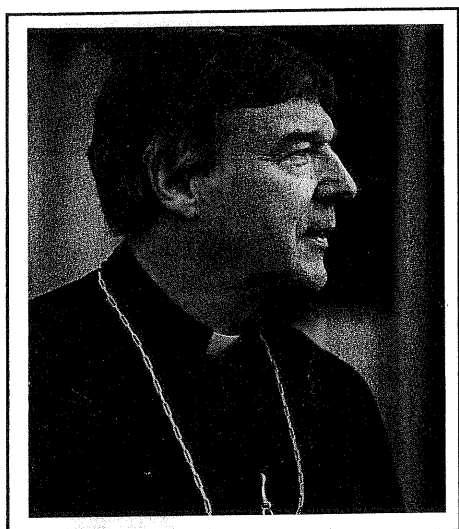




THE STRUGGLE FOR FAITH IN AUSTRALIA TODAY

A speech by His Grace Archbishop George Pell, Archbishop of Melbourne, delivered at the St Thomas More Society's Fifty-second Annual General Meeting Dinner, held at the Royal Automobile Club, Sydney on 30th October 1996.



His Grace Archbishop George Pell

I am sometimes irritated by those who over-emphasise the evil and misery of our present way of life; a feeling prompted by my overseas work as chairman of Caritas Australia. Once I was even rash enough to pursue this point with a self-proclaimed "visionary" who alleged Our Lady was lambasting our society for its great evils. It seems to me that one could just as easily claim that rather than being punished, we have been greatly blessed.

Compared to what may appear to be the more religious and moral times of even a century ago, let alone those of the deeply religious Middle Ages, our standards of health and education, our level of prosperity, and our ability to travel to remote places in a few days and to communicate with anybody anywhere in the world – all suggest our own time is richly blessed by God. To appreciate this, of course, we do not need to compare our

times to those long past. We need only look at other societies overseas. I never return home from the poor countries of Africa and Asia – which are often countries populated with deeply religious people, without thanking God for what we have here. The blessings we enjoy, and which we so often take for granted, are the realisation of even more than the wildest imaginings of the vast majority of human beings alive today, to say nothing of billions who have lived before us, and I consider it my duty to remind people of this whenever I hear talk of the evil nature of our age.

In many ways, the nature of our times commands us to deep gratitude. It imposes upon us a responsibility to maintain our situation, to improve it for those who come after us, and wherever possible, to extend it to include those who do not yet enjoy it.

None of this is to deny we have problems. The challenges we face are real, and there are some which may properly be characterised as evil. There can be no other way of characterising the attack made on life by abortion, for example, just as there can be no other way of characterising euthanasia, the legalisation of which would represent a dramatic escalation of this attack. This is a fight we will probably win in the Federal Parliament. It is opportune therefore to acknowledge the debt of all lovers of life, to Euthanasia No! and its brilliant executive officer Tony Burke. Nor is talk of "decline" always and everywhere misplaced. The destruction of family life offers a spectacular instance of the decline both of culture and society, as do the

conditions that make the decline of family life easier. Here I think principally of increasing public tolerance for sexual irresponsibility, marital infidelity and divorce; the decline of public standards of taste; and perhaps most importantly, the rise in admitted unbelief.

There is moreover an intangible but freely admitted sense of malaise in our society, the most terrible evidence for which is the level of youth suicide, the third highest in the world after Finland and New Zealand. Why should our young people, particularly our young men, be killing themselves like this?

The obstacles which even the poorest of them face in making a happy life for themselves are as nothing compared to those facing their contemporaries in the poor countries of Africa, where youth suicide is almost unknown.

The dynamic at work here seems to be one of fear and despair. Rapid technological change, which some commentators expect young people to relish, and the apparently insuperable levels of unemployment make the future fearful to the young; a fear compounded in certain cases by family breakdown and the sense of worthlessness it leaves children with. Avenues of escape exist in abundance, but the resort of alcohol, drugs and loveless and irresponsible sex – far from offering a way out, only increases the sense of isolation and despair, imprisoning the individual more and more within himself. This is an unbearable situation, from which death seems to offer the only release.

Death has often seemed to be the solution to problems, both real and

supposed. One can speak without exaggeration of our century being characterised by death; by the deaths of millions of people in wars of unprecedented destructiveness and by the deaths of millions more in well-organised and ruthlessly pursued programs of mass extermination. In the midst of a time of such plenty, there is also death and the stench of evil on a scale never before known. How are we to make sense of our times, this wondrous and horrifying point in history which simultaneously offers so much promise and so much despair?

We might usefully start to make sense of our times by recalling the words spoken by the great Russian novelist Alexander Solzhenitsyn in his speech accepting the 1983 Templeton Prize for Progress in Religion. The history of his own country this century, he said, with its exterminations, its state-sponsored famines, its slave labour camps, its terrors and its poverty, only became possible because "men had forgotten God". This was by no means simply a Russian phenomenon, however. It was something that afflicted Western culture as a whole. He claimed that "the failings of human consciousness, deprived of its divine dimension, (had) been a determining factor in all the major crimes of the century." In forgetting God, the twentieth century had been sucked into "a vortex of atheism and self-destruction". "Men have forgotten God." This striking formulation, with the explicit connection it makes between atheism and self-destruction seems as true to me today as it was when I first read those words thirteen years ago. Last century another great Russian novelist, Dostoyevsky, asked whether it was possible for civilised men to believe. Solzhenitsyn however puts before us another question: can unbelieving men be civilised? The answer he suggests, in the starkest terms, is No.

This claim may strike you as overstated. Many of us know good people who profess to be unbelievers or atheists, people who often live lives which may well serve as examples of what a life of true Christian charity should entail. Similarly, we probably also know many people for whom unbelief does not lead to despair or self-destruction. But on the other hand, the political regimes of Lenin and Stalin, of Hitler, Mao and Pol Pot were

all explicitly and militantly atheist. Each identified religion, quite rightly, as a major opponent, and all sought to eradicate it through persecution. (Pol Pot's destruction of Phnom Penh's Catholic Cathedral by exiles returning from Paris is symbolic of this activity). Their programs of coercive social re-organisation, and the exterminations they necessarily entailed, all took as their premise that with the death of God, nothing is true and everything is permitted. When this connection between atheism and limitless human power was first drawn last century by the likes of Dostoyavsky and Nietzsche, it may have been possible to scoff at it. But given the subsequent history of our times, I do not think this is any longer possible. Consider Stalin's attempts to create "Soviet Man" through ethnic cleansing through the relocation of many groups of hundreds of thousands. Remember the millions of descendants of the Gulag still living at Novo Sibirsk. Remember the tens of millions of deaths through famine in Neo's Great Leap Forward and then again later in the Cultural Revolution. Why was this done? To destroy history, destroy traditions and create the new (godless) man.

