

# Sir/St. Thomas More on the US Constitution: 'More Perfect' is not Utopian

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*Sir Thomas More was a politician, statesman, visionary humanist, and a friend of Erasmus, Colet, and Henry VIII. His most famous literary work is Utopia, a word coined based on the Greek for 'no place'. Its influence has been enormous, inspiring social thinkers as diverse as Rousseau and B. F. Skinner. Using the principles More seemed to advocate, this article addresses the question: 'What would he have thought of the Constitution of the United States had he lived to read it and experience life under its aegis?' Much of what the Americans have done he would appreciate, much he would deplore. He would appreciate the federal nature of government, the elective nature of the legislature, and the freedom granted to citizens. He would have deplored slavery based on race and applauded the 13th Amendment. He would have looked askance at the role of the president and the necessity for a military. In sum, if we can believe that what he wrote in Utopia reflects his attitudes correctly, Thomas More's would be a mixed verdict on American republicanism.*

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Sir Thomas More was born in 1478, decapitated in 1535. Four hundred years later he was recognized as a saint of the Roman Catholic Church. More made the mistake of standing, though silently, for his principles. He was a good friend of England's King Henry VIII, a noted wit, scholar, humanist, and man about town. When Henry's chancellor, Thomas Cardinal Wolsey, failed to convince Pope Clement VII that Henry ought to be granted an annulment from his wife Catherine of Aragon, he fell into such disfavor that had he not been fortunate enough to die on his own, he might have been found guilty of treasonous incompetence and executed by the outraged king. More was appointed Henry's new chancellor. Angered by the pope's refusal to dissolve his marriage, Henry broke with Rome, had the marriage annulled, and married Anne

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Boleyn. More was uncomfortable with all of this, but stayed in the job for four years until 1534 when Henry had Parliament pass the Act of Supremacy, which made the king and his successors the heads of the Church of England. Oaths supporting the Act were required of all government officials, which More could not in good conscience take. To avoid the necessity, he resigned his office. Such was the respect accorded him that his silence on the matter thundered across the land and could not be tolerated. The following year he was accused of treason and financial corruption, found guilty despite the lack of any evidence, and beheaded (Acroyd, 1998).

It is not this, however, which concerns us in this article. More ranks as either the greatest or the second greatest intellect of his era. (The Dutch humanist Desiderius Erasmus [*ca.* 1466–1536] is his only rival. Both men were very critical of the abuses of the Roman Church of their day, but both refused to break with it, preferring instead to reform from within.)<sup>1</sup> More's most famous book on politics and society is *Utopia* (published 1516).<sup>2</sup> Like many names within it, the title is a made-up word derived from Greek or Latin (*Utopia* is Greek for 'no place').<sup>3</sup> It purports to describe society in the newly discovered lands across the sea in America, or beyond. The geography is deliberately vague. *Utopia* is an island somewhere between eastern Brazil and Ceylon, territories separated by approximately tens of thousands of miles. It cannot be found on a map. The guiding principles of More's island paradise are modified from the teachings of Plato's *Republic* combined with reports of life among the natives of the new lands, especially those of Amerigo Vespucci, after whom the New World is erroneously, but permanently, named.<sup>4</sup> In each case it is the communism advocated by the philosopher and observed by the explorer that More picked up on.

The conceit of *Utopia* is that More meets a man named Raphael Hythloday who had been left behind by Vespucci to explore the New World (as described in Vespucci's fourth letter). In the process of his wanderings he had met many interesting people and was pleased to bring back the lessons he had learned in *Utopia* and elsewhere in his travels. Erasmus tells us that the first part of *Utopia* was written as an afterthought, the second part that actually describes the mythical island having been written first.<sup>5</sup> In this first part More has his narrator criticize conditions in England based on what he learned in the New World. Although *Utopia* is not described as such, it will be useful to look at the criticisms of England, as they will begin to give us a handle on how More might have viewed the Constitution of the United States.

