



*July 14/21, 2019*

- Fr. Tom Wilson, Pastor

## THE SEAL

“Do you know the people in question?” the assistant district attorney asked me as I sat nervously in the witness box of an unassuming county courthouse. “Yes,” I responded truthfully. “Do you realize how serious this is? You could be prosecuted for not answering my questions,” he poked back. “Counselor, are you trying to violate a pastor/parishioner privileged communication?” the judge interjected after an objection by the defense attorney. “Oh, no, Your Honor, I would never do that. I have complete respect for confidentiality.” “This line of questioning is over,” the judge said, rebuking the attorney seeking to violate the priest-penitent privilege.

It was a scary day that followed a threatening letter from months earlier from the district attorney suggesting he was being magnanimous by not charging me with a crime. I was grateful to be in a courtroom with a judge who respected sacred and legal privileges but was also frightened by a prosecutorial system staffed by people who practiced as if the end justified the means, with little regard for protected privileges and a penchant for intimidating people into believing they could be prosecuted for asserting their constitutional rights.

The seal of confession is sacred to Catholics, mysterious to others, and conspiratorial to some. When teaching about the sacrament to younger people, one of the questions they ask is why I wouldn't turn in someone who confessed a crime. The answer is simply that I would encourage anyone who needs to do restitution to do it, and if I gabbed about the content of any confession it would put the sacrament at risk for everyone. That is not always understood in a utilitarian society that wants things settled quickly and without complexity. Human beings are complicated and often need to seek out assistance with their complex lives. Our legal system has long understood that from both a psychological and spiritual perspective.

That's why the system provides for privileged communication between parishioners and pastors (of all stripes), clients and attorneys, and doctors and patients. Those privileges provide people the space to seek out assistance and help without risk of confidentiality being breached.

As I write, the State of California is seeking to specifically eliminate the priest-penitent privilege. I believe this is the result of people unfamiliar with the sacrament of reconciliation and from an evil perspective a cluster that believes the sacrament is a conspiracy to prevent people from being prosecuted. The confusion comes from failing to understand that a vast majority of confessions are done anonymously. I don't know who is on the other side of the screen and people rarely identify themselves, so for most confessions, I could not identify who it is anyway. Asking a priest to identify someone in anonymity is nothing short of absurd. It is akin to requiring a person receiving an anonymous phone call to report the person making the call. Priests, like all others who work with youth, are legal, mandatory reporters of known or suspected abuse in non-privileged communication. We take that seriously, too.

California is currently making the news, and it may be the most aggressive attack against the sacrament of penance in U.S. history, but it is not new. Louisiana did something similar a few years ago. Prosecutors have attacked the privilege because a priest was not in clerical garb when he heard the confession. Priests in other countries have been jailed for years for keeping the seal of confession. The attack on privileged communication is scary on multiple levels. It obviously is an attack on the religious freedom of those participating, but it also creates a slippery slope for other forms of communication. If they succeed in piercing in law the priest-penitent privilege, it won't be long before they attack other forms of privileged communication. The result, of course, is a state that recognizes nothing as sacred or privileged and forcing large swaths of people to fend for themselves when they need assistance. That's bad for everyone.

The seal of confession is so sacred that violating it results in the immediate excommunication of the priest who violates it. A law requiring violation of the seal will likely land priests in jail because in the many disagreements we have with each other, the sacredness of the seal is one place we all agree. This is not an arbitrary rule. This is divine, and I know no priest who will intentionally break it. Practically, a prosecution will come not from any real attempt at protection or prosecution for a crime, but a set up by someone trying to entrap a priest.

I never want to be in a courtroom being pushed to violate the seal again. I am grateful for a judge who understood the value of the privilege. But I am frightened by a system dotted with people who think confession is casual communication. The seal is sacred in itself, but it is also symbolic of other kinds of privileged communication. If the seal goes unprotected, all other protected communication will as well. It's just a matter of time. Don't let the supposed end justify the means. When the seal is attacked, defend it.