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WHY DOES THE CHURCH HAVE LAW SCHOOLS?*

THOMAS L. SHAFFER**

Why does the church¹ have law schools?

It could be to make money. I suppose it is all right for a church to make money. I once represented an inner-city church that owned a huge parking lot, on which it made a lot of money on week days. The income gave the church tax problems, but I did not notice any theological or moral problems.

Churches do make money on their law schools. I was on the American Bar Association's (ABA) accreditation committee for six years (1974-1980). I combed through reams of creative accounting from universities. I concluded that there are no church-related law schools that do not make money for their universities. But that is not an interesting reason, so I will not pursue it.

Money aside, why does the church have law schools?

* This was a keynote address at the Conference on Religiously Affiliated Law Schools, sponsored by Marquette University, in Milwaukee, Wisconsin, on March 18-19, 1994.

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1. My style here will be to capitalize "church" only when I am referring to a denomination. I use the word to refer to the People of God as that term is and has been used by Jews and Christians. There are two American law schools that are established at Jewish universities: the Cardozo School of Law at Yeshiva University, and the Touro College Law School. (Dean Howard Glickstein, of Touro, was one of the speakers at the Marquette conference.) My use of the word "church" is, of course, embarrassing as to these Jewish law schools and, in a broader sense, to Jews who teach and learn law in Christian universities. Jews are, thank God, usually patient about such things. My problem is that I have not found a word that will work better than "church" in my argument, which depends so much on the central importance of what Christian theologians call "ecclesiology," that is, the academic discipline that concerns itself with what the church is and ought to be. That question is fundamental to my argument, which is, simply, that the law school *is* the church. Jewish thought can be integrated with what I want to say, even when the word I use is inappropriate.

This essay is part of a broader project on religiously affiliated law schools. Other parts of the enterprise include: THOMAS L. SHAFFER, *FAITH AND THE PROFESSIONS* (1987); Thomas L. Shaffer, *The Church and the Law*, in *RADICAL CHRISTIAN AND EXEMPLARY LAWYER: A FEST-SCHRIFT HONORING WILLIAM STRINGFELLOW* (Andrew W. McThenia ed., 1995); Thomas L. Shaffer, *Stephen Carter & Religion in America*, 62 U. CIN. L. REV. 1601 (1994); Thomas L. Shaffer, *Erastian and Sectarian Arguments in Religiously Affiliated American Law Schools*, 45 STAN. L. REV. 1859 (1993); Thomas L. Shaffer, *The Catholic Tradition*, 22 VAL. U. L. REV. 669 (1988); Thomas L. Shaffer & Robert E. Rodes, *A Christian Theology for Roman Catholic Law Schools*, 14 U. DAYTON L. REV. 5 (1988); Thomas L. Shaffer, *Jurisprudence in Light of the Hebraic Faith*, 1 NOTRE DAME J. L. ETHICS & PUB. POL'Y 77 (1984).

The title I was given for this talk during the Marquette Conference of March, 1994, was "the mission of the religiously affiliated law school." The title raises the possibility that the church has a law school in order to carry out a mission. The church does not get its mission from the state or the civil community. The only workable meaning of the title I was given is that each of our law schools has a mission from God.

If the assignment of mission comes from the civil community or the state, the title will not work. Not for a believer. The deepest memory of Judaism and of the church is that the mission of the People of God is a mission given by God: In the case of the Jews to be priests to all nations; and, in the case of Christians, to tell all nations about the life, death, and resurrection of Jesus of Nazareth. I therefore suppose that a church has a law school because the church wants to do something for God that it can only do by having a law school.

One such mission might be to provide vertical mobility to members of the church. That is in fact the history of most, if not all, American Roman Catholic law schools.² And I suspect it might have some relevance for the Baptist, Mormon, and Jewish schools. It is evidence of a theology that says it is a good thing to get ahead. Getting ahead, individually and communally, is a principle dogma in American civil religion. The Puritans gave us the proposition that the good are prosperous. The Jeffersonians gave us the proposition that the prosperous are good. And both gave us the proposition that God blesses prosperous America.³

Another mission might be to provide a spiritually cordial atmosphere for believers who study law. If you are a Catholic and come to Notre Dame to law school, it is easy to go to church. It is easy for Lutheran law students to go to church at Valparaiso. Marquette, Boston College, San Francisco, et al., have handsome campus churches that are not far from their law schools. The doors are open; they say that the Jesuits are not nearly as devious as some people think.

