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ST. THOMAS MORE — INSPIRATION FOR LAWYERS*

EDWARD A. HOGAN, JR.†

DEAN SWIFT DESCRIBED Thomas More as “the person of the greatest virtue this kingdom ever produced.” Virtue is known as a quality which is typical of saints. A question certain to arise is this: Did the virtue of More interfere with his practice of law?

Our subject will be Thomas More, as a man and as a lawyer. If his virtue shows through our portrayal, it will be because you, the listener, have insight into character by observing deeds and events in the life of one who is our patron saint. The sanctity of More will be intentionally omitted from this talk because it has been better explained by others.

Why our limited powers of thinking tend to dissociate those in our calling from the saints is not quite clear to me. But if I may, I should like to talk about one of our own profession as a member of the profession. If the persuasiveness of others makes you believe that our subject also is a saint, let us hope that any identity so observed is not the result of pure coincidence.

Of course, our subject did not live in our time. It is easy to forget that he lived a very long time ago. Just before Thomas More was sent to Oxford, to begin his college education, Christopher Columbus had made his first landfall in America. Catherine of Aragon, about whose tragic divorce Thomas More would not express an opinion, was the daughter of the Ferdinand and Isabella who financed Columbus. The printing press was newly discovered (1455), and Thomas More went to school with the first classes given the opportunity to learn as much by the use of the eye as by sound for the ear. The beauties of Greece were newly brought to England to compete with the discipline of the Scholastics — and More was called upon to choose between the Humanists and the Scholastics, and was the first of the educated Englishmen to prefer the Humanists. He was, also, the first Englishman whose poetry and prose found its way into print. Like lawyers the world over, his professional cares robbed him of a full literary career, but a document

* An address delivered at the Annual Communion Breakfast of the St. Thomas More Society of San Francisco, on March 4, 1956.

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drawn by him in his professional capacity changed the map of Europe. For he was the draftsman of the Peace of Cambrai in which Charles V gave up claim to Burgundy and Francis I gave up claim to Italy, Artois and Flanders. In his term as Chancellor, he was the first to clear an overloaded docket, and although this was four hundred years ago he may well have been the last Chancellor to have a completely clear docket. Before More took office as Chancellor, a story was told which was probably typical of the time. An elderly solicitor brought a brief to a young barrister for a case that was coming to trial. The solicitor explained that although they were not previously acquainted, it seemed to the solicitor somewhat appropriate to give this case to the young barrister because the pleadings in it were first drawn by the barrister's great-granduncle shortly after the great-granduncle was called to the bar. An interval of three generations between pleading and trial was not unusual at the time. And cases were not brought to Equity until it was clear that there was no adequate remedy at law!

Thomas More was born in London in 1478. He was the third-born child and the first son of John More, a judge of the King's Bench. Thomas was the third generation to come to the law and his father lived long enough to see his son take office as Lord Chancellor of England.

Judge More was determined that his son should receive the best education possible. He was sent to St. Anthony's School, presided over by Nicholas Holt, Latin Grammarian and Rhetorician. Thomas was an exceptional student and Holt recommended him to Cardinal Morton. According to the custom of the time, young men destined for leadership were sent to homes of the powerful to serve as pages and to learn by

observing and imitating what they saw.

Much to the pleasure of Judge More, Thomas was accepted into the household of Cardinal Morton, then Lord Chancellor of England. For the Lord Chancellor was not only the highest law officer of England, but the most intimate adviser of the King and Secretary of State in charge of international relations at a time when that meant that his finger was on the pulse of the whole of Christendom. His King, Henry VII, lacked many of the attributes of a king, including the pure blood of royalty and the talent generally thought necessary for leadership, but he did have an instinct that led him to surround himself with men of intelligence — and of these, Cardinal Morton was the foremost.

Cardinal Morton had been the victim of the political cruelty of Richard III who had him imprisoned, from which imprisonment Cardinal Morton escaped to help place Henry VII upon the throne. Before he came to high honors, Morton had known frustrations and disappointments and he held his office and exercised his judgment with equanimity. From the example of Cardinal Morton, Thomas learned never to lift his head high with pride or to bow deep with despair.

In the household of the Cardinal, Thomas displayed a great talent for entertainment and sociability. This natural bent for acting and his gift of humor exceeded that of the professionals who were brought to the great houses of England to entertain. So much in demand was his talent that the Cardinal feared that his more serious qualities would be neglected. And the Cardinal, as well, could see a more terrible fate overtaking him — he ran the risk of becoming a spoiled child. With the Cardinal's encouragement he was sent off to Oxford to ascend the

seven steps leading to the degree of Bachelor of Arts — namely, Grammar, Rhetoric and Dialectic, Arithmetic, Geometry, Music and Astronomy.

