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THE CATHOLIC LAWYER: "FAITH" IN THREE PARTS

JOHN M. BREEN*

We gather here as a people of faith around the altar of the Lord. Guests invited to share in His banquet, the Lord Jesus sets the table before us and we are nourished by His very Body and Blood. Faith brings us to this celebration of the Paschal Mystery, and it is *in* faith that we come together to celebrate your graduation from law school. This is entirely appropriate since the joy of the Christian faith gives a new meaning to every other joy, including the joy that surrounds the completion of your formal legal studies.

This celebration also presents an opportunity to pause and reflect on the vocation that you began in baptism—the vocation to live as a disciple of Christ—and the new vocation that you will soon begin as a member of the legal profession. Thus, the question that we are asked to consider on this occasion is: What does it mean to be a "faithful" Catholic and a "faithful" lawyer?

Now the word "faith" has many layers, each of which is rich in meaning. Here I wish to focus briefly on three aspects of "faith" that pertain to the life of every Catholic and to see the analogous meanings "faith" can and should have for those of us who practice law.

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^{1.} During the last ten years, a number of lawyers and legal academics have written about the relationship between religious faith and the practice of law from a variety of faith traditions. See, e.g., Symposium, Faith and the Law, 27 Tex. Tech. L. Rev. 911 (1996); Symposium, The Relevance of Religion to a Lawyer's Work, 66 Fordham L. Rev. 1075 (1998). Catholic commentators have featured prominently in this discourse. See, e.g., Joseph G. Allegretti, The Lawyer's Calling: Christian Faith and Legal Practice (1996). For an excellent summary of this now burgeoning literature, including a response to some criticisms, see Russell G. Pearce & Amelia J. Uelman, Religious Lawyering in a Liberal Democracy: A Challenge and an Invitation, 55 Case W. Res. L. Rev. 127 (2004).

For Catholics, the first meaning of "faith" is belief in all that the Church holds true. Thus, faith in this sense has two inseparable dimensions. On the one hand, "faith" identifies an intellectual act on the part of the believer in which the human mind assents to those propositions it regards as true.2 On the other hand, "faith" identifies the specific content of those propositions, the beliefs that constitute the "deposit of faith."

Because the act of belief and the content of that belief are never separate, there is no such thing as "faith" in the generic sense. Indeed, to tell someone to "have faith" outside of a context in which the content of that faith is known and shared is to utter a literally meaningless expression. Faith is never so indistinct. Rather, faith is always faith in someone or something.

Our faith, the Catholic faith, is a faith in Jesus Christ and in His Church, founded on the rock of Peter's confession.³ The content of this faith is the revelation of God in history.⁴ It is the faith "that comes to us from the apostles" and which we solemnly profess in the Creed and celebrate in the sacraments. It is

Here I do not indulge the modern caricature of religious faith according to which faith is an irrational act. Indeed, it is often regarded as the antithesis of "reason." See, e.g., Bertrand Russell, Why I am Not a Christian, in The BASIC WRITINGS OF BERTRAND RUSSELL 596 (Robert E. Egner & Lester E. Denonn eds., 1961) ("Religion is based, I think, primarily and mainly upon fear. . . . Fear is the basis of the whole thing—fear of the mysterious, fear of defeat, fear of death."). The distinction between "faith" and "reason" was popularized by the thinkers of the Enlightenment. See, e.g., John Locke, An Essay Concerning Human Understanding, in The English Philosophers from Bacon to MILL 238, 390 (Edwin A. Burtt ed., 1939) (1690) ("I find every sect, as far as reason will help them, make use of it gladly: and where it fails them, they cry out, it is a matter of faith, and above reason."); Voltaire, Philosophical Dic-TIONARY A-I 275 (Peter Gay trans., Basic Books, Inc. 1962) (1764) ("Faith consists in believing, not what seems true, but what seems false to our understanding."). This distinction now enjoys the status of dogma among some proponents of liberalism. Although philosophical reflection on the nature of faith and its relationship to other kinds of belief is far more sophisticated and nuanced today than it was at the time of the Enlightenment, see, e.g., RICHARD SWINBURNE, FAITH AND REASON (1981), the crude view of faith as irrational and anti-intellectual still holds currency among some legal academics. See, e.g., Steven G. Gey, Why is Religion Special?: Reconsidering the Accommodation of Religion Under the Religion Clauses of the First Amendment, 52 U. PITT. L. REV. 75, 167 (1990) (asserting that "religious principles are not based on logic or reason, and, therefore, may not be proved or disproved").

