

## Constitutional Law, Lawyer-Priests, Congratulations

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## LETTERS

***Constitutional Law***

NEW YORK, N. Y.

To the Editor:

"I have just read with great interest *The Story of Thomas More* by John Farrow (1954). One small item with respect to his trial which seems to be of particular interest to lawyers may be worth bringing to your attention. At the top of page 222 of the book the author mentions the episode where, after the verdict, the Lord Chancellor tried to shift some of the responsibility to the Lord Chief Justice; and the reference reads as follows:

"He [the Lord Chancellor] turned to the Lord Chief Justice of England, Sir John FitzJames, and asked him whether the indictment was sufficient, or not.

The expected answer and support was given \* \* \*."

If the reader will look at the original story by More's son-in-law [Roper, *Life of Sir Thomas More* 94 (De La More Press 1903)], I think he will see that curiously enough the expected support was *not* given. The Lord Chief Justice's reply was really a masterpiece of weaseling.

What More did at the trial after verdict was to interrupt the Lord Chancellor and insist upon his right to make a statement why judgment should not be given against him. This is still standard practice in every criminal court in the U. S. What More then proceeded to do was to move in arrest of judgment on the ground that the statute under which he had been indicted (the Act of Supremacy) was unconstitutional. Such a procedure would be perfectly familiar to an American lawyer today. It would be incomprehensible to a modern English

lawyer brought up in the tradition of the omnipotence of Parliament.

What is particularly interesting is that More's objection on the ground of the unconstitutionality of the statute seemed a perfectly reasonable contention even to his judges at that time. The omnipotence of Parliament in 1535 was by no means established; and over 70 years after More's execution we find so great an authority as Coke in Bonham's case holding that an act of Parliament which was against common reason was void.

More proceeded to argue that the Act of Supremacy was unconstitutional on the ground that it was contrary to the common constitution of Christendom and that

"this realm, being but a member and small part of the church, might not make a particular law disagreeable with the general law of Christ's universal Catholic Church, no more than the City of London, being but one poor member in respect of the whole realm, might make a law against an act of parliament to bind the whole realm." (See Roper, *supra* page 91.)

It was at this point that the Lord Chancellor got worried and turned to the Lord Chief Justice for support, asking him "whether this indictment were sufficient or not."

Obviously the sufficiency of the indictment depended upon the sufficiency of the statute upon which it was founded and what the Lord Chancellor was asking the Lord Chief Justice to do was to rule on the sufficiency of More's plea based on the unconstitutionality of the statute. And it was at this point that the Lord Chief Justice did his masterful bit of weaseling. Roper reports that the Lord Chief Justice

"like a wise man answered, 'My Lords all, by St. Julian (that was ever his oath) I must needs confess that *if the act of parliament be not unlawful*, then is the indictment in my conscience not insufficient."

In other words, the Lord Chief Justice very carefully ducked the crucial issue, which was precisely whether the act of Parliament was lawful or not. Apparently no one took him up on the point and the Lord Chancellor proceeded to give judgment.

More accordingly went to his death on a specific question of constitutional law which he had carefully raised in the appropriate fashion and on which the Lord Chief Justice apparently did not dare to make a secure ruling.

Porter R. Chandler

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### **Lawyer-Priests**

NEWARK, N. J.

To the Editor:

In the first issue of THE CATHOLIC LAWYER it was stated that the number of priests who have studied law is still small.

For some years I have kept a haphazard list of priests, who are members of the bar or who had extensive legal training, which may serve as the basis of a more complete list which your readers may be able to supply.

Reverend David C. Bayne, S.J.  
5629 State Road  
Cleveland, Ohio

Reverend Edward Lodge Curran  
856 Pacific Street  
Brooklyn, New York

Rt. Rev. Msgr. William T. Dillon  
St. Joseph's College for Women  
Brooklyn 5, N. Y.

Reverend Robert F. Drinan, S.J.  
Weston College  
Weston, Massachusetts

Reverend John C. Ford, S.J.  
Weston College  
Weston, Massachusetts

Reverend David Granfield, O.S.B.  
14th Street and S. Dakota Ave., N.E.  
Washington, D. C.