In Book I Hythloday reports on the conversation at a dinner party at the home of More's mentor and patron, John Cardinal Morton, Archbishop of Canterbury and one-time chancellor of England. Perhaps this reportage is another bow in the direction of Plato, several of whose dialogues, including the *Republic*, are set as *après-dîner* colloquies. At this supper, an unnamed lawyer praises the widespread practice of hanging thieves. What he could not understand is why, when so many were caught and executed, thievery is still so rife in the kingdom. To this Hythloday, clearly More's surrogate, replies that execution of simple thieves (who rob without murdering their victims) goes beyond the call of justice and, to make matters worse, is actually counterproductive (More, *Utopia*, 1516/1975, pp. 11–16). Clearly the Eighth Amendment's prohibition against inflicting cruel and unusual punishment would have been approved by Sir Thomas.

The problem, Hythloday concludes, is that people must steal because they are being denied the right to earn an honest living. Enclosure, the economic maelstrom of the day, allows the wealthy to evict their labor-intensive agricultural workers so as to concentrate on the much more profitable raising of sheep. The dispossessed farmers have no means of supporting themselves other than by stealing or begging, both of which are illegal. It would be much better, More argues, to force enclosurers to restore the land to agriculture 'so there will be useful work for the whole crowd of those now idle' (More, 1516/1975, p. 16). But even if this is done, it will only be a temporary palliative to the problem of poverty. The real root cause of poverty is private property. Laws could be passed restricting the size of a man's property, and 'social evils ... may be alleviated and their effects mitigated for a while, but so long as private property remains, there is no hope at all of effecting a cure and restoring society to good health' (More, 1516/1975 p. 32). Only by abolishing private property is it possible to eliminate the cause of crime. If children are brought up in abominable conditions because society has skewed the system such that most property is in the hands of a few, they will resort to crime, and then be arrested for it. The problem is less with the criminal than with the institution of private property to begin with. (Some Americans argue the same way today. They point out that youths who have no economic prospects frequently resort to crime, usually to drug trafficking and activities such as theft and prostitution by which they support their drug habit, the end result being a crowded court system and an overpopulated penitentiary system which succeeds only in breeding recidivists.) The US Constitution does not specifically protect property except (in its original form) slaves who must be returned even if they escape to free states. The first specific reference to property is in the Fifth Amendment which mandates that people shall not 'be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.' But, if Charles Beard is correct, the whole superstructure of the Constitution was designed to support the property rights of the founders and people of their ilk (Beard, 1936).<sup>6</sup> More, based on the words he puts into the mouth of Raphael Hythloday, would have thought that the founders had wasted a glorious opportunity to escape from the tyranny of property and enter the realm of common ownership of lands and goods.

In any event, killing thieves is not justified. Romans made their thieves work, shackled, for life, in stone quarries and mines (More, 1516/1975 p. 17). In a mythical country he purports to know, Hythloday reports that thieves have to compensate those from whom they steal. If they have spent the money, their property is confiscated; the value of what was stolen is returned to the victim, and the rest is given back to the thief's wife and children. The thief is condemned to hard labor. If we assume that More was in agreement with this procedure, we can be reasonably assured that he would approve of the Constitution's ban against punishing the children of traitors. (Article III, section iii, 'no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attained'.)

The convicted thieves are treated like medieval Jews. They are required to wear distinctively colored clothing and an identifying badge. Biblical Jews who wished to remain slaves had an ear pierced with an awl. More's criminals have a corner of their

ear cut off. Whether More is using the treatment of continental Jews as his model or not (England had had no Jews since their expulsion by Edward I in 1290, and would not have any living there legally until Oliver Cromwell allowed them to return *ca.* 1649), he is advocating that thieves be put to useful work with the possibility of reform, redemption, and ultimately relocation to their families (More, 1516/1975 p. 19). While they are thus in service, the convicts are called slaves. In Book II, More discusses slavery again, and I will reserve my comments on his views on it until that point in the narrative is reached.