Matthew 16:13-19; John 21:15-19. All references to sacred scripture are to the New American Bible unless otherwise noted.

^{4.} Indeed, history is "the arena where we see what God does for humanity." Pope John Paul II, Encyclical Letter Fides et Ratio No. 12 (1998) [hereinafter Fides et Ratio].

^{5.} THE SACRAMENTARY: THE ROMAN MISSAL 542 (1985) (First Eucharistic Prayer).

the faith which, under the guidance of the Holy Spirit, the Church hands on with greater clarity and deeper understanding down through the centuries.⁶ This revelation began with God's special relationship with Abraham and His irrevocable covenant with the Jewish people.⁷ It was strengthened by the gift of the Law through Moses and the voice of the prophets urging the people of Israel to live lives of holiness and to hope for salvation.

The completion of this revelation, the final and definitive disclosure of God in history, is Jesus Christ. In the person of Jesus, God Himself enters into history and reveals Himself to humanity by becoming one of us. The Son of God is born as the son of Mary, and the Author of the Universe falls asleep in a stable in Bethlehem. The seemingly boundless chasm between the creature and the Creator, between the finite and the Infinite. between sinful, broken man and the perfect goodness of the Divine, is bridged by an even more boundless love.8 As our late beloved Pope John Paul II wrote: "In the Incarnation of the Son of God we see forged the enduring and definite synthesis which the human mind of itself could not have imagined: the Eternal enters time, the Whole lies hidden in the part, [and] God takes on a human face."9 Moreover, in His earthly ministry and most especially in His sacrifice on the Cross, Christ reveals both the true nature of God as love¹⁰ and "the deepest and most authentic meaning of life: namely, that of being a gift which is fully realized

This tradition which comes from the Apostles develops in the Church with the help of the Holy Spirit. For there is a growth in the understanding of the realities and the words which have been handed down. This happens through the contemplation and study made by believers, who treasure these things in their hearts (see Luke, 2:19, 51) through a penetrating understanding of the spiritual realities which they experience, and through the preaching of those who have received through episcopal succession the sure gift of truth.

SECOND VATICAN ECUMENICAL COUNCIL, DEI VERBUM: DOGMATIC CONSTITUTION ON DIVINE REVELATION No. 8 (1965) (footnotes omitted).

^{6.} The Fathers of the Second Vatican Council made this point with remarkable clarity and brevity:

^{7.} Second Vatican Ecumenical Council, Nostra Aetate: Declaration on the Relationship of the Church to Non-Christian Religions No. 4 (1965) (stating that "God holds the Jews most dear for the sake of their fathers; He does not repent of the gifts He makes or of the calls He issues").

^{8.} Cf. Joseph Ratzinger, Introduction to Christianity 223 (1969) ("God is such that he identifies himself with man down into this abyss and he judges him by saving him. In the abyss of human denial is revealed the still more inexhaustible abyss of the divine love.").

^{9.} Fides et Ratio, supra note 4, No. 12.

^{10.} Cf. 1 John 4:8.

in the giving of self."11 Overcoming every kind of darkness, even death itself, the faith holds that the glory of the Cross "shines forth ever more radiantly and brightly, and is revealed as the centre, meaning and goal of all history and of every human life."12

Obviously, a faith like this could never simply be "a set of propositions to be accepted with intellectual assent."13 Instead, it is a truth that must be lived. As the late Holy Father wrote, the faith "is not truly received until it passes into action, until it is put into practice."¹⁴ Thus, faith is an act not only of the intellect. but of the will. 15 Moreover, it is this feature of faith which distinguishes religion from mere philosophy. Indeed, as the great convert and philosopher Jacques Maritain explained, "[r]eligion is essentially that which no philosophy can be: a relation of person to person with all the risk, the mystery, the dread, the confidence, the delight, and the torment that lie in such a relationship."¹⁶ Our God, the living God, the one true God, is not "the god of the philosophers,"¹⁷ or rather, He exceeds by an infinite measure and in an infinite number of ways what human reason alone can discover about the Divine. God is not simply a conclusion that follows from the premises of syllogism. Instead, the Triune God loves you with a depth that words alone cannot describe, a love that we could understand only by seeing it in the flesh, in the person of Jesus Christ.