Even at the level of the individual atheism is difficult, even though many atheists neither despair nor give themselves over to inflicting cruelty upon others. Words like drugs and sex have become so familiar to us in regard to youthful misadventures that it is easy to forget the realities behind them. The so-called recreational use of marijuana is one thing. But for some young people, (those who feel themselves trapped in a loveless existence without prospects or hope), drugs represent a world of limitless possibility; and one of the major possibilities explored through the use of drugs, one which is often deliberately sought, is the possibility of self-destruction. We forget too how sex can be pursued for the purposes of self-destruction, and not only because of AIDS. Promiscuous sex powerfully reinforces feelings of worthlessness and depersonalisation, even in the apparent attempt to escape from them. Clearly, not all young people follow this course and the numbers who follow it to actual self-destruction are small. But even one young person led to self-destruction in this way

is one too many for me. And that many others can resort to these self-destructive means of escape without ending their lives is hardly grounds for reassurance. Perhaps most pernicious of all is the way the use of drugs and sexual promiscuity is presented to the young not only as something normal, but as something glamorous. Activities which bespeak a deep personal and cultural impoverishment, and which are in fact means of self-destruction, are represented as part of a world of limitless freedom and limitless possibility, a world where the individual can make of himself anything he wills without parents, teachers, or most importantly God, interfering.

For these reasons, I hold that the major challenge facing our society is the challenge posed by atheism. Perhaps for certain individuals, atheism is unproblematic. But as a public philosophy, as a source of value and meaning for a culture as a whole it is a disaster. To give our young people atheism when they ask for meaning and values is to give them stones when they ask for bread. This is something we would not do as parents, and it is something we must not do as a society. The challenge atheism poses, therefore, is one that should concern all people of goodwill. But is obviously a challenge of pre-eminent concern to the Church and to all believers. How is revealed religion to proceed in this situation? What strategies are open to us, and which might be the most fruitful? Ironically, if ours was an age of religious persecution, the answers to these questions would perhaps be easier to see. The prospect before us, however, is more that of Huxley's *Brave New World* than that of Orwell's 1984, at least for the moment, and finding answers to these questions in a time of plenty and pleasure and apparent indifference to religion is far more difficult.

Nevertheless, there are two broad approaches to how the Church should respond to the challenge before it. The first of these suggests that further doctrinal and pastoral adaptation is necessary for the Church to become "relevant" to the times. The second argues for doctrinal intransigence coupled with a flexibility about how the message of the Church is spread abroad. The first approach holds that the problem lies with

the nature of the product, and it is for this reason that the modern public isn't buying. The second approach, sees the solution in terms of a return to the sources of faith and Christian belief. This emphasis on the return to the sources was one of the two important leitmotifs of the Second Vatican Council, and has much to recommend it. The first approach, in contrast, draws on a different understanding of what the Church is. It generally argues for wholesale adaptation on sexual morality, at least in regard to divorce, homosexuality and pre-marital sex. Something which is not only completely at odds with what Christ taught - and a betrayal of the patrimony of Christian history, but catastrophic in practice.

There is already strong evidence suggesting that attempts to "save" the Christian message by conforming it to the demands of the world are counter-productive. Moreover, there seems to be no limit to the tenets of belief that can be compromised. In Holland and French-speaking Canada, where this approach has been taken furthest, the results have been disastrous.

A 1993 survey of 19,000 people in thirteen countries revealed that in once solidly Christian Holland, only 50% of the population describe themselves as believers, compared to 94% in the United States. The same survey found that in countries such as the United Kingdom, New Zealand and Australia, between 60% and 75% of the population declared themselves believers. Furthermore, 22% of the population of Holland describe themselves as atheists, compared to 2% of the population in the United States. It is sobering to recall that the doctors of Holland distinguished themselves under Nazi occupation by publicly condemning and refusing to take part in the euthanasia of the disabled and mentally ill. A mere 30 years later, one generation on, the climate in the country had so changed that euthanasia could be effectively decriminalised. I am certain that the catastrophic collapse of the Church in Holland through the well-meaning but misguided adaptation of Christian teaching to the times played a significant part in making this momentous change possible.

The fact, disconcerting for some, is

that the only evidence of religious growth in Australia comes from so-called hard line groups, by which I mean the evangelical Protestant religions, and groups within the Catholic Church, both religious and lay which adhere to traditional Christian belief. Adapting the Church to the world is a mistake. I once provoked outrage by making this claim in a broadsheet on the ordination of women. Wherever it has occurred, the ordination of women in the Anglican church has been accompanied by further decline in religious practice and further drift from the Church. The inter-relationship is not simple and it is subject to other factors, but the claim that - to keep women involved in the life of the Catholic Church they must be offered ordination - flies in the face of any available evidence. The relationship between the ordination of women and the decline in religious practice may not be one of simple cause and effect, but the conclusion is nevertheless irrefutable.

As someone vowed to the defence and exposition of the apostolic tradition, I recognise the validity of doctrinal development, and the need for a variety of theological and liturgical approaches. Some of these developments and approaches, however, tend to results that are antithetical to Christ's message of love and hope. Radical feminist theology, for example, with its emphasis on the ordination of women, the re-translation of the Scriptures, the feminising of the Deity and the de-sexing of Christ, effectively destroys Christian teaching. Closer to the mainstream, there are theological approaches which assert the supremacy of individual conscience over the Gospel and Church teaching. This is a claim which gives the individual supremacy over the Word of God on the presupposition that black and white prohibitions and even universally binding moral principles are not options for a sophisticated adult. In neither of these do we find a way forward.

The approach we take must be one which returns to the sources of Christian faith, and in doing this we should have a clear understanding of the conditions we have to work in. As I mentioned before, the vast majority of Australians describe themselves as believers, with only 12.9% describing themselves as without any religion, according to the figures of the

1991 census. Furthermore, many people who describe themselves as atheists have practical attitudes closer to those of an agnostic. They are not anti-theists, and there are signs that the unwelcome consequences of radical atheism are uncongenial to the Australian consensus. While religious practice is not as strong here as it is in the United States, while Australia is in many ways a more secular country, it is also a country which is less neurotic, less violent and less anti-religious. All these things favour the work of the Church.

There are also obstacles, of course. While the sectarianism of the past has died away, there is continuing evidence of a generally anti-religious sentiment in the press and among opinion makers. The most offensive instance of this of late was the publication in the Melbourne Age of a piece by Professor Peter Singer attacking belief in God on Good Friday. There are powerful counter-messages such as environmentalism, which in its more radical guises is undoubtedly anti-God, although this aspect of the movement is usually concealed. There is a great reluctance to think ill of environmental groups, but the legitimate concern for the preservation of the environment, and the desire to reduce the suffering of animals which sometimes accompanies it, is often conceived in a way which regards the traditional Christian preoccupation with personal conversion in faith and morals as an indolent distraction from a greater imperative. There is also the tendency of the Catholic community to avoid addressing big questions and to focus instead on intra-family squabbles.

We tend to be more concerned with arguing over the power of the Pope or the liberalisation of moral teaching than we are with evangelisation and conversion. This introspective agenda leads to a neglect for the world outside, which is damaging. The address of Archbishop Quinn, the retired Archbishop of San Francisco at the centenary of Campion Hall, Oxford University (reported in The Tablet) is a clear example of this introspection.

Taking these conditions into account we should respond to the challenge of atheism by bringing people knowledge of the One True God.

