

# LAWYERS AND THE UNCOMMON GOOD: NAVIGATING AND TRANSCENDING THE GRAY

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The setting for Harper Lee's classic novel *To Kill a Mockingbird*<sup>1</sup> rests in Maycomb, Alabama in the 1930s. Through the eyes of a child, Maycomb is a place as gray as the ghost that haunts the novel's final pages.<sup>2</sup> It is an ambiguous place, a place not conducive to discerning the "common good." Maycomb is a place where children learn "that people were just peculiar."<sup>3</sup> In Maycomb the town prophet disguises himself as the town drunk, sips only Coca-Cola from his brown paper sack,<sup>4</sup> and shares his truths only with children.<sup>5</sup> The state representative there runs without opposition for re-election each term and wins unanimously, but parents in Maycomb have to explain to their children to be nice to the representative's son and daughter; the two, after all, cannot help having *that man* for a father.<sup>6</sup> The most profound lesson to be learned from Maycomb's second grade teacher is how to "hate Hitler so bad an' then turn around and be ugly about folks right at home."<sup>7</sup>

Concepts like truth, justice, and fairness take on an odd ring in Maycomb. In Maycomb, telling the truth can be too cynical,<sup>8</sup> not disclosing the truth can be helpful<sup>9</sup> and polite,<sup>10</sup> and, yet, somehow in

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1. HARPER LEE, *TO KILL A MOCKINGBIRD* (Warner Books 1960).
2. *See id.* at 280–81.
3. *Id.* at 243.
4. *See id.* at 200.
5. *See id.* at 201 ("Things haven't caught up with that one's instinct yet. Let him get a little older and he won't get sick and cry. Maybe things'll strike him as being—not quite right, say, but he won't cry, not when he gets a few years on him.").
6. *See id.* at 243.
7. *Id.* at 247.
8. *See id.* at 214.
9. *See id.* at 237.

Maycomb the truth is what people seem to respect most.<sup>11</sup> In Maycomb, they executed the Haverfords for being “jackass” enough to insist that “the son-of-a-bitch-had-it-coming-to-him” defense was a good enough defense to allow one to escape a first-degree murder charge;<sup>12</sup> but the town never required that Boo Radley even assert that defense in court.<sup>13</sup> The people who mattered just knew that for Boo that defense was “good enough.”<sup>14</sup> In Maycomb, even unfairness seems turned upside down: the “common folk . . . must obey the law,”<sup>15</sup> and the privilege of rising above it is reserved not to the elite, but to the most disgraceful.

In Maycomb, Alabama, “there ain’t no definite answers to anything.”<sup>16</sup> In Maycomb true heroism honestly can be found in a cranky, old woman who yells racist remarks to children,<sup>17</sup> and when the town needs a rabid dog stopped, even the local sheriff turns to the “deadest shot in Maycomb County,”<sup>18</sup> the man who “wasn’t interested in guns”<sup>19</sup> and would never own one.<sup>20</sup>

All of this grayness is not without its effect on the town’s leading attorney, Atticus Finch. Atticus, himself, has his own odd relationship with the truth. In an effort to keep his daughter’s first grade teacher from *getting after* him, Atticus encourages his daughter to deceive her teacher,<sup>21</sup> and later Atticus conspires with the local sheriff to concoct a lie to bring to a close the investigation of Bob Ewell’s death.<sup>22</sup>

These deceptions would be easy to overlook in Atticus. He is, after

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10. *See id.* at 31.

11. *See id.* at 243.

12. *Id.* at 5.

13. *See id.* at 276. While Bob Ewell is attacking two children, Boo Radley, the town recluse, stabs Ewell, the town ne’er-do-well who is responsible for the innocent Tom Robinson dying in prison. The town sheriff covers up Boo’s involvement by reporting that Ewell fell on his own knife. *See id.* at 275–76.

14. *See id.* at 275–76 (“Mr. Finch, taking the one man who’s done you and this town a great service an’ draggin him with his shy ways into the limelight—to me that’s a sin.”). Although one could argue that Boo Radley would alternatively have had a defense in a murder trial, such a defense would have still required consideration of whether Boo used excessive force. The book has little to suggest the authorities were interested in the reasonableness of the level of force.

15. *Id.* at 30–31.

16. *Id.* at 234.

17. *See id.* at 102, 112 (“I wanted you to see what real courage is, instead of getting the idea that courage is a man with a gun in his hand.”).

18. *Id.* at 98.

19. *Id.* at 90.

20. *See id.* at 217.

21. *See id.* at 32.

22. *See id.* at 276. For a more generous view of this incident, see Thomas L. Shaffer, *On Living One Way in Town and Another Way at Home*, 31 VAL. U. L. REV. 879, 879 (1997).

all, a person one can trust “to do right,”<sup>23</sup> and when placed in their context, these deceptions do feel kind of right. The deception of the teacher seems the most painless way to thwart her overstepping her boundaries as a teacher,<sup>24</sup> and the deception with the sheriff seems the only way to avoid “the sin” of “taking the one who’s done you and this town a great service an’ draggin’ him with his shy ways into the limelight . . . .”<sup>25</sup> Yet, reminiscent of the words presented to this conference by Professor John Finnis,<sup>26</sup> Atticus knows that there is no good reason for deception. This is why Atticus cannot give unwarranted hope to the falsely convicted Tom Robinson by guaranteeing Robinson he will be released on appeal. In fact, the first thing to be learned in the Finch household is that one who does “lawin” can’t “say somethin’s so when he doesn’t know for sure it’s so.”<sup>27</sup>

Other aspects of Atticus’ character are just as prone to escape black and white and fall victim to the gray of Maycomb. Atticus instructs his daughter Scout not to fight the other children at school, even to defend her father; he reminds Scout that the people of Maycomb are “still our friends and this is still our home.”<sup>28</sup> Yet, he tells Scout this as one who recognizes that these friends “go stark raving mad when anything involving a Negro comes up,”<sup>29</sup> and as one who, himself, ultimately will stand alone to thwart a lynch mob made up of these friends.<sup>30</sup>

For all of his grayness and ambiguity, however, Atticus Finch is not merely the leading attorney in Maycomb, Alabama; he is arguably the most praised lawyer, real or fictional, in American legal lore.<sup>31</sup> One

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23. LEE, *supra* note 1, at 236.

24. *See id.* at 30–31.

25. *Id.* at 276.

26. *See* John Finnis, *What Is the Common Good, and Why Does It Concern the Client’s Lawyer?*, 40 S. TEX. L. REV. 41, 44–45 (1999).

