

1979

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Recommended Citation

Thomas L. Shaffer & Stanley Hauerwas, *Hope in the Life of Thomas More*, 54 *Notre Dame L.* 569 (1978-1979).

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Hope in the Life of Thomas More*

*Stanley Hauerwas** and Thomas L. Shaffer****

Rarely are we able to be the intelligent spectators of an historical event, more rarely still its actors. At such times the darkness lightens and the space contracts until we apprehend the rhythm of our daily actions as the rhythm of a larger welcome which has included us within its composition.

—Iris Murdoch¹

I. Hope and Power in More's Witness

The seduction of power is as perennial as the threat of power spurned. Power is a medium for good and evil. Lawyers and politicians and their victims—Nixon and his cronies, for examples—come and go; but the moral problems of how to use power, how to live with it and leave it behind, remain.

One way to look at the moral problem of power is to ask how a virtuous person uses power, and lives close to power, without losing the sense of self which is necessary to negotiate the temptations of power. We propose to ask that question with respect to Thomas More, in this 500th year of his birth, particularly with respect to the Thomas More of Robert Bolt's play, *A Man for All Seasons*.² We propose to offer an account of the character necessary to maintain what Bolt's More called "that little area in which I must rule myself." We contend that consideration of More's character is a way to learn how to be honest about power and still to hope. We will try to show how More's hope involved moral and intellectual *skill*—skill in the use of power, skill in serving power in such a way that he was not consumed by it, and skill in knowing when to spurn power and accept the consequences.³

* This paper was delivered at the Notre Dame Law School in a symposium commemorating the 500th anniversary of Thomas More's birth. The paper also appeared in LXI SOUNDINGS 456 (1978).

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1 I. MURDOCH, *THE RED AND THE GREEN* 113 (1965).

2 We have concluded after some investigation that Bolt's More is an accurate picture of the historical More. Colleagues more steeped in English history, particularly Marvin O'Connell and Robert E. Rodes, Jr., disagree in some respects, but not, we think, in matters essential to our thesis here. The text we are using in R. BOLT, *A MAN FOR ALL SEASONS* (1962). Historical sources include R. CHAMBERS, *THOMAS MORE* (1973); HARPSFIELD, *THE LIFE AND DEATH OF SIR THOMAS MORE (1550-53)*; E. REYNOLDS, *ST. THOMAS MORE* (1958); and W. ROPER, *THE LIFE OF SIR THOMAS MORE, KNIGHT* (1556).

3 The word "skill" as used here may appear to have two senses—moral and intellectual. We contend that the two are distinguishable but need not be separated. The language of skill is deliberately chosen; it reflects our conviction that the moral life and "morality" cannot be treated independently from the life of wisdom. Hauerwas has argued elsewhere that Aristotle's and Aquinas' understanding of virtue as habit is best understood in terms of the acquisition of skills for discrimination and action. S. HAUERWAS, *CHARACTER AND THE CHRISTIAN LIFE* 35-82 (1975). Moreover, the significance of language for the shaping of such skills makes it impossible to separate the moral from the intellectual. Prudence, the central moral virtue for Aquinas, is best understood as "knowing how" rather than "knowing." For a fuller development of this point, see S. HAUERWAS, *TRUTHFULNESS AND TRAGEDY* 82-98 (1978). Even though More's powerful intellectual and legal skills are not obviously "moral," we contend that they are in fact moral. They are sustained by and give form to the hopeful form of his moral character.

More was attractive to the dramatist because More's public life was a puzzle. There does not seem to be any satisfactory explanation for his decision to spurn power when he did—in the midst of a hard-won and successful public career, at a time when men of moral substance all around him adjusted themselves to the demands of the new English nation-state. The task of that generation of leaders was a titanic task. They learned how to live with a concentration of national power which had begun in More's childhood and which has maintained itself for five centuries. They learned how to live with the central fact of modern history, and More, it seems, did not. More, who was a practical, political man, a subtle political schemer, a loyal servant of the principal actors in the polity of his time—Cardinal Wolsey, Henry VIII—declined the opportunity to be a titan. His spurning of the patronage of king and archbishop seems arbitrary if not perverse. The conventional way to account for it has been to explain it as martyrdom—that is, as an admirable stubbornness which is not quite accessible to practical reason.

A modern way to deal with the absurdity of More's "exit" from power is to regard it as eccentric—to view More as an existentialist hero defending an "adamantine sense of self."⁴ That explanation is as inaccessible to practical reason as martyrdom is; the difference, perhaps, is that the martyr hears the voice of God and the existentialist hero hears only his own voice. We contend that it is possible to suggest a deeper account for More's spurning of power. If one attends to the kind of hope that formed More's life, one can, we think, sketch a continuity between More's legal and political life and his turning away from power. Martyrdom, or the adamant sense of self, is then a consequence of More's life rather than an explanation for it.

The crucial point to be made is that none of us can afford to be without the kind of hope that formed More's life. Few of us will be called to do what More did, but hope is important to any moral life, and to all moral lives. More and those like him remain our masters in learning how to hope. We are not likely to learn enough about how to hope by reflecting abstractly on what hope is, or on how hope relates to other virtues (such as faith and love). We can learn—we do learn—more when we look to those whose lives were hopeful; we learn not whether to hope, but how to hope.⁵

There is a difference between *hope* and *optimism*. Optimism is not hope as we mean to talk about hope. Optimism differs from hope in that optimism can

⁴ This view of More is probably Bolt's. *Preface* to R. BOLT, *A MAN FOR ALL SEASONS* (1962).