Later dinner conversation relates to unscrupulous ways in which governments raise money, as when increasing the value of money when the king pays his debts and devaluing it when he collects his revenues—‘thus he can discharge a huge debt with a small payment, and collect a large sum when only a small one is due him’ (More, 1516/1975 p. 25). Or he can raise money on the pretext that he is going to war, and keep the funds collected when he does not—to the joy of his citizens who are not killed in the conflict. Or he can have his lawyers find some forgotten antiquated laws and fine those who violate them, or fine those who engage in some illegal but necessary practice and later license them and collect fees for granting permission (More, 1516/1975). At one time or another all of these practices had been or were later to be tried in England, and the one about granting licenses to allow otherwise illegal or socially destructive activities is still a major source of government funding (I have in mind legalized gambling of all sorts, the sale of alcohol and tobacco, etc.). In an attempt to forestall such dubious practices, the federal Constitution forbids states from levying import duties (Article I, section 10, clause 3) and mandates that all revenue bills shall originate in the House of Representatives (Article I, section 7, clause 1). The prohibition against Congress passing laws with punishments *ex post facto* is not the same thing as prohibiting the resurrection of old, forgotten laws, but it has a similar purpose—protecting people from violating laws they had no idea existed. Of all this, More would have approved, as, clearly, he disapproved of the sorts of things Hythloday suggested as unscrupulous practices.

In the end, the root of all evil is property. Because of the greed property inspires the common customs of humankind differ radically from the teachings of Jesus (More, 1516/1975, p. 29); nations constantly pass new ordinances and yet can never order their affairs satisfactorily because greed intrudes and law suits result (More, 1516/1975, p. 31).

Before leaving this introductory section, one more item should be mentioned. In vainly trying to convince Hythloday to share his insights and wisdom with princes, More comments that ‘a people’s welfare or misery flows in a stream from their prince, as from a never failing spring’ and that such people need wise counselors (More, 1516/1975, p. 10). America’s presidents have ranged in ability from extraordinary to feeble, from wise to foolish, from energetic to lethargic. Never, however, would the founders of the Constitution have said that their intention had been to create an office of such profound significance. Indeed, they would probably have been repelled by the notion. The president is head of the executive branch of government and Congress debates his policies and suggestions, but he is not the font of the people’s welfare or misery; in fact,

often enough he has nothing to do with the people's condition. Given this limited power of the president, More probably would think the office insufficient to produce much good, but would be glad that the president cannot by his or her own actions cause great misery.

When finally More has his narrator describe Utopia in Book II we find it to be an island somewhere in the Pacific, about the size of England, though in a crescent shape, containing 54 cities, each identical to the others in size, language, customs, institutions, and laws; all built, as far as possible, on the same plan, with the same appearance (More, 1516/1975). The population of each city is made up of 6,000 households of between 10 and 16 adults. In addition there are children and a rotating element of agricultural workers. This will yield a population of roughly 10,000,000 people, not counting slaves (More, 1516/1975).

As everything about Utopia is described in positive terms, we can conclude that More would not be happy with the American system of states, no two of which (with the exception of Wyoming and Colorado and to a lesser extent the two Dakotas) are of the same shape and size. The states are bound to some degree by federal law but are free to govern themselves in matters not prohibited to them by the Constitution (10th Amendment). So what is legal in one state can be prohibited in another (gambling, same-sex civil unions, selling alcoholic beverages in grocery stores, etc.). More would be unlikely to appreciate the American system of local diversity, but he would probably recognize the difference between a homogeneous population such as Utopia, cut off from the rest of the world, discouraging immigration, and the heterogeneous United States. Whether he would think it wise for America to encourage a multi-ethnic, piebald population cannot be said, but in a way the issue is not strictly relevant. The United States has emerged as a melting pot (or salad bowl) of different peoples. It was not the original intention. There has been (and continues to be) anti-immigrant feeling expressed by individuals and by law (the Alien and Sedition Acts of the last days of the 1790s would have empowered the president to jail aliens, and make naturalization more difficult; the so-called Know-Nothing party of the 1850s opposed immigration, especially of Roman Catholics, and had some electoral successes; the same period saw anti-Asian laws passed to keep out Chinese and Japanese people, except as cheap deportable labor; the 1920s saw anti-Eastern and Southern European immigration laws put into place; and currently there is fear and opposition to a growing Hispanic population and political influence). The England of More's day was overwhelmingly of one racial stock (Anglo-Saxon) and it was not working well, as his criticisms of it indicate, so it is not the addition of racial and ethnic variance that would concern him as much as the arbitrary divisions, borders, and autonomy of the states in the American system. He would much prefer the rational system of equality amongst the units, arranged by population transfers to accommodate excessive growth or shrinkage of population, or the establishment of colonies if the island's population as a whole grows too large (More, 1516/1975).

