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**HOMILY AT RED MASS:
ST. MARY'S CHURCH,
EVANSVILLE, INDIANA
MAY 5, 1994**

WILLIAM R. BURLEIGH*

Thomas Wolfe warned us that you can't come home again,¹ but this morning proves him wrong. My great-grandparents helped found this church in 1866, more than a century and a quarter ago. Five generations of my family have worshipped here. My mother, still alert and active at 96 years of age, is, I believe, the oldest living member on the official rolls of this parish.

During grade school, St. Mary's was my second home. On many cold mornings I pedaled my bike from Gum Street to serve at the 6:30 mass. You can appreciate how my return this morning brings back a flood of memories—swinging on the ropes in the belfry, scaling this altar as though it were Mt. Everest on the pretext of cleaning it, and of other happy moments that probably should be left without mention in the presence of two bishops. Suffice it to say that I am grateful for the chance to come home again, Thomas Wolfe notwithstanding.

In a way, I think my family ties to this place help set the

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¹ THOMAS WOLFE, *YOU CAN'T GO HOME AGAIN* (1940).

theme for today's observance. Just as this church serves as a personal reminder of the core values of my heritage, so too should Law Day USA² remind all of us of the core values underpinning our collective heritage of liberty and justice under the law. Lawyers, judges, and law enforcement officers are in a special way guardians of that heritage and bear the burdensome responsibility of deepening an appreciation for it and for keeping its compass point true as we steer through increasingly choppy waters.

I would like to take a few moments to talk first about the legacy we celebrate and then to outline some corrections in the course which appear to be dictated by that compass. I can think of no better model for examining the heritage of Law Day than Thomas More,³ the Church's patron of lawyers and truly "a man

² Van O'Steen, *Law Day Spotlights Justice, Equality, Citizen's Role in the System*, THE ARIZ. REPUBLIC, May 5, 1993 at C7.

Law Day USA was established by President Eisenhower in 1958. It has been celebrated every year since then on May 1. Its stated purpose is to reserve a "special day of celebration by the American People in appreciation of their liberties and to provide an occasion for rededication to the ideals of equality and justice under laws."

Id. "Law Day USA is celebrated annually with a joint resolution of Congress and a presidential proclamation." *Law Day Event Offers Information*, THE PRESS-ENTERPRISE (RIVERSIDE, CAL.), April 27, 1995, at B02. This nationwide program demonstrates the operation of the judiciary and law enforcement to the public. See Fred Alvarez, *Ventura County Newswatch*, L.A. TIMES, May 2, 1994, at A1.

"Just Solutions" was the theme of the May 1994 Law Day. *Mock Trial Kicks Off Law Day Program*, THE PENATAGRAPH BLOOMINGTON (ILL.), April 28, 1994, at A4. It was "aimed at acknowledging problems with the current criminal and civil justice systems but also trying to devise ways to revitalize those systems so solutions can be found."

³ St. Thomas More (1478-1535), the Patron Saint of lawyers, was canonized by Pope Pius XI in 1935 four hundred years after his death. See, e.g., JOHN FARROW, *THE STORY OF THOMAS MORE* 4 (1954). During his lifetime in Tudor England, More was an attorney, author, educator, politician, and nobleman. See THOMAS STAPLETON, *THE LIFE AND ILLUSTRIOUS MARTYRDOM OF SIR THOMAS MORE* 229-32 (Philip E. Hallett trans., 1928) (1588). He was knighted by King Henry VIII in 1521 and, after serving as both a member of Parliament and its Speaker, More presided over Parliament as Lord Chancellor from 1529 to 1532 by appointment of the King. See *id.* Despite his long association with the King, More refused to take the Oath of Supremacy which recognized Henry VIII as Supreme Head of the Church of England. See KENNY, *THOMAS MORE* 91 (Keith Thomas ed., 1983) ("[H]e refused to consent to Acts of Parliament which negated Papal supremacy"). In 1535, More had his lands sequestered, was convicted of treason, and was executed. See STAPLETON, *supra* at 229-32. For a short biography of Thomas More, see 7 THE CATH. ENCYCLOPEDIA FOR SCHOOL AND HOME 337 (1965); see also REV. ALBAN BUTLER, VII, *THE LIVES OF SAINTS* 110 (1932).

for all seasons."⁴ Robert Bolt, who wrote the classic play about More's life,⁵ saw him as a pivot of English life at a time when England was negotiating the sharpest corner in her spiritual history.⁶ It was truly a defining moment when his country's tradition of liberty under a common law, rooted in the Magna Carta, met the ugly force of a tyrannous king bent on achieving his selfish purpose.⁷ More, joined only by John Fisher,⁸ opposed Royal power, placing his principles first, above his very life. He stands etched in history as a figure attractive to us at a time when we too are negotiating watershed turns in our own spiritual history.