27. LEE, *supra* note 1, at 234.

28. *Id.* at 76.

29. *Id.* at 88.

30. *See id.* at 151–55; *see also* Monroe H. Freedman, *Atticus Finch—Right and Wrong*, 45 ALA. L. REV. 473 (1994) (exploring further this grayness).

31. *See, e.g.*, MIKE PAPANTONIO, IN SEARCH OF ATTICUS FINCH: A MOTIVATIONAL BOOK FOR LAWYERS 10–11 (1995); Robert J. Araujo, *The Lawyer’s Duty to Promote the Common Good: The Virtuous Law Student and Teacher*, 40 S. TEX. L. REV. 83, 108 (1999); Michael Asimov, *When Lawyers Were Heroes*, 30 U.S.F. L. REV. 1131, 1135–38 (1996); Marie A. Failing, *Gentleman as Hero: Atticus Finch and the Lonely Path*, 10 J.L. & RELIGION 303, 304–05 (1994); Leonard M. Niehoff, *Legal Education*, 77 MICH. B.J., 648, 649 (1998); Thomas L. Shaffer, *Christian Lawyer Stories and American Legal Ethics*, 33 MERCER L. REV. 877, 880 (1982); Thomas L. Shaffer, *Growing Up Good in Maycomb*, 45 ALA. L. REV. 531, 553 (1994); John S. Skilton, *Heart and Soul . . . And Where Should We Go from Here*, 80 MARQ. L. REV. 715, 725 (1997); Kenneth W. Starr, *Law and Lawyers: The Road to Reform*, 63 FORDHAM L. REV. 959, 965 (1995); John A. DeVault, “Scout, Stand Up, There’s a

might well wonder, how Atticus has achieved this status when his own children, for example, consider him to be “feeble.”<sup>32</sup> To understand this, one must understand first that our worlds, as lawyers today, are just as full of grayness as is Atticus’ own Maycomb, Alabama, and then one must understand that our role as lawyers calls us, like Atticus, both to navigate and to transcend that gray.

The audience questions at this conference on the common good testified to this grayness of our own world. As one person at the conference hauntingly asked, what is the common good, where is it, and through whom is it to be found? Another asked how one pursued the common good when forced to choose between a judge’s unrelenting legal order to represent a parent and a personal recognition that to do so would endanger a child.<sup>33</sup> Yet a third called upon the group to struggle with the reality of a system that would leave a man in jail for insisting truthfully upon his innocence but would free him if he would only lie and profess his guilt.<sup>34</sup> In the worlds that lawyers brought to the conference, we do not have perfect clients, we do not have perfect cases, we do not get perfect juries, and we do not work in a perfect system. In such gray worlds, worlds which deny the bright lines of black and white, where is the good, common or otherwise, to be done?

There is an old story about a truck driver that captures the frustrations of a lawyer’s world. A truck driver was taking the oral exam to retain his commercial license. The examiner posed the following hypothetical:

You are hauling dynamite, driving down a steep, narrow road that wraps around the side of a mountain during a rain storm. Suddenly, you realize that your brakes are gone. You try your horn and your lights, and they are gone as well. Your steering locks just as you notice that coming toward you in the same lane is a truck carrying radioactive wastes, and its driver has apparently had a heart attack at the wheel. What do you do?

After hearing the hypothetical, the driver leaned back in his chair and

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*Lawyer Passing*,” FLA. B.J., Dec. 1995, at 8; Richard E. Ford, Jr., *To Be Like Atticus*, W. VA. LAW., Jan. 1997, at 4; James C. Moore, *Atticus Finch Still Lives Among Us . . . But He Could Use a Little Help*, N.Y. ST. B.J., July/Aug. 1998, at 5.

32. LEE, *supra* note 1, at 89.

33. For insights on this question, see generally Teresa Stanton Collett, *The Common Good and the Duty to Represent: Must the Last Lawyer in Town Take Any Case?*, 40 S. TEX. L. REV. 137 (1999) (exploring the question: “Should American lawyers have broad discretion to accept or decline representation of prospective clients?”).

34. Professor Bradley indicates that in analogous settings, prosecutors have a special obligation to avoid creating such situations. See Gerard V. Bradley, *Plea Bargaining and the Criminal Defendant’s Obligation to Plead Guilty*, 40 S. TEX. L. REV. 65, 77–78 (1999).

rubbed his chin thoughtfully. After a moment, the driver responded confidently, "I wake my partner Bob."

The examiner stared at the driver dumbfounded and then asked, "Why would you do that?"

The driver smiled, "Because Bob's been driving for over thirty years, but he's never had the chance to see a crash like the one we're about to have."

Like the truck driver seeking his license, Atticus Finch often finds that in responding to the questions posed by his life in Maycomb, Alabama, he must settle for the best answer rather than a right answer. The life of a lawyer is like that. Confronted with the imminent collisions that inevitably find their way into lawyers' offices, lawyers as diverse as those who do mergers and those who do divorces, all recognize that they will seldom be able to come up with solutions that will allow everyone concerned to live happily ever after. Having recognized that miracle rescues are not an option, lawyers must set out to find merely the best course to follow through a world that will necessarily remain imperfect. In such a world, Atticus Finch rises to a heroic level in part because he has learned to walk honorably in a world with all wrong answers, because he has learned to navigate the gray. He does this by seeking to love and respect each person he encounters and by trying to teach others to do the same.<sup>35</sup>

This approach of Atticus is reflected in his cross-examination of Mayella Ewell during his defense of Tom Robinson on the woman's charge of rape.<sup>36</sup> As is typical of Atticus' life in Maycomb, the cross-examination poses no good choices. Mayella is lying, and Atticus knows it.<sup>37</sup> Still, exposing the lie will do Tom Robinson little good; this black man in a white man's court is destined for conviction regardless of the evidence.<sup>38</sup> To expose Mayella's lie in court, however, will expose the woman not only to humiliation but no doubt also to a beating at home at the hands of a father who needs little provocation.<sup>39</sup> Furthermore, Mayella is not simply an evil villainess. As Tom Robinson, himself, understands her, she is a lonely, young woman trapped in a disgraceful family in which only she tries to better their circumstances;<sup>40</sup> she is one who would nurture a row of red geraniums across a plane of despair.<sup>41</sup>

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35. See LEE, *supra* note 1, at 108.