Once each year every city in Utopia sends three old and experienced men to the capital to consider issues of importance to the whole island. Like Washington, DC was in the early republic, the capital of Utopia, Amaurot (from the Greek for 'Dark City') is in

the center of the nation. (Now that the US has expanded westward by 3,000 miles the capital is no longer in the center but there would probably be little support for moving it to Kansas.)

In a few pages More describes Utopia's city governments. Once each year every group of 30 households elects an official called the syphogrant (or phylarch). Over every 10 syphogrants there is another official called the tranibor (or head phylarch). All the syphogrants (there are 200 of them) elect by secret ballot the prince from a list supplied by the people of the four sections of the city. The prince holds office for life (unless he is suspected of becoming a tyrant). The tranibors are elected annually—though they are not changed for trivial reasons (More, 1516/1975). The tranibors meet to consult with the prince every other day, or more often if necessary. They discuss affairs of state and settle disputes between private parties. To every session of this senate, two syphogrants are always invited, different ones each time. No decision can be reached unless it has been discussed in the senate for three separate days. In addition, the senate must place all considerations before the popular assembly of the syphogrants. Apparently this does not mean an assembly of all the people but an assembly of the people elected by the groups of 30 households. The syphogrants then discuss the issue with the households that elected them, debate the issue amongst themselves, and report their recommendation to the senate which, on the third day of discussion, votes on the matter. Sometimes the question is brought before what More calls the general council of the whole island (More, 1516/1975). This may refer to three wise men elected from each city constituting a council of 162 people, but it is not clear (More, 1516/1975). The chief function of the syphogrants, who are otherwise not terribly burdened with legislative concerns, is to make sure that no-one sits around in idleness, which is considered criminal (More, 1516/1975). There are very few laws in Utopia, as few are needed in a society that holds all property in common (and there is an excess of goods) and distributes it according to need (More, 1516/1975). In fact, More has disdain for superfluous laws and for the lawyers who live off their complications.

[Utopians] think it completely unjust to bind men by a set of laws that are too many to be read and too obscure for anyone to understand. As for lawyers, a class of men whose trade it is to manipulate cases and multiply quibbles, they have no use for them at all (More, 1516/1975, p. 68).

Adulterers are punished by being made slaves, but divorce is considered a reasonable alternative to adultery and the senate can grant a divorce to a couple when both parties agree to it, though they allow it only reluctantly so that husbands and wives will take their marriage seriously (More 1516/1975).<sup>7</sup> In fact, in most cases, a superior member of the household—wives by husbands, children by parents, younger siblings by older ones—inflicts whatever mild punishment seems warranted under the circumstances. Only the most grievous crimes are brought to the attention of the senate. Seduction is considered a grievous offense and the guilty party is condemned to slavery—in fact not only those who succeed in the crime, but also those who merely try it. 'They think that failure should not confer advantages on a criminal who did all he could to succeed'



(More, 1516/1975, p. 68). Seduction is nowhere mentioned in the US Constitution, but recently a president was impeached for lying about a sexual impropriety. Most Americans thought this foolish, the Senate acquitted the man, but More might have approved.

Using all of this as our guide, and assuming that More favors this sort of regime, conclusions about how he would view the government of the United States, as established in the Constitution, can be reached. The US House of Representatives is elected by the voters of each district; in theory the districts have roughly equal populations (though in practice, since each state is entitled to at least one representative, an entire state like Wyoming will have a representative whose population may be smaller than some districts in Manhattan or Brooklyn). But assuming the general model is as it was intended, and Members of the House represent roughly equal numbers of people, More would approve, as his syphogrants were elected from a uniform number of households, each with an average number of people. But the House of Representatives does not elect the senators in the way syphogrants elect tranibors, who seem to encompass some of the functions of the US Senate—which discusses legislation received from the House and advises the president on matters of treaties and appointments. More probably would disapprove of the American system of direct popular election of senators as instituted in the 17th Amendment of 1913, preferring instead the original method described in Article I, section 3, clause 1, which stipulated that Senators be elected by the various state legislatures. Never does the Senate invite members of the House to join it, although when House and Senate disagree on the wording of a bill generally approved by each, joint committees work out the differences.