The problems we face are exacerbated

by increasing ignorance of what the Christian understanding of God is, and what faith in Him might mean. There are two points in particular that we might concentrate on. The first of these is the teaching that God is a god of love, especially for those who suffer. Here the life of Christ as the human son of Mary and as the Word Made Flesh should be emphasised. Christ's suffering shows that God suffers with us, and that through God our suffering can be transcended; that it is not the end of life, a meaningless necessity. This message of the intrinsic meaningfulness of suffering is a message which the world cries out to hear. In the midst of our suffering, God offers us love. This is the most practical difference between us and neo-pagans; those for whom creation is purposeless. For lives blighted by lovelessness and suffering, especially young lives, there is no more urgent message to be conveyed. It is the reality of this love, which we find in turning through prayer to God in our suffering - and which we find in reading the Gospel accounts of Jesus' life - that

leads us all into faith. It is in this love that we find what Solzhenitsyn described as "the warm hand of God" which we have only to reach for.

The second point that should be emphasised in bringing people knowledge of the One True God is the reality of life after death. This is something that is often passed over in silence in public discussion even by Christians, as if it is too absurd even to ridicule anymore. And yet Vladimir Nabakov, another great Russian writer, and a giant of literary modernism, an undoubted genius, claimed that "we believe ourselves to be mortal only as the madman believes himself to be God". The soul is immortal. To believe this, as every human being wants to believe it, is not the product of narcissistic wish - fulfilment, as Freud and his heirs in modern psychology would have us believe. It is the fundamental truth of our existence. It is this which assures us that our lives and our sufferings are meaningful. The reality of heaven, hell and purgatory assures us of an eternal destiny, gives us hope, allows us to reach for something more than despair.

The documents of the Second Vatican Council speak of faith being the natural state of man. To this it might be added that love too is the natural state of man. We have to be corrupted, so to speak, to atheism, just as we have to be corrupted, through being maltreated and denied love, to lovelessness. As the discontent amongst the young that sometimes leads to suicide shows, a life without love or hope, a life of meaningless suffering alone, is unbearable. Faith in the One True God, the god of love, is no longer something we can do without. It is time to respond to the challenge of atheism and non-belief with the challenge to faith, a far more radical and difficult challenge, but one all the more necessary to undertake. If it is taken up seriously, and pursued with a steadfast heart, I think the results will surprise us all.

UNION INTERNATIONALE DES JURISTES CATHOLIQUES

The Council of the St Thomas More Society applied for affiliation on 20 December 1996 as representative of Catholic Lawyers in Australia to the Union Internationale des Juristes Catholiques.

On 12 February 1997 the President, Professor Sergio Cotta, notified the Society that the application had been accepted and that thereafter the St Thomas More Society will represent Australian Catholic Lawyers in the Union. It is understood that this was the first application from an Association of Lawyers in a common law country. The Society's executive is seeking to make arrangements and establish a framework for the Society to participate in the Union's activities and to contribute to their publication.

The Union is an Association of Lawyers based in Rome and associated with the Pontification Council for the Laity. It has affiliates in all major civil law countries and was established as a major international Catholic organisation in the 1950s.

BEYOND UTOPIA

An address by Emeritus Professor Dame Leonie Kramer DBE AC, Chancellor, University of Sydney, delivered at the St Thomas More Society's Patronal Feast Day Dinner held at the Law Society of New South Wales Dining Room, Sydney on 9th July 1996.

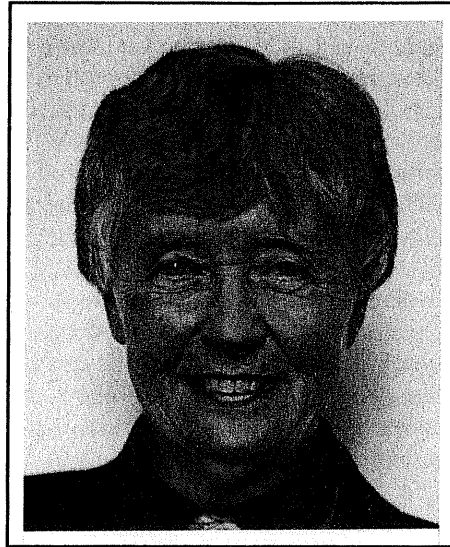
I must begin with a woeful confession of my unsuitability for this task. I am not a theologian or a lawyer. My church history includes several varieties of Protestantism, one of which, in my childhood, guaranteed immediate dispatch to the nether world if I crossed the street on the way home from Sunday school and passed the entrance to the Catholic Church. Once I was tempted to do so, to discover whether the promise that grappling irons would seize me and drag me into its dungeons, would be fulfilled. I am here to testify to its falsehood.

My other principal disability is that I am not and never have been a student in any but the most limited sense, of More's work, and I am therefore only too conscious of the wealth of learning enjoyed by this Society from its speakers over the years since its inception. All I have to offer is a life-time as a teacher of literature - a rewarding profession which provides access to a limitless range of reading. In the course of my literary education I encountered More, and this lecture reflects that discovery, but more importantly, my rediscovery of his Utopia. This rediscovery, thanks to tonight's imperative, has caused me to review what I thought were settled views, and also to wonder whether commentators on this work have not overlooked certain aspects of it which suggest to me that it should be regarded not just as a discourse on how an ideal society might be structured, but as a much more personal revelation of More's mind at this stage of his development. This, then, is my subject.

It is clear from his biographers that More's principal love was literature and philosophy. In entering Henry VIII's service in 1518 he made a choice which was also a sacrifice. Utopia itself records the beginning of his public career. In his letter to Peter Giles sending "his little book" he apologises for taking a year to complete what he "expected in less than six weeks", and refers to the difficulty of finding time to write, given his family obligations. Early in Book I he refers to his mission to Bruges and Antwerp in 1515 to negotiate commercial treaties, the beginning of his work for the King; and

the following year, devoted to the study of history and political philosophy, was his last opportunity for a scholarly life uninterrupted by his political and legal career.

We have to face first of all the fact that according to Erasmus More wrote the



*Emeritus Professor
Dame Leonie Kramer DBE AC*

second book of Utopia "earlier when at leisure; at a later opportunity he added the first in the heat of the moment". Given their close association there is no reason to doubt Erasmus's observation. Even if it were not recorded, any critical analysis of Utopia must attempt to explain the remarkable differences between the two parts. Various arguments can be and have been advanced in explanation of these differences, but I do not believe one can isolate this question from two other literary devices employed by More - the narrator Raphael Hythloday, and the persistent mode of irony.

The ambiguities begin with the title. More coined it by fusing the Greek adverb for "not" with "topos" - No place. It also puns on another Greek compound (with the prefix "eu") which means fortunate place, reflected in the title to Book I as "The Best State of a Commonwealth". What, then, are we to make of this? That Utopia - a perfect society - can be found only outside the world as we know it, or that it cannot exist at all? I think we can

infer from Part I an answer to this question which takes us to the heart of More's rational religious faith.

His narrator is Raphael Hythloday (which means "expert in nonsense"), and we could spend a long time arguing about why More chose the archangel whom Milton called "the Sociable Spirit" and the "Affable Archangel" and who chats away to Adam through Books 5 & 6 of Paradise Lost, as the first name of an expert in nonsense. (It would be fanciful to associate the name with Dutch painter Martin van Hemsckerck (1498-1574), known as the Raphael of Holland.) In Book I More "records" Hythloday's discourse; in Book II he "recounts" it - hardly, given More's meticulous use of language, an accidental distinction.

