violence, personal and political.

But the Archbishop goes on to say—and this is what I want to end with—that there is a paradoxical twist here. When we admit into life the full depth of the personal, this forces us to surrender some of our own control. "[O]wing something to another is a recognition that what my relation with that other properly involves cannot be reduced to what I decide, to what I choose to "grant" to the other. And the inaccessible hinterland of the other is precisely what exceeds my choice and has no need of my license." Another way of putting this would be to say that, in the end, the law has its limitations like any other human discipline (including religion and theology), and it must respect those limitations in order to preserve its integrity and our humanity. These limitations are not only functional; they are intellectual as well. It is said of Saint Thomas Aquinas that after completing his great *Summa* he fell silent, realizing that all he had written amounted to nothing in comparison with the ineffable Mystery of God. So in the end, in some sense, is it for all of us.

This, I think, is the gracious space to which the Lord has delivered Joseph Vining at this, the formal (but we hope not actual) conclusion of his professional career. In finding his spiritual home that night of his anointing, "head, eyes, ears, down to my feet," Joe found a footing beyond the professional, beyond the intellectual, indeed beyond the mortal. He found a footing in the larger Mystery of God. But this footing is only that,


19. *See id.* at 229.

a footing, a beginning for a journey still ahead. This journey is not within Joe's control, as it is not within the control of any of us. For if, as Archbishop Williams says in his reflections on Dostoevsky, we surrender ourselves "to the claims of an independent truth," we surrender ourselves "to the actual risks and uncertainties of asserting this truth in word and action." To assume these risks and live with these uncertainties "makes the entire enterprise of spiritual—and specifically Christian—life one that is marked by the decentring and critique of the . . . self."21

Retirement, Joe, is a decentring experience. It opens us in a new and sometimes terrifying way to the personal beyond the professional, beyond the intellectual, beyond ultimately even our own self control. But in that opening is the invitation to a closer relationship with God in Christ—and if in Christ, then a closer relationship with the other people in our lives and with our own selves. God bless you, Joe, as you move forward into this new place. God bless us all, as we attempt to live out risen lives of Grace, centered in the living God, Father, Son and Holy Spirit.