^{11.} Pope John Paul II, Encyclical Letter Evangelium Vitae No. 49 (1995) [hereinafter Evangelium Vitae].

^{12.} Id. No. 50.

^{13.} Pope John Paul II, Encyclical Letter Veritatis Splendor No. 88 (1993) [hereinafter Veritatis Splendor].

^{14.} Id. See also Thomas Merton, No Man Is an Island 137 (1955) ("We cannot possess the truth fully until it has entered into the very substance of our life by good habits and by a certain perfection of moral activity."). This understanding of faith is, of course, deeply rooted in scripture. See James 2:17 ("So also faith of itself, if it does not have works, is dead.").

^{15.} Fides et Ratio, supra note 4, No. 13.

^{16.} JACQUES MARITAIN, EXISTENCE AND THE EXISTENT 73 (Lewis Galantiere & Gerald B. Phelan trans., 1948).

^{17.} The distinction drawn upon by Maritain in the text just quoted, between assent to mere propositions and a relationship of adoration and love of the one true God, is in fact the distinction made by Pascal in his famous Memorial: "Fire / 'God of Abraham, God of Isaac, God of Jacob' not of philosophers and scholars." Blaise Pascal, Pensées 309 (A. J. Krailsheimer trans., Penguin 1966) (1669) (quoting Exodus 3:6). Significantly, Joseph Ratzinger, now Pope Benedict XVI, builds upon Pascal's distinction in his book-length reflection on the Apostles Creed. See RATZINGER, supra note 8, at 94-104. To think of God as simply a conclusion that follows from the premises of a syllogism is to mistake seeing a location on a map with the experience of being at the actual destination.

Like any act of love, God's love calls for a response from those to whom it is given. Accordingly, the second meaning of "faith" goes beyond the mental act of belief and describes the quality of a relationship. To say that someone is a "faithful" spouse, parent, or friend is to say that he or she will stand by you, and with you, "in season, out of season." It is to say that, not withstanding inconvenience, toil, and sacrifice, ridicule and humiliation, the faithful one will do what is necessary to nurture, to care for and to protect another. God does not need our protection, but for the sake of our own true happiness, He does desire our fidelity. He wants us to accept His love and to share this love with others. Thus, "faith" describes one's relationship with God as a relationship marked by loyalty and devotion. 20

The first reading for today extols the virtue of a "faithful friend." According to the *Book of Sirach*: "A faithful friend is a sturdy shelter; he who finds one finds a treasure. A faithful friend is beyond price, no sum can balance his worth. A faithful friend is a life-saving remedy"²¹

The Gospel demands that you be a "faithful friend" to Christ.²² This friendship requires you to live a moral life. As Saint John writes in his first letter: "For the love of God is this,

Catechism of the Catholic Church No. 150 (2000) (citation omitted).

^{18. 2} Timothy 4:2 (Douay-Rheims). Sadly, many contemporary translations have abandoned this beautiful phrase in favor of more awkward expressions, doubtless in the name of greater accuracy. See, e.g., 2 Timothy 4:2 (New American) ("whether it is convenient or inconvenient"); 2 Timothy 4:2 (Good News New Testament) ("whether the time is right or not"); 2 Timothy 4:2 (New Jerusalem) ("welcome or unwelcome").

^{19.} Cf. John 13:34 ("I give you a new commandment: love one another. As I have loved you, so you also should love one another.").

^{20.} Compare this conception of faith with that provided in *The Catechism*: Faith is first of all a personal adherence of man to God. At the same time, and inseparably, it is a *free assent to the whole truth that God has revealed*. As personal adherence to God and assent to his truth, Christian faith differs from our faith in any human person. It is right and just to entrust oneself wholly to God and to believe absolutely what he says. It would be futile and false to place such faith in a creature.

^{21.} Sirach 6:14-16.