So we have many interesting questions to explore, and some mysteries to probe, and I've come to the conclusion that one simply cannot regard Utopia as a straightforward account of the nature of an ideal state, any more than one can regard Plato's Republic as a prescription for an ideal form of government, although the idea that rulers should be philosophers is one that might appeal to many of us.

In deference to Erasmus's testimony I shall examine Book II first. It is essentially a description of the geography, cities (especially the capital Amaurot, which means "dark" or "dim") officials, occupations, social relationships, religion, the use of slaves and attitudes to warfare of Utopia. Each of these subjects is treated in considerable detail, and More relies on many classical sources which he had studied in his earlier years - such as Plato, Aristotle, Lucian, Plutarch and Tacitus. It is an index to More's extraordinary learning, and a demonstration of his intellectual power to store, interpret, distil and adapt that learning to his purposes.

His Utopia is about the size of England, and Amaurot, like London, is set on a river. It is called Anyder (which means waterless!). All the citizens' humblest vessels - such as chamber pots - are made of silver and gold, as are the chains and fetters of the slaves, so that they do not crave precious metals and precious stones, and so come to prize

them above all else. They abhor warfare, are generous to their neighbours, and while allowing various forms of worship, all believe in a single, inexplicable power "diffused throughout the universe". Women are not debarred from the priesthood "but only a widow of advanced years is ever chosen, and it doesn't often happen".

Why is the river running through the capital of Utopia named waterless? Why is the capital "dark and dim"? Why does it seem to be lifeless? Why do priests and public officials gather to urge a sick person suffering pain "not to endure further agony" and offer him the specious justification that death puts an end, not to life, but to agony? (One answer is that Utopian religion pursues the greatest happiness principle.) Could More support euthanasia?

Raphael says "I am glad that the Utopians at least have been lucky enough to achieve this republic which I wish all mankind would imitate". More, however, has the last word, and thinks "that quite a few of the laws and customs he had described....were really absurd, but that "in the Utopian Commonwealth there are many features that in our own societies I would like rather than hope to see."

This faint note of affirmation does not, however, relieve the pervasive mood of greyness that governs Part II. Interestingly, More's principal objection is "to the basis of their whole system, that is, their communal living and their moneyless economy". He is not prepared, however, to contradict Raphael because he remembers" what he had said about certain counsellors who were afraid they might not appear knowing enough unless they found something to criticise in other men's ideas".

So More is careful to distance himself from his narrator, so that there can be no confusion about whose narrative it is. Part II is descriptive - Raphael insists that he is not concerned with whether the Utopians' views on happiness and pleasure are right or wrong - "I have undertaken only to describe their principles, not to defend them".

When we turn back to Part I we are in a different world. While it would be interesting to debate the order of the books, I think it is more important to concern ourselves with the differences between them. The most striking is that

the descriptive neutrality of Part II is challenged by the strong opinions on moral principles and the sharp satirical tone of Part I, in which there is a much more complex relationship between More as recorder and Raphael as the voyager experiencing and participating in discussions of moral questions.

Book I, while initially promising to relate Raphael's description of the manners and institutions of the Utopians, immediately turns into a conversation between Raphael and More, which includes an exchange of views between Raphael and John Cardinal Morton, in whose household More had served as a page. It's clear in this book that Raphael is the purveyor of More's own views, while More, playing himself, is as Glaucon to Socrates, though with none of Glaucon's submissiveness. Vespucci's Four Voyages are a loose framework for Raphael's traveller's tales, all of which relate to newly discovered countries which are not Utopia. (Scholars speculate that it is at this point, before the conversation begins, that More inserted the material that constitutes the rest of Book I.)

It is worth noting that while Book I makes a number of references to Greek literature, its principal frame of reference is the reign of Henry VII, and Raphael alludes to a number of historical incidents such as the revolt of Cornishmen against the King, which reveal his shortcomings as a ruler. In short, while Book II appears to present a contemporary Utopia, it is in fact constructed from classical texts; whereas Book I is a sustained dialogue, reflecting Plato, Cicero and the humanists, but exposing the evils of contemporary society. The bland tone of Book II is very far removed from the satirical and critical tone of Book I.

The principal arguments advanced in Book I, are about crime and punishment, private property, and the wisdom and practicality of advising princes. This latter topic has the most obvious relevance to the matters More was considering when he wrote Utopia. More puts it to Raphael that it would be generous of him to devote himself to public affairs by serving a prince - would not a man of his learning and philosophical bent make him an invaluable counsellor? Raphael raises various objections to More's suggestion. Princes go to war, of which Raphael disapproves. The other, experienced

counsellors would find fault with one who gave radical advice, and "unless kings became philosophical themselves, the advice of real philosophers would never influence them, immersed as they are and infested with false values from boyhood on". And he even suggests "If I proposed wise laws to some king, and tried to root out of his soul the seeds of evil and corruption, don't you suppose I would be either banished forthwith, or treated with scorn".

This exchange makes it quite clear that in Book I Raphael is used as a mouthpiece for More's ideas, and even apprehensions. This, in W B Yeats's words, is a "dialogue of a self and soul", dramatised as a conversation between two friends. The editors of the Cambridge text speak of the "dividedness" of More's mind. It would be more accurate to say that in Book I, through the literary device of a dramatised conversation, More reveals his own philosophical bent, and provides a glimpse of his mind at work, a mind whose habit of logical analysis is supported but also qualified by a strong intuitive sense of the way powerful men would be likely to behave. When More puts into Raphael's mouth words of righteous indignation against the heavy penalties meted out to thieves, or has him rail against enclosures, he is using him as a front for himself.

When More speaks directly, however, there is no mistaking his voice. It is remarkable how, even in translation, More the person lives in his language:

If you cannot pluck up bad ideas by the root, or cure long-standing evils to your heart's content, you must not therefore abandon the commonwealth. Don't give up the ship in a storm because you cannot direct the winds. And don't force strange and untested ideas on people who you know are firmly persuaded the other way. You must strive to influence policy indirectly, urge your case rigorously but tactfully, and thus what you cannot turn to good, you may at least make as little bad as possible. For it is impossible to make everything good unless all men are good, and that I don't expect to see for quite a few years yet.

There speaks the politician as well as the philosopher and the Christian. That statement explains why More in both books denies that the abolition of private property is the essential basis of Utopia. It

takes more than a redistribution of property to make men live together in harmony. That is why, I believe, he creates a man of nonsense to discover Utopia. It is why Utopia is a no-place, why its capital city is dark and its river dry, and why its religion is the pursuit of happiness. It is the antithesis of the City of God, and of the still waters and light of illumination which are the central metaphors of Christianity. More, as a Christian, is bound to reject Utopia, along with euthanasia, which does not confer the right to die, but the right to murder.

So I conclude that the value of More's Utopia lies not in its projection of a "best commonwealth" which, as I have argued, is undermined by his own critique, but in its revelation of his mind in the process of deciding to give up the life of learning to serve the commonwealth by advising the King. It was a remarkable sacrifice. Between 1513 and 1518 he wrote *The History of King Richard the Third*. Between May and October 1515 he began Utopia. Was he influenced in his decision to enter Henry VIII's service by his investigation of the tyrannical behaviour of Richard III? And did he hope that the counsel of a philosopher and man of learning might prevent such a tyranny from being imposed again?