⁵ The theoretical assumptions behind this paragraph should be mentioned, if not defended here. Our claim is this: Not only does hope employ and give the basis for certain skills, but it is a skill. It is a skill which one learns. We do not learn to lay bricks without guidance from masters; neither do we learn how to hope without guidance from masters. The acquisition of a skill involves, usually, an initiation into a way of life. A master, who has gone before, usually presides over the initiation. Put in language Hauerwas has used elsewhere, we need a *narrative display* in order to understand how it is we should hope. S. HAUERWAS, *TRUTHFULNESS AND TRAGEDY*, *supra* note 3, at 15-39. From this perspective, the traditional theological virtues—faith, hope, love—are best understood as reminders of the narrative of the master, Jesus, a narrative which schools the self to serve God rightly. Such virtues become distorted if they are treated as independent norms for behavior. If the moral life is inseparable from the life of wisdom, then, in spite of modern philosophy's attempt to secure an independent status for "morality," our moral lives as lived continue to depend on the existence of masters. This paper does not try to argue this point directly; we seek here to exhibit it by calling attention to More's hopeful life.

exist without truth. Because it can exist without truth it is defeated and perverted by power. Hope, when seen as optimism, is, in the poetic phrase, dashed.

An optimistic person whose "hopes are dashed" becomes a cynic. He becomes a cynic because he still needs some way to locate and protect "that little area in which I must rule myself." Cynicism gives him a way to do that without requiring that he worry about the truth. Cynicism thus promises a check against power, against the persons, institutions and roles that claim our lives. Both the hopeful person and the cynic have found a way to stand back from their engagements; but cynicism stills the imagination against the possible, and therefore protects the cynic without requiring that he be truthful. The price of cynical protection is self-deception. The cynic abandons the human burden of deciding what is true and what is not; he does this by refusing to believe in anything. His optimism is lost because he lacks the skill to turn optimism into hope; his refuge is a state in which he deludes himself into thinking that neither hope nor truth is necessary. He comes to believe that the moral life can be lived on negative premises.

Cynicism leads to despair, because it is impossible to live a life based on negative premises. Despair is to hope what hypocrisy is to truth: Hypocrisy proves how much we need truth in our lives; despair proves how deeply we need hope.

In this way, despair could be seen as the result of hope out of control, of the overextension of hope, of absolutizing the range of hope,⁶ of having so much need for hope that one is willing to trick himself into being optimistic when, with skill, he might have learned how to be optimistic and truthful at the same time—to be, in a word, hopeful. This is, perhaps, what Aquinas meant when he numbered among the temptations to despair "the mere excess of good," which makes "the difficult good impossible to obtain."⁷

Despair is the condition in which one no longer looks for alternatives. Cynicism leads to despair because cynicism does not look for alternatives truthfully. Optimism leads to cynicism because it does not pay attention to truth. Hope, as we are talking about it, as based on truth, forces the imagination to look for alternatives.⁸ If we are unable to look for alternatives we are forced to rely on power. Hope is therefore an alternative to reliance on power.

We mean to suggest here that More's life illustrates how hope is an alternative to reliance on power. The point can be made in a preliminary way by com-

6 W. LYNCH, *IMAGES OF HOPE* 43 (1965). We are sympathetic with Lynch's view of hope, and particularly with his stress on the significance of imagination in the practice of hope.

7 T. AQUINAS, *I SUMMA THEOLOGICA* 759-64 (Benziger Bros. 1947).

8 W. LYNCH, *supra* note 6, at 51, says:

One of the best safeguards of our hopes is to be able to mark off the areas of hopelessness and to acknowledge them, to face them directly, not with despair but with the creative intent of keeping them from polluting all areas of possibility. There are thousands of things that man cannot do, thousands of things that some can do and others cannot. To keep the two, the possible and the impossible, in place is to stay free of intolerable burdens.

The trick is to know how and when to make such discriminations, especially when that which is "impossible" points to the limitations of one's character. More provides an example, we think, of how one man learned to hope rightly. His hope gave him the means to preserve his sense of self when he was confronted with that which he could not change. He might have sought change with optimism—others did—but not, as we are using the term, with hope.

paring More's behavior in the play with the behavior of Cardinal Wolsey, Thomas Cromwell, and the Duke of Norfolk. All four men lived in circumstances in which power was available to them, but only one of them ultimately refused to rely on power. In all four cases, opulence, arrogance, "clout," and deference received tempted powerful men to a narrowed sense of what was possible. It was thus that power corrupted and, in the case of a fifth character, the King, absolute power corrupted absolutely. As Camus said, "the truth is that every intelligent man . . . dreams of being a gangster and of ruling society by force alone."⁹ Hope varies inversely with the extent to which power seems to be the answer—as it seemed to be the answer to Wolsey, Cromwell, the Duke, the King, and Camus' gangster. This is not to say that hope varies inversely with the attainment and exercise of power; those who hold and wield power can be hopeful people, as More was. What we mean to say is that hope varies inversely with the absoluteness of one's *trust* in power. Hope declines as trust in power increases, and this seems to happen because hope declines as one's sense of alternatives narrows.