In light of these considerations, it is vital that we remember Thomas More as a man fully engaged in his time, not a misty figure from the past. It would be a grave error to cast him as merely a historic icon, an Olympian figure who stood above the issues and turmoil of his age. Rather, More was possessed of a brilliant mind and a talent for story telling that placed him, in

⁴ See ROBERT BOLT, *A MAN FOR ALL SEASONS* (Vintage Int'l 1990) (1960). The title derives from a passage written about More by the English writer Robert Whittinton. Daniel Pollitt, *Thurgood Marshall*, 21 N.C. CENT. L.J. 179, 192 n. 74 (1995) (quoting Whittinton: "And as time requireth, a man of marvelous mirth and pastimes, and sometimes of as sad a gravity; a man for all seasons").

⁵ BOLT, *supra* note 4.

⁶ See generally BOLT, *Preface*, *supra* note 4 (discussing historical background of play about More's life).

⁷ See J.J. SCARISBRICK, *HENRY VIII* 305-330 (1968) (explaining how Henry VIII imposed his will through intimidation and execution); see generally DEREK WILSON, *ENGLAND IN THE AGE OF THOMAS MORE* (1978) (discussing social environment and sentiments in Tudor England). "The economy was very progressive, the religion was very reactionary. We say therefore that the collision was inevitable" BOLT, *supra* note 4, at x. Ironically, Henry VIII "saw himself not as one seeking personal advantage, but as the chosen instrument of God commissioned to restore a right order on earth." SCARISBRICK, *supra* at 290. It was with this self-righteous fervor that the King sought in 1534 to pass the Act of Supremacy "which explicitly and unconditionally declared Henry head on earth of the English Church." *Id.* at 324.

⁸ John Fisher (1469-1535), a priest, was nominated to the Bishopric of Rochester by Henry VIII's father Henry VII in 1504. See BUTLER'S LIVES OF THE SAINTS 189 (Michael Walsh ed., 1985) (originally published as *THE LIVES OF FATHERS, MARTYRS AND OTHER PRINCIPLE SAINTS* (1756-59)). He preached against Lutheranism and protested the "worldiness, the laxity and the vanity of the higher clergy." *Id.* at 190. Like More, he protested when Parliament was called upon to recognize Henry VIII as head of the Church of England. *Id.* Bishop Fisher was imprisoned for his opposition to the King, and in June 1535, he was executed. *Id.*; see Germain Marc'Hadour, *Fisher and More: A Note*, in *HUMANISM, REFORM AND THE REFORMATION* 103 (Brendan Bradshaw & Eaman Duffy eds., 1989) (describing Fisher as More's "best, nay his only, ally" in opposition to Henry VIII); see generally EDWARD SURTZ, *THE WORKS AND DAYS OF JOHN FISHER* (1967) (discussing Fisher's life and writings).

the opinion of some, "between Chaucer and Shakespeare."⁹ His household was a fountain of learning from which women were not excluded. More wanted the best education for his gifted daughter, Margaret, as well as for his son.¹⁰ His close friendship with Erasmus¹¹ is one of the remarkable coincidences of the humanist era. More provided vital intellectual yeast to Renaissance England, and his authorship of the classic political satire, *Utopia*,¹² marked him as one of Europe's leading minds of his time.

With Erasmus, More shared a belief that a sound education, rooted in the study of the best classical literature, could help to reform the Church.¹³ In More, scholarship merged with saintliness. One cannot study his life without being struck by the extraordinary depths of both his intellectual and his religious life. Yet he struggled, as we do today, to unite faith and reason. He labored to achieve personal holiness amid the Renaissance secularism¹⁴ that saturated the world around him. This effort formed a fundamental tension in More's life and in his whole age—not unlike the parallel forces we face today.

⁹ RICHARD MARIUS, *THOMAS MORE: A BIOGRAPHY* xxi (1984).

¹⁰ See STAPLETON, *supra* note 3, at 93 (noting More "employed his great gifts in the education of his children" and his "zeal for their advancement in learning"); see also DANIEL SARGENT, *THOMAS MORE* 85 (1933) (observing that More's daughters were "dear to [him] by nature ... still more dear by learning and virtue ... [and] most dear by that advance in knowledge").