More remained at Oxford for two years where he distinguished himself in scholarship of all kinds and became the earliest elegant prose writer using the English language. He said that he worked at his studies while he was at college because his father so restricted his allowance that he was removed from all vice, gaming and naughty company. His friends have added that he was too industrious not to use his time in the only other activity open to him — namely, study. His enthusiasm for study was very great and he formed friendships with older and famous scholars which continued throughout their lives. For example, Erasmus had been brought from Paris and was residing at Oxford. The culture of Greece had been lost during the Dark Ages and it had then been but newly rediscovered. This Greek culture with its simple, subdued but elegant beauty with pagan overtones stood out in contrast to the culture of Rome, modified as it was by centuries of Christian scholarship. Its novelty and its difficulty had its appeal and the scholars of Oxford divided into two strong camps called the Greeks and the Trojans. Street brawls between the camps have been reported, although, of course, it is difficult for us to imagine a fist fight growing out of a comparison of Homer's *Iliad* with Virgil's *Aeneid* or the glories of the Humanists with those of the Scholastics. But they had their adherents and Thomas More joined up with his elder, Erasmus, on the side of the Greeks and the Humanists — and so he remained during every leisure moment of his numbered days, a Greek, a Humanist and a companion of Erasmus.

Judge John More respected scholarship, of course, but he had grown up in and was part of a practical world, the world of the merchants of London. He was a city man, business men had been his clients, the causes of business men were before his court. Although the preference of the youthful Thomas was for the life of the mind, the practical father demanded that Thomas return to London and take up studies at the Inns of Court. Because of his youth, Thomas was not eligible for election to an Inn of Court but was obliged to start in an Inn of Chancery, New Inn, which was looked upon as a preparatory school for the study of law. At the age of eighteen, he was called to Lincoln's Inn, of which his father was a bencher, and there he distinguished himself again as a scholar. While a student at Lincoln's Inn, he was made a Reader, or instructor, of Furnival Inn of Chancery which was under the direction of Lincoln's Inn. In the meantime, as a student, in the words of Daniel Sargent ". . . he had to make himself acquainted with all the lack of logic in English common law, which was a thing incommunicable, and not to be grasped except by practice." Also, he found time for some extra-curricular activity and gave lectures before the great and the learned of London on the subject of St. Augustine's *City of God*. Quite separate from such activity, his dramatic and comic talents were recognized in the Inns and he became the leader of the revels, the comedy relief which students everywhere develop to balance the seriousness of their studies. So great was his talent for comedy that he was obliged, in later life, to suppress it to gain sufficient time to be in the company of his wife, his children and his servants.

Although admitted to the bar in regular

course, he had become so impressed with the glories of Saint Augustine and the pleasures of piety and the peace of monastic life that he took lodging near a Carthusian monastery and as a lay brother practiced all the austerities of this stern order. This experience convinced him that he was not meant for the altar but instead should return to take his place in mundane affairs.

In 1503, at the age of twenty-five, he had been elected to Parliament by the merchants of London. The Parliament had not met for a number of years. Strong kings made weak parliaments, and the parliamentary function at the time of his election to office was similar to that of a citizen's committee appointed to nod approval of the projects sponsored by the appointing authority. Citizens and taxpayers grumbled in private but they did not register protest in public. Thomas More was an exception. When the King asked Parliament for a large appropriation on the occasion of the marriage of his daughter to the King of Scotland, Thomas More presented with vigor the point of view of the citizen and taxpayer and influenced the Parliament to make a modest payment, which was all that was due the King under the existing feudal laws. Henry VII was enraged but instead of striking back at Thomas he struck instead at his father. Getting the father involved in a minor argument, he had him sentenced to prison and finally released him on the payment of a fine of one hundred pounds — a large sum of money for those days.

More was soon recognized as an able lawyer with a clientele very largely of the merchant class. Added to his skills of pleading and trial work, he became an able negotiator and was sent overseas by the merchants to effect agreements with foreign merchants. His income, early in his practice,

was estimated at 400 pounds per year, which various currency experts have translated into amounts of \$50,000 to \$100,000.