36. See *id.* at 181-88.

37. See *id.* at 183-88.

38. See *id.*

39. See *id.*

40. See *id.* at 197.

41. See *id.* at 179.

For Atticus then the choice might best be described as whether a futile truth justifies a real beating.<sup>42</sup> Atticus chooses to cross-examine Mayella in a way that will show she is lying.<sup>43</sup> Yet, in doing so, he treats Mayella with “compassion”<sup>44</sup> and with as much dignity as exposing a lie allows.<sup>45</sup> He is sensitive throughout the cross-examination of her feelings and of the implications the process will have on her. The reality of it all makes “his stomach hurt.”<sup>46</sup> Atticus understands that even Mayella is entitled to his love, even if that love does not translate into a free ticket to lie.<sup>47</sup>

Atticus Finch is able to navigate the grayness of Maycomb because he does not try to look too far ahead in the fog; it is enough that he love the person directly in front of him. I fear that grand notions of the common good as the good of the community for now or for always can never be any more than shadows too distant to be recognized in the gray fog. In Maycomb, the local lynch mob thinks the common good is to be found in saving the town the expense of a trial.<sup>48</sup> The women’s club there thinks the common good is found in sacrificing the virtue of truth to preserve the necessity of segregation.<sup>49</sup> Under the circumstances, one can conclude that even the community itself cannot be trusted to devise a common good.<sup>50</sup> And those failures occur when the common good is to be measured only in the present. How much more difficult the project becomes when we acknowledge that our pursuit of the common good has implications on the future as well.<sup>51</sup>

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42. The MODEL RULES OF PROFESSIONAL CONDUCT Rule 1.2(a) (1995) gives such decisions about the means of pursuing a client’s objectives to the lawyer, subject to consultation with the client. Rule 1.7(b) might be implicated here because Atticus could consider Mayella’s interests in a way that “materially limited” his representation of Tom. *Id.* at 1.7(b). Rule 3.3(a) would not be implicated in Atticus’ cross-examination of Mayella because it is the district attorney, rather than Atticus, who has offered her testimony as evidence. *See id.* at 3.3(b).

43. *See* LEE, *supra* note 1, at 183–88.

44. *Id.* at 188.

45. *See id.* at 186–88, 199.

46. *Id.* at 188.

47. *See* FINNIS, *supra* note 26, at 45–46.

48. *See* LEE, *supra* note 1, at 151–52.

49. *See id.* at 231–33.

50. *See* H. JEFFERSON POWELL, *THE MORAL TRADITION OF AMERICAN CONSTITUTIONALISM* 289 (1993) (advocating democracy as the lesser of evils while acknowledging the tendency of the majority to ignore voices that might speak to a broader good); *see also* Interview with Rich Mullins, *on 20: The Countdown Magazine Remembers Rich Mullins* (radio broadcast, Oct. 11, 1997) (“[D]emocracy isn’t necessarily bad politics; it’s just bad math. A thousand corrupt minds are just as evil as one corrupt mind.”).

51. *See* *THE EMPIRE STRIKES BACK* (Twentieth Century Fox 1995) (Yoda reflecting, “Difficult to see; always in motion is the future.”). *But see* Aldous Huxley, *Politics and Religion*, in *COLLECTED ESSAYS* 268, 269 (Bantam Classic ed., 1964):

I believe that there is a common good, but it exists within the realization that “[g]ood is a product of the ethical and spiritual artistry of individuals; it cannot be mass-produced.”<sup>52</sup> In fact, “goodness of more than average quality [can] be practically realized only on a small scale.”<sup>53</sup> This good on a small scale becomes common because all goodness is shared, as the apostle Paul instructs, in common: “If one part suffers, all the parts suffer with it; if one part is honored, all the parts share its joy.”<sup>54</sup> As John Donne articulated this point,

No man is an island, entire of itself; every man is a piece of the continent, a part of the main. If a clod be washed away by the sea, Europe is the less, as well as if a promontory were. Any man’s death diminishes me because I am involved in mankind, and therefore never send to know for whom the bell tolls; it tolls for thee.<sup>55</sup>

Even Mother Teresa encountered the world as Atticus did, as a gray place where one’s best efforts at goodness are still open to being second-guessed. Once for example, Mother Teresa came upon an orphaned family of six children being raised by the fourteen year old eldest sister.<sup>56</sup> Mother Teresa herself took the family on when the children insisted on staying together and then raised seven thousand rupees for the young family.<sup>57</sup> Mother Teresa was criticized, however, when she set aside five thousand of the rupees as a dowry for the eldest daughter.<sup>58</sup> Although the dowry allowed the girl to marry without any problems several years later, some felt that Mother Teresa’s choice ignored more immediate needs.<sup>59</sup>

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If hell is paved with good intentions, it is, among other reasons, because of the impossibility of calculating consequences . . . . This is sound so far as it goes but it does not go very far . . . . [T]hough it is impossible to foresee the remoter consequences of any given course of action, it is by no means impossible to foresee, in the light of past historical experience, the sort of consequences that are likely, in a general way, to follow certain sorts of acts. Thus, from the records of past experience, it seems sufficiently clear that the consequences attendant on a course of action involving such things as large-scale war, violent revolution, unrestrained tyranny and persecution are likely to be bad. Consequently, any politician who embarks on such courses of action cannot plead ignorance as an excuse.

52. Huxley, *supra* note 51, at 274.

53. *Id.*

54. 1 *Corinthians* 12:26 (New American).

55. John Donne, *Meditation XVII*, in 1 *THE NORTON ANTHOLOGY OF ENGLISH LITERATURE* 1214, 1215 (M.H. Abrams et al. eds., 3d ed. 1974).

56. See ROBERT SERROU, *TERESA OF CALCUTTA* 78 (1980).

57. *See id.*

58. *See id.*

59. *See id.*

Such criticism left Mother Teresa unfazed. For her the measure of her efforts was not to be found in their results but in the degree of love she invested in these deeds.<sup>60</sup> For her it was enough to seek to be “the living expression of God’s kindness:

Let no one ever come to you without leaving better and happier. Be the living expression of God’s kindness; kindness in your face, kindness in your eyes, kindness in your smile. In the slums we are the light of God’s kindness to the poor . . . .

My children, what are these drops of oil in our lamps? They are the little things of our everyday life: faithfulness, punctuality, little words of good will, simply a word for others; our way of being quiet, of looking, speaking, and acting.<sup>61</sup>

One might well argue that Mother Teresa’s call to kindness is even more ambiguous than the call to good. Certainly there was kindness in the manner of Atticus Finch when he cross-examined Mayella Ewell, but exposing her lies for what they were, one might add, hardly left her “better and happier.”