¹¹ Erasmus Desiderius (1460-1536) was a Dutch humanist, theologian, philosopher, scholar, and author of the irreverent satire *THE PRAISE OF FOLLY*. 4 *THE CATH. ENCYCLOPEDIA FOR SCHOOL AND HOME* 94-97 (1965). Erasmus coined the famous aphorism "God helps those who help themselves." *Id.* at 95. Erasmus's close association with More is well noted. See, e.g., GORDON RUPP, *THOMAS MORE—THE KING'S GOOD SERVANT* 17 (1978) (Erasmus' "friendship with More was something special"); FREDERIC SEEBOHM, *THE OXFORD REFORMERS: JOHN COLET, ERASMUS AND THOMAS MORE* 116 (1986) ("Whenever did nature mould a character more gentle, endearing and happy than Thomas More?" (quoting Erasmus)). Upon learning of More's execution, Erasmus wrote to Peter Tomiczki, Bishop of Cracow, "I feel as if I had died with More, so closely were our two souls united." E.E. REYNOLDS, *THOMAS MORE AND ERASMUS* 238 (1965). *But cf.* WILSON *supra* note 7, at 10 ("Erasmus and More were not entirely twin souls").

¹² THOMAS MORE, *UTOPIA* (1516) (exposing social evils of 16th century England and describing ideal state).

¹³ See REYNOLDS, *supra* note 11, at 237-40.

¹⁴ More lived from 1478 to 1535. See *supra* note 3. His was the age when Renaissance and Reformation came to England—when Englishmen ventured into the rest of the world. REYNOLDS, *supra* note 11, at 1. "Religious, political and cultural ideas infiltrated slowly from the continent," forever altering the previously ecclesiastic England. *Id.*

More managed to serve what history views as a corrupt court, struggling to maintain his personal integrity while at the same time acting as the King's loyal legal officer.¹⁵ The decisions he faced were far from being cast in clear black and white terms, where matters of principle could be easily divined. At one point, it is said, his son-in-law, Will Roper, averred that he, Will, would chop down all the laws in England to get at the devil. "But what would you do," More shot back, "if the devil then turned on you? Where would you hide?"¹⁶

More understood the ambiguities of life, as well as the delicate scales on which matters of principle are usually weighed. But at the same time, More keenly understood that to be a man, to be fully human, one must choose; and to be a good man, one must choose the good.

In one memorable scene from *A Man for All Seasons*,¹⁷ as pressure mounts almost unbearably on More to acquiesce to the King's marriage to Anne Boleyn and to recognize the succession rights of their offspring, More's favorite daughter Meg visits him

¹⁵ See SCARISBRICK, *supra* note 7, at 241-55 (discussing Henry VIII's campaign against the Roman Catholic Church and More's reaction); see generally J.A. GUY, *THE PUBLIC CAREER OF SIR THOMAS MORE* (1981) (giving account of More's service record and resignation as Lord Chancellor); WILSON, *supra* note 7 (providing historical information regarding English political and social life during More's service to the King); RUPP, *supra* note 11.

¹⁶ BOLT, *supra* note 4, at 66. Bolt attributes the following dialogue to More and Roper:

More: Yes. What would you do? Cut a great road through the law to get after the Devil?

Roper: I'd cut down every law in England to do that!

More: Oh? And when the last law was down, and the Devil turned round on you—where would you hide Roper, the law all being flat? This country's planted thick with laws from coast to coast—Man's laws, not God's—and if you cut them down d'you really think you could stand upright in the winds that would blow them? Yes, I'd give the Devil benefit of law for my own safety's sake.

Id.

The factual accuracy of the preceding exchange is uncertain. Roper's own biography of More contains no reference supporting Bolt's account. WILLIAM ROPER, *THE LYFE OF SIR THOMAS MORE, KNIGHTE* (James M. Cline ed., 1950) (1626); see also WILLIAM ROPER & NICHOLAS HARPSFIELD, *LIVES OF SAINT THOMAS MORE* (E.E. Reynolds ed., 1963) (originally published as two separate works, ROPER, *supra*, and HARPSFIELD, *THE LIFE AND DEATH OF SIR THOMAS MORE, KNIGHT, SOMETIME LORD HIGH CHANCELLOR OF ENGLAND* (1932)). Nevertheless, the lines have made it into the annals of the Supreme Court of the United States. See *Tennessee Valley Authority v. Hill*, 437 U.S. 153, 195 (1978).

