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A REFLECTION ON CATHOLICISM, LEGALISM AND NUCLEAR WAR

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It is a morally exciting time for the bench and the bar in America. The fifty states are in the process of evaluating the new Model Rules of Professional Conduct adopted by the American Bar Association in August 1983. The legal profession is continuing to extend the rule of law around the world—pursuant to Goal VIII adopted by the ABA in San Francisco just five years ago.

An unprecedented number of able young men and women are entering the legal profession because they see in our profession an opportunity to fight for human rights, to extend the frontiers of justice and to develop what is best in America's moral traditions.

It is also an exciting time to be a Catholic. Since Vatican II, the Church has sought to open its arms to the repressed people of the world and to offer them a chance to obtain peace and justice. As never before in the entire history of the Church the mystical body is pledged to struggle for human justice as it seeks to mediate divine redemption. The Catholic bishops of the United States have exercised exemplary leadership. Americans, and indeed the whole world, are grateful to them for their splendid pastoral on the threat of nuclear war and their nuanced and inspiring message on the economy. Catholics and other Americans listen with respect to America's bishops who oppose aid to the contras, condemn capital punishment, question the wisdom of Star Wars, urge a sound use of affirmative action and plead for the inviolability of life in all circumstances.

It is therefore an exciting time to be both an attorney and a Catholic. But the serious and solemn challenges which come to us from the profes-

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sion and the church require us to pause, ponder and pray about how well we are reacting to these compelling demands.

Clearly no previous generation of Christians has been faced with the challenge of nuclear war as set forth by the U.S. Catholic bishops. The hierarchy, joined by the National Council of Churches, which represents all mainline Protestants, and virtually every Jewish religious body in the nation have condemned the continuation by the United States of the threat of nuclear war. If the possession but not the use of nuclear weapons is permitted, it is tolerated only for a period of time on the clear understanding that nuclear weapons are to be phased out. This is true because it is a fundamental moral principle that no one may threaten to do that which may not be morally carried out. The Catholic bishops have openly pleaded with every group in America to assist them in their daunting crusade to eliminate the coexistence in terror which prevails between the superpowers. Surely lawyers have a very special role to play in assisting the mystical body of Christ in its urgent and sacred task of preventing a nuclear holocaust. A few years ago a group of lawyers recognized the need to use the unique skills of lawyers and advocates and arbitrators on the question of nuclear war. These attorneys formed the Lawyers Alliance for Nuclear Arms Control, a group that now has several thousand lawyers as members in about fifty chapters. This very valuable group deserves the support of every lawyer in America.

The contemporary emphasis by the Church on the resolution of complex legal-moral issues is, of course, consistent with what the Church of God has been seeking to do for centuries. But there is a new emphasis in the Church after the Second Vatican Council. The message and mandate of Vatican II was that Christians today must address both the preservation of faith and the promotion of justice. They go together. The 32nd general congregation of the Society of Jesus, meeting after Vatican II, put it well in its directive to all Jesuits: The mission of the Society today is the service of faith, of which the promotion of justice is an absolute requirement. This mission, the statement goes on, means "entering into solidarity with the voiceless and the powerless."

Our faith today, consequently, must be broader and deeper than at any previous moment in our lives—and even perhaps in the life of the church. The bishops of America are urging us to respect the seamless garment of life and to work to abolish the death penalty, eliminate nuclear war and curb abortion.

We can respond to this imperious cry of our church only if we study, pray and act. All three of these are essential. Christians must be totally knowledgeable about the contemporary assault on the sanctity and preciousness of all human life. Simplistic slogans are not enough; indeed they make it easy for the defenders of present policies to prevail. Extensive study is required—the unceasing study which is the daily habit of

men and women of law. The lawyer who wants to be an effective architect of change in America's nuclear policy must be an expert on arcane topics that include the question of whether the strategic defense initiative, or Star Wars, violates the ABM Treaty. The jurist who wants to be influential on the foremost moral issue of our day—the control of nuclear weapons—must be able to discern the good and the illusory in the forthcoming proposed phasing out of fifty percent of nuclear weapons in Europe.

The study required will be more extensive than for any other social or moral problem. The authors of the nuclear game between the U.S. and the U.S.S.R. have created a terminology and a methodology that seem almost deliberately obscure, confused and esoteric.

Extensive study must be illuminated by prayer. All of us must pray to understand more fully why our bishops—and the hierarchies all around the world—are calling so insistently for our support on the issue of nuclear war. This is not an ordinary request. This is the most solemn and serious request from our Church in our lifetime. Let us pray to understand why the vicar and voice of Christ, across time and through space, is pleading with us to understand the threat which nuclear weapons pose for humankind. The prayer must be as profound and persistent as the study. Neither can succeed without the other.

But action is also required—action made persuasive by extended study and made powerful by prolonged prayer. An appropriate course of action will come—but only after study and prayer. The action may not produce a solution immediately. St. Paul reminded us that some sow and some reap. We may be like the early abolitionists; they sowed the message of the evil of slavery but others reaped the harvest of their good work. The elimination of nuclear weapons is the new abolitionist movement. The movement may be in its infancy. But with the help of the lawyers of America it will succeed.

When I see the strength of the moral and legal arguments contained in the pastoral of the Catholic bishops on nuclear warfare, I have the hope and perhaps the certainty that eventually the plea to ban nuclear weapons will prevail. I have a vision that perhaps in the year 2050 humanity will have somehow abandoned its possession and threatened use of weapons that will bring a nuclear winter over the globe. Historians will then be trying to discern why humankind turned away from the threat of nuclear annihilation. Perhaps it is not fanciful to think that historians a few generations from now will look back and write that it was the learning and inspiration of the Catholic bishops in America that began to educate the nation that it is immoral and illegal to threaten extinction to an entire nation. The bishops will have been assisted by many others in America—but especially, we can hope, by the 650,000 attorneys in the United States. By training, by tradition and by talent, lawyers are uniquely qualified to advance the moral and legal case set forth by the

bishops. Would it not be a magnificent tribute to America's lawyers if history will be able to state that they explained and applied the rule of law to a situation where, in defiance of all rational norms, one side possesses 30,000 nuclear weapons and the other side has 20,000 such weapons.

It is indeed an exciting time to be a Catholic and to be an attorney. But it is also a uniquely challenging time. Our Church and our profession are making demands on our time and on our talent. These are not ordinary demands. To reply to these requests will require study, prayer and action. Our response or, God forbid, our silence will be known to our family, our community, our Church and our country. Indeed the whole world will know because this is the American moment in history. What this country does in the next generation will be crucial in determining the way in which vast numbers of people will live or not live for generations, even centuries to come. We are, therefore, on trial. We are, being requested by the two institutions we respect most in our life—our Church and our profession—to become moral architects of a new and a better world. Let us pray that we do not retreat into the sin of silence.

One has to think that St. Thomas More is guiding us individually and collectively at this awesome moment in our lives and in our society. All of us look to Thomas More and thank him for his heroic life. He chose to be hung and martyred rather than deny or compromise an important tenet of the Church's teachings. Let us pray that our decision in response to what the Church is asking today will be no less heroic.