Mother Teresa, however, would respond that Mayella was better because Atticus’ actions were designed to bring her peace. It is, as Mother Teresa said, “peace” that we must work for.<sup>62</sup> Father Robert Araujo defined justice as people seeking to live in right relationships with one another.<sup>63</sup> Justice as so defined, such rightness in relationships, is an essential soil for peace to grow. To leave Mayella in her lie would be to leave her in a wrong relationship with Tom Robinson, and there could be no peace for her in that. Perhaps there would be one less beating from her father; perhaps there would be a hollow vindication of her *good name*; perhaps there would be some sense of silence in it, but silence is not peace any more than lying is healthy to the dignity of one’s self.<sup>64</sup> As Brennan Manning succinctly put it, “The alternative to confronting the truth is always some form of self-destruction.”<sup>65</sup> It was because Atticus realized all this that he could invite Mayella to the truth not in the spirit of harsh judgmentalism, nor out of cruel indifference to her own situation, but out of compassion.<sup>66</sup>

Certainly at least a few lawyers might well be bristling at this point.

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60. *See id.* at 77.

61. *Id.* at 76.

62. *Id.* at 97.

63. *See Araujo, supra* note 31, at 110.

64. *See Finnis, supra* note 26, at 46 (noting that the division of self created by lying “is profoundly disrespectful to oneself”).

65. BRENNAN MANNING, *A RAGAMUFFIN GOSPEL* 133 (1990).

66. *See LEE, supra* note 1, at 188.



It is one thing after all to ask a zealous advocate<sup>67</sup> to consider some common good. It is quite another to call him to be a peacemaker. Yet, that is what we are. Lawyers are not independent advocates but components in a system of justice. Though the lawyer is a “representative of clients,” he is also “an officer of the legal system and a public citizen having a special responsibility for the quality of justice.”<sup>68</sup> This latter responsibility is the dominant one because it is, after all, to the legal system that lawyers give, both in terms of chronology and in terms of importance, their first oath of loyalty. The preeminence of that oath is not altered because subsequently the client is expected to “pay the bill.” The Model Rules are quite clear that a lawyer’s loyalty is never simply a function of who pays the bill.<sup>69</sup> Nor can it be forgotten that lawyers maintain the right of self-regulation only because they may be trusted to keep the public interest at heart.<sup>70</sup>

This officer of the legal system engages in the adversarial system not because it is expected that if two people fight long enough, one eventually will surrender, but because it is expected that if two people search hard enough from different perspectives for truth, truth will be found.<sup>71</sup> By pursuing justice in this way, by seeking to play a part in, as Father Araujo puts it, the righting of relationships, we as attorneys are in fact peacemakers.

This call to seek to be a peacemaker and to love an individual as best as one knows how, rather than to pursue some notion of a “mass-produced” common good, is reminiscent of the parable of the Good Samaritan told by Jesus, appropriately enough to a lawyer.<sup>72</sup> In that parable a priest and a Levite pass by a man who is half-dead and lying in the road<sup>73</sup> before the Samaritan finally comes along and cares for the wounded man.<sup>74</sup> It is tempting to see the priest and the Levite as heartless and evil, but one may also see the two as “busy.”<sup>75</sup> Caught up in their responsibilities to nations, churches, and peoples, the priest and

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67. See MODEL RULES OF PROFESSIONAL CONDUCT Preamble 7 (1996).

68. *Id.* 1.

69. See *id.* at Rule 1.8(f).

70. See *id.* at Preamble 11.

71. See *id.* 7; see also FINNIS, *supra* note 26, at 48 (stating “respect for this [adversarial] system of fair cooperation is required by the common good”).

72. See Luke 10:25–37 (New American).

73. See *id.* at 10:31–32.

74. See *id.* at 10:33–35.

75. See *The Story of Flibber-o-loo*, on ARE YOU MY NEIGHBOR (Big Idea 1993). For a testimony to the wisdom to be found in children’s materials, see SAINT THÉRÈSE OF LISIEUX, THE STORY OF A SOUL 141 (Tan ed., 1997) (“There is no need for me to grow up; on the contrary, I must stay little, and become more and more so.”); see also Luke 18:17 (“Whoever does not accept the Kingdom of God as a child will not enter it.”).

the Levite cannot afford to stop to heal the person God has placed at their feet.<sup>76</sup> Each one feels for this man, but stopping for him would distract them from serving a greater common good. The two are so blinded to this man by the powerful light of the *common* good that when Jesus will one day tell them that when He was ill they did not care for Him, the two will have to admit that they did not recognize that the man at their feet was Jesus.<sup>77</sup> The Samaritan, meanwhile, also had things to do and places to go and in the end he did not neglect these,<sup>78</sup> but like Jesus Himself,<sup>79</sup> the Samaritan understood and responded to the call of compassion in its immediacy and in its littleness.<sup>80</sup>

As noted earlier, deciphering that call can be tricky,<sup>81</sup> but in his paper for the conference, Professor Robert George provides insight on how one can seek to comprehend that call. Professor George advises that one must be held accountable both for what one wishes to result from his actions and for what one can anticipate will result from his actions.<sup>82</sup> At the heart of his direction, one finds that Professor George demands no more and no less than that people strip away their blinders and honestly assess the implications of their lives.<sup>83</sup>

In our worlds of gray, we will make choices that we will regret, choices that could have been made better, but that, by Professor George's standard, is not the issue.<sup>84</sup> The better issue is whether we

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76. Robert Coles tells the story of a Nicaraguan commandant whose words expressed noble desires for his people as a whole but whose attention reflected a callous disregard for the persons who happened to work for him in his office. See Robert Coles, *Small Gestures*, in HARVARD DIARY 109, 111 (1989). For a similar story related by Mother Teresa, see MOTHER TERESA, WORDS TO LOVE BY 25 (1983) (relating the story of arriving late at a conference on hunger only to find a man dying of hunger on the steps of the hotel while the participants inside were resolving hunger on a global scale).

77. See Matthew 25:42-45 (New American).

78. See Luke 10:35 (New American).

79. See, e.g., Matthew 9:18-25 (New American) (telling the story of when Jesus stops a talk before a crowd to go heal a dying girl and pauses on His way to heal a bleeding woman).

80. See Luke 10:33 (New American). For a discussion of this *little way* to compassion, see SAINT THÉRÈSE OF LISIEUX, *supra* note 75, at 152-61.