The US Constitution carefully spells out the duties, obligations, and length of service of the president of the United States, but More is very vague concerning his chief executive, the prince. One difference clearly is the length of office. Presidents serve for four-year renewable terms (passage of the 22nd Amendment limited terms to two), while princes of Utopia serve for life, once elected. Both institutions share an abhorrence for tyranny and have a process for ridding the country of a chief executive, though the American system is specific and the Utopian one not spelled out. The US president is elected not by the people but by electors normally (though not necessarily) chosen by the people of each state. The same indirect form of election is true of Utopia's princes, and so one can imagine that More would think the electoral college appropriate.

The US Constitution foresees the necessity of armed forces, but is very wary of the institution. Congress raises and supports armies but no appropriation is to be for longer than two years; it provides for and maintains a navy; it provides for organizing, arming, and disciplining the militia, and appoints its officers (Article I, section 8, clauses 12–16). It declares war (Article I, section 8, clause 11). Utopians prefer to hire mercenaries, rather than sending their own sons to war. Rather than fight they prefer to bribe the enemy into not fighting, or if that cannot be done, they undermine the enemy from behind the lines (More, 1516/1975). However, they see the need for readiness and on certain fixed days men and women engage in rigorous military training. This is a peculiar set of suggestions on More's part. Earlier, he had spoken against having mercenaries—now he seems to be advocating their use (More, 1516/1975). In

any event, like the founders, More sees the necessity of having an armed force, but a controlled one, one that does not endanger civil society. I think he would approve of the restrictions on the military the Constitution imposes. Nowhere does he suggest that all Utopians have the right to bear arms and he would have been baffled by the Second Amendment's circumlocutions. He would not be alone.

Before concluding with a discussion of More on slavery and religion, there are three minor issues to discuss briefly. (1) More praises the Utopians for being able astronomers who eschew astrology, and for being able to predict the weather, based on patterns of previous occurrences (More, 1516/1975). The Constitution charges Congress with promoting the progress of science and the useful arts (Article I, section 8, clause 8), an activity More apparently would appreciate. (2) Utopians are permitted wine (More, 1516/1975) which More reports without comment, presumably without approbation. I think we can say that he would have opposed the 18th Amendment prohibiting the manufacture and consumption of alcoholic beverages and applauded the 21st Amendment which repealed it. (3) The US Senate is charged with responsibility for ratifying treaties. In More's Utopia treaties are never made. 'If nature, they say, doesn't bind man adequately to his fellow man, will an alliance do so?' Utopians are confirmed in this opinion by their observation that 'treaties and alliances between kings are not generally observed with much good faith' (More, 1516/1975, pp. 69–70). The penultimate Article of the original Constitution proclaims that it and any treaties made are the supreme law of the land. More might not disagree that the Constitution should be so viewed, but apparently he would have trouble with the latter part, assuming the founders to be naïve.

By the terms of the United States Constitution slavery, though the term is not used, is permitted; fugitive slaves must be returned to their masters. The importation of slaves from Africa would not be halted until at least 1808. Only in the 13th Amendment of 1865 was it formally prohibited, which came after a bloody civil war precipitated by states wishing to preserve their heritage of maintaining slaves. Over 140 years later the United States is still plagued by racism by some whites, resentment by some blacks, and social, economic, cultural divides between the races. All of these things could have been avoided had the founders the courage to follow the lead of the slave-owning George Mason, who advocated the abolition of the institution in the original document.

To Thomas More, slavery is not a consequence of racial inferiority; it is punishment for severe crime or, like the ancient Romans, the price one pays for being a prisoner of war. Making the worst criminals slaves is seen as just as good a deterrent to crime as the death penalty, and better in one way. It allows the criminal to become rehabilitated. If they rebel against their condition, they are put to death; if they are patient, if they show that they regret their crime, punishment is mitigated or remitted altogether (More, 1516/1975). Earlier Hythloday had talked about how convicts are treated by the Polylerites, inhabitants of another mythical kingdom More uses to make his points. Thieves are neither imprisoned nor shackled, but allowed to work freely and unguarded on public projects, or they are part of a pool from which private citizens, needing workmen, can choose. In this society money is a medium of exchange and the slaves are paid slightly less for their labors than free men. Only if they are perceived as



shirkers are they whipped. Only at night, after roll call, are they locked into their dormitories. They are fed well. 'The aim of the punishment is to destroy vices and save men. The criminals are treated so that they atone for the wrong they have done before' (More, 1516/1975, pp. 18–19).