Another mission might rest in a theology that says the church should serve the community. Then having a law school is like having a hospital, or a center for the homeless, or a drug-free hangout for teenagers.⁴

Another is that a law school holds out possibilities for the fundamental priestly and prophetic mission of the church. This last is the most

2. Thomas L. Shaffer, *The Catholic Tradition*, 22 VAL. U. L. REV. 669, 670 (1988).

3. See generally, MARTIN MARTY, *THE RIGHTEOUS EMPIRE: THE PROTESTANT EXPERIENCE IN AMERICA* (1970).

4. This is the view that is sometimes called "Erastian" and sometimes related to the argument that America is part of Christendom. See Thomas L. Shaffer, *Erastian and Sectarian Arguments in Religiously Affiliated Law Schools*, 45 STAN. L. REV. 1859, 1865-66 (1993).

interesting for present purposes and I would like to explore it: The church has law schools because having law schools is one way to be a priestly people.

Being a priestly people is about evident convictions and priorities. Priests believe and they are seen to believe by those for whom they propose to be priests. Thus, it is possible to tell a lot about convictions and priorities by looking at the buildings communities erect and gather in. The ninety-some elegant 19th century courthouses in my Indiana are cathedrals of the old American civil religion, as, perhaps, elegant high-school basketball gyms are cathedrals of the new one. In a narrower and more theologically interesting way, American religious architecture is symbolic of ways to be a priestly people. I think of the meeting places of Amish congregations and the little synagogues built by Midwestern Orthodox Jews. These are places you do not even notice unless you are looking for them. At the other extreme, I think of the grand Episcopal and Roman Catholic cathedrals in Washington, D.C. They seem to appropriate the grandeur of America into Christian theology.

The most moving architectural symbol of American faith I have seen is the Salvation Army building in Plymouth, Massachusetts. There, at the doorway to English, Protestant America, is a humble, ungainly building that looks more like a warehouse than a meeting house. It is an ugly building which is used to house the cold, tend the sick, and feed the hungry. It stands across the street from a painfully simple marker over the graves of the scores of people from the *Mayflower*, who died during their first winter in Massachusetts. Priestly people of the Salvation Army in Plymouth suggest a distinct theological image of the law-school-as-priestly-people, for purposes of comparison and, maybe, testing.

The church of priestly people suggested by Salvation Army architecture is described in the beginning of the Acts of the Apostles. It is a small contentious group of Christians who are also Jews in Jerusalem. They have not yet separated themselves or been separated from Judaism. When these chapters in Acts refer to "the Jews," it is always with after-the-fact irony. The phrase seems to mean the old boys who run things. Everybody is Jewish. That community is later replicated in places all over the ancient Roman world. These communities, like the one in Jerusalem, eventually become distinct from other Jews. The church becomes a minority group that is frequently persecuted, always distrusted, and as obscure as it can make itself. They do not even have buildings at first. They meet in members' homes.

What do its members do, if they do not do all of the ugly things the Romans accuse them of, such as murdering children, cannibalism, de-

bauchery, and subverting the state?⁵ The answer is that they get together. They eat together, they pool their wealth, take care of one another's needs, talk together, and perform religious rituals. But, most of all, they tell a story. They tell the story of Jesus—how he lived and taught in Palestine, how he defied the old boys who ran things, how they killed him, and how he rose from the dead. There is, of course, a parallel story told in congregations of Jews, who lost their building when the Roman army destroyed the Temple in Jerusalem. The Jewish story is about how God frees His children from slavery, and about how His promises are to be trusted, even in the worst of times. Both groups are social phenomena that might be symbolized as well as housed in buildings like the Salvation Army building in Plymouth.

Now, imagine that a young person in one of these groups—in, say, Corinth, or Ephesus, or even Jerusalem—says, one day, "I am thinking about being a lawyer." He says this, in this setting, because one of the things the group has come to do is to talk together about what each of them should do. They have begun to have a theological ethic. They know that they have to live in the world, and, so, in Karl Barth's phrase, they meet in order to separate and separate in order to meet. When they meet they talk about what they are going to do after they separate. And when they separate it is in order to do what they talked about doing when they met.