81. See *supra* text accompanying notes 33-60.

82. See Robert P. George, *Reflections on the Ethics of Representing Clients Whose Aims Are Unjust*, 40 S. TEX. L. REV. 55, 57-58 (1999); see also Teresa Stanton Collett, *Speak No Evil, Seek No Evil, Do No Evil: Client Selection and Cooperation with Evil*, 66 FORDHAM L. REV. 1339, 1355-61 (1997) (describing the same analytical framework in somewhat greater detail). As the standard has been formulated here, one may see it as quite similar to the formulation of tortious intent articulated in the classic tort case *Garratt v. Daily*, 279 P.2d 1091 (Wash. 1955).

83. See George, *supra* note 82, at 60 (noting need for honest assessment of circumstances).

84. See *id.* at 59-60.

stripped away all of our rationalizations<sup>85</sup> and took our best shot at doing good and being kind in the circumstances in which we found ourselves. The Trappist Monk Thomas Merton advised likewise:

Dear God:

I have no idea where I am going. I do not see the road ahead of me. I cannot know for certain where it will end. Nor do I really know myself, and the fact that I think I am following your will does not mean I am actually doing so. But I believe this: I believe the desire to please you does in fact please you. I hope that I have that desire in everything I do. I hope that I never do anything apart from that desire. And I know that if I do this you will lead me by the right road though I may know nothing about it at the time. Therefore I will trust you always for though I may seem to be lost, and in the shadow of death, I will not be afraid because I know you will never leave me to face my troubles all alone.<sup>86</sup>

In the end, it is inevitable that people will be able to question our choices just as one might question those of Mother Teresa or Atticus Finch. Yet, despite such questions, there still remains an aura of sincerity, of kindness, and of goodness around Mother Teresa and Atticus, and hopefully around us, that calls out that these are people who do honorably navigate the gray.

Atticus, however, is praiseworthy for more than his ability to navigate the gray. We praise him also because he transcends it. In those moments of light when black is black and white is white, he refuses to take the easy path and continue to see the world as gray. Though his paper acknowledges some presence of gray in our worlds,<sup>87</sup> in his talk Professor Stephen Pepper quite forcefully reminded the conference that much of this “incoherence” is “bologna.”<sup>88</sup> Professor Pepper spoke of a world where quite frequently the right next step is there to be had, but both lawyer and client are engaged in such an aggressive pattern of ethical buck-passing that the two together end up walking off together in a direction where neither would have gone alone.<sup>89</sup> Professor Finnis spoke similarly of the need for lawyers to drag themselves out of the fog

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85. See *id.* at 60.

86. See Thomas Merton, *Prayer*, MARY'S PEOPLE June 23, 1991, at M17 (cited in Randy Lee, *A Look at God, Feminism, and Tort Law*, 75 MARQ. L. REV. 369, 398 n.170 (1992)).

87. See Stephen L. Pepper, *Lawyer's Ethics in the Gap between Law and Justice*, 40 S. TEX. L. REV. 181, 187 (1999).

88. Stephen L. Pepper, Address at the *South Texas Law Review Symposium on The Lawyer's Duty to Promote the Common Good* (Sept. 24, 1998).

89. See Pepper, *supra* note 87, at 189-90.

of egotistic reason so they can live in the light of wisdom they were born to exercise.<sup>90</sup> Lawyers, after all, are no more hired exclusively for their ability to give good legal advice than surgeons are hired exclusively because they are good with a knife; both are hired also because they are expected to be people of good judgment,<sup>91</sup> people who can see where the next step should be even when the rest of the world could not or would not choose to see. Lawyers, at their best, are people who transcend the gray.

Scripture acknowledges that there are people who are born blind,<sup>92</sup> but it also reminds us that we live in a world where those with eyes choose to see not and those with ears choose to hear not.<sup>93</sup> In such a world Atticus Finch did good both by seeing the truth and calling his friends in Maycomb to do the same. It should have come as no great mystery to the people of Maycomb that Tom Robinson was innocent when Bob Ewell accused Robinson of raping Ewell's daughter Mayella. Tom Robinson was of a "clean-living," church-going family<sup>94</sup> while Bob Ewell's family "had been the disgrace of Maycomb for three generations,"<sup>95</sup> a family incapable of conforming its behavior either to the law<sup>96</sup> or to "Maycomb's ways."<sup>97</sup> The people of Maycomb were quite sensitive to such evidence; a person's bloodlines spoke volumes to the people of Maycomb,<sup>98</sup> but unfortunately for Tom Robinson, so did color lines. Ewell was white, and Robinson was black, and in Maycomb that was all the evidence that could be considered.<sup>99</sup> Further reflection could only serve to "stir up" the blacks of Maycomb.<sup>100</sup>

Atticus Finch accepts his appointment to Tom Robinson's case<sup>101</sup> recognizing that he cannot win it but understanding that he can neither refuse it nor pursue it with any less than all the *zeal* any lawyer can muster.<sup>102</sup> For Atticus the case is one that "affects him personally,"<sup>103</sup>

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90. See Finnis, *supra* note 26, at 51.

91. See Pepper, *supra* note 87, at 202.

92. See *John* 9:1-41 (New American) (healing of the man born blind).

93. See *Matthew* 13:13-15 (New American); *Isaiah* 6:9-10 (New American).

94. LEE, *supra* note 1, at 75.

95. *Id.* at 30.

96. See *id.* at 30-31.

97. *Id.* at 28.

98. See *id.* at 19-28 (Scout explaining to her teacher the implications of being from different families in Maycomb).

99. See *id.* at 88.

100. *Id.* at 233.

101. To facilitate consideration of whether Atticus could have refused the case, one would do well to see Collett, *supra* note 33, at 137.

102. See MODEL RULES OF PROFESSIONAL CONDUCT Preamble 7 (1995).

103. LEE, *supra* note 1, at 76.

and he realizes that if he gave it any less than everything, he “couldn’t hold up [his] head in town, . . . couldn’t represent this county in the legislature, . . . couldn’t even tell [his children] not to do something again.”<sup>104</sup>

When Atticus takes his first step and accepts his representation of Tom Robinson, he knows that his efforts are likely to be futile and he knows the walk will be hard,<sup>105</sup> but the full measure of the path before him is hardly clear. He cannot know, for example, that Tom Robinson will end up dead in a prison yard with seventeen bullet holes in him,<sup>106</sup> nor that Atticus himself will be called upon to stare down a lynch mob unarmed, ultimately to be saved only by the innocent and youthful zeal of a child.<sup>107</sup> Of equal significance, he cannot see that there will be some fruits, small yet priceless, to be harvested from his efforts.<sup>108</sup> All that has emerged from the grayness of Maycomb at the time the decision is to be made is that this first step is right to take. Atticus must trust that the rest of his steps will be revealed equally clearly along the way.