^{22.} As Joseph Ratzinger said in the homily for the mass just prior to his election as pope: "An 'adult' faith is not a faith that follows the trends of fashion and the latest novelty; a mature adult faith is deeply rooted in friendship with Christ. It is this friendship that opens us up to all that is good and gives us a criterion by which to distinguish the true from the false, and deceit from truth." Joseph Ratzinger, Homily for the Mass for the Election of the Supreme Pontiff (Apr. 18, 2005), available at http://www.ewtn.com/pope/words/conclave_homily.asp.

that we keep his commandments."²⁸ These commandments include not only the negative prohibitions against adultery, stealing, and murder set forth in the Decalogue²⁴ but the positive "attitudes and dispositions"²⁵ of the Beatitudes²⁶ which lead one to feed the hungry, to clothe the naked, to care for those in distress,²⁷ to build a culture of life!²⁸

But even these actions are not enough. Your friendship with Christ is fully realized only by inviting Him into your home, listening to His word, and allowing Him to change your heart. This invitation takes place whenever you go to mass and listen to the Gospel, when you approach the altar to receive Christ in the Eucharist, and when you recognize your own failures and seek His pardon in Reconciliation. The grace of these sacraments—which are themselves a gift of total love—enable you to truly be a faithful friend.

The third meaning of "faith" also involves your relationship with God—namely, trust. The act of trusting someone is in fact antecedent to acts of loyalty and devotion since, generally speaking, people are not loyal or devoted to those they cannot trust. To "have faith" in God is to place your trust in Him, to have confidence that He will do what is best for you, not demanding that He prove Himself to you in any particular way, and having no expectation about what the future will hold, only hope that the path will lead to grace.²⁹

Moreover, without this kind of faith in God, this trust, your own life will always be an "insoluble riddle"³⁰ that is a source of frustration and grief. Only by turning to Christ and trusting in Him can an adequate answer be found to the questions of life. As John Paul II said at the beginning of his pontificate: "The man who wishes to understand himself thoroughly—and not just in

^{23. 1} John 5:3; see also John 14:15 ("If you love me, you will keep my commandments."); John 14:21 ("Whoever has my commandments and observes them is the one who loves me.").

^{24.} Exodus 20:2-17; Deuteronomy 5:6-21.

^{25.} Veritatis Splendor, supra note 13, No. 16.

^{26.} Matthew 5:1-12; Luke 6:20-23.

^{27.} Matthew 25:31-40.

^{28.} Cf. Evangelium Vitae, supra note 11, Nos. 78–101.

^{29.} See CATECHISM OF THE CATHOLIC CHURCH No. 215 (2000) (stating that because God is Truth itself, "one can abandon oneself in full trust to the truth and faithfulness of his word in all things").

^{30.} Fides et Ratio, supra note 4, No. 12. See also Second Vatican Ecumenical Council, Gaudium et Spes: Pastoral Constitution on the Church in the Modern World No. 22 (1965) ("The truth is that only in the mystery of the incarnate Word does the mystery of man take on light."); id. at No. 36 ("When God is forgotten, however, the creature itself grows unintelligible.").

accordance with immediate, partial, often superficial . . . measures of his being—he must with his unrest, uncertainty and even his weakness and sinfulness, with his life and death, draw near to Christ."³¹

The trust you show in drawing near to Christ will never be disappointed, because God is the Eternally Faithful One, who "can neither deceive nor be deceived." Lawyers are by nature a skeptical lot, yet for proof of this fidelity we need only gaze upon the Cross. In the face of the crucified Christ, a face marked by suffering, we see the face of true fidelity. We see the Truth Incarnate, our "wisest and greatest friend," who endured the pain and humiliation of Calvary in order to free us from the bondage of sin.

Now, what does this three-fold understanding of "faith" mean for your future lives as members of the legal profession? I suspect that some of you have already made the connection between two of the aspects of "faith" just mentioned, namely, loyalty and trust. Because the relationship between an attorney and client is always a personal relationship, loyalty and trust are indispensable qualities.

Indeed, the ethical rules that govern our profession firmly establish that a lawyer must be devoted to the goals that his or her client hopes to accomplish in seeking legal representation.³⁴ Nevertheless, professional devotion to client goals does not mean complete deference.³⁵ Your role as a lawyer is not simply to function as a mouth-piece for your client's point of view or as an instrument for the realization of his or her desires. The vows of your baptism are not somehow suspended the moment you take the oath as a member of the bar. Thus, even though the profession does at times encourage a kind of moral schizophrenia,³⁶ even the ethical standards recognize that loyalty alone is not

^{31.} Pope John Paul II, Encyclical Letter Redemptor Hominis No. 10 (1979).