The group begins to talk, in those terms, about this young person who wants to be a lawyer. The idea has some worldly appeal: Law, local law, as well as Roman law, is a useful thing for Jews and Christians, sometimes, and it might be useful to know somebody who knew what to do with it. St. Paul invoked Roman law to save his own neck more than once. He wrote to Christians in Rome that the state, with all of its lethal strength, is instituted by God. Obey the law, he said, not because you are afraid of it, but as a matter of conscience.⁶ The Talmudic Rabbis announced a similar teaching about pagan law:⁷ "Work for the good of the country . . ." as the prophet Jeremiah put it.⁸ "God will find us where [H]e put us," Barth said.⁹

5. ROBERT L. WILKEN, *THE CHRISTIANS AS THE ROMANS SAW THEM* 1-30 (1984).

6. *Romans* 13:1-7.

7. Thomas L. Shaffer, *Jurisprudence in the Light of the Hebraic Faith*, 1 NOTRE DAME J. L. ETHICS & PUB. POL'Y 77 (1984).

8. *Jeremiah* 29:7 (Jerusalem Bible); see JOHN HOWARD YODER, *THE CHRISTIAN WITNESS TO THE STATE* (1964).

9. KARL BARTH, *ETHICS* 193 (Dietrich Braun ed. & Geoffrey W. Bromiley trans. 1981). Yoder puts it this way:

But the church is also wary of the law. It does not take its morals from the law, and it has occasions when it must say to rulers that it cannot obey them. It will not admit to membership an official of the state, a judge, or high civil servant. Christians have a list of questions to be asked of candidates for membership, among which is the question: Are you a judge? If so, the church says, go and resign your judgeship, and then come back to be baptized.¹⁰ This group has decided that its members should not kill people. It does not support the wars of the Roman government. Its members will not serve in the Roman army.¹¹

Being a lawyer seems to be half way between this wariness and the pragmatic observation that the law is sometimes useful. This proposal that a Christian be a lawyer hangs in the middle between wariness and prudence. It is a problematic thing, a thing that requires discussion. If, finally, this congregation decides that its young member may be a lawyer, it is with evident restrictions on what he will do as a lawyer. In fact, the reason it finally says yes to the possibility is because what a lawyer does is ambiguous. The elders can therefore see that there are possibilities for doing some good as a lawyer, good that a believer could not do without being a lawyer. Ambiguity, as I often say to nervous law students, is a lawyer's friend.

And so they say yes to this law student. *But they do not let go of him.* They hold on to him. He separates from them in order to meet with

[T]he function of the insightful Hebrew is to improve [the] pagan order so as to make it a resource of protection for the people and viable as a government. He does this in ways which force the pagan power to renounce its self-mythologizing religious claims and to recognize the higher sovereignty which is proclaimed by the Hebrew Monotheist. This Joseph-Daniel model is so characteristic in the Hebrew Bible that we have to claim that this kind of elite contribution to the reforming of the existing order is more fittingly the contribution to the pagan community than any theocratic take over. The complement to the exodus of the counter community is not the theocratic take over by the Exodus community but rather the saving message of the moral minority.

JOHN HOWARD YODER, *LIBERATING MUST COME FIRST: EXODUS PRECEDES SINAI* 8-9 (Associated Mennonite Biblical Seminaries, November 1971); see generally, YODER, *supra* note 8.

10. JOHN HEGELAND, ET AL., *CHRISTIANS AND THE MILITARY* 37-38 (Robert J. Daley ed. 1985). St. Hippolytus of Rome had 25 categories of "crafts and occupations" that are inconsistent with being a Christian. Three of these were listed under "servants of the pagan state": (i) Soldiers who sought to be Christians were accepted, but were told not to kill people and not to take the military oath; (ii) a person already admitted to membership, who wished to become a soldier, was forbidden to do so—"let him be cast out. For he has despised God"; (iii) "a military governor or a magistrate of a city . . . either let him desist or let him be rejected." *Id.* at 37; see also 1 JAROSLAV PELIKAN, *THE CHRISTIAN TRADITION: THE EMERGENCE OF THE CATHOLIC TRADITION* 156-57 (1971).

11. David G. Hunter, *A Decade of Research on Early Christians and Military Service*, 18 *RELIGIOUS STUD. REV.* 87 (1992)(summarizing both the historical theories and the evidence).

them again, and there, again, to talk in the congregation about being a believer and a lawyer. The congregation says "keep in touch," and he does, not only as a matter of morals, but also as a matter of jurisprudence. His point of view on the law is a point of view he gets in the congregation and takes with him into his life as a lawyer.