Providence is funny in this way. Even heroes and giants have their paths lit only one step at a time.<sup>109</sup> This, however, is not a sign of God’s cruelty, slyness, or obstinacy but of His love. One step at a time is, after all, all that we can endure, comprehend, or quite simply take at a time.

Two traits seem particularly apparent in Atticus at this time—hope and courage. Catherine Doherty spoke of hope in the context of family life in words particularly well-suited to what Atticus is called upon to embrace here as well as what lawyers may generally be called upon to embrace:

How powerful must be their HOPE that holds on against all odds to the substance of things unseen. While the substance of things seen, heard and touched, draws husband and wife with a powerful current against that very virtue, and whispers constantly, in a beguiling, tragic whisper close to despair, that the life demanded by their holy vocation is too hard. That they can and should compromise, be it even a little. That after all, heaven and God are far away, today is today, and the line of

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104. *Id.* at 75.

105. *See id.* at 76.

106. *See id.* at 235.

107. *See id.* at 153–54.

108. *See infra* text accompanying notes 121–29.

109. *See* SAINT THÉRÈSE OF LISIEUX, *supra* note 75, at 135 (“I have never heard Him speak, and yet I know He is within my soul. Every moment He is guiding and inspiring me, and just at the moment I need them, ‘lights’ till then unseen are granted me.”); RICH MULLINS, *Sometimes By Step, on SONGS* (Reunion Records 1996) (“[S]tep by step You’ll lead me and I will follow You all of my days.”).

least resistance will do.<sup>110</sup>

Atticus, himself, best describes courage when he says, “[courage] is when you know you’re licked before you begin but you begin anyway and you see it through no matter what.”<sup>111</sup>

For Atticus, seeing Tom Robinson’s case through came to its climax when Atticus delivered his closing argument.<sup>112</sup> Certainly his closing reflects legal thoroughness and insight, but even more it reflects the courage of a man willing to put himself at risk before his neighbors in the hope that they could still do right. When Atticus “unbuttoned his vest, unbuttoned his collar, loosened his tie, and took off his coat,” he looked “stark naked” even to his own children who had never known him to loosen “a scrap of clothing until he undressed at bedtime.”<sup>113</sup> The gesture allowed the jury to see a gold reflection “winking in the light” where his shirt pocket was.<sup>114</sup> Perhaps it was just the tips of his pen and pencil,<sup>115</sup> but perhaps it was something more. In his remarks, Atticus stripped away decades of gray in Maycomb and showed the whole town that even in Maycomb, some things could be seen clearly: It was, as Atticus called it, a case “as simple as black and white,”<sup>116</sup> Tom Robinson was innocent.

The light lasted only a moment, however. That night, as Atticus had long expected, the jury convicted Tom Robinson, and Atticus Finch took what even his own daughter believed to be a “lonely walk down the aisle” out of the courtroom.<sup>117</sup> Life in Maycomb was gray again.

I think today we understand very little of heroism. We consider heroism futile if it bears no fruit,<sup>118</sup> and, yet, we are unable, as it were, to count the fruits of heroism, having forgotten what they look like or where to look for them.<sup>119</sup> Atticus seems equally blinded to any fruits of

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110. Catherine Doherty, *The Family as a School of Love*, NAZARETH J., Summer 1991, at 43 (Ms. Doherty founded the Madonna House Apostolate, wrote numerous books on spirituality, and received many awards for her work for peace and for the poor including the pontifical medal “*Pro Ecclesia et Pontifice*” in 1960.).

111. LEE, *supra* note 1, at 112.

112. *See id.* at 202–06.

113. *Id.* at 202.

114. *Id.*

115. *See id.*

116. *Id.* at 203.

117. *Id.* at 211.

118. *But see* MOTHER TERESA, *THE BLESSINGS OF LOVE* 81 (1996) (“We deliberately renounce all desires to see the fruit of our labor, doing all we can as best we can, leaving the rest in the hands of God.”).

119. Such is probably not unique to our time. In Robert Bolt’s play *A MAN FOR ALL SEASONS*, Thomas More instructs of his own generation:

If we lived in a state where virtue was profitable, common sense would make

his own heroic efforts, convinced that those efforts have been futile. When asked by his son Jem how a jury of their neighbors could have convicted Tom Robinson, the only answer Atticus can muster is, "I don't know, but they did it. They've done it before and they did it tonight and they'll do it again and when they do it—seems only children weep."<sup>120</sup>

Yet, despite Atticus' pessimism, one need only look in the hearts of many of Atticus' fellow citizens of Maycomb to find the fruits of Atticus' heroism, citizens who respond to Atticus' "lonely" walk with acts of heroism of their own. There are the blacks of Maycomb who transcend their own poverty to make Atticus' kitchen table groan under the weight of all the food they leave at his house in appreciation of his defense of Tom Robinson.<sup>121</sup> There is Miss Maudie who rises at five o'clock in the morning the day after the trial so she can bake cakes for Atticus' children and reassure them how great their father really is.<sup>122</sup> There is Link Deas who speaks up for Tom Robinson at the trial<sup>123</sup> and supports Tom's wife after Tom's conviction.<sup>124</sup> There is Mr. Underwood willing to "ride shotgun" for Atticus out the window of his newspaper office,<sup>125</sup> and fire off editorials for Tom Robinson from within.<sup>126</sup> There is Sheriff Tate, moved to try to do good with the "not much" he perceives himself to be,<sup>127</sup> and there is Atticus' sister Alexandra who learns to see the rightness in her brother's actions even if she could never undertake them herself.<sup>128</sup> There is even Maycomb itself, who for all its grayness forever trusts Atticus "to do right."<sup>129</sup>

When I decided to become a lawyer the only lawyers I knew were the electronic images I saw on television, and I knew no more about their worlds than I knew of Superman's Metropolis or Batman's

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

ROBERT BOLT, *A MAN FOR ALL SEASONS* 140–41 (Vintage International ed., 1990).

120. LEE, *supra* note 1, at 213.

121. *See id.* at 213.

122. *See id.* at 214–15.

123. *See id.* at 195.

124. *See id.* at 249–50.

125. *Id.* at 155.

126. *See id.* at 241.

127. *Id.* at 276.

128. *See id.* at 236.

129. *Id.*

Gotham City. But in my heart I knew that was all I needed to know.