Judicial office also came to him at an early age through his appointment as Undersheriff of London. This official served as a judge in commercial cases, particularly those involving the foreign merchant class and foreign shipping. His court met but one day in the week and that was Thursday. So speedily did he carry out that business that his other practice was in no way diminished.

As his success increased, Henry VII gave evidence that he might well take revenge for the youthful indiscretion in the Parliament. There was a slight interruption in his professional progress while he devoted himself to his studies, particularly in history, thinking that it would soon be necessary for him to flee the country and wishing to be prepared for a professorship in some foreign university. But Henry VII died unexpectedly and More was no longer in official disfavor. He was, in fact, already on a friendly basis with young Henry VIII through ties of scholarship which had made young Henry seek him out. Henry VIII invited More to come into his service but More did not wish to do so. He expressed the opinion that there would be a conflict of interests in serving as Undersheriff of London and on the King's legal staff at the same time. But a celebrated cause in which both the Pope and the King were involved changed this.

A vessel of the Pope was driven by the winds into Southampton and was seized by agents of the King for alleged violation of international law. The Papal Nuncio retained Thomas More to present the claim of the Papacy for restitution of the vessel. More argued the cause before the Star Chamber. The atmosphere was tense and the interest in the matter was so great that even the King

was present at the argument. Not only was judgment given for the Pope but the King joined in the praise of More for "his upright and commendable" behavior therein. So impressed was the King that he could no longer excuse him from his service.

More gave up his practice at the bar, and was knighted and made Master of the Requests. His duties with the King required him to live for extended periods at the palace and to be overseas much of the time on international affairs. This duty interfered with his family life, about which we shall say more shortly. But his popularity and usefulness to the King increased, and the Chancellor, Cardinal Wolsey, with the approval of the King, arranged for the election of More to the office of Speaker of the House of Commons. This was a difficult assignment, for Cardinal Wolsey had been encouraging expenditures of great sums overseas to increase the political influence of England. The people of England had become bitter about tax burdens, and punishments for those in and out of Parliament who opposed such appropriations were common.

Cardinal Wolsey, with a magnificent retinue, appeared before the House to demand appropriations or to learn the reason why they were not forthcoming. No one in the House spoke a word — and the Cardinal insisted that More give an explanation for the silence. More respectfully suggested that others, like himself, were overawed by the presence of such an important person and were unable to collect their thoughts. The Cardinal left in great indignation. The independence of the Commons was established on that day by the adoption of the now famous rule that the Commons never speaks except through the Speaker and the Speaker never expresses any opinion except that of the Commons. The action of the Commons,

thereafter, has been a collective responsibility anonymously reported.

Another source of his fame was the suppression of the May Day riots. London was a city of many foreign artisans and some local jealousies of their talents. A fantastic story was circulated which kindled already smouldering national prejudices. The story was that a French tailor was supposed to have stolen an English wife, who brought the family silverware with her. When the English husband took the matter to law, the Frenchman was supposed to have counterclaimed for the cost of boarding the wife. Although a fiction, it was believed to be true, and riots began in which the foreign and local artisans participated. Men were killed, houses were burned, and the public disorders became so great that the merchants turned to Thomas More to use his influence to suppress the riots. Mounting a horse, which he seldom rode, he marched into the mob and by the force of his arguments and persuasiveness restored some degree of order. Indiscriminate punishments of the rioters began, and eleven gallows were set up on the street and twenty-one persons were quickly hanged, drawn and quartered. Four hundred more were arrested and prepared for the same fate. More argued before the King for merciful treatment for them but the King said the matter should be handled by his Chancellor. The Chancellor granted a hearing in the presence of the King and had 400 men and boys and eleven women brought in stripped for execution with a hanging rope around each neck. The sight so shocked the King that when the group, following More's suggestion, bowed down to ask the King's forgiveness and mercy, after the Chancellor declined to help them, the King granted them his pardon.

More's diplomatic missions were many

and he became one of the best known and most respected men in the embassies of the world. Thus, when Cardinal Wolsey fell into disfavor with the King and the Dukes of Norfolk and Suffolk took from him the Great Seal, the question of a successor was quickly solved. There was no doubt as to who was the foremost lawyer of the realm; there was no one more familiar with international affairs or considered more favorably in the foreign capitals. Although he did not wish to be given the position, and pomp and ceremony were distasteful to him, the King's command was not to be ignored.