You can see how the day may come, after several such decisions, when the church might decide to educate its own lawyers. One reason the church might want to do that would be to focus more carefully and more forcefully on how it understands the practice of law, so that the practice of law will not only be moral but will also be priestly and prophetic.¹²

This description of the law school as priestly and prophetic is imaginary. I don't know of any instances in the primitive church, or in rabbinic Judaism. The instances I know of are modern. They come from working on the ABA accreditation project. They took place recently in Huntington, New York; in Provo, Utah; in Tulsa, Oklahoma; in Virginia Beach, Virginia; in Buies Creek, North Carolina; and in Jackson, Mississippi, among other places. These modern American church law schools were distinct when I was involved with them from the ABA side. They

12. The first session of the Marquette conference was devoted to the relationship between religiously affiliated law schools and the national associations that accredit law schools. Discussion during that session suggested that a distinction can be maintained between issues of educational quality (resources, rigor, etc.) and issues of religious witness. I doubt the soundness of that distinction and, in my doubt, imagine a law school established by a sect called the Daughters and Sons of the Holy Hope (a title I take from an old Randolph Scott movie). Among the many tensions between the Daughters and Sons and the law school accrediting agencies are the demand of the agencies that the school pay competitive professorial salaries and the concern of the agencies that the school has no endowment, and realistic accountants' projections are that it will not be able to pay its bills in future years.

On the first point, the school responds with a statement, signed by three-fourths of its fulltime law faculty, that professors at the school accept half what professors at other law schools are paid, and that they do so as a matter of apostolate. They regard the half they do not get as a sacrificial contribution to the mission of the church. Of course, non-believers on the law faculty receive priestly low salaries and do not sign the statement. The school's position on them is to admit that some of them are not highly qualified teachers, otherwise they would be elsewhere, but that the number of weak teachers at the Daughters and Sons' school is no higher than the number of weak teachers at other accredited law schools. The Sons and Daughters also point out that its law faculty includes well qualified, strong non-believer teachers who stay and accept half pay, either because they find that the school is a good place for them to work, or because, although they are not members of the church, they support its mission.

On the second point (lack of resources), the Daughters and Sons reply simply that they depend on God. They are not worried. They point to scripture (Jewish and Christian) that justifies this trust. They also note that they were in existence long before either the ABA or the Association of American Law Schools (AALS), and that they expect to be in existence long after these associations are a dim memory.

were *sectarian* law schools.¹³ They gave the ABA fits. I hope they still do.

I think this sectarian notion, imagined from the early years of the common era, and exemplified in modern American sectarian schools, is useful as a proposition and even as a test. Where it is inadequate is in its focus on the law school as a *new* venture. Most of our schools are not new ventures; we inherited them. Trying to *design* them now is like trying to design your grandmother. We need a supplementary notion that would take into account that our schools are products of habit. They invite our response to dependences our forebears created. We inherited the dependences and we cannot just ignore them.

My colleague Robert E. Rodes, in a recent essay on Catholic universities,¹⁴ suggested a useful supplementary notion. I will borrow his reference and his thought. Rodes rests his idea on the Pastoral Constitution on the Church in the Modern World, a principal document of the Second Vatican Council.¹⁵ That document's Latin title, *Gaudium et Spes*, is, in traditional Vatican style, the phrase with which the text begins: "The joys and the hopes, the griefs and the anxieties of . . . this age . . . these too are the joys and hopes, the griefs and anxieties of the followers of Christ."¹⁶

Gaudium et Spes describes the church as plopped down in the middle of history and the middle of the world. It says that the church, where it is, is a *sign* and a *safeguard* of the transcendence of the human person. "In every state of society," as Rodes puts it, "Christians are called to challenge the forces by which that transcendence is belied."¹⁷

Human beings, Christian and non-Christian alike, are embarked on a common spiritual journey to which the church stands witness. At the consummation of history, everything good in human experience will find its place in the Kingdom of God. That Kingdom is "already present in mystery," and the church is to express it to the world . . .¹⁸

Rodes applies this to the law, even to the curious figure of a modern, upper-middle class Christian who thinks she wants to be a lawyer, and

13. Shaffer, *supra* note 4.

14. Robert E. Rodes, Jr., *Catholic Universities and the New Pluralism*, in THEODORE M. HESBURGH, C.S.C., *THE CHALLENGE AND PROMISE OF A CATHOLIC UNIVERSITY* 305 (1994).