When the world was blind, Perry Mason could still see; when the world was cowardly, Judd for the Defense was still brave; when the world was mad, the Bold Ones were still wise; and when the world was cruel, the Storefront Lawyers were still merciful. I wanted to be to the world what they were. I wanted to go to Washington to be like Frank Capra's Mr. Smith and fight for lost causes because, those, after all, were "the only causes worth fighting for."<sup>130</sup> I wanted to be a lawyer because I wanted to be heroic.

Professor Jefferson Powell has pointed out that communities are defined by the questions they care enough about to invest the time and energy to discuss and debate.<sup>131</sup> Thus, the legal community defines itself in some way when we come together as lawyers to discuss and debate our duty to the common good. As we encounter this opportunity, we must avoid the temptation of this decade to consider our duty as simply to avoid being "knaves."<sup>132</sup> Instead, we must return to a time when lawyers aspired to be heroic. The duty to do the common good must include a calling to transcend the gray. It must include a call to heroism.

The tragedy of Watergate for the Bar was that after Watergate people were left to ask, "Can you believe that lawyers did that?" The greater tragedy for the Bar in this decade has been that so many high profile legal actions have left people to ask "Can you believe that's what lawyer's do?" When we need to debate questions like, how clear must the truth be to affect a lawyer's behavior,<sup>133</sup> when is it appropriate for a lawyer to bill twice for the same time,<sup>134</sup> when can a lawyer use a client's confidences to benefit the lawyer,<sup>135</sup> how soon after a tragedy can we solicit the survivors,<sup>136</sup> and when can a lawyer hit on his clients,<sup>137</sup> our own questions condemn us as nothing more than a community that strives to remain one step ahead of disgrace.

In the 1970s, some states engaged in the practice of jailing the

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130. MR. SMITH GOES TO WASHINGTON (Columbia Pictures 1939).

131. See POWELL, *supra* note 50, at 30.

132. J. Robert McClure, Jr., *A. Lincoln On the Practice of Law*, A.B.A. J., Oct. 1990, at 98, 98-99.

133. See MODEL RULES OF PROFESSIONAL CONDUCT Rule 3.3(a)(4) (1995) (distinguishing between knowing and believing); see also MONROE H. FREEDMAN, *LAWYER'S ETHICS IN AN ADVERSARY SYSTEM* 51 (1975) ("I never know whether a client is guilty.") (quoting Edward Bennett Williams). For a thoughtful discussion of this issue, see FREEDMAN, *supra*, at 51-58.

134. See John Doe, *Is "Padding" Widespread?*, A.B.A. J., Dec. 1990, at 42.

135. See *Law Governing Lawyers*, 58 U.S.L.W. 2687, 2687-88 (1990).

136. See Henry J. Reske, *Lawyer Charged with Soliciting*, A.B.A. J., Dec. 1991, at 26.

137. See generally Abed Awad, *Attorney-Client Sexual Relations*, 22 J. LEGAL PROF. 131 (1998) (discussing thoroughly the nature and extent of this debate in legal circles).



fathers of Amish families for acting on their religious belief that God had entrusted the education of their children to them.<sup>138</sup> Given that many of these Amish fathers thought that their faith would not allow them to pay a lawyer or seek to defend themselves in court,<sup>139</sup> the more cynical observers of lawyers might not have thought a lawyer would find such a situation inviting. But William Ball did, and years of hard work by him and his colleagues eventually won for the Amish the right to teach their own children.<sup>140</sup>

As a lawyer, I believe William Ball and his colleagues define my legal community, as do lawyers like Thurgood Marshall who fought tirelessly and successfully in the civil rights movement,<sup>141</sup> as do the lawyers who fought unsuccessfully to guarantee that the state cannot take a parent's child without at least giving the parent a lawyer.<sup>142</sup> My legal community is defined by the prosecutors who stand firm to make sure that we are, as Chief Justice Marshall promised, "a government of laws and not of men,"<sup>143</sup> and by the defense attorneys who guarantee that no person will ever stand alone before the full weight of the state's resources.<sup>144</sup> My community is defined by lawyers willing to handle a client's legal problems for "a load of stovewood" and "a sack of hickory nuts,"<sup>145</sup> and by lawyers who continue to practice only to be sure someone is still searching for justice.<sup>146</sup>

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138. See generally COMPULSORY EDUCATION AND THE AMISH: THE RIGHT NOT TO BE MODERN (Albert N. Keim, ed. 1975) [hereinafter THE AMISH] (describing Amish cultural values). See also Stephen Arons, *Compulsory Education: The Plain People Resist*, in THE AMISH, *supra*, at 124, 124 (discussing the case history of religious freedom and compulsory education).

139. See John A. Hostetler, *The Cultural Context of The Wisconsin Case*, in THE AMISH, *supra* note 138, at 99, 102-03.

140. See *Wisconsin v. Yoder*, 406 U.S. 205, 236 (1972).

141. See, e.g., Hon. Harry T. Edwards, *In Memory of Thurgood Marshall*, 68 N.Y.U. L. REV. 205, 206 (1993).

142. See *Lassiter v. Department of Social Serv.*, 452 U.S. 18, 18 (1981).

143. *Marbury v. Madison*, 5 U.S. 137, 163 (1803).

144. See Collett, *supra* note 33, at 176-77. Professor Collett acknowledged some criticism of her topic because it could never or rarely happen. Even if posed at the extreme, the piece is valuable because often it is at the extremes that an issue's underlying considerations expose themselves most clearly. In this light one can add that it is not so rare to encounter the related issue of when a lawyer should "heroically" accept the client with whom no one else wants to be bothered. See, e.g., Ralph Vigoda, *Bomar Lawyer Feels Seething Wave*, PHILA. INQUIRER, Oct. 7, 1998, at B1, B4 (discussing the experiences of Mark P. Much defending "the most hated guy I ever had the duty to represent"). For a discussion of the reasons defense lawyers put forth to explain their "representing not just the despised but the despicable, not just the damned but the damnable," see Monroe H. Freedman, *The Lawyer's Moral Obligation of Justification*, 74 TEX. L. REV. 111, 111 (1996).

145. LEE, *supra* note 1, at 20.

146. See Rabbi Lawrence A. Hoffman, *Response to Joseph Allegritti: The Relevance of*

The Rules of Professional Conduct permit a lawyer to pursue courses so long as the lawyer does not know them to be false,<sup>147</sup> and such flexibility allows lawyers to navigate the gray. That is good so far as it takes us. Such permission, however, has not stopped the lawyers of my community from aspiring to more, from transcending the gray and seeking to pursue those courses in which they truly believe.<sup>148</sup> The Rules do not stop these lawyers from being heroic, and those Rules must not stop the rest of us either.