¹⁷ BOLT, *supra* note 4.

in his cell in the Tower of London. She begs him to swear an oath assenting to the Act of Succession¹⁸ but to remain true to his feelings.¹⁹ After all, everyone from the nobility and all clerics, save Fisher,²⁰ had already sworn to the Oath, thus so should More. Meg argues, "God more regards the thoughts of the heart than the words of the mouth."²¹ Yet, More replies: "When a man takes an oath, Meg, he's holding his own self in his own hands. Like water. And if he opens his fingers then—he needn't hope to find himself again."²²

The complexities and contradictions More poses have left those who have studied his life most carefully sometimes exasperated. He was human after all, not yet a saint. One author

¹⁸ See E.E. REYNOLDS, *THE TRIAL OF ST. THOMAS MORE* 33-51 (1964). The Act of Succession was enacted by Parliament to secure the inheritance of the Crown as well as the actual line of succession to it. The Act acknowledged the annulment of Henry VIII's marriage to Catherine of Aragon and recognized the validity of his subsequent union with Anne Boleyn. *Id.* at 36-39. Regarding marriages in general, the Act eviscerated the power of the Pope to grant dispensations. *Id.* The Act also provided criminal penalties for all subjects who did not obey, and required the swearing of an Oath of Supremacy. *Id.* The Act provided: "Ye shall swear to bear your faith, truth and obedience, alonely to the King's Majesty ... according to the limitation and rehearsal within this Statute of Succession ... and not to any other within this realm, nor foreign Authority, Prince or Potentate" *Id.* at 42.

Catherine of Aragon was unable to give Henry VIII a legitimate successor to the throne, so he sought to divorce her in favor of Anne Boleyn. See A.F. POLLARD, *HENRY VIII* 145-85 (1966). Papal authority refused to recognize the dissolution of Henry VIII's first marriage and he was warned not to remarry. *Id.* The King disregarded the Papal warnings and deemed himself Supreme Head of the Church. See JASPER RIDLEY, *HENRY VIII* 157-60 (1985). He denounced the papacy and clergy for failing to recognize his royal power as King. *Id.* Five years after instituting divorce proceedings, Henry VIII appealed to the General Council of the Church against any excommunication the Pope may bring against him. *Id.* This final act of defiance completed the King's official break with the Pope. *Id.*; see also RICHARD REX, *HENRY VIII AND THE ENGLISH REFORMATION* (1993) (analyzing Henry VIII's religious reformation).

¹⁹ BOLT, *supra* note 4, at 140. Meg suggested to her father that he "say the words of the oath and in your heart think otherwise." *Id.* Meg went on to beg her father not to suffer for the State. *Id.* 140-41. She questioned whether had he not already done "as much as God [could] reasonably want." *Id.*

²⁰ See *supra* note 8 and accompanying text; see generally E.E. REYNOLDS, *THE LIFE AND DEATH OF ST. THOMAS MORE* 301-05 (3d ed. 1978). Bishop John Fisher, like More, agreed with the Act regarding the succession to the throne but was unwilling to take an oath to the entire Act. *Id.* Fisher was executed less than a week before More was tried for refusal to take the oath. *Id.*; see also REYNOLDS, *supra* note 18, at 147-48 (emphasizing, except Fisher, virtually all clergy took Oath).

²¹ BOLT, *supra* note 4, at 140.

²² *Id.*; see also MARIUS, *supra* note 9, at 468-70. In letters to Meg, More asserted the authority of his conscience while refusing to condemn others who had sworn to the Oath. *Id.*

considered him “annoying, loving, hateful, obtuse, brilliant, witty, demanding—and somehow very much an indispensable ideal we cherish for ourselves.”²³

Yet in the end, Thomas More remained steadfast to principle, even at the cost of his life. In his own final words, he remained “the King’s good servant but God’s first.”²⁴ His parboiled head hung exposed for a month on London Bridge as an ignominious reminder of the price the King exacted from his good servant.²⁵

Thomas More lived from 1478 to 1535, during “a confused and threatening epoch,”²⁶ as a recent biographer pointed out. A time “when nothing seemed certain and no one could make clear sense of experience.”²⁷ Does not his life offer a particularly apt challenge for the lawyer in America on the eve of a new century? All around us we are confronted with ambiguity and are faced with a culture saturated with a relativist view of life.²⁸ We live in a world where those who dare to enunciate principle are cast aside as moralizing busybodies seeking to inflict their beliefs on the different and the oppressed.²⁹ Even in Bolt’s play, Cardinal

²³ MARIUS, *supra* note 9, at 519.