In 1518 or 1519 More wrote a letter to Oxford protesting against the university's apparent tolerance of a group of students, calling themselves the Trojans, who were

denouncing the study of Greek. It is one of his great statements on humanism, but it also exhibits his shrewd political sense. The Chancellor at the time was the Archbishop of Canterbury (how we have fallen from grace), and More has no hesitation in reminding the members of the university of their duties. The Chancellor, he says will do all he can to assist, because he understands how important it is that "your system of study should not go to ruin:

But it will go to ruin if the university is racked by intention and if the foolish and slothful are allowed to flout sound learning everywhere with impunity.

He goes on to point out that if these slothful individuals are not taken in hand there will be, literally, a price to pay for the "most illustrious university" which is *not only one of the oldest, with a long roll of learned alumni who have been ornaments not only to England but to the entire Church, but can also boast so many colleges with perpetual endowments for the support of students that in this one respect there is no foreign university which can complete or compare with your own. And the sole purpose of all of these colleges and the one reason for which you have all these endowments is so that a great number of scholars, free from having to worry about earning a living, can study the liberal arts there.*

Is it too fanciful to suggest that it was More's deep understanding of classical

learning and philosophy - his humanism in fact - which reinforcing his faith, enabled him to decide, so clear-sightedly, to seal his own fate by refusing to compromise his principles.

For a person of his character and conviction, man's essential imperfectability confirms the impossibility of a perfect society. As though preparing for the argument he would later use against his King he has Raphael say

If mutual consent to human laws entitles men by special decree to exempt their agents from divine law and allows them to kill where he has given us no examples, what is this but preferring the law of man to the law of God?

In Utopia there is a strange apprehension of his destiny when he has Raphael say: *Nothing in the world that fortune can bestow is equal in value to a man's life.*

And yet he was prepared to lose it, defending the supremacy of spiritual over temporal authority. He was indeed, in his own last words, "the King's good servant - but God's first".

FOURTH ANNUAL LAW WEEK DINNER

*The Society will be joint sponsor
with the Christian Lawyers Fellowship
of the 1997 Law Week Dinner,
to be held on Tuesday, 27 May 1997.*

*The Guest Speaker will be the Hon Justice Keith Mason,
President of the Court of Appeal of the Supreme Court of New South Wales*

VALUES IN PUBLIC SOCIETY:

An address by the Hon Mr Justice Dennis Mahoney AO QC, then President, Court of Appeal, Supreme Court of New South Wales, delivered at the 1996 Law Week Dinner to the St Thomas More Society and Christian Lawyer's Fellowship, held at the Tattersalls Club, Sydney, on 14th May 1996

You will understand how much pleasure it gives me to address this joint meeting of the St Thomas More Society and the Christian Fellowship. I am not sure when first I joined the Thomas More Society. I believe it was before I became a judge: accordingly, it is more than 24 years ago. And, as this will be my final year as a judge of the Supreme Court, I am particularly honoured that I have been asked to speak at this important function: the Law Week Dinner held jointly by the St Thomas More Society and the Christian Fellowship.

As I come towards my end as a judge, it is particularly appropriate that I think of St Thomas More. Particularly appropriate because of the message that was given to him before he himself made his final address. It was, in his time, customary to give the person about to be executed - as it is now to retiring judges - the opportunity to make a final speech. On the morning that he was to make his final speech, and to die, More was visited by Sir Thomas Pope who gave him a message from the King. The message was: The King says that in your final speech you do not use many words: see Lord Campbell *Lives of the Lord Chancellors*, Vol 2 (4th ed, 1856) p 66; Howell, *State Trials*, vol 1, 9 Hen II to 43 Eliz (1163-1600) at par 396. This is a warning which I shall take to heart.

Thomas More seems to be constantly before me. When my appointment as President of the Court of Appeal was announced, I received many good wishes. It is warming to receive such encouragement, not merely from one's friends, but from one's peers in the profession. The good regard of one's peers is always important. In our profession of the law, it is always important: without it we cannot function. And any lawyer will know that, without the regard of one's peers, little else matters.

There was one letter which I took to heart. A Bishop wrote to me commending St Thomas More to me as an appropriate model. It was a delightful letter and one for

which I was grateful. But, being a lawyer, the thought crossed my mind: I wonder what he meant by that? After thought, I thanked his Lordship for his kind wishes. I said that St Thomas More was a person for whom I had always had great admiration. But my admiration was for his objectives rather than for his achievements. His objectives were the preservation of the Holy Catholic Church; what he achieved was the

in that regard, he failed. (Those who have read the *State Trial* will hardly think less of him as an advocate or as a man). And he could not escape execution. But it was by that very execution that he found his place in history. Had he succeeded in disappearing into obscurity, had he managed to argue around the law, he would perhaps have been merely a footnote. It was by his execution that he established his place in the history books and in the biographies.

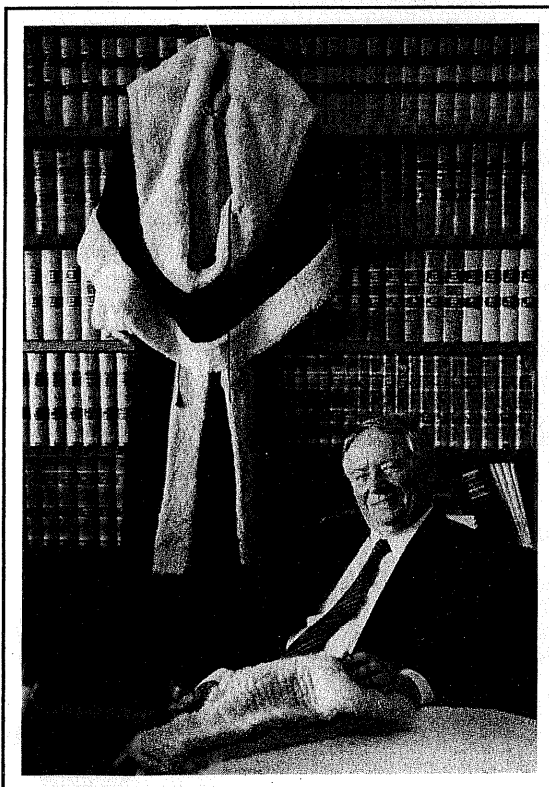
Thomas More was, in the judgement of his day, a failure, yet he is now the only lawyer of his time who is significantly remembered: at least, remembered favourably. The reason why he is remembered is because of the values for which he stood and because he stood by them even unto death. It is of Values that I wish to speak.

Values are important in the eternal scheme of things. No doubt they stand at the centre of - as the physicists now say - The Mind of God. I am no physicist, nor a theologian. I am a lawyer and I speak as such. And I speak of why values are important to a lawyer.

The function of a lawyer is to assist society to work in accordance with the law. Law is an instrument of social control. Its function is to regulate - help to regulate - the working of society; to ensure that society works according to the principles embodied in the law. And lawyers are the social engineers who make the laws do what they are to do. At least, that is what they should do.

If lawyers are concerned with Law, why talk of Values? Laws, as such, do not work. Laws are a series of rules: they specify what is to be done. And, in theory, the laws provide the reasons - sanctions - why we should obey them.