Our thesis is that More's response to power is a paradigm of the hopeful life—the life lived truthfully, and therefore with hope rather than with optimism; the life lived with a broad sense of alternatives to power and therefore without reliance on power. Bolt's play is the story of a hopeful life. Moreover, we think More is particularly interesting because he was both a Christian and a lawyer. The molding of a Christian lawyer's life is a power-centered task, and for this reason moral admonition addressed to the powerless—in, for example, St. Paul's Letter to the Christians in Rome—at first seems useless. And such moral admonition addressed to lawyers as there is—in, for example, the American Bar Association's *Code of Professional Responsibility*—tends to a narrow sense of alternatives to power. Being a Christian and a lawyer seems to be a matter of learning about power and conscience, since lawyers wield power, even when they do not have it, and Christians wield conscience. Bolt's story is a story about power and conscience.

The lawyer's life is a problem when subjected, as a Christian life, to the New Testament. The New Testament is not about using power, but about how God provides the means to live hopefully rather than powerfully. "What it impels the Church towards—and it is the Holy Spirit moving in it who does this—is agreement with the direction in which it looks itself. And the direction in which it looks is to the living Jesus Christ."¹⁰ But Jesus was not a lawyer (anything but), and almost none of the Christian lives traditionally given for example to Christians were lawyers; almost all of these lives were lives of powerlessness. It is important that lawyers, and anyone who thinks about the way power is used in the United States (*i.e.*, by lawyers), seek such examples as there are of the limits and possibilities of power in a Christian lawyer's life. More's life is a Christian lawyer's life. His martyrdom, in that respect, seems a paradox—and is—but our idea is that his martyrdom was a consequence both of his being a Christian and of his being a lawyer.

9 A. CAMUS, *THE FALL* 55 (1957).

10 K. BARTH, *CHURCH DOGMATICS: A SELECTION* 73 (Golliwitzer ed. 1961).

More was finally crushed by power, but we are attracted to him because he more than most seems to have had the ability to be the intelligent spectator and actor which Iris Murdoch suggests is so rare. His hope and his life, both of which he fought to save with every technique possible, was finally sustained by what Aquinas called the "arduous good" which the world's possibilities cannot encompass. And thus More learned to hope, and the hope that guided his life gave him the freedom to see the world as it is and as it might be. This is demonstrated by his response to the Act of Supremacy:

Roper: There's to be a new Act through Parliament, sir!

More: Act?

Roper: Yes, sir—about the marriage!

More: Oh.

* * *

Margaret: (Puts a hand on his arm) Father, by this Act, they're going to administer an oath.

More: Ah oath! On what compulsion?

Roper: It's expected to be treason!

More: (*Very still*) What is the oath?

Roper: (*Puzzled*) It's about the marriage, sir.

More: But what is the wording?

Roper: We don't need to know the (*contemptuously*) wording—we know what it will mean!

More: It will mean what the words say! An oath is *made* of words! It may be possible to take it. . . . Then let's get home and look at it. . . . God made the angels to show him splendor—as he made animals for innocence and plants for simplicity. But man he made to serve him wittily, in the tangle of his mind. . . . Our natural business lies in escaping—so let's get home and study this Bill.

As we shall see, More's hope allowed him to "escape" and thus "to act" more than most of us. But finally it also helped him know when escape was impossible if he was to secure that area in which he had to rule himself.

So long as truth is possible, hope is possible, and from the perspective of a lawyer like More, skill is possible; skill is hope and hope is skill. We examine that proposition in the next section. We then contrast the life of hope as skill with lives in which there was despair of skill. We next turn to More's curious surrender of power—which to his contemporaries looked like a surrender of hope—and suggest that More's resignation as chancellor demonstrates the facts that hope is built on truth, and that hope's dependence on truth is a political reality as well as a moral reality. In discussing the political dimension of hope, we propose to demonstrate a framework for the ideas of hope as skill and hope as truthful.

II. Hope and Skill

The ordinarily hopeful way to deal with power is to apply to it the arts of the mind. Since More was a lawyer, this meant that More met power with *analysis* and with *knowledge*. This explains, and is illustrated by, More's con-

fidence in his own ability to outwit his persecutors. He sees this ability as important, so important that he is willing to extend the protection of the law (that is, of analysis and knowledge) to the devil himself. He is willing, as a modern would say, to extend "due process of law" all the way to hell. One reason he is willing to do that is that he needs legal protection for himself—or, to put that another way, if the legal protection is left intact for everybody, even the devil, More's persecutors will never be able to get More. That is a familiar argument for those who want citizens to support the rule of law.

Bolt sees More as doing more, however, than trying to save himself:

Margaret: Father, that man's bad.

More: There is no law against that.

Roper: There is! God's law!

More: Then God can arrest him.

Roper: Sophistication upon sophistication!

More: No, sheer simplicity. The law, Roper, the law. I know what's legal not what's right. . . . The currents and eddies of right and wrong, which you find such plain sailing, I can't navigate. I'm no voyager. But in the thickets of the law, oh, there I'm a forester. I doubt if there's a man alive who could follow me there, thank God.

This is more than survival. Lawyers, too, were among the witnesses to the word of God in the world, and this attitude of More's is a kind of witness. More, as lawyer and as witness, had hope not only for himself but for his time and for his society. It was a lawyer's hope. One could sum it up by saying that he, like almost any lawyer at almost any time, hoped that his society would preserve law—that is, government under law. Government under law was, and is, a radical idea. In England it finally led to the spectacle of the king himself being torn from the seat of power, deposed, and killed, because the king himself (Charles II) was seen as lawless. When More says, in the play, that "the law is a causeway upon which, so long as he keeps to it, a citizen may walk safely," he aspires more than describes, but he does aspire; he does have hope for his country.