The duties of Chancellor were many, but to lawyers his judicial functions are of greatest interest. More obtained passage of a statute to put down extortion in the probate of wills; he eliminated the evils connected with the issuance of subpoenas on the payment of a fee, before a complaint was filed and an attorney had perused it, and had issued an order for the commencement of a suit. When he took office, everyone in the retinue down to the doorkeeper had been in the habit of accepting tips and bribes, but he put an end to all of this — and he thereby deprived a son-in-law, who did not hesitate to complain of it, of a substantial income derived from a minor office he had held in the Chancery; he sat after dinner to hear causes in addition to hearing the usual causes during the day — a practice previously unheard of; he welcomed the poor and gave them speedy relief; during his term no one was executed for heresy; and he was called upon to decide a case between a beggar and his own wife with judgment being given in favor of the beggar — on a set of facts with which we are all familiar. A dog given as a present to his wife was claimed by the beggar as one stolen from him. The Chancellor put the dog between

the beggar and the wife, each at opposite ends of the hall, and the dog rushed to the beggar. To the judges who continued to decide cases according to the harsh rules of the common law, he made overtures by inviting them to an elaborate dinner trying to persuade them to let fairness be their guide of decision — but they would not be persuaded, so that Equity, in the person of the Chancellor, more than ever before, gave relief from the harshness of the law.

No doubt his saddest duty was that connected with the desire of Henry VIII to be free of Catherine of Aragon. For this, of course, he has been much criticized. Although compromise did not seem to be a part of his nature, he did concur in a decision of the King to submit to the doctors of the great universities in other countries the question of the validity of the King's marriage. Perhaps, in his wisdom, he knew that time could do much to calm the demands of passion and to restore the intellect to a status of equality to that of the emotions. For when the opinions of the doctors filtered back, with the French holding one way, the Germans another and the Italians divided, More resigned his Chancellorship, no more to be a party to the question of whether the King was entitled to a divorce. His continuing silence, when pressed to commit himself in favor of the King, resulted in his imprisonment and his death, upon the chopping block of the Tower of London.

Lest this happy occasion end on a sad note, we shall close with some observations on his family life, which will forever be a source of great Christian joy. At the age of twenty-seven he married. He had been attracted to the two daughters of an older friend who lived in the country. His preference seemed to be for the younger, but he realized that this would leave the older in an

unfavorable position, so he married Jane, who was older but only seventeen. There were four children, the youngest and least bright and least promising of which was the only son, John. If parental affections ever know favorites, his was his daughter Meg on whom he lavished his love and his learning.

As a humanist, he thought of a quiet garden and a pleasant place in which he could study and talk without interruption — and of this he made his home. It was in a quiet retreat in Chelsea, then outside the city, that he built the house, the chapel, and the gardens, to which the intellectuals of the world were attracted and to which the King would come, often uninvited, to pace in the gardens with his arm around More's shoulder as More instructed him in astronomy, of which each possessed an extraordinary knowledge.

The spirit of learning was brought to the family, and by his own teaching and that of the most expert tutors his daughters and his son were trained equally as well in the arts, literature and music. More believed in education for women at a time when no one else did — for to him education brought pleasures of mind and awareness of the greatness of God, to which women were entitled equally with men. His lovable daughter, Meg, profited most from the instruction, not only because she was a pre-eminent scholar of her time, translating and interpreting some early writings of the Eastern Church which had baffled the learned monks, but also because she provided intellectual companionship for her talented father.

For the father needed that companionship when death took from him his wife Jane, who had been transformed from a simple country girl into the wise and charming wife of the most important citizen of his country. Because he felt that the children needed the guidance and affection of a woman, he married, one month later, a widow seven years his senior and installed her as mistress of his household. History has not dealt kindly with one who assumed the role of stepmother; and she has been described as neither young nor fair, and ever critical of her husband's lack of ambition, his failure to appreciate the importance of wealth, his lengthy prayers, his avoidance of the pomp which had belonged to his office and his unwillingness during his imprisonment to speak the views through which his contemporaries continued to enjoy the royal favor. Fairness requires us to say that she did learn to play the musical instruments which he tried to teach her to play and she sold some of her fine clothes to provide him some small comforts in prison. More always praised her for the care and love she gave to his children and for keeping his home a refuge of peace and learning and love.

In retrospect, we see Thomas More as great in everything that he did — study, play, love, teach, write, argue, negotiate, judge, make peace, worship his God, raise and educate his family and die with the fierce courage of one who has known only truth and dedication to God's law. Perhaps now it is easier for us to understand why a lawyer was found to be a saint.