But the fact is that people do not obey the laws. Laws, as such, are too technical; are too easily evaded; and mostly people do not know what the laws are. If, as a social scientist, one properly analyses what people do, what they do is to act according to the values underlying the laws, the values on



The Hon Mr Justice Dennis Mahoney

loss of his head. I hope that his Lordship was amused by my small attempt at humour and that he will pray for me.

Thomas More was, in practical terms, a failure. He sought to retain his King within the Catholic faith: he failed. When he lost the Royal favour, he sought to vanish into obscurity; the King took him out of it and put him in goal. He tried to argue his way round the legislation: the Act of Supremacy 25 Hen VIII, ch 1; the Act of Succession; and the Treason Act; requiring that he uphold the King's marriage: as an advocate

which the laws are based. It is these values, and our obedience to them, which is the basis of our society. It is the maintenance of the values underlying the laws which enables our society to work. That is the reason why, as lawyers, we should speak of values.

Why do I speak of values now? Values are the concern of our two Christian Societies. They are what we stand for. But why talk of them now?

It is important to talk of values now for two reasons. First, because there has been a real change in the values which people observe or do not observe. People are now not acting in accordance with - they are disregarding - the values which underlie our society. That is a matter of concern.

But, second, there are signs that Government is now commencing to act in that way. And it is this second reason which is central to this paper.

Early in the present century Griffith CJ referred to: "...the old-fashioned traditional and almost instinctive standard of fair play to be observed by the Crown in dealing with subjects which I learned a long time ago to regard as elementary": Moorehead's case (1912) 15 CLR 333 at 342. Early in my judicial career I treated such an observation as still applicable: *P & C Cantarella Pty Ltd v Egg Marketing Board for the State of New South Wales* (1973) 2 NSWLR 366 at 384. And it is used in other contexts: cf *Greiner v Independent Commission Against Corruption* (1992) 28 NSWLR 125 at 179. But I wonder whether Government is any longer acting in accordance with the values - at least, all of the values - which underlie our society and the legal system on which it is based. If it is not, that strikes at the heart of our society. If governments lie, who can be expected to tell the truth?

I propose to do three things: to suggest an example of how Government may have departed from the Values of our society; to note the significance of this; and to suggest a development which may hold some hope for the future.

(Before I do this, certain things must be understood. In what I say in this paper I do not make judgements about, or criticise, political parties or politicians. Often, what parties and people do, properly understood, can be explained and even accepted. It may be that that is so in the circumstances to which I refer.

And, if I refer to events or individuals, I

do not assert that the events have taken place or the individuals have acted in particular ways. I am using what has been reported in public documents, in the media and otherwise, to illustrate the principles to which I have referred. In doing this, I make no criticism of the individuals involved.)

A social scientist, writing a treatise, would list all of the values which underlie our legal system. To test the present example, I shall take only two. These are: we must be frank and not mislead; and we must do what we say we will do. Simplified, these are: we do not lie; and we keep our word.

I shall take an example of Government action and measure it against these values. It involves a Government statement about a matter of immense public importance which, it may be thought, was or became, false. I shall consider whether, in relation to it, successive governments have observed the Values to which I have referred.

Capital gains tax (CGT) was introduced into Australia as from 19 September 1985. It was not a measure that had general acceptance: there was strong opposition to it, on the grounds both of its inefficiency as a tax and of its unfairness. It was therefore necessary, if it was to be accepted, that the Government of the day try to make it more acceptable to the electorate. If it did not succeed in doing this, if a sufficient part of the electorate objected to it, any Government which introduced it was at risk. To achieve this the Government gave assurances as to its effect. These were given in various documents. I shall take the "Reform of the Australian Taxation System" (RATS) issued by the Government.

RATS gave two soothing assurances: "... revenue in the early years will be small and build up only gradually. It is estimated that CGT could generate tax liabilities of around \$25 million in the fifth year of operation"; and "... for most tax-payers, the CGT will have little or no impact...". These assurances, I emphasise, were given in a formal Government document issued to secure the acceptance of CGT.

Let me go first to the first assurance (the amount of tax which would have to be paid by the tax-payers). CGT was introduced by the Income Tax Assessment Amendment (Capital Gains) Act 1986, assented to on 24 June 1986. CGT is, in effect, collected one year in arrears.

Therefore it is proper to look to the year ending 30 June 1987 as the first year in which the tax operated. The tax which has been paid has been as follows:

Year ending 30 June 1987	\$89,000,000 (3.56 x \$25 million)
Year ending 30 June 1988	\$281,000,000
Year ending 30 June 1989	\$582,000,000
Year ending 30 June 1990	\$530,000,000 (the fifth year of operation) (21.28 x \$25 million)
Year ending 30 June 1991	\$339,000,000
Year ending 30 June 1992	\$373,000,000
Year ending 30 June 1993	\$591,000,000
Year ending 30 June 1994	\$1,810,000,000

It is, I believe, fair to infer that, had the electorate been told, in RATS or otherwise, that this was the tax it would have to pay under CGT, it is unlikely that CGT would have had the support which the Government procured for it. It is, I believe, likely that the electorate would have voted the Government out of office if it had known that what was said was wrong, and so far wrong.

Government also said that "for most tax-payers" CGT "will have little or no impact". I shall not burden you with excess details. What was said is literally correct. In year ended 30 June 1994, the number of tax-payers was 7,609,299. But the number of individuals paying CGT was 346,417: Australian Taxation Office, Taxation Statistics 1993-94, AGPS, Canberra, 1995. To say that "most tax-payers" would not pay CGT is one thing; to have said that 346,417 tax-payers would be paying CGT would, I believe, have created quite a different, and more truthful, impression.

(I have taken the details of this example and these figures from a publication "A Taxation Manifesto for all Australians" published by the Institute of Chartered Accountants in December 1995. I have referred also to the Annual Report of the Taxation Commissioner for 1994-95, p 153. The particular figures come from an article by Mr Michael Inglis, a barrister specialising in capital gains and

First, Government was not accurate - you may think it was hardly frank - in what it said to procure acceptance of CGT. I emphasise that I do not direct criticism at a particular party or at a particular person. What I say is directed to Government as such. I do not suggest that what was said may not have been covered by some advice supported by or supplied by a Government functionary. But one may fairly ask: how could Government get it so wrong? There is an old adage which, adapted, is to the following effect: A first order of error may be an accident; a second order of error may be negligence; a third order of error is probably intentional. In this case, the estimate of collections in the fifth year of operation of the tax was wrong by 21.28 times. Was Government frank initially?

Second, was Government frank when it became clear that it had misled the electorate? By the end of the second year, it was clear that what had been said in RATS was not merely wrong but grossly wrong: at the end of the second year, the liability for CGT was already 356% of what had been projected for the fifth year. Yet Government did nothing either to admit the error or to make its assurance of 1985 true, by amending the legislation so that it accorded with the assurance it had given.

Third, has Government ever acknowledged how much the electorate was misled? Before the last (1996) election, and when it was imminent, the Institute of Chartered Accountants, perhaps the most responsible body of accountants in Australia, drew specific attention to what had happened. Nothing was said or done by Government: at least, as far as an interested observer can ascertain. Neither party did anything to draw attention to or to correct the error. Is this frank, on the part of those concerned, or to be concerned, in Government? Did Government, or those to be concerned in Government, make good the assurance given, namely, that the impact of the tax would be of the order of \$25 million at the end of five years?