^{32.} First Vatican Ecumenical Council, Dei Filius: Dogmatic Constitution on the Catholic Faith, ch. 3 No. 2 (1870).

^{33.} THOMAS AQUINAS, SUMMA THEOLOGICA, Pt. I-II, Q. 108, Art. 4 (Fathers of the English Dominican Province trans., 1948).

^{34.} See MODEL RULES OF PROF'L CONDUCT R. 1.2 cmt. 1 (2004) (noting that Rule 1.2(a) "confers upon the client the ultimate authority to determine the purposes to be served by [the] legal representation").

^{35.} *Id.* R. 2.1 (stating that in rendering advice "a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation").

^{36.} See id. R. 1.2(b) (stating that "representation of a client... does not constitute an endorsement of the client's political, economic, social or moral views or activities").

enough. Instead, they acknowledge that both "[1] oyalty and independent judgment are essential elements in the lawyer's relationship to a client." Indeed, being a truly faithful attorney may require you to give unwelcome advice where your client's conduct is immoral or somehow threatens the common good.

Similarly, trust is also a vital component in any attorney-client relationship. Although it is important for you to be able to trust the client, it is even more important for the client to trust you. Indeed, whether you represent a poor, abused minor in child custody proceedings or a wealthy and sophisticated executive accused of securities fraud, you must engender trust. The client must have trust in your legal skill and knowledge of the law, in your ability to hold matters in confidence and to render sound judgment, and in your willingness to be a zealous advocate and a careful and patient listener. Thus, just as Christ inspires trust in you, in an analogous fashion, you must inspire trust in your client. You must imitate Christ, the "advocate who always pleads our cause." 38

With respect to the first aspect of "faith," that is, belief in the truth of what the Church professes, there is no genuine analogue either in American law or in the professional standards that govern attorney conduct. Membership in the legal profession does not require you to believe in the truth of anything other than, perhaps, in a general and attenuated sense, the rule of law and the value of legal representation. There is no "creed" in American jurisprudence that constitutes a body of essential truths that ground our system of laws and legal institutions and that define who we are as a people. Even the federal Constitution, the most likely candidate in this regard, fails to say anything substantive about the purpose of social life, the nature of the human person, or humanity's place in the universe. Instead, the document merely establishes a form of government and a system of individual rights. Whatever truth-claims might stand behind these rights are muted by the robust agnosticism of contemporary liberal neutrality.

Nevertheless, this omission is, in some sense, not a deficiency but a gift. It provides the Catholic lawyer with an opportunity to exercise his or her freedom in the service of the faith. It allows you to fill up this emptiness with the values of the Gospel.³⁹ This can be done not only in the cases and other matters

^{37.} Id. 1.7 cmt. 1.

^{38.} The Sacramentary, supra note 5, at 419 (Preface of Easter III).

^{39.} See, e.g., Robert K. Vischer, Catholic Social Thought and the Ethical Formation of Lawyers: A Call for Community, 1 J. CATH. Soc. THOUGHT 417 (2004) (dis-

you chose to take on, but in the manner in which you treat your clients, your staff, and your opponents. By practicing law in a way that recognizes the transcendent value of every human person, you will bear witness to the truth, the "faith" as it were, that every legal system must embody in order to be law.⁴⁰

The reading for today's mass taken from Saint Mark's gospel reminds us how difficult it can be to remain faithful. Accustomed to the availability of divorce under the Mosaic law, the apostles struggle with Jesus' teaching that marriage is an indissoluble, monogamous union between a man and a woman, consecrated by God.⁴¹ They struggle with Christ's teaching that it is wrong for a husband to simply "dismiss" his wife and find another partner.

It is not always easy for spouses to be faithful to one another. This is especially true in today's culture, which subjects the family to untoward economic pressure and which often revels in the temptation of marital infidelity and celebrates as virtue the freedom of individual, sexual expression. In this context, how much more difficult is it for a married couple to remain faithful, to respond to the challenges that spouses invariably face? Indeed, how much easier is it today, legally and culturally, more so than in the time of Mark's gospel, for one spouse to write a bill of divorce "dismissing" the other? In a society that often ridicules religion, that reduces human value to mere utility, and attempts to understand the universe solely in terms of physical causality, how much easier would it be to simply ignore God and abandon the practice of the faith?