The fact that More had this hope, that it was more than a hope for his own survival, and that it was a lawyer's hope, is enough to make him a hero. (His use of cleverness to save himself, even to save his truth to himself, would perhaps not be enough to make him a hero.) But there is a further sense in which More's witness was both lawyer-like and heroic. More was bearing witness to the truth about the nature of power in the world. His witness went beyond the procedural idea that every person should have the full benefit of due process of law. His witness was to the truth that human governments are limited, that however much power they—King Henry VIII—may have, they have less power than they think they have. "The King in Parliament cannot bestow the Supremacy of the Church because it is a Spiritual Supremacy!" After he finally says that much, and only after he makes that principal point, does More add that the Act of Supremacy also violated English law.

In any event, so long as the state followed the law, More was confident that

he could cope with its power—to save himself, to save a fundamental legal principle, and to save the idea that governments, too, should be truthful about themselves. He was confident because he had hope *as skill*. Skill does not confront power; it calls power to rationality. It does not appropriate power, either. It is the special business of lawyers—this skill in the face of power—and lawyers rarely *have* power. Lawyers *use* power; they manipulate power. They do not possess it. One reason Bolt's play is so popular among lawyers, particularly among American lawyers, is that it exalts this use of lawyer skill.

A. Skill, Character, and Knowledge

This lawyer skill is not a matter of principles. Lawyers use legal principles, but they use them more to garnish their work than to carry it out.¹¹ Lawyers, when being candid, admit scant regard for legal principles.¹² Laypeople—clients of lawyers, for example—sometimes think that this scant regard betrays cynicism, but lawyers do not think of themselves as cynics. A client will ask a lawyer a “legal question,” about what the law is on some set of facts which is important to the client. And the lawyer will answer, in effect, “Tell me what you want the answer to be and then I will answer the question.” Nonlawyers may think that the lawyer's request exhibits disdain for principles, or that it exhibits disdain for the idea of government under law. But the lawyer thinks of legal principles as something to be taken apart and made to fit the client's needs. The lawyer thinks this work *is* government under law. Principles and facts are the lawyer's raw materials. What is sacred in the law is not legal principles. The sacred thing in the law, to a lawyer, is the fact that those who have power are bound to respect skill and knowledge in the wielding of power—skill and knowledge even among those who merely wield power, who do not have it.¹³ This is, at last, we think, the political side of a respect for *character*:

[W]hen people rebel against the tyranny of rules, they often forget that there is an alternative. Under the alternative view, you can have rules . . . but in special situations the virtuous person would take special action. Hence the ultimate standard is the virtuous person: what he or she would do is the test of what is right.¹⁴

With regard to what is *legal*, principles come last. More understood that. He lived it. It was important to him. Bolt understands that; it is part of the reason

11 Dewey, *Logical Method and Law*, 10 CORNELL L. Q. 17 (1924).

12 Riesman, *Some Observations on Law and Psychology*, 19 U. CHI. L. REV. 30 (1951).

13 Too often considerations of the relation between “law,” religion, and morality concentrate on law as a system of rules, rather than an activity. As a result, claims of moral or religious support for the law have little to do with law as it is practiced by citizens and by lawyers. These accounts ignore the soil in which law grows—the lawyer and the lawyer's character meeting the client and the client's character. Brown and Shaffer, *Toward a Jurisprudence for the Law Office*, 17 AM. J. OF JURIS. 125 (1972); Shaffer, *Christian Theories of Professional Responsibility*, 48 S. CALIF. L. REV. 721 (1975); T. SHAFFER, LEGAL INTERVIEWING AND COUNSELING 39-63 (1976).

14 Rhinelander, unpublished remarks to the American Society of Newspaper Editors (March 12, 1977). Professor Rhinelander, Professor Emeritus of Ethics at Stanford University, kindly provided the authors with a copy of these remarks.

he thinks that More's life might stand up as an illustration of the courage to preserve one's soul—one's unbudgeable self—in the modern world.

Skill seen as hope is both larger than itself and smaller than itself. Larger, because skill seems here to be exalted into virtue, and, beyond any particular virtue, into character. The idea of skill, which might suggest facility at making omelettes as well as facility at making arguments, seems unable to bear this much moral weight. But skill can be made to bear moral weight when it is seen in the life of a person who is both skillful in hope and hopeful about his skill. More's was such a life, as were the lives, say, of Daniel Webster who, in story, could draw goodness from the depths of hell (Benet's play), or of Abraham Lincoln, whose aspiration for government *for* the people is precisely this idea of skill as hope at the service of an entire culture (a *people*, in the biblical sense).

Skill is also smaller than itself. It is a matter of craftsmanship, about which the craftsman will have standards which are aesthetic—matters of taste. It is important, particularly when one thinks of lawyers, to see skill, lived with hope, as character. And it is useful, again when talking about lawyers, to narrow the focus and analyze skill as a matter of craftsmanship and taste. Much of Bolt's genius as the teller of More's story consists in his way of describing More as a person who dealt with power, habitually, as a craftsman. And craftsmanship is important. A lawyer's craftsmanship calls for some of the best that is in him and some of the best that the grace of God adds to what is in him. Bolt's More had a respect for craftsmanship as a matter of taste; he disdained its absence as a kind of stupidity. He also had a respect for craftsmanship as a matter of hope—of the virtue of hope. He disdained its absence as a kind of despair. Both points are illustrated, in the play, when More tells Wolsey that Wolsey's Machiavellian diplomacy is not necessary:

More: (*Crisply*) [after reading, at Wolsey's request, a letter from Wolsey to the Vatican] It's addressed to Cardinal Campeggio.