On Utopia, the other kinds of slave are prisoners of war, but only if captured by Utopians themselves, not their mercenaries (Utopians do not buy and sell slaves), or they are prisoners condemned to death in their native land who come to Utopia to work, rather than to die. Only these are always shackled. Finally, there are slaves who are more like the 18th century's indentured servants, poor people who are hardworking but penniless wretches from other nations who come to Utopia to work, perhaps a little harder than native Utopians. If ever they want to leave, they may and they are sent off with some form of compensation for their labors. In no case are the children of slaves of any category slaves themselves. It is a one-generational burden (More, 1516/1975).

American slavery was racial; it was passed on from slave parent to slave child; it was often cruel and never redemptive. Some masters might free slaves, usually in their wills, but the general expectation was once a slave, always a slave. There is virtually nothing about American slavery with which Thomas More would agree and he would have condemned the Constitution for permitting and perpetuating the practice. He would have applauded the amendments which freed the slaves and banned cruel and unusual punishment which, he would have agreed, only perpetuates criminal attitudes.

Religion is the last (and lengthiest) subject More treats in his *Utopia* (More, 1516/1975, pp. 78–88). The American Constitutional attitude is summed up in the First Amendment's prohibition to Congress (later extended to the states) respecting an establishment of religion, or prohibiting the free exercise thereof. No other mention of religion appears, it being left to the courts to determine what is acceptable, and what not. In 1962 the Supreme Court abolished prayer in public schools as infringing on the establishment clause but in 2001 it allowed religious organizations to use school buildings after hours to promote their beliefs (if the schools were open to other after-school groups). The reasons for protection of religious beliefs and practices, and prohibition against establishing a state religion, go back to practices in colonial days and in England during the 17th century. There were too many unfortunate examples of the majority imposing its views on helpless minorities, and of not-so-helpless minorities rising in bloody rebellion against their persecutors. Practicing any religion was considered a natural right, the establishment of a single religion as the favored, tax-supported one would lead to suppression of the others. With some of this More would agree—with other aspects, not.

On Utopia there are at least three different religions devoted to celestial objects, one to a man, one (Hythloday thinks this the wisest) to an unknown eternal power, and then recently Christianity was introduced. On Utopia it is all right to be of one religion or another. Christianity has been accepted as a legitimate new religion, not as a threat, though people who are too zealous in their attempts to convert are thought to need calming down. One new Christian who condemned those still pagan was arrested for creating a public nuisance; other than that there is no prohibition against preaching any religion. All of this goes back to 'one of their oldest institutions that no man's

religion, as such, shall be held against him' (More, 1516/1975, p. 80). The original founder, King Utopus, heard of constant religious quarrels on the island, used their dissension to aid his conquest, and then immediately decreed that every man had the right to his own religious beliefs.

Thus far More would seem to be in complete agreement with the First Amendment's principles; thereafter it is less certain. While it is permissible to believe in any religion, it is impermissible *not* to believe in the afterlife with rewards for the virtuous and punishments for the wicked. Any such atheists are considered to be low and sordid fellows who are not permitted to argue their beliefs in public but may debate in private with priests, confident as the other Utopians are that the man will then see the truth. The theory is that human law alone is insufficient to coerce people into behaving according to it. Since it is only man-made, people will try to evade it. But if they believe that they will be rewarded for eternity if they obey, or punished forever if they do not, they will be more inclined to obey without mental reservation or evasiveness.

Priests are state functionaries and like all other officials they are elected by secret popular vote. Being men of great holiness there are very few of them, 13 in each city, all subordinate to a high priest. Not only do they preside at public worship services, they are also censors of public morality. In extreme cases they can excommunicate an individual with consequences going beyond the grave should he die while still under the ban. Unless he can quickly convince the priests of his return to moral life, the senate will punish him for impiety. In America, of course, if a person is excommunicated the state takes no notice at all. More would view this restraint as unfortunate, feeling that it is better to reform sinners than to tolerate them as the United States is wont to do. The Constitution does not speak of public morality and certainly does not give to religious authorities the right to be censors of morality (though sometimes governments yield to the 'holier than thou' set). More would have thought the absence of moral standards and a professional class to impose it a glaring hole in American society and government.