Most Reverend Jerome D. Hannan,  
J.C.D., S.T.D.  
315 Wyoming Avenue  
Scranton, Pennsylvania

Reverend William J. Kenealy, S.J.  
Boston College  
Chestnut Hill 67, Massachusetts

Reverend Thomas J. Kilcullen  
Mount St. Mary's College  
Emmitsburg, Maryland

Reverend Anthony LoGatto  
191 Joralemon Street  
Brooklyn, New York

Reverend Francis E. Lucey, S.J.  
37th and O Streets, N.W.  
Washington, D. C.

Reverend Thomas O. Martin  
Catholic University of America  
Washington, D. C.

Reverend John J. McGrath, Jr.  
Steubenville, Ohio

Reverend Fidelis O'Rourke, O.F.M.  
St. Bonaventure University  
St. Bonaventure, N. Y.

Reverend Mario Peluso  
1669 Dean Street  
Brooklyn, New York

Reverend Jerome Petz, S.J.  
37th and O Streets, N.W.  
Washington, D. C.

Reverend Francis J. Powers, C.S.V.  
1326 Quincy Street, N.E.  
Washington, D. C.

Reverend Thomas Quinn, S.J.  
St. Robert's Hall  
Pomfret Centre, Connecticut

Reverend Thomas Reardon  
Seton Hall University  
South Orange, N. J.

Reverend Charles E. Sheedy, C.S.C.  
Farley Hall  
Notre Dame, Indiana

Reverend John B. Sheerin, C.S.P.  
Editor, *The Catholic World*  
415 West 59th Street  
New York, New York

Rt. Rev. Msgr. George Lewis Smith  
725 York Street  
Aiken, North Carolina

Reverend Joseph Snee, S.J.  
37th and O Streets, N.W.  
Washington, D. C.

Reverend Robert H. Sweeney, C.S.C.  
Willamette Blvd. and Fiske Street  
Portland, Oregon

Reverend Joseph T. Tinnelly, C.M.  
St. John's University School of Law  
Brooklyn 1, New York

Reverend Robert J. White  
Rear Admiral, Chaplain's Corps  
U. S. Navy (Ret.)  
Grand Beach, Old Orchard, Maine

Miriam Theresa Rooney, Dean  
Seton Hall University  
Law School

### ***Congratulations***

WINNIPEG, MANITOBA

To the Editor:

I am deeply grateful to you for the subscription to *THE CATHOLIC LAWYER* and I wish to offer to you and your co-workers my sincere congratulations on having launched this splendid undertaking. It is my intention to recommend it to all the Catholic lawyers in the diocese. What a revolution it could bring about if it were read by all our Catholic lawyers and by leading non-Catholic members of the legal profession as well.

May I express the hope that its pages will be open to a discussion of a proportionate number of Canadian cases and problems — I mean, of course, questions of

universal interest. This publication should make its appeal to every Catholic lawyer in the world who understands English. . . .

May the publication continue to balance profound articles on the philosophy of law with precise replies to practical questions.

✠ Philip F. Pocock  
Archbishop of Winnipeg

ALBANY, NEW YORK

To the Editor:

We welcome *THE CATHOLIC LAWYER*. It should be most helpful to our New York State Catholic Welfare Committee and to the Catholic lawyers of the state.

✠ William A. Scully  
Bishop of Albany

CALGARY, ALBERTA

To the Editor:

I will gladly make *THE CATHOLIC LAWYER* known to our small Lawyer's Guild now in the process of formation.

May St. Thomas More aid you with this good work!

✠ Francis P. Carroll  
Bishop of Calgary

BUFFALO, NEW YORK

To the Editor:

Congratulations and good fortune to *THE CATHOLIC LAWYER*. The first issue is so good that you have a real task on your hands to maintain the high standard.

Charles S. Desmond  
Judge, Court of Appeals  
State of New York

NEW YORK, NEW YORK

To the Editor:

It was most thoughtful of you to send me the first issue of THE CATHOLIC LAWYER. I like the Idea and the Program, and look forward to some interesting and instructive reading.