Wolsey: Yes?

More: Not to our ambassador [which would have been proper, as ignoring the ambassador is improper].

Wolsey: Our ambassador's a ninny.

More: (*A smile*) Your Grace appointed him.

Wolsey: (*Treats it as the level of humor, mock exasperation*) Yes, I need a ninny in Rome! So that I can write to Cardinal Campeggio!

More: (*Won't respond; with aesthetic distaste—not moral disapproval*) It's devious.

Wolsey: It's a devious situation!

More: There must be something simple in the middle of it. (*Again this is not a moral dictum; it is said rather wistfully, as of something he is beginning to doubt*)

More regrets the absence of craftsmanship because Wolsey's use of deviousness seems distasteful and also because Wolsey's behavior evidences a lack of skill, that is, despair. But Bolt directs the actor to suggest a deeper regret, too. There is more here than craftsmanship and good taste. The theme of the play is in this scene. More is beginning to doubt the success of lawyer skill in the matter he and

Wolsey are discussing, the King's marriage. More's hope is that the use of skill more than craftsmanship will save something. He thinks of saving his own life and of saving a way of life.

Another art of the mind which can cope with power is knowledge—knowledge in the sense of an intellectual command which liberates, makes one less afraid and therefore better able to look power in the eye. English law in More's day was a recondite and complex body of knowledge—as, perhaps, law always is, since its office is to analyze principles and principles do not yield easily; they offer too much security for that.

More knew that knowledge can often confound power, even when knowledge has no power of its own. An anecdote illustrates this. When he was a law student at Bruges, one of the professors there invited any comer to debate him. He would, he said, dispute any question in any science. More asked him whether beasts of the plow, taken in withernam, were capable of being replevied. The professor could not deal with that recondite bit of English common law; Erasmus, who was present, said that the professor retired "with his withers wrung and More's withernams unwrung."¹⁵

Knowledge, in situations like that, is not power; it is a way to deal with power. More, who had that sort of knowledge and knew he had it, could find what he had more useful than his belief in principles of right and wrong—"The currents and eddies of right and wrong which you [Roper] find such plain sailing, I can't navigate. I'm no voyager. But in the thickets of the law, oh, there, I'm a forester."

So long as law is able to hold power at bay, More is dead certain that he and his way of life will be all right; he has humility about himself as a lawyer—humility which, in this case, means that he sees himself, without illusion, as a superb lawyer. He also has humility about law itself. He knows that the time may come when the law itself will not protect him.¹⁶ Late in the play power is brought to bear on him lawlessly, *i.e.*, through perjury, planned and executed by

15 The anecdote is from a memorandum to students written by our colleague, Edward F. Barrett. See 3 W. BLACKSTONE, COMMENTARIES OF THE LAW OF ENGLAND 148 (1916).

16 When this point comes will vary from one legal system to another. Some legal systems are so corrupt, or serve such a corrupt political system, that they make it impossible to serve the law at all. The position of the legal profession in the Union of South Africa is an example of where the line between the possible and the impossible might lie. The system of law presupposed in this paper was one in which people had both a means to control and limit power, and a means to resolve conflicts short of violence. Our view of law here is similar to that described in R. RODES, THE LEGAL ENTERPRISE (1976). In contrast to the analytical approach to law, which assumes that the only legally relevant community is the one created and defined by the law itself, Rodés argues:

All the law we actually experience is addressed to an ongoing community. It takes its place in a matrix of different human relations, only part of them legal. To my mind, what defines the relevant community is history. This is of course true in the trivial sense that the existence and effect of a law is a matter of historical fact. But more important, the very coherence of the community in which laws operate seems to depend on some common experience or common consciousness of history.

Id. at 14. From this perspective, the recent attempt, by both natural-law and positivistic theorists, to secure the "autonomy" of the law from the vicissitudes of history can be interpreted as an attempt to save the morality of the law in a community which no longer shares a common interpretation of its history. We sometimes admire the attempt, although it seems to us to be destined to fail and, worse, it seems to prevent lawyers from facing the moral challenge of practicing law in a pluralist society. Shaffer, *Guilty Clients and Lunch with Tax Collectors*, 37 THE JURIST 89 (1977).

the state itself. Early in the play More knew that that time might come. That is possibly the meaning of his hint to Wolsey that he is beginning to doubt whether the simplicity of skill and knowledge is dependable. More senses a swelling of power which his skill will not be able to contain. In that swelling, of which Wolsey and Cromwell will be victims as much as More, power will destroy unless it is appropriated. This new power will not yield to law; it will be popular and irrational. (It will be—and is already—the power of nationalism.) Bolt illustrates this point, in the play, in the character of the Common Man. When Roper says to More that all of England is buzzing over the matter of the King's divorce, More replies, "The Inns of Court may be buzzing. England doesn't buzz so easily." When England buzzes, More's humility tells him, discussions of the writ of replevin will not hold power back.

The point is that analysis and knowledge will go a long way toward containing power. That is the most elementary hope that law has—law as something to live, as lawyers live it.

