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Justice McDonald's long career in public life in appointive and elective offices has given him an insight into a phase of St. Thomas More's character which will be of special interest to lawyers who are also politicians.

ST. THOMAS MORE – LAWYER AND POLITICIAN

MILES F. McDONALD*

THE SELECTION OF a topic for an address suitable for such an occasion has, for me at least, always presented a difficult problem. For unless some moral lesson is taught the address is without purpose, and it is virtually impossible to point a moral without seeming to preach; and preaching I believe is always more effective if left to the clergy who by their lives of self-sacrifice and personal example inspire both confidence and credence – which is lacking in the words of a layman, particularly of a politician or public official like myself.

Today, in order to avoid being inconsistent, I have resolved merely to introduce you to a great lawyer, an incorruptible judge, a courageous public official, and an adroit politician – one for whom I have not only tremendous admiration but overwhelming affection. He has become for me a wise counsellor and a staunch friend – and it is my hope that because of my introduction today he may become your true friend as well.

I cannot hope to do more than whet your appetite for further knowledge of the lawyer Saint, Sir Thomas More. In this regard, I must serve as a sort of cocktail lounge peanut to increase your thirst for the far headier wine to be found in the works of Roper, Chambers, Reynolds, Brady, Beahn and Farrow.

Whatever moral is pointed by these remarks will be drawn from his words, his deeds, his life, and, even more, from his death. For though he was a layman and a politician, he was a great teacher as well as a great preacher. He was both a sage and a wit, and his sainthood entitles him to speak where others like you and I must hesitate to raise our voice.

Recently, Claire Booth Luce compiled a book entitled “Saints For Now” written by such divergent types of authors as Paul Gallico,

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This address was first delivered at the annual luncheon of The St. Thomas More Society of America, on December 28, 1954 in New York City, in conjunction with the meeting of the American Law Schools Association.

Whittaker Chambers and Barbara Ward. The chapter devoted to St. Thomas More was both well written and appropriate to the general theme. Yet the author wasted many



HON. MILES F. McDONALD

opportunities to make an outstanding contribution, for above all others raised to the dignity of the altar in recent years, it seems to me St. Thomas best deserves to be described as a Saint for Now.

The greater one's knowledge of More, the more difficult it is to understand the source of his courage, the reservoir of his faith, the magnitude of his intellect and the singleness of his devotion to his God and his church.

More's family, his youthful apprenticeship, his education, his profession, all tended to make him what he certainly appeared to be — a successful and brilliant lawyer, a professor of law, a man of erudition, and above all a politician. I stress the term "politician" for though More is a Patron of Lawyers he should be to even a greater degree the Patron Saint of judicial officers, public officials and, above all, politicians.

In these days when corruption in government, in both high and low places, is all too often the grist from which the millstones of the press grind the headlines, when government has entered into every phase of human activity including thought, and where the very existence of life upon this planet depends upon the restraints exercised by those who control the power of

the atom, the exemplar most needed by those who are chosen for public office is Thomas More who bared his neck to the executioner's axe rather than violate the obligations of his office and the dictates of his conscience.

The difficulty in any consideration of More is in understanding him, not in appreciating him. More assumes magnificent proportions if instead of viewing him against the backdrop of the 16th Century we measure him against the standards of the present day.

More (and I omit the St. Thomas for brevity and intend no disrespect) was born into a family of lawyers and politicians. His father, about the time of his birth, was a Serjeant-at-Law (a minor prosecutor) and later a Judge of Common Pleas, and finally of King's Bench. His maternal grandfather was the Sheriff of London. So More from his earlier days lived in a home steeped in both law and politics. Both his father's and grandfather's posts were in the class that would be called today political patronage, and More was to all intents and purposes born on the public payroll.

By the time More was 13, he himself held a position that would today be considered a political plum. He was apprenticed to the household of John Cardinal Morton, the Lord Chancellor of England. Today's equivalent would be the appointment to serve as page to the Chief Justice of the United States.

More's early association with Cardinal Morton may serve in some measure to solve the puzzle of More's sanctity. For despite his preoccupation with the duties of the Chancellorship, Cardinal Morton was a saintly man of great talent and a devout priest. From him may have flowed the spirit

of faith and fortitude that lifted More to spiritual heights at the time of crisis.

Certainly no other of More's associates, except Bishop Fisher who preceded him to the executioner's block, exercised greater influence.

Morton recognized More's talents and despite Judge More's objections, insisted on the boy's continued education and sponsored him at Oxford. Here he came in contact with the great Grocyn, an early Humanist and one of his age's great intellects. There can be no doubt that Grocyn greatly affected More. However, his influence was intellectual rather than spiritual, and it was this influence, in some measure at least, that diverted More from his purpose to enter the Carthusian Monastery. For More actually lived as a guest in the Carthusian Monastery, Charter House, for two years while pursuing his legal studies and had he been accepted as a novice, would probably have given up his legal career.

More was elected to Parliament in 1504 — three years after his admission to the Bar. This was the last Parliament in the reign of Henry VII, and More, who appears to have played the part of a 16th Century Senator Byrd of Virginia, nearly ended his career before it was fairly launched.