15. Second Vatican Council, 1965, *Gaudium et Spes: Pastoral Constitution on the Church in the Modern World* (1965), in *CATHOLIC SOCIAL THOUGHT: THE DOCUMENTARY HERITAGE* at 164 (David J. O'Brien & Thomas A. Shannon eds., 1992).

16. *Id.* at 166.

17. Rodes, *supra* note 14, at 308-309.

18. *Id.* at 308.

his application is startling and uncomfortable: "We will find that the most serious challenges to human transcendence that we encounter are intrinsic to a complex and cohesive world order in which we ourselves are inextricably complicit."¹⁹

We are living in comfort and prosperity on the flip side of other people's misery and degradation. The economic, social, political, and cultural structures that fund our research, publish our books and papers, put us up in nice hotels while we read them to each other, and provide our graduates with interesting and remunerative jobs are the same ones that imprison our poor people in a world of hamburger flipping, teenage pregnancy, drive-by shootings, and crack, and inveigle many of our rich people into a world of gilded banality²⁰

In this vision for the Christian who wants to be a lawyer, and, by extension, for the church that has a law school for such young people, the focus is on "serving people at the margins of society . . . people whose transcendence is belied by their condition. . . ." ²¹ It is backed by very radical stuff from the Bible, the Jewish parts as well as the Christian parts. Among other things, it raises the question of how a system of legal education, maintained by the church, can justify charging well-motivated believers fifty or sixty thousand dollars in borrowed money for a ticket to practice law. It is hard to pay that price for entrance and then not become, as Rodes puts it, "inextricably complicit" with the oppressors of the poor.

Rodes notices a couple of things that distinguish this Vatican II law school from its secular counterparts, and sometimes from the law school I described as sectarian. One is the much discussed question of whether to restrict faculty hiring to members of the church. It is more important, in choosing and promoting faculty, Rodes says, to "look for people of whatever [religious] persuasion whose teaching and scholarship support the transcendence of the human person and the intellectual mission of the church,"²² than it is to have a faculty of church members. It is important to identify and reward scholarship that reflects "a concern for the margins of society," rather than educational enterprises within the school "that impress the biggest employers and . . . research topics that attract support from the wealthiest foundations and publication in the

19. *Id.* at 309.

20. *Id.* See also, Steven M. Barkan, *Jesuit Legal Education: Focusing the Vision*, 74 MARQ. L. REV. 99 (1990); Shaffer, *supra* note 4, at 1864 n.18.

21. Rodes, *supra* note 14, at 310.

22. *Id.*

most prestigious journals.”²³ Finally, it is important to separate the church as law school from the aspiration for an American intellectual “common core.” It is important to jettison the notion that there is a moral, intellectual, and social consensus that can be served by the church as educator and that the church can perform such a public intellectual service while it plays down the peculiarities that distinguish it as the church.²⁴

“The common core,” Rodes says, “has become . . . too attenuated, too secularized, and too trivial.”²⁵ The hard realities that are produced or ignored by the common core in American intellectual life are oppressive. This may be a hard truth, but it is one we just have to consider. Rodes suggests that our secular colleagues long ago gave up a commonly held, useful notion of the transcendence of the human person. “We now have to think,” he says, “of reaching across differences rather than resting on common ground.”²⁶

Those are two (as I think) substantive answers to the question of why the church has law schools. I need, before I stop, to say a word or two about this word “church,” not so much to worry about squeezing Jews under that word²⁷ as about squeezing Christians under it. This “church” that has law schools cannot be the sort of organization we usually think of when we use the word. When I say “church,” I mean to appropriate a specific promise from the Gospel: “Where two or three have met together in my name, I am there among them.”²⁸ Such a gathering, claiming such a promise, is what I mean when I say “church.” (There are of

23. *Id.* at 311.

24. Rodes names the common-core tradition after Hugo Grotius, who developed a way for nation states to live together despite their religious differences. . . . What Grotius did was seek out and articulate common ground. He found such ground in the classical heritage that both Catholic and Protestant scholars were in the process of recovering and assimilating, in the philosophical tradition of natural law, and in those Christian values that both Catholics and Protestants retained. This common ground was not enough to provide the religious and political unity for which Grotius continued to hope. But it was enough to form the basis for an orderly pluralist society and a coherent pluralist intellectual life—that is, for what we have called Western civilization ever since.