Stanley H. Fuld  
Judge, Court of Appeals  
State of New York

CHICAGO, ILLINOIS

To the Editor:

Congratulations on your first edition of THE CATHOLIC LAWYER. You did a marvelous job in presenting to the attorneys of America this most needed magazine. I sincerely hope and do predict that this magazine will become one of the leading publications of its kind in our country.

Edward R. Tiedebohl, President  
Catholic Lawyers Guild of Chicago

BRONX, NEW YORK

To the Editor:

This is in the nature of a most cordial welcome into the publishing world. . . . As a busy and often harassed editor faced with the prospect of interpreting events and movements in their relation to our own Catholic readers, I recognized immediately the value of your publication for myself and others placed in similar circumstances. Our training in Theology and Canon Law does not always fulfill our need of relating the Church and her institutions to the requirements of Civil Law. I feel sure all Catholic editors will hail your advent as a boon.

That is why I placed your first number before our Provincial Superior and suggested he enter subscriptions for all our

Seminaries as well as for himself and for me.

Luke M. Ciampi, O.F.M.  
Editor-Manager – Padre

NEW YORK, NEW YORK

To the Editor:

Hearty congratulations on THE CATHOLIC LAWYER. If succeeding issues maintain the standard set in Volume I, No. 1, the sponsors need have no worry about its success.

With your kind permission I should like to reprint in the *Catholic Mind* Bishop MacKenzie's "The Catholic Church on Separation and Civil Divorce." In the event that you agree to this, we shall of course make the proper acknowledgment.

Benjamin L. Masse, S. J.  
Executive Editor, The Catholic Mind

NOTRE DAME, INDIANA

To the Editor:

Your studies and program seem very fine indeed, and you and your assistants have the warmest congratulations and good wishes and prayers of the editors of *The Review of Politics*.

Frank O'Malley  
Managing Editor

WASHINGTON, D. C.

To the Editor:

May I say a few words of sincere congratulations on the appearance of the new magazine, THE CATHOLIC LAWYER. My staff and I were much impressed with "The Concept of Church in the 1954 Internal Revenue Code" as well as the brief references to judicial decisions. Some of our staff thought that in future issues

greater emphasis might be placed on this latter area especially where colleges and universities are concerned.

Frederick G. Hochwalt  
Secretary General  
National Catholic  
Educational Association

UNION CITY, NEW JERSEY

To the Editor:

I just want to add a note on the beautiful job you have done with the first issue of *THE CATHOLIC LAWYER*. . . . My only suggestion is that you might save a little money on paper. . . . You use so few half tones that it seems to me that you don't need a paper with such a fine finish and, therefore, one which is so expensive.

(Rev.) Ralph Gorman, C. P.  
Editor — *The Sign*

DETROIT, MICHIGAN

To the Editor:

My congratulations to you on the first issue of *THE CATHOLIC LAWYER*. I read it with great interest and I think that your publication has much to contribute to the field of legal research and publication.

Arthur Neef, Dean  
Wayne University Law School

OKLAHOMA CITY, OKLAHOMA

To the Editor:

Thanks for your courtesy in sending me

a copy of the first issue of *THE CATHOLIC LAWYER*. I think that it is exceedingly well done. I have read all the articles with great interest, and especially liked the one on "Bingo, Morality and the Criminal Law."

John G. Hervey  
Adviser  
Section on Legal Education and  
Admission to the Bar  
American Bar Association

NEW YORK, NEW YORK

To the Editor:

You must have received a legion of congratulatory messages on the first issue of *THE CATHOLIC LAWYER*. I wish to add mine because it is really a joy to have it, not only for its content but also for its format. I think it is a great step forward.

Very Rev. Geo. H. Guilfoyle, LL.B., LL.M.  
Ass't. Executive Director  
Catholic Charities of the  
Archdiocese of New York

WOODSTOCK, MARYLAND

To the Editor:

I was very pleasantly impressed by this first issue. It so nicely balances intelligent articles, felicitous style and careful printing that you deservedly should be proud of it.

S. Oley Cutler, S. J.  
Woodstock College