Henry, as was customary, wanted more taxes for his personal benefit: first, to defray the cost of his daughter's marriage to James IV of Scotland, and secondly, to reimburse himself for the cost of the knight-ing of Prince Arthur which had occurred 15 years before. Prince Arthur had died in 1502 and More saw no more reason to pay for a dead knight than a dead horse.

Needless to say, for the next six years More was a young man with a bright

future behind him. He was as dead politically as Alf Landon after the 1936 election.

In 1510, More was again elected to Parliament, this time from a London constituency. His career would indicate that he was undoubtedly the fair-haired boy of London's 16th Century Tammany Hall. Let me review that career for you:

Under-Sheriff of London,
Justice of the Peace for Hampshire,
Commissioner of Sewers for River
Thames,
Special Envoy at Calais,
Ambassador to Flanders,
Member of King's Council at Field of
Cloth of Gold,
Under-Treasurer of the Realm,
Speaker of the House of Commons,
And, in 1529, Lord Chancellor of
England.

Those of us who in recent years have looked with jaundiced eye at the political backgrounds of the judicial appointees or nominees may be shocked to realize that the background of England's great Lord Chancellor was more political and less judicial than any of the controversial appointments to the United States Supreme Court made in recent years.

During this career, More followed what was the communion breakfast circuit of that day — lecturing on St. Augustine's City of God at the Church of St. Lawrence Jewry. He also set an example unfortunately followed by some justices of high courts by writing a book entitled "Utopia," which was as far to the left of that day's political thought as anything written by those in similar positions today.

What could one expect from such a man steeped in politics, a friend and confidant

of the King — the recipient of his hospitality and bounty on many occasions. Would he toady to the King and be the King's judge? Could the people expect equal justice in matters concerning the Crown? Had the King in fact "packed the court"? Would the rule of *stare decisis* pass from vogue only to be replaced by the popular pragmatic doctrine that admits of no permanent norm of right and wrong? Remember, too, the post had no life tenure. The Lord Chancellor served at the King's pleasure only. It rested on the whim of the man who was to prove the least stable and most vindictive of the English monarchs.

The answer is worthy of the best of Chesterton's paradoxes.

In 1528, Henry petitioned the Pope for relief from his marriage to Catherine. By 1532 Henry, realizing that he could not expect the Pope to grant the relief which he desired, determined to settle the matter in England. The King expected that the Lord Chancellor, a recognized expert in matters theological and canonical, would join in this determination. More recognized the incompatibility of his position. He met the problem head on. He did not equivocate, placate or seek to bargain. He would not carry water on both shoulders. He resigned.

Here was More, 55 years old, a public official for all of his adult life — a poor man in such disfavor that no man would dare retain him to plead his cause.

The controversy about Henry's marriage continued to rage, and on April 12, 1534 More was summoned to take the Oath of Succession. When More was presented with the Oath, he demanded to see the statute which required it. Now, the statute required only that the affiant accept the issue of Henry and Anne Boleyn as rightful heirs

to the Crown. This was not repugnant to More as he recognized Parliament's power to determine succession — no matter of faith or morals was involved. The oath presented went far beyond the statute. It required not only recognition of the right of succession but acknowledged Henry as head of the Catholic Church in England and repudiated the papal authority. More refused to sign, and on April 17th was committed to the Tower.

For the 15 months that followed he was importuned to change his mind by Cranmer and Cromwell — not of course out of love for More, but because he would be the bellwether that others would follow. If More signed, so would others. He was begged to change his mind by his family and friends and tempted by his enemies. His beloved daughter Meg entreated him. Dame Alice, his wife, implored him. Continuously he refused.

He had a simple choice. On one hand, a meaningless signature to an oath unlawfully demanded, which less courageous souls would have condoned with a mental reservation, and restoration to his office — friendship with the most powerful King in Christendom — his title — and more than all else, to be replaced in the arms of his beloved family. On the other hand — to be disgraced, beheaded, drawn and quartered.

If any man was forced to answer the question, "What does it profit a man if he gain the whole world and suffer the loss of his soul?" that man was More.

Yet he resisted 15 months of 16th Century brain-washing.

He watched from his cell as his friend Fisher walked to the block, and heard the drums roll as Fisher's blessed head fell in

the headsman's basket. Yet he did not blanch or falter.

Here was a man who, on July 6, 1535, walked to the block with a jest on his lips and God in his heart.

What in More's life can account for his courage — his faith? What inspired the former and instilled the latter? Was it a lesson learned at Cardinal Morton's knee? Was it the example of Colet or of Fisher? Or the years in Charter House? All probably played their part. I, for one, think it was the years of prayer and mortification exemplified by the hair shirt he wore in secret under the soft silk garments of a King's Minister.

Kipling says to be a man we must walk with crowds and keep our virtue, and talk with kings nor lose the common touch. More performed a more difficult task: he walked and talked with a dissolute and despotic King, yet kept his virtue.

Surely there is no greater need in America or anywhere else in this troubled world than for public officials who put their loyalty to God and first principles above their loyalty to sovereign or to self.