Id. at 305-306.

25. *Id.* at 307.

26. *Id.*

27. See *supra* notes 1-2 and accompanying text.

28. *Matthew* 18:20 (Jerusalem Bible).

course parallel teachings in Judaism, about the presence of God among His people.²⁹)

When I say "church," I do not mean an ecclesiastical civil service or a hierarchy or an assembly of delegates to decide the will of God by majority vote. I do not even mean local religious congregations, or, at least, I do not mean them primarily.³⁰ When I say "church," I mean to include the family gathered to begin the Sabbath, the *minyán* gathered to pray. I mean to include those curious little knots of people in our law schools who meet at lunch time to pray and read the Bible and talk together about what we law teachers are doing to them and to their faith. I mean law students gathered for convenient worship, and, maybe most of all, I mean friends who sit down together and talk about what they do and what they are to do, as if they were the group I imagined in the primitive church.

How can such a church have a law school? The use of a possessory verb here must be ironic. The church contemplated in the Gospel and assembled in the Book of Acts could never get ABA approval. It lacks the resources required by the ABA Standards. The notion of a law school coming from such a church needs to be fitted into what we are talking about when we talk about law schools. Our schools and our universities are complex institutions that have hierarchies and managers, budgets, long-range plans, and uncountable numbers of vice presidents. The way I fit the two together is to say that the church as law school is not an institutional apparatus. The institutional apparatus maintains the church as law school, and the law school as church, but it is not the church. At its best, the law school supports the church, encourages the church, and always, regularly, frustrates the church.³¹

The institution is present to hear what the church has to say. As Rodes formulates: "We cannot limit our aspirations to what our meth-

29. See DAVID R. BLUMENTHAL, *GOD AT THE CENTER* (1988); LAWRENCE KUSHNER, *GOD WAS IN THIS PLACE & I, I DID NOT KNOW* (1991).

30. Thomas L. Shaffer, *The Church and the Law*, in *RADICAL CHRISTIAN AND EXEMPLARY LAWYER: A Festschrift Honoring William Stringfellow* (Andrew M. McThenia ed., 1994).

31. The implicit distinction here owes much, of course, to Alasdair MacIntyre's distinction between institutions and practices. ALASDAIR MACINTYRE, *AFTER VIRTUE* 175-183 (1982). It also owes much to what John Howard Yoder calls "the hermeneutics of peoplehood." JOHN HOWARD YODER, *THE PRIESTLY KINGDOM* 15-45 (1984). Finally, I imagine something like Karl Barth imagined when he said that Israel was present to hear the prophets—whether Israel heeded what it heard or not. KARL BARTH, *DOGMATICS IN OUTLINE* 72-81 (G. T. Thomson trans. 1959). In a similar way, perhaps, the institutional law school is present to hear what the church says to it.

odologies tell us is possible. If the church is to be a sign and safeguard of transcendence then when we cannot be a safeguard, we must still be a sign."³² The institution is there to listen to the church as a sign of the transcendence of the human person, not so much because it will be persuaded as because it cannot sustain the church if it does not listen to the church.

I do not suppose that either of the agendas I have described for the church as law school is going to be worked out in faculty meetings, university-wide commissions that formulate long-range plans, boards of trustees, or meetings of deans. I have spent more hours than I even like to think about in such settings, and I am here to tell you that they are incapable of working out a sound theology for higher education.³³ The church as defined by the Gospel is where this theological work is done, where the sign and the safeguard take on substance, where, to use an old Christian notion, *witness* is formulated and announced.

The faculties and trustees and deans will nonetheless be present to listen. The institutions that employ us must see that the trustees and the vice presidents and the deans are listening. If the institutions cannot do that, they cannot truthfully even invoke the name of the church. But the real work, to use a phrase of Martin Buber's, "is done in the shadow, in the quiver."³⁴ It is work for believers and for those who believe in what believers are doing. We know that we may not be able to be a safeguard. That, after all, may have to be left up to God. Even so, as Rodes says, we can be a sign. The alternative, a perfectly respectable alternative, is the parking lot.

32. Rodes, *supra* note 14, at 310.

33. Dr. Timothy O'Meara, the provost of my university, Notre Dame, made somewhat the same point, and from experience vaster and deeper than my own, in a luncheon address to the Marquette conference.

34. MAURICE FRIEDMAN, *MARTIN BUBER'S LIFE AND WORK* 88 (1983).