²⁴ See MARIUS, *supra* note 9, at 514. The first known account of More’s execution and final words appeared in a pamphlet entitled *Paris News Letter*. *Id.*; see also REYNOLDS, *supra* note 18, at 151 (recounting *Paris News Letter* which attributed More with the penultimate words “pray God for the King, so that He would give him good counsel”).

²⁵ See JASPER RIDLEY, *STATESMAN AND SAINT* 283-84 (1982). After More’s execution by beheading, his headless corpse was given to his daughter Margaret Roper who buried it at the Church of St. Peter ad Vincula. *Id.* More’s head was boiled in order to preserve it as well as make it look more gruesome. *Id.* Thereafter, it was placed on a pole on London Bridge. *Id.* Ridley’s account states that, after a few days, Meg bribed a constable to take down the head and give it to her, whereupon she secreted it. *Id.* But see REYNOLDS, *supra* note 18, at 164 (comparing different accounts of the fate of More’s head). One version had Meg pass the head down through her heirs. *Id.* In another account, Meg buried More’s head at the cathedral church at Canterbury. *Id.*

²⁶ MARIUS, *supra* note 9, at xxii; see generally J.D. MACKIE, *THE EARLIER TUDORS 1485-1558* (1952) (discussing processes and aspects of epoch, including criticism of its institutions).

²⁷ MARIUS, *supra* note 9, at xxii.

²⁸ See Joe M. Feist, *John Paul Ready for Visit; Pope to Spell Out Agenda, Plea for Human Rights*, DALLAS MORNING NEWS, Oct. 1, 1995, at 1A (focusing on American problems of secularism, materialism and relativism); George F. Will, ‘Gladiators of Liberation’ Skewer Public Order, TIMES PICAYUNE (Wash.), May 11, 1995, at B7 (characterizing lawyer’s attempt to strike down statute as defending moral relativism).

²⁹ See Paul Baumann, *The Pope vs. the Culture of Death*, N.Y. TIMES, Oct. 8, 1995,

Wolsey³⁰ complains to More that “[i]f you could just see facts flat on, without that horrible moral squint, with just a little common sense, you could have been a statesman.”³¹

More understood something that we need to understand today: that the law ultimately exists to civilize. The law does not exist to make people rich, to referee, or to advocate. Nor does the law exist to merely punish or keep order. Rather, the law was ordained to bring justice and equity to the citizens of the commonwealth. Essentially, More believed all law to be rooted in a base of natural law.³² He knew, as we must today, that no law can survive if it is separated from its underlying, commonly-shared moral base. America was founded on the very presumption that there is an inextricable link between religious faith and moral code. Yet, many today seek to sever the link and make it impermissible to even recognize a relationship between the religious faith that should animate us and the legal code that should govern us.³³

Today, many, if not most, see the law only as a pragmatic tool, a highly technical vehicle for regulating diverse interests. The roots of our legal tradition in a moral seedbed are, for the

§ 4, at 13 (defending American pluralism while recognizing Pope John Paul II's belief in objective moral facts with which civil law should be aligned); William J. Bennett, *Christians Today Are Under Attack for Sound Beliefs*, SUN-SENTINEL (FORT LAUDERDALE, FLA.), July 3, 1994, at 1G (finding moral and political aims of Christian conservatives under attack); Thomas Donaldson, *Global Business Must Mind its Morals*, N.Y. TIMES, Feb. 13, 1994, § 3, at 11 (promoting remembrance of fundamental values in business contexts).

³⁰ Thomas Cardinal Wolsey preceded More as Henry VIII's Lord Chancellor. See A.F. POLLARD, *WOLSEY* 59-98 (Greenwood Press Inc. ed., 1978) (1929). Wolsey, who came from modest beginnings, was nonetheless educated at Oxford. *Id.* at 12. There, Wolsey saw the priesthood as a route to wealth and social status rather than a calling. *Id.* at 12-16. Henry VIII appointed Wolsey first as chaplain and then as his chief minister for fifteen years. *Id.* Wolsey's close association with the King made him one of the mightiest political forces in England in his own right as well as the rest of Europe. *Id.* at 116-19; see also RIDLEY, *supra* note 18, at 161-66 (discussing continental effects of Wolsey's actions). However, when Wolsey was unable to secure a divorce for Henry VIII from Catherine of Aragon, he was stripped from power and exiled to northern England where he eventually died. *Id.* at 232-40; see generally NANCY L. HARVEY, *THOMAS CARDINAL WOLSEY* (1980) (biography of Wolsey).