Likewise, the experience of law school over the past three or four years may have tested your faith. The pressure of your legal studies, your work outside of school, and your personal life may have caused you to waiver in your practice of the faith. Moreover, there may have been times when you doubted your own abilities and perhaps even questioned your decision to go to law school in the first place. You may have asked, "Is this really what

cussing how Catholic lawyers can and should go beyond the bare prescriptions of the Model Rules by, among other things, embodying the principle of solidarity in their practice).

^{40.} See, e.g., Pope John XXIII, Encyclical Letter Pacem in Terris No. 51 (1963) (noting that "if civil authorities pass laws or command anything opposed to the moral order and consequently contrary to the will of God, neither the laws made nor the authorizations granted can be binding on the consciences of the citizens"); id. No. 61 ("[I]f any government does not acknowledge the rights of man or violates them, it not only fails in its duty, but its orders completely lack juridical force.").

^{41.} Mark 10:1-12.

God intended for me? Was I really meant to be a lawyer?" As difficult as these moments of doubt and anxiety may have been, they have helped prepare you for the challenges you will face as a Catholic lawyer in the world today. Although it is not always easy to be faithful, with the help of divine grace freely given in the sacraments, complete fidelity is always possible.

It is significant to note that the image of heaven that occurs most frequently in sacred scripture is that of a banquet, indeed, a wedding banquet in which Christ, the Bridegroom, embraces His Bride, the Church.⁴² He is the ever-faithful spouse who sacrifices His own life out of love for the sake of His Bride.⁴³ Thus, the Cross is not only a symbol of Christ's passion and death, and a reminder of our mortality; it is also a sign of purest nuptial love. This holy love, this supreme act of marital devotion is again made present for us in the Eucharist. Risen from the dead, the Bridegroom feeds His Bride, the Church, with the gift of His very self.

As so we conclude this reflection where we began, at the Lord's Supper, the marriage feast of heaven. As you graduate from law school and begin your legal careers, we pray that you will be faithful to the vows of your baptism. Having faith in Christ, may you always show that faith in all that you say, and

See, e.g., Matthew 22:1-14 (parable of the wedding feast); Matthew 25:1-13 (the parable of the ten virgins awaiting the bridegroom); Luke 12:36 (Christ's admonition to his followers to "be like servants who await their master's return from a wedding, ready to open immediately when he comes and knocks"); Luke 14:7-24 (parable of the great feast); Ephesians 5:21-33 (describing the analogical understanding of a husband's love for his wife and Christ's love for the Church); Revelation 19:6-9 (declaring that "the wedding day of the Lamb has come, his bride has made herself ready"); Revelation 21:2 (setting forth John's vision of "the holy city, a new Jerusalem, coming down out of heaven from God, prepared as a bride adorned for her husband"); see also Matthew 9:15 (Christ refers to Himself as the bridegroom at a wedding in order to explain why his disciples do not (yet) fast); Mark 2:19-20 (same); Luke 5:34-35 (same). The image of spousal love and the call to marital fidelity also appear frequently in the Old Testament as a means of describing God's love for the people of Israel and His desire for their faithfulness. See, e.g., Song of Songs and Hosea.

^{43.} This truth is beautifully captured in a Byzantine image known as "Christ the Bridegroom." In this icon, Christ is shown bearing the marks of His scourging and wearing the crown of thorns. His hands are bound, although loosely, signifying that He freely and willingly gives up His life for His Bride. It is, of course, customary for a groom to wear the finest clothes on the day of his wedding. Christ, by contrast, has been stripped naked by the Roman guard who will put Him to death. Mocked by His tormentors, Christ gazes downward in a look of resignation for what He is about to undergo, a look of utter commitment to the fulfillment of His mission. Tilted to one side, the face of Jesus looks down in mercy upon the earth even as this creation, the work of His hands, strikes out in violence at her Creator.

think, and do. And at the end of your earthly journey, may the Lord Jesus come out to greet you: "Well done, my good and faithful servant. . . . Come, share your master's joy."⁴⁴ Amen.