Fourth, does anyone care? In earlier times, if a government were found to have failed to speak truly or to have failed to do what it promised, it would be marked as dishonest or at least as unreliable. The editorials would have pontificated upon it and demanded its removal from office. There would at least have been an appearance of indignation. In this instance,

nothing.

I have taken this example from some time ago. I have done this purposely. I have done this because those immediately concerned have, I believe now ceased to be in public life and, as I emphasise again, there is in this nothing of politics. But I have taken this example because, to an extent, I was personally interested in what was occurring: I wrote the Foreword to the first text on CGT: GS Cooper & MR Inglis, "Australian Capital Gains Tax" (1986, Butterworths). It may be thought that it illustrates that the values on which our law is based are not fully observed by Government.

I have not taken more recent examples. No doubt you will be able to supply examples where what has been said by Government has not been frank. But it is, for present purposes, sufficient to illustrate my proposition that Government does in fact say things or create expectations which are not accurate or which are not fulfilled. This, in my opinion, is a serious matter.

What is to be done? I am irritated by generalities and by those who articulate them. I am irritated by those who point to a mischief - a public wrong, a private injustice or the like - think that to be a great achievement and do no more. It is, of course, necessary to bring injustice to attention. But that is to state the problem, not to solve it. A person who states a problem owes, I think, a duty to suggest a solution. And that obligation, I recognise, is one I must address.

I suggest for consideration two things. First, Government (or anyone else) will lie if no-one cares. At least, they are more likely to do so. One of the important aspects of the instance that I have taken is that apparently what Government did attracted no indignation: it did not attract even comment. If we are to ensure that the truth is told, the lie must attract sanction. At least, it must be noted and marked. At the moment, a public lie hardly attracts public attention. At least, not sufficient attention to make those who lie hesitate. If this is to change, the public attitude to frankness must change.

Some steps have been taken in this regard. There is, I believe, a Chinese proverb: It is better to make a net than pray for fish. Those associated with the Church of St James in Phillip Street have set up The St James Ethics Centre. And an analogous

Institute has been set up under the aegis of St Vincent's Hospital: the John Plunkett Centre For Ethics. These bodies have undertaken a process of public education and agitation. They have commenced the weaving of a net. One may hope, and pray, that their efforts will change the practice of Government. But recent experience suggests that, to date, they have not.

Second, there is now the possibility of a remedy, a partial remedy. Lack of frankness in government extends over a wide area. I do not suggest that we can deal with the whole of the area: at least not now. I wish to deal with a part of the area: that which is concerned with the exercise of legal power. Let me explain what I mean.

The law confers on those in Government (Ministers, officials and the like) legal powers. Power is the capacity to have others do what you want them to do. Power is a great thing. It is at the heart of what politicians and bureaucrats do. Their power lies relevantly in their capacity, by the exercise of the legal powers given them, to ensure that others do what they wish them to do: in *Ballina Shire Council v Ringland* (1994) 33 NSWLR 680 at 723, I referred to this matter.

It is important that legal power be controlled. The control of power which otherwise would be arbitrary has been the task of law and lawyers throughout the development of English law. We have succeeded in placing controls over arbitrary power under the civil law. The remedies now available within administrative law are the means by which this has been done. A public officer (a minister, bureaucrat or the like) who has been given a legal power must exercise the power only for the purposes for which it was given: see *Thompson v Randwick Municipal Council* (1950) 81 CLR 86; *R v Toohey*; *Ex parte Northern Land Council* (1981) 151 CLR 170. In exercising the power, the official must take into account only relevant considerations: *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1985) 162 CLR 24; *Padfield v Minister of Agriculture, Fisheries and Food* (1968) AC 997. And he must exercise the power within the scope of the *Wednesbury* concept of reasonableness: see generally *House v The King* (1936) 55 CLR 449 at 505.

However, we have apparently not sought to enforce general criminal sanctions for the misuse of legal powers. Yet it is the threat

the power within the scope of the Wednesbury concept of reasonableness: see generally *House v The King* (1936) 55 CLR 449 at 505.

However, we have apparently not sought to enforce general criminal sanctions for the misuse of legal powers. Yet it is the threat of criminal prosecution which is apt to induce those with legal power to act in accordance with the law.

I believe that there now exists a window of opportunity. There now exist two things whereby criminal sanctions may be applied to control what otherwise will continue to be the unrestricted exercise of legal power. These are: the investigative powers of the Independent Commission Against Corruption; and the potential of the decision in *R v Bembridge* (1783) 22 St Tr 1; 3 Doug 327; 99 ER 679.

We are familiar with examples of the evil which needs to be dealt with. Thus, the power to appoint a person to an office must be exercised only to secure the purposes proper for such appointment; it must not be exercised, eg, to reward a friend or to buy off an enemy: cf the principles discussed in the *Metherell* litigation (1992) 28 NSWLR 125. The power to approve a zoning is to be exercised having regard to relevant town planning principles and the like; it must not be exercised to improve the value of a property owned by a business associate or a party supporter.

If power is exercised contrary to proper principles, civil remedies are available: as the cases cited illustrate, the civil courts may declare what has been done invalid.

Civil remedies will, no doubt, be inconvenient to Government and to the relevant officials. But they impose no direct sanction upon the wrongdoer. Power is more likely to be exercised with partiality if the only fear is of a civil remedy of this kind.

Why have criminal sanctions not been used? There are, I suspect, two main reasons: because, in the past, it has been too hard to prove that the reason given by the Government for the exercise of the power has been less than true; and because of the failure to appreciate the potential of the criminal law to punish the partial use of power. I believe that there is now the possibility of change.

Partiality can now be proved. The legislation setting up the Independent Commission Against Corruption has many

defects. Reference was made to some of them in *Balog*: (1990) 18 NSWLR 356; 169 CLR 625; and in *Greiner* (1992) 28 NSWLR 125. But four things at least are clear: ICAC can and must investigate a genuine complaint of substantial partiality in the use of legal power; it can compel answers (the previous refuge of silence is, subject to exceptions, not available before it); its investigations are not subject to the control of the ordinary police, the ordinary administrative investigators, or those associated with the officials concerned; and the control over the commencement of criminal proceedings lies not with government but with the independent Director of Public Prosecutions. Accordingly, it is now possible to elicit the purposes for which Government has acted, what influenced it to act, and whether the reasons that were given for what Government has done constitute a full and frank statement of them.

Where Government has not been frank, there is, I believe, the potential in the law for criminal prosecution. I do not wish to pre-empt what judges may do in determining the scope of the law in this regard. But in *R v Bembridge* (1783) 3 Doug 327; 22 St Tr 1; there is, I believe, the basis for dealing with lack of frankness in the exercise of public power.