³¹ BOLT, *supra* note 4, at 19.

³² MORE, *supra* note 12, at 103-05.

³³ See *Political Agenda of Religious Right is Fair Game for Criticism*, SAN DIEGO UNION-TRIB., July 13, 1994 at B7 (arguing that criticism of “religious right[s]” blend of politics and faith is not “Christian bashing”); Phil Sudo & Eric Geishon, *For God and Country; Religious Right's Political Influence*, SCHOLASTIC UPDATE, Oct. 7, 1994, at 12 (criticizing “religious right[s]” assertion of Christian values in political arena).

most part, ignored. I join you in lamenting our current state where one can dial a "900" number to hear the latest lawyer jokes.³⁴ Yet I have to wonder whether such an image is not, in part, self-inflicted. The legal profession appears cast adrift from its traditional moorings,³⁵ along with the rest of our society, my own profession included.³⁶

What are the consequences of such a schizophrenic view of life that separates faith from law? One need not look far to see evidence of the inevitable unravelling of our society. What, I wonder, would More say if he looked at our country with that "horrible moral squint?"³⁷

More would surely notice the clear erosion of a public ethic. With growing frequency, it seems public office is a prize, sought under the guise of serving the public, only to gain power and wealth. From White House to statehouse, right and wrong appear too often defined by what you can get away with. Repulsed by this corruption, people of good heart and noble motive increasingly shun public service.³⁸ More would doubtless be struck by the clear erosion of respect for life, from womb to grave. Too frequently, human life is seen as an inconvenience,

³⁴ See Paul Farhi, *Lawyer-Loathing Phone Line Set to Debut April Fool's Day*, WASH. POST, Mar. 22, 1994, at E1; J. Freedom du Luc, *All the News You Need to Know to Sound Smart*, SACRAMENTO BEE, Apr. 10, 1994, at D7 (describing "900" number for lawyer jokes named "Shark Line"); Stephen Williams, *Yes, Dialing for Dollars in 900-Land is Worth Every Last Nickel*, L.A. TIMES, Dec. 16, 1994, § E, at 13 (describing popularity of "Shark Line").

³⁵ See Edward D. Re, *The Causes of Popular Dissatisfaction with the Legal Profession*, 68 ST. JOHN'S L. REV. 85 (1994); Marc Davis, *Full-Court Press*; Barbara Lazarus *Shows her Fellow Lawyers How to Deal with the News Media*, CHICAGO TRIB., Sept. 10, 1995, at 1 (describing current negative image of lawyers); Howard Weitzman, *The State; Personal Perspective; Defending the Justice System—From the Lawyers Who Disparage It*, L.A. TIMES, July 9, 1995, at 6 (stating lawyers, not O.J. Simpson trial, added to lawyer's negative public image).

³⁶ See Andrew M. Greeley, *Stereotype of Unhappy Priests Ignores Fathers who Should Know Best*, STAR TRIB., May 12 1994, at 19A (discussing image of priests as unhappy); Ann Rogers-Melnick, *Bishops Approve Campaign to Promote Priesthood*, PITTSBURGH POST-GAZETTE, at C2 (stating celibacy, women's ordination and sexual abuse scandal has tarnished image of priesthood).

³⁷ BOLT, *supra* note 4, at 19; *see also supra* note 31 and accompanying text.

³⁸ See Ross Anderson, *Truth and Consequences: Straddling an Ethical Line*, SEATTLE TIMES, Feb. 17, 1995, at B4 (describing newspaper coverage of corruption as discouragement to seeking public office); Janice Brooks Jarvis, *Few Jump at Chance to Run; Competition far from Keen for Many Local City Offices*, ATLANTA J. & CONST., at 1J (recognizing distaste that prevents would-be office seekers). *Cf.* MORE, *supra* note 12, at 106 (stating that anyone in Utopia who seeks public office is disqualified from holding it).

rather than God's most precious gift.³⁹ It is more than a little ironic that the law is evolving away from protection of innocent life and toward defense of those who would destroy it.⁴⁰

More would likewise recognize a clear erosion of what we understand as family, the very bedrock of any civilized society. Look around at the soaring incidence of children born out of wedlock,⁴¹ of the unspeakable abuse of children,⁴² of irresponsi-

³⁹ See Marilyn Martrone, *What Families Can Teach*, AMERICA, Apr. 1, 1995, at 15 (noting abortion, euthanasia and contraceptives as confrontations to life); see also NANNETTE J. DAVIS, *FROM CRIME TO CHOICE* (1985) (discussing legitimization of abortion in America); NEIL ELLIOT, *THE GODS OF LIFE* (1974) (discussing definition of death which justifies euthanasia); MICHAEL TOOLEY, *ABORTION AND INFANTICIDE* (1983) (arguing abortion and infanticide are philosophically similar).