B. *The Despair of Character and Characters of Despair*

Despair decides that the mind and the arts of the mind will not be enough when, with hope, they might be enough. (An American example is Thurgood Marshall and the small group of lawyers who in the early 1950's assembled the precedents and set out to demonstrate that *the law* required an end to school segregation.) This despair shows up in other characters in Bolt's play; he uses them to give background to More's hope, and to make More, *as a lawyer*, interesting. For examples:

- (1) Bolt's Wolsey, naked to his enemies, no longer has power. He struggles to save himself with old arts of deviousness which are not only unattractive and unnecessary but also futile. Deviousness is despair; it is untruthful (because unnecessary and futile); it is contrasted in the play with More's character. More's character is fashioned with habits of skill as hope and of hope as skill.
- (2) Bolt's Roper—who was, as a matter of history, clever enough to save some of More's property from the relentless Cromwell—yields to the despair of violence. In Bolt's drama he holds the place of the Zealots in the Gospel. More's (and Jesus') lives are lives of hope and therefore of peace. This life of peace is not so much a matter of convictions and certainties as it is a matter of *character*. More says to Roper, "Will, I'd trust *you* with my life. But not your principles. You see, we speak of being anchored to our principles. But if the weather turns nasty you up with anchor and let it down where there's less wind, and the fishing's better. And 'Look,' we say, 'look, I'm anchored . . . to my principles.'" ¹⁷
- (3) Thomas Cromwell was an abler man than Bolt portrays him to be. He followed More to the block, but his family held high power in England through the reigns of the next half dozen kings and queens. The curator at the Frick Museum probably had it better than Bolt does, historically, when he put Hans Holbein's More on the left side of the

17 Scarisbrick, *Thomas More: The King's Good Servant*, 52 THOUGHT 249, 267-68 (1977).

fireplace, Hans Holbein's Cromwell on the right side, and El Greco's St. Jerome above them in the center. (More would have enjoyed that arrangement.) But, for Bolt, Cromwell is a study in the despair of corruption. Cromwell destroys people, destroys character in people, and that is about as despairing as a person can be. Cromwell's is the delusion Karl Barth calls "the syndrome of the two kingdoms";¹⁸ Cromwell seems to suppose he can lead a decent private life which, in public, follows, "chance or laws of its own." Bolt's Cromwell speaks of "the constant factor" of giving the powerful what they want; government is more accommodation, he says, than corruption. "Our job as administrators is to make it as convenient as we can." Bolt is an old-fashioned (and, we think, accurate) moralist when he poses that delusion as the essence of evil.

- (4) The Common Man, not an historical figure—or, rather, the most historical of them all—despairs of virtue and lives as if the only value were survival. It is he who keeps the world going, who says, at the end, "if you must make trouble, make the sort of trouble that's expected." He proves that evil is banal.

In each of these cases, the absence of hope is despair about skill and knowledge. In a narrow, dramatist's sense, Bolt makes More's story interesting and finds it meaningful by touching on More's lawyer qualities and making them resound far beyond themselves, so that they approach what St. Paul meant when he told the Christians in Ephesus that his prayer for them was that they realize the hope to which they were called, and the power which was theirs by virtue of hope. "This power in us is the same as the mighty strength which he used when he raised Christ from death, and seated him at his right side in the heavenly world." (*Eph.* 1:20)

III. Truth, Hope, and Confrontation with Power

Bolt's More had three critical moments in his hopeful dealing with power. The first occurred when he was faced with the King's and bishops' decision, as he put it, "to declare war on the Pope." The second occurred when the force of the state began to be applied to force him to take the oath. The third occurred when the state, sunk in the despair of corruption and of the delusion of the two kingdoms, concocted perjured evidence—gave up the game, so to speak—and confirmed More's martyrdom.

More reacted differently to each of these events. When the state took to force (the second crisis), he used the skills and the hope we have talked about in terms of analysis and knowledge. His reaction to this pressure is the main focus of Bolt's play and it is what makes the play, and More himself, interesting to modern American lawyers. When the state corrupted its use of force with perjury (the third crisis), More reacted (in fact and in the play) as Christian martyrs always have. He knew how to act, because his hope was faithful. In a sense, his reaction then was based on faith more than hope, faith, in Barth's phrase, as "hope against hope." More saw God—"love right through"—reaching to draw

18 K. BARTH, *EVANGELICAL THEOLOGY* 122-24 (1965).

down the curtain. He proclaimed the Kingdom, as his Lord had, and he accepted his happy sentence with relief. The climax of the drama, and of his life, was the realization of the glory he had avoided:

If he suffers us to fall to such a case that there is no escaping then we may stand to our tackle as best we can, and yes, Will, then we may clamor like champions . . . if we have the spittle for it. *And no doubt it delights God to see splendor where he only looked for complexity.* But it's God's part, not our own, to bring ourselves to that extremity! Our natural business lies in escaping. . . .

When the time came, More spoke his mind about the King and the Act of Supremacy, and Cromwell (and the world, as it always does) said: "Now we plainly see that you *are* malicious!" And power killed him. More's sentence of death is not the climax of the play, though, because his death is—even in Bolt's view—a settled matter of Cross and Resurrection. The climax of the play is the clash between hope and despair.