Priests accused of crimes are not brought to secular court. They are considered consecrated to God and holy. It is left to God and to the man's conscience to punish or bring about his reform. In the United States the theory is that no man is above the law and priests who commit crimes are tried in, and when found guilty, punished by, the courts. Although this goes against his grain, More might not disagree with this attitude. The priests on Utopia are a small minority, specially chosen for their moral integrity. Any deviations will be extremely rare, he says. To an American reader this is absurd; as an English writer of the 16th century More is suggesting to his clergy that they take better care in ordaining priests. Fewer but more holy men is the object. Henry II (1154–1189) tried to make priests (and others associated with the official Catholic religion in England) subject to common law, but failed. Clerical exemption was the law More knew; he accepted it not knowing that Henry VIII was soon to abolish it.

So, would Sir/St. Thomas More approve of the US Constitution? Religious freedom, yes, but he would think it goes too far. Indirect election of the president, yes, but he would think we have erred in going to popular election of senators. Protection of

property he would see as the primrose path leading to perpetual struggles between haves and have-nots. Abolition of slavery would be applauded, but its continuation for 76 years after the ratification of the Constitution he would have abhorred. He would have thought prohibition foolish, its repeal wise. He felt the leader should be elected for life and probably would think the four-year renewable terms counterproductive as they force the incumbent to spend so much time and money getting re-elected. Senators are up for election every six years and, often enough, lose. In More's Utopia, tranibors are potentially changed every year, but never for trivial reasons. He seems to prefer this stability to the throw of the dice which is the American constitutional system of politics.

The United States is not Utopia, not even utopian. Thomas More would regret our decision not to follow the road he recommended. Europe was old, America was new and creating; his book was set somewhere in America, or beyond it in the Pacific. He would have liked to have seen his ideas put into place, but they were not. Attempts in the 19th century to establish utopian communities in America all failed, after a while. The kibbutz system in Israel seems to be the only successful attempt to put his theories into practice, but even these institutions are decaying as younger Israelis abandon the idealism of their fathers and move to the cities. Maybe Utopia was not to be. Maybe it waits around the corner.

## Notes

- [1] A (probably apocryphal) story describes how the two met in 1499 at a dinner hosted by Henry Colet, the Lord Mayor of London. Before each knew who the other was they engaged in lively, spirited conversation, in the middle of which Erasmus said to his dinner companion, 'You must be More or no-one,' to which More replied, 'You must be Erasmus or the Devil' (Chambers, 1968, p. 70). In his letter to Ulrich von Hutton, Erasmus describes More as 'the most delightful character in the world' (More, 1516/1975, p. 127).
- [2] I have used the translation by Robert M. Adams published by W. W. Norton & Company (1975). Adams spices his notes with interesting tidbits and etymologies.
- [3] The book's narrator's surname, Hythloday, combines the Greek words for 'nonsense' (*huthlos*) with 'to distribute' (*daien*), thus making him a 'nonsense-peddler'; 'Polylerites' comes from the Greek for 'much nonsense' (*polus* and *leiros*); the Macarians, who live near Utopia, derive their name from the Greek for 'happy' or 'fortunate' (*makarios*).
- [4] See Vespucci's description of his first and fourth voyages (More, 1516/1975, pp. 233–238).
- [5] Erasmus to Ulrich von Hutten (More, 1516/1975, p. 134). As Erasmus acted as More's agent in publishing the work, he should know.
- [6] Until the mid-1980s, this so-called 'Takings clause' was taken to mean that government could not take property without compensating owners. But since the Reagan years the courts have been extending this to mean that government must compensate property owners who are prevented from exploiting their property due to environmental constraints. Recently (summer, 2001) in *Palazzolo v. Rhode Island*, the court ruled that even when the entire value of property is not eliminated, the property owner has the right to sue the state that prevents him from damaging the environment through his development of property. Thomas More would have been appalled.
- [7] Whether More, the staunch Roman Catholic, ever reflected on the irony of his advocating divorce as an option to unhappy marriage, and the subsequent divorce issue which resulted in the dissolution of the ties that bound England to the Roman Church, I do not know.

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