⁴⁰ See EVA R. RUBIN, *ABORTION, POLITICS, AND THE COURTS: ROE V. WADE AND ITS AFTERMATH* (1982) (discussing evolution of abortion law in America); DAVID M. KENNEDY, *BIRTH CONTROL IN AMERICA* (1970) (discussing evolution of contraceptive law in America); STANLEY M. ROSENBLATT, *MURDER OF MERCY* (1992) (studying acquittal in assisted suicide case and euthanasia phenomena in America); Susan C. McMillan, *No More Exploiting of Jane Roe*, L.A. TIMES, Aug. 16, 1995, § B, at 9 (recognizing importance of *Roe v. Wade* in trend against sanctity of life); cf. JAMES C. MOHR, *ABORTION IN AMERICA* (1978) (discussing restrictive trend in 19th century American abortion law).

⁴¹ See ALISA BURNS & CATH SCOTT, *MOTHER-HEADED FAMILIES AND WHY THEY HAVE INCREASED 64-74* (1994) (citing increase in out-of-wedlock births from 5% in 1960 to 25% in 1988); Miriam Marquez, *Issue of Out-of-Wedlock Births Goes Deeper Than a Stereotype*, ORLANDO SENTINEL, Nov. 6, 1995, at A10 (stating out-of-wedlock childbirth is not confined to particular socio-economic or racial groups); Mark Potok, *Out-of-Wedlock Childbirth Rising / "Culture Permits It" Despite Ramifications*, USA TODAY, Nov. 8, 1995, at 2A (reporting that one in five never-married women had at least one child); Deborah Zabarenko, *"Murphy Browns" Raise Single Mothers Total*, HERALD, Nov. 8, 1995, at 8 (reporting that one American child in four is born to a single mother); cf. MORE, *supra* note 12, at 102-03 (proposing that in Utopia, premarital sex would be severely punished).

⁴² See BUREAU OF JUSTICE STATISTICS, U.S. DEPT OF JUSTICE, *20 YEARS OF MEASURING CRIME SHOWS FEWER OFFENSES OVERALL BUT INCREASED VIOLENCE AGAINST MINORITIES AND THE YOUNG* (1993); NATIONAL INSTITUTE OF JUSTICE, U.S. DEPT OF JUSTICE, *CHILDHOOD VICTIMIZATION AND RISK FOR ALCOHOL AND DRUG ARRESTS* (1995) (reporting correlation between child abuse and later drug and alcohol related criminal activity of child); OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEPT OF JUSTICE, *FACT SHEET NO. 17, JUVENILE VICTIMIZATION: 1987-1992* (1994) (noting 23% increase in juvenile victimization from 1987 to 1992); Mindy Cameron, *Most Vulnerable Citizens Facing and Uncertain Fate*, SEATTLE TIMES, Oct. 8, 1995, at B10 (stating reported cases of child abuse at all time high and suggesting correlation between child abuse and poverty); *Drop in U.S. Social Health Index is Reported*, N.Y. TIMES, Oct. 15, 1995, § 1, at 34 (reporting highest child abuse statistics in 24 years); Andrew Martin, *'95 Could be Deadliest yet for Kids; 30 Killings Already in Area; Abuse Fatalities Soar*, CHICAGO TRIB., May 6, 1995, at 1 (reporting 48% increase in child abuse fatalities in last decade).

ble, absentee fathers,⁴³ of teen violence,⁴⁴ and ask honestly where the discontinuity leads.

Finally, More would see the clear fault line running between the haves and have-nots in our republic.⁴⁵ The cleavage grows ever deeper as a common pool of community values vanishes⁴⁶ and as ideology, not principle, defines racial, economic, and sexual inequities. Can justice ever be achieved along so distorted a road?