What need for blockades and embargoes — what need for councils and charters — wars and police actions?

Men of More's principles at the head of sovereign states would solve the problems of the world in less time than it takes to call the roll of the United Nations.

Here indeed is a Saint for now.

But a Saint for now is not enough. What we need is men for now — men who will bear forward the shield of truth and the sword of faith as Thomas More carried it. The world of the 16th Century and the world of today are little different. True the

heresies of Luther and Henry have given way to the heresies of Marx and Lenin.

But it is still a war of ideas and ideologies — and the ideas and ideologies, though cloaked in new terminology, are still the same. On one side there stand arrayed the materialists — who instead of confiscation of monastic cloisters, collectivise the farms — who rather than asserting the authority of the king as head of the Church, preach the domination of the state over the property, the lives, the thoughts and the very souls of all who dwell within their borders.

The spoils of the battle today are the same as they were then. For the prize is the mind of man — the thoughts they think — the hopes and ambitions they cherish — the lives they lead and the deaths they die.

Where will the battle be fought?

In the very same places it was fought in the days of Thomas More. It will be fought in the Houses of Parliament in London — in the Diet in Tokyo — in the Bundestag at Bonn — in the Chamber of Deputies in Paris and in the House and Senate of the United States. It will be fought in every courtroom where men's liberties are in jeopardy — whether that be in a concentration camp in Siberia, or in the august halls of the United States Supreme Court.

And who will fight the battle?

It will be fought largely by laymen — not by priests or bishops. It will be the battle of the legislator and the judge — of the lawyer and the politician. It will be fought by Thomas More in modern dress — and I hope it will be fought by you.

At every stage of history, from the days of Nero in Rome, to Jefferson and Adams, down to the present, particularly in democracies, the legal profession has been the

keystone of the arch of liberty. And when that keystone ceases to exert its pressure equally in all directions, the arch totters and crumbles.

What then is the lesson you and I must draw from Thomas More?

What role must we play in the drama that is being enacted upon the world's stage?

We must be willing to accept our share of the responsibility for the government of our country. In short, we must become politicians in every sense of the word. Without politicians and political activity, this country could not survive as a democracy for a single decade.

The strongest, the surest and perhaps the only worthwhile weapon against ideological infiltration in the United States is the free and secret ballot. You must realize that the vote of a single militant communist outweighs the vote, not of 100 — but of ten million loyal Americans who fail to vote on Election Day.

But these weapons can only be truly effective if they are intelligently cast.

It is the politician who gets out the vote; and it is the politician who shapes the thinking of the voter rather than the voter who directs the action of the politician.

If the educated American fails to exercise his influence and take his rightful place in political life, he cannot be heard to complain of the caliber of men who control the political parties. The term "politician" must become one of approbation rather than one of opprobrium.

One does not enter politics at the top. An Eisenhower is a phenomenon that occurs but once a century. The road to political success is long and hard.

It was difficult for Thomas More. It will be difficult for you. Its monetary rewards are small as compared with those of industry. But it is frequently the handmaid of a successful legal practice. The two are not inconsistent but rather complement each other.

You will meet with hardship and disappointment. Some will fall by the wayside. But unless you, and other lawyers like you, enlist to fight in the battle, the war will be lost — and humanity will be condemned to lives of bestial servitude to an all powerful state.

Thomas More sacrificed his life for a principle in which he believed. You, too, are called upon for sacrifice — sacrifice not of your life but of your time and talents.

Thomas More earned for himself an eternal crown. Your reward will not be so great. But you will share in the gratitude of every free man who in the centuries to come walks with head high — with a free mind — and who worships his God according to the dictates of his own conscience.

In the battle to come, we fight as both Americans and as Catholics, for today democracy and Catholicism walk hand in hand.

Will you accept this challenge?

I trust you will and that your answer will always be as Thomas More's was:

"The King's good servant but God's first."



St. Thomas More

Born February 6, 1478

Lord Chancellor of England 1529-32

Martyred for the Faith July 6, 1535

PRAYER FOR LAWYERS

St. Thomas More, be our advocate and counsel before the Divine tribunal that alone is without error.

Bespeak for us the wisdom to apply the precepts of God's eternal law to the problems of our daily practice.

Intercede for us that we may emulate the sense of humor which made your heart echo with the mirth of heaven.

Pray that we may spurn false oaths and live as you did, faithful to our trust as members of the Bar, even though by doing so we may be called upon to sacrifice our lives as you sacrificed yours.

These things seek for us through the merits of Jesus Christ, Our Lord.
Amen.

NIHIL OBSTAT
Thomas W. Smiddy, S.T.L. Censor Librorum
IMPRIMATUR:
† Thomas Edmundus Molloy, S.T.D.
Archiepiscopus-Episcopus Brooklynensis
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“[Never during trying days] did McDonald forget that divine guidance was available. When the obstacles seemed higher than humans could climb, when it seemed as though victory would never be his, McDonald looked at the picture of the patron saint, Thomas More, and repeated to himself the [above] prayer he had written in honor of the one-time political leader.”
Mockridge and Prall, *The Big Fix*, page 225 (1954).