The first of the three crises, the resignation, is the one that interests us as we consider a different way in which hope deals with power—the way of *confrontation*. More resigned as chancellor rather than get involved in the case of the marriage. In our reading of the play (and of More's life), that was a matter of his refusing to "work within the system." There seems to have been no need for him, as a matter of conscience, to step out of his position so early in the game. He did so against the King's urging. It was possible, at that point, that the case might still have been resolved—as so many royal marriages had been with Rome—without the Act of Supremacy and the creation of a separate English church. It was nothing new for a king to declare war on the pope, and few Christians felt it necessary, as Christians, to take sides in such wars. There was in the marriage case room for the application of the hopeful skills of analysis and knowledge, both as to the King's attitude (what lawyers call counseling) and on behalf of the King (what lawyers call advocacy). Why, then, did More resign with such imprudent finality, and, even then, say that he would be willing to speak his mind to the King about the marriage?

The reason seems to be that More knew that hope required his retreat from that situation. Optimism was possible, for all the reasons mentioned in the last paragraph. But those reasons could not survive the *real* test of hope in the face of power, the test that says hope must be truthful. Hope must keep a sense of the alternatives to power. Optimism—hope without truth—is not sufficient for dealing with the pretentious powers that determine a person's existence in the world. The use of power can be a hopeful art, but only so long as the use of power is not an end in itself. Hope—that is, the person who lives a hopeful life and lives it well—knows the limitations of power. It knows that optimism needs the truth and that hope is schooled in faith and love. The hopeful life must bend to the demands of truth or it will, by a paradox as certain as the fact that power corrupts, lose its hope, become mere optimism, then lead to cynicism, and finally to a despairing life.

We have been talking about power as if it were often a clear menace, and

at best a circumstance. Power may also be an incentive to delusion, a subtle temptation. Power as delusion is a peculiar risk for lawyers, and especially modern American lawyers, because power seems to offer a way to improve society.¹⁹ Lawyers are always being asked to bend a little, so that power can work, and things can be made better; lawyers are always being told—always telling one another—that the essence of their profession (what we have been calling the hopeful skill in it) lies in working within the system. They are always being told that someone has to do the job, that if they don't do the job, someone worse will do the job. Things have to be done in office that cannot be done with moral comfort in private life, but that is the way office (including the license to practice law) is. The words for *that* play are "Somebody has to do it," or "What else are you going to do?" This is a play about the syndrome of the two kingdoms. It is interesting to us that Thomas More declined the temptation even when he knew—or maybe *because* he knew—that he would be good at acting in that play.

A. *Truthfulness and Compromise*

Some distinctions may be useful. It is important, first, to notice that we are talking about a compromise with truthfulness, a compromise demanded of public persons, which comes about because the person who makes the compromise is optimistic. It is important, second, to notice what we mean by compromise. † is not compromise, in this sense, for the public person to adjust his views to the views of others when there seems to be no clear right or best thing to do—when, in other words, he needs their views as much as they need his, when all of those most immediately involved are seeking truth. It is not compromise, as we mean it, to commit oneself to the discovery of the truth through a willingness to share the variety of ways people discover when they set out to lead good lives. What we mean by compromise is an agreement to bracket one's basic convictions in order to achieve certain limited ends. Compromise, as we mean it here, assumes that *the good society is based on power*. Compromise is what we talk about, above, as the despair of Thomas Cromwell. It needs to be distinguished from respect and civility, and even the concessions people make when they work together on the assumption that *the good society is based on truth*. As Bolt states in his preface, and illustrates in his play, compromise asks the loss of self; it also destroys the possibility of good societies.

Compromise is destructive because it becomes institutionalized and accepted as a proper way of life. When that happens, the distinctions between the public and the private, between the kingdom of the world and the Kingdom of God, become a sign of despair. The distinctions come to say that the social world cannot be held together by truth. A society afflicted by the syndrome of the two kingdoms raises up leaders who have trained themselves to believe that their public roles *are* their selves, who define themselves by roles (e.g., the role

19 C. SNOW, *CORRIDORS OF POWER* (1964), is a political example. The point is discussed in a law-practice setting in Shaffer, *Justice in Everyday Life*, 22 *RES GESTAE* 394 (1978), and in a law-school setting in Shaffer, *Moral Moments in Law School*, in 3 *SOCIAL RESPONSIBILITY: JOURNALISM, LAW, MEDICINE* 32 (1978).

“lawyer”).²⁰ They are compromised before they enter the fray. When this happens, as it may well already have happened to us Americans, it is no longer honest to distinguish between the public and the private person. Privacy has already been voluntarily offered to feed the public role. There is no private person left. Power, as requiring the surrender of the private person, is what Bolt saw More struggling with. Power threatened the private, adamant sense of self which More sought to save. “There’s a little . . . little, area . . . where I must rule myself.”

Here, virtue is a tangled trail through a dark forest. The practical man or woman of affairs tends to believe that it is egocentric not to make such a compromise. Refusal seems to betray hope (optimism), for to be unwilling to compromise is to cease to be effective, and it is important to be effective. (The way power corrupts is by gradually convincing those who have power that the most important thing is to be effective.) Thus, for most of More’s contemporaries in the English establishment—including even Alice More, his wife, and Margaret Roper, his daughter—More’s refusal to remain in office seemed to be a betrayal of hope; he seemed hopelessly to abandon his public role, the possibility of reform in the government, and the possibility of saving England from schism over the marriage.