⁴³ See Haya Stier & Marta Tienda, *Are Men Marginal to the Family?*, in MEN, WORK AND FAMILY 23 (Jane C. Hood ed., 1993) (citing high rate of absentee fathers and their failure to pay child support); Suzanne Fields, *The Disappearing Fathers; American Families Need to go for the Gold in More Than Just Athletics*, ATLANTA J. & CONST., Feb. 28, 1994, at A6 (recognizing high rate of men leaving families); Susan E. Kinsman, *Deadbeat Dad Enforcement Cases Rising*, HARTFORD COURANT, Sept. 24, 1994, at A3 (reporting number of support enforcement cases more than doubled over past five years in Connecticut); see also PETER L. BENSON & EUGENE C. ROEHLKEPARTAIN, *YOUTH IN SINGLE-PARENT FAMILIES RISK AND RESILIENCY* (1993) (interpreting data to show anti-social behavior of children raised in single parent homes); Andrew Gottesman, *Alleged Deadbeat Mom Part of Growing Trend*, CHICAGO TRIB., Aug. 30, 1994, at 2 (describing problem as not totally unique to fathers); Patrick A. McGuire, *Parents Due Child Support Money are Buying Their Own ... Paybacks*, BALTIMORE SUN, Jan. 2, 1994, at 1G (stating that 15 million absent parents have not paid estimated \$5 million in court-ordered support); Barbara Vohejda, *Senate Bill Could Trigger Start of "Deadbeat" Parent Registry*, WASH. POST, July 6, 1995, § A, at 19 (reporting that only 67% of child support due is ever paid); cf. MORE, *supra* note 12, at 75, 80 (suggesting importance of father-figure in child rearing and proposing men as head of household).

⁴⁴ See JAMES C. HOWELL, GANGS (OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEPT OF JUSTICE, FACT SHEET NO. 12, 1994) (reporting 90% of violent gang members are juveniles); OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEPT OF JUSTICE, SERIOUS JUVENILE COURT CASES INCREASE 68 PERCENT FROM 1988 THROUGH 1992 (July 24, 1994) (press release); Angela Cortez, *Teen Violence Rips at Those on Front Lines*, DENVER POST, Oct. 22, 1995, § A, at 1 (reporting that despite decline in overall crime rate in major cities, violent crimes involving minors has risen); *Illegitimate Babies Seen as Future Murder Wave*, BOSTON HERALD, Feb. 26, 1995, at 4 (predicting increase in murder by teenagers because of surge in illegitimate births); Dave Wadsworth, *Violence has Become a Part of Growing Up*, DENVER POST, June 11, 1995, (Magazine), at 15 (reporting FBI statistics indicating substantial increase in murder by young males).

⁴⁵ See DENNY BRAUN, THE RICH GET RICHER (1991) (tracing national and worldwide disparate income trend); Steven Pearlstein, *Reshaped Economy Exacts Tough Toll; Competition, Efficiency Grow—As Does Americans' Income Disparity; Improved Competitiveness Exacts Social Price*, WASH. POST, Nov. 12, 1995, § A, at 1 (noting correlation between industrial growth and income gap); *Urban Deprivation is Getting Worse, Says Church Report*, DAILY TELEGRAPH, Nov. 17, 1995, at 13 (reporting growth in income disparity). Cf. MORE, *supra* note 12, at 130-31 (proposing eradication of monetary system in Utopia as solution to income gap).

⁴⁶ See BRAUN, *supra* note 45 (arguing income disparity threatens socio-economic base of society since middle class drives economy and defines national values).

More gave us guidance on how to approach these problems. In response to his daughter Meg's comment "[i]t's not your fault the State's three-quarters bad,"⁴⁷ this man for all seasons replies, "[t]hat's very neat."⁴⁸ More explains:

But look now ... [i]f we lived in a State where virtue was profitable, common sense would make us good, and greed would make us saintly. And we'd live like animals or angels in the happy land that *needs* no heroes. But since in fact we see that avarice, anger, envy, pride, sloth, lust and stupidity commonly profit far beyond humility, chastity, fortitude, justice and thought, and have to choose, to be human at all ... why then perhaps we *must* stand fast a little—even at the risk of being heroes.⁴⁹

Like More, we live at a spiritual turning point; and, like More, we are drawn to a kind of countercultural life if we are to be true to ourselves and to our beliefs. Saint Thomas More, the patron saint of lawyers, in whose memory we gather, invites all of us, but especially the sworn members of the bar, to lives of faith and learning, to unflinching protection of our precious legal heritage, and to the principled heroism that led Thomas More to a martyr's death.

⁴⁷ BOLT, *supra* note 4, at 140.

⁴⁸ *Id.*

⁴⁹ *Id.* at 140-41.