It matters little to me whether the good to which the lawyers in my community aspire is in great things or in the little day-to-day decisions of practice.<sup>149</sup> I still am proud to share their good with them in common, and to feel a part of their community.<sup>150</sup>

Just as the need to navigate the gray brings me to Mother Teresa, so too does the need heroically to transcend that gray. In this regard, lawyers would do well if we could come to be described as the *Times of India* described Mother Teresa upon her receipt of the Nobel Peace Prize:

It is comforting to know that the world still recognizes virtue, that hope and compassion can dispel misery and cynicism, and that all the cherished values are as intact now as ever before unassailable by catastrophic folly. To her more than to any other person alive today mankind is beholden for the restoration of faith in itself.<sup>151</sup>

When the world discovered Mother Teresa, she was not great as the world defines greatness. She was a simple nun, without wealth, power,

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*Religion to a Lawyer's Work*, 66 FORDHAM L. REV. 1157, 1164–65 (1998).

147. See MODEL RULES OF PROFESSIONAL CONDUCT Rule 3.3(a)(4) (1995).

148. See KENNETH GORMLEY, ARCHIBALD COX: CONSCIENCE OF A NATION 176–77 (1997) (describing Cox's refusal to argue the principle of "one-person-one-vote" to the Supreme Court in *Reynolds v. Sims*, 377 U.S. 533 (1964), because he did not believe that principle to be in the Constitution).

149. See Thomas D. Morgan, *The Relevance to Religion in a Lawyer's Work—Legal Ethics: A Response to Professor Griffin*, 66 FORDHAM L. REV. 1313, 1316 (1998) (describing "the ordinary tasks of professional life" as "the essence" of how faith touches professional life).

150. For another voice calling lawyers to transcend the gray, see Lucia Ann Silecchia, *On Doing Justice & Walking Humbly with God: Catholic Social Thought on Law as a Tool for Building Justice*, 46 CATH. L. REV. 1163, 1163–64 (1997).

151. SERROU, *supra* note 56, at 104–05. See also the comments of Professor John Sannes, Chairman of the Norwegian Nobel Committee:

With her message she is able to reach through to something innate in every human mind—if for no other purpose than to create a potential, a seed for good. If this were not the case, the world would be deprived of hope, and work for peace would have little meaning.

*Id.* at 108.

or prestige, who simply did ordinary acts with extraordinary love.<sup>152</sup> Yet, her heroism has always transcended greatness, a heroism that flowed from her desire to be good, perhaps uncommonly so, just as a lawyer's heroism can flow from that desire as well. As then Indian Prime Minister Shri Charan Singh once said while reflecting on Mother Teresa, "Many great people have trod this earth. But very few good ones have . . ."<sup>153</sup> Consistent with the theme of this conference, I would encourage all lawyers to join those few.

#### AFTERWARD

The other day in church, the Gospel reading was unrelenting in its criticism of lawyers: "Alas for you lawyers . . . because you load on men burdens that are unendurable, burdens that you yourselves do not move a finger to lift . . . . Alas for you lawyers who have taken away the key of knowledge! You have not gone in yourselves, and have prevented others going in who wanted to."<sup>154</sup> After a while of this, my nine-year-old son eagerly pulled at my sleeve and remarked to his lawyer-father, "Jesus sure doesn't have much good to say about you lawyers, does he Dad?"

The question initially left me dumbfounded, but a little consequent reflection allowed me to respond, "Actually He does." Jesus also said, "Blessed are the peacemakers,"<sup>155</sup> and "Blessed are they who hunger and thirst for righteousness,"<sup>156</sup> and "Blessed are they who are persecuted for the sake of righteousness,"<sup>157</sup> and these sayings, it has been argued here, can apply to lawyers if we let them.

Two images struck me most profoundly at this conference, on how to let those sayings apply to us as lawyers. The first was Father Araujo's collar. He is not only a priest but also a law professor, and as he spoke on teaching virtue, I could not help but wonder what added responsibility one had when he teaches in priestly garb.<sup>158</sup> I came to realize, however, that his situation and mine are not so different. I too teach with my own yoke, my yoke of being a lawyer,<sup>159</sup> and as my

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152. See MOTHER TERESA (Petrie Productions, Inc. 1986).

153. SERROU, *supra* note 56, at 106.

154. *Luke* 11:46, 52 (Jerusalem).

155. *Matthew* 5:9 (New American).

156. *Id.* at 5:6.

157. *Id.* at 5:10.

158. For a discussion on the implications of such garb in the courtroom, see Samuel J. Levine, *Religious Symbols and Religious Garb in the Courtroom: Personal Values and Public Judgments*, 66 *FORDHAM L. REV.* 1505, 1505-06 (1998).

159. See *Matthew* 11:29-30 (New American) ("Take my yoke upon you and learn from

students watch me, they learn how lawyers behave both inside and outside the classroom. My students may come to my school with the same heroic dreams of lawyering that I brought to law school, and my life may tell them how possible those dreams really are. In this light, I learned that I must strive not to dash those dreams but to nurture them, somewhat by what I say, but more profoundly by what I do.

The second image was one from South Texas itself. Above the judge's bench in the auditorium there, there is a picture of Abraham Lincoln teaching a child. Both are dressed all in priestly black, Lincoln like Father Araujo, with a flash of white around the collar where his shirt peeks about above his vest. Something gold hangs across the chests of Lincoln and his young student, something perhaps like the golden reflections from the pocket above Atticus Finch's heart.

The background behind the two figures is a shadowy gray-green. Yet, as one's eyes approach the book the two share, the eyes notice a light breaking through this gray, a light most intense and almost white where the learning is taking place.

At first, I suspected that it was the learning that generated that light, but then I remembered, as Atticus' daughter Scout had once taught me so well, that "nothin's real scary," nor I suppose nearly as gray, "except in books."<sup>160</sup> No, neither the book nor the learning could generate that light. Rather, the learning was drawn to that light. Where beat the hearts of people who strive after goodness, people with hearts flecked with the purity of gold, people like Lincoln and Atticus and Mother Teresa, there is light in an otherwise gray world. And learning will find that light and respond to it.

There is much hope in recognizing that dynamic, just as there is much hope in law students spending their law school days in the company of such an image, just as there is much hope in a community of lawyers spending a day searching for the common good.

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me, for I am meek and humble of heart; and you will find rest for yourselves. For my yoke is easy, and my burden light.").

160. LEE, *supra* note 1, at 280.