The facts in *Bembridge* are interesting. Those who read the full account of the trial in 22 St Tr 1 may think that, in the past 200 years there has been little change in the crimes that are committed and in the way in which they are prosecuted. The opening statement of the Solicitor as recorded in the *State Trials* could have been taken from a trial in our courts today. The facts were relatively simple. Lord Holland had been Paymaster General in England for several years. When his office ceased he was required to account for the (no doubt substantial) moneys he had controlled. *Bembridge* was an accountant in the office of the Paymaster General. It was his duty to prepare the accounts and to record in them amounts to be debited and credited for and against his Lordship. It was discovered that an amount of approximately 48,000 pounds had not been brought into the accounts against Lord Holland. It was inferred that *Bembridge* knew that the amount should have been brought to account. Despite requests from the auditor, he failed to supply the information relating to the

accounts. He was charged with "wickedly, wilfully, fraudulently, knowingly and corruptly" refusing and neglecting to discover or make known those facts to the auditor. (The *State Trials* reference is a more complete statement than the report in *Douglas* of the relevant matters). He was convicted and sentenced.

Bembridge has been little referred to. Its potential in relation to the use of power has, I think, not been fully explored. Reference was made to it in the Court of Appeal in the *Griener* litigation: (1992) 28 NSWLR 125 at 165. Since I commenced the preparation of this paper, it was referred to in England: *R v Bowden* (1996) 1 WLR 98. I do not suggest that it was forgotten: from time to time it has been used. But my interest is in what it does where an official exercising public power uses that power for a purpose or by reference to considerations which he knows to be outside the scope of his power. Whatever be the boundaries of the principle, there is, I believe, a basis in criminal law for deterring those exercises of government power which fail to accord with the values on which the relevant law is based.

I have spoken too long. It was said that a speaker who had spoken too long sought to justify his excess by saying: "I speak to posterity". A member of his audience replied: "If you speak much longer, you will be able to speak to posterity face to face".

I can plead only my interest in examining whether there is the potential for control of misstatements by those exercising public power of what they are doing and why.

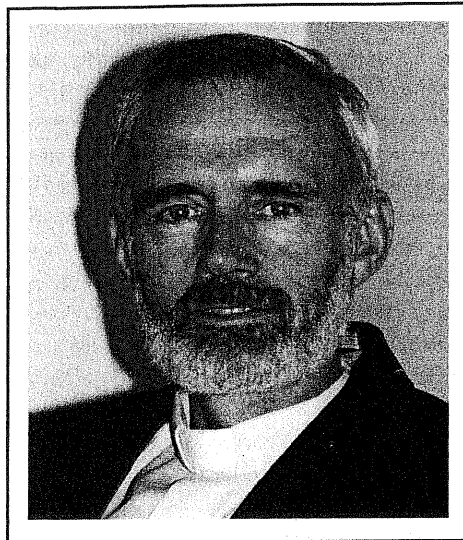
Let me bring the matter to a conclusion. There are those who exercise the powers of Government who do not frankly state why they have done what they have done and what has moved them to do it. If this is to be controlled - if the values underlying their legal powers are to be observed - there is a need to be indignant about what they do. If there be no indignation, nothing will be done. There is now the opportunity, by the use of the criminal law, to deal with the abuse of public power and this disregard of the values underlying it.

What should be done about it? As those who are interested in the Christian values underlying the law, what are we going to do about it? Or does anybody care?

Mr Chairman, thank you for your invitation to speak upon this topic.

HOMILY FOR THE 'RED' MASS, St MARY'S CATHEDRAL, SYDNEY MONDAY 3rd February, 1997

*Delivered by The Rev Father John Doherty MCL, JCL, STB, Judicial Vicar of the
Regional Tribunal of NSW and ACT, marking the occasion of the Opening of the 1997 Law Term.*



The Rev Father John Doherty

Your Eminence, your Honour the Chief Justice, members of the Judiciary and members of the legal profession.

Today we mark a significant passage of time. It is a new year, a new beginning for those of us who administer the law, be it canon or civil. It is fitting to mark this occasion, as we do, with a solemn liturgical celebration.

Indeed, the desire to celebrate significant events is a natural one. As individuals or members of families we mark birthdays and anniversaries. As a community we celebrate Australia Day and Anzac Day. When we do this the day chosen is not an arbitrary one.

In Christianity time has a fundamental importance. The world was created by God in time. Within this world our salvation history unfolds. This history finds its culmination in the Incarnation, when the Eternal Word became flesh in time.

St. Paul speaks of this event in these terms: *When the fullness of time had come, God sent forth his Son, born of a woman, born a subject of the Law* (Gal. 4 4)

We are bound by time and we relate to God in time. From this arises the desire and duty to sanctify time. In the Jewish Law - that Law which our Saviour subjected himself to and lived by - particular times (days, weeks and seasons)

were dedicated to God.

Christianity continues this tradition. The most powerful illustration is the celebration of the Easter Vigil during which the celebrant, in blessing the Paschal candle, proclaims:

*Christ yesterday and today
the beginning and the end
the Alpha and the Omega
all time belongs to Him
and all the ages
to him be glory and power
through every age for ever.*

The Easter Vigil is the culmination of the Church liturgical year which sanctifies the solar year.

The Holy Father has recently taken up this theme of time in his 1994 Apostolic Letter *The Third Millennium*. In this letter he has written to the Church urging a deeper awareness of and preparation for the dawning of the new millennium.

He reminds us of the significance of the Jewish custom of the Sabbatical and the Jubilee Years. The sabbatical year, as the name suggests, fell every seventh year. It was meant to be "the Lord's year of favour". This favour was given practical expression in the setting free of slaves which was regulated by detailed legal prescriptions. As well as the freeing of the slaves the Law also provided for the cancellation of all debts.

These legally enforced customs were broadened in the Jubilee Year, which fell every 50 years. On this occasion Israelites regained possession of their ancestral land, whether it had been sold or lost by falling into slavery. This custom had a theological basis: no Israelite could be completely deprived of his land because it belonged ultimately to God. Further, no Israelite could remain in a state of slavery, since God had redeemed them from slavery in Egypt.

The Jubilee year, then, was a reminder to the rich and powerful that a time would come when Israelite slaves would again become their equals and be able to redeem their rights.

The concern for justice was not limited to these Jubilee year customs for,

according to the Law of Moses, justice consisted above all in the protection of the weak.

These may be powerful ideas but to many they may seem like futile dreams. And, of course, our society is no longer governed by the Law of Moses.

Perhaps so, but our Holy Father is urging us to celebrate the dawning of the new millennium with a Jubilee year like those of the Old Covenant. He has asked the Church to prepare for this Jubilee with a three year programme. 1997 is the first of these special years. This preparation, with the Jubilee itself, should be characterised by a commitment to justice.

Those of us who administer the law are in a special and privileged position to implement the Pope's programme.

The Holy Father is not calling for a complete restructuring of the system of property ownership. However, it is clear that the struggle of the aboriginal community for justice, which is linked to their land rights' struggle, has a direct parallel in the provisions of the Mosaic law by which land was restored to its traditional owners.

Other difficult and even painful matters which should demand our attention are:

- the cost of justice
- legal aid
- In summary, the refining of legal structures and processes to provide access to justice for all in our community.

The words of Jesus in the Gospel are confronting. You are like salt for all mankind. Salt, as Jesus explains it, can be tasteless, insipid and mediocre; good for nothing, something to be discarded.

You are to be light for the whole world. But light can be dull, little different to darkness. It is certainly easier being mediocre but the Lord demands something different.

Jesus came to proclaim the Lord's year of favour. He calls us to be his partners. May God's Holy Spirit help us to be his partners in bringing God's justice into our world.