More’s choice to resign seems to us, though, to witness that a choice against compromise is a hopeful choice. Hope, unlike optimism, retains a sense that there are alternatives to power. Hope, unlike optimism, is truthful. Hope, like love, rejoices in the truth. Compromise would have required delusion. Beyond that, More’s choice seems to say that living hopefully, that is, truthfully, has social consequences *beyond* his sense of self, because social consequences are dependent upon the maintenance of the self, on, that is, a decision to live truthfully.²¹

B. *Truth’s Demand and Power’s Need*

Our conclusion from this is that More’s hope was formed by faith and love; it knew the limits of optimism, because it was based on the truth that effectiveness cannot justify power. Only goodness can justify power. Faith and love form hope because *the truth is that* God is “love right through.” Because this is the truth, St. Paul sees the Roman Christian, in a sweeping paradox, as “rejoicing in hope” (Romans 12:12). “The great hope which God sets before men compels them to demonstrate against the course of the world. But is there any one who

²⁰ See note 13 *supra*.

²¹ It is interesting to notice that More was a conventional holder of power as chancellor—then and now the highest judicial office in England, and then, if not now, “the King’s conscience”—and not, apparently, a reformer. He had been an unremarkable aide-de-camp to Wolsey before More became chancellor. See Scarisbrick, *supra* note 17, and CHAMBERS and REYNOLDS, *supra* note 2. While he pursued this more or less ordinary political career, he earned membership in the humanist intelligentsia of sixteenth-century Europe and assayed political reform, in fancy at least, in his *Utopia*. But he seems not to have sought reform in his office-holding. Scarisbrick finds some evidence that More may have been a compromiser. We are inclined to contend that More was a reformer in that he was honest, publicly and privately; this honesty was both unusual and promising. Compare the career of Francis Bacon as chancellor, less than a century later. BOWEN, FRANCIS BACON: THE TEMPER OF A MAN (1963); Shaffer, Book Review, 73 YALE L. J. 537 (1963).

does not hope? What is it that makes of our hope an ethical action? Surely, it is our rejoicing!"²²

More's quiet confrontation, when he resigned as chancellor, was not quiet at all. All that followed was implied in the resignation—so that the resignation itself, and More's willingness at that point to speak his mind to the King (that is, to speak the truth about the marriage), *was* a confrontation with power, rather than a choice to exercise skill in wielding power.²³ That would then seem to have involved More's own realization that hope, because truthful, cannot avoid confrontation with the power of the world. Bolt seems to understand the point. He wants More to have that realization early in the drama. He hints at More's limited expectations for craftsmanship when More talks to Wolsey about the letter to Rome, and when More intimates to Roper that lawyers' gossip is not serious, but gossip which "sets England buzzing" will be serious and will be a force which cannot be contained by skill or by knowledge.

The point is that the powers of the world fear the truth, and fear those who trust in truth to guide their way. Power sustains itself, ultimately, by resort to violence (as in the play), which means that it always fails to sustain itself. Power cannot face its own powerlessness,²⁴ and truth's (hope's) demand is that power face its own powerlessness. The incongruity between truth's demand and power's need is the reason people such as Thomas More become martyrs; they are, as Cromwell would have put it, an administrative inconvenience. They too vividly remind those in power that their pretensions to rule the world are just pretensions. The Gospel seems to pose an alternative: Those who wield power must either comprehend that God is the Lord of our lives, or resort to violence as a means for denying that God is the Lord of our lives. The truth is that the Kingdom is here, whether the world says so or not.²⁵

Speaking of hope as a virtue which depends on truth, and of confrontation with power as an inevitable necessity in the lives of those who wield power but who try to live truthfully, may suggest that the hopeful person is one who forces the world to violence. That issue has to be dealt with. If More was one who forced the world to violence, then he was deluded when he said, "I am the King's true subject, and pray for him and all the realm. . . . I do none harm, I say none harm, I think none harm. And if this be not enough to keep a man alive, in good faith I long not to live. . . . And therefore, my poor body is at the King's pleasure. Would God my death might do him some good."

It is not the *intention* of the hopeful person to force those who would rule

22 K. BARTH, *THE EPISTLE TO THE ROMANS* 457 (1968).

23 More's position on the King's marriage derived from his moral convictions, we think, rather than from a loyalty to the church as contrasted with loyalty to the King. His position was not political. More was aware that the church had often found ways to compromise on issues involving royal marriage. He had no illusions about the righteousness of the papacy. It is important to remember that he identified, in fact, with humanist and spiritualistic movements which were calling for church reform. We contend that (1) whatever decision was reached on the marriage could not have been a decision based on honest argument; and (2) More knew this and acted accordingly.

24 Power resorts to violence when power lacks authority—a point made often by political theorists. See, e.g., H. ARENDT, *ON VIOLENCE* 35-36 (1969). The Gospel seems to us to relate the relation of power to violence more radically; it assumes that all power not based on recognition of God's authority can only provide the semblance of order.

25 For a forceful presentation of this view, see J. YODER, *THE POLITICS OF JESUS* (1972).

to resort to violence. To live so as to force violence would be itself to fall into despair. It would be self-righteousness and anarchic. That view of the hopeful person would deprive us of needed heroes, from Socrates to Martin Luther King, Jr., and Cesar Chavez. But, at least for Christians, hope does not provoke violence because our hope is grounded on the conviction that in the life and death of Jesus Christ God has shown once and for all that his love is deeper and more profound than the evil we find in the world. We trust that this is the case. Not to trust that it is would abandon the world to sin and thus deny that *God's work* has been effective.

More, as we see him with respect to this issue, was committed to hope as skill, that is, to working within the limits of power, as far as he could. And this was a long way. So long as the state (Cromwell) was minimally honest, More's skill kept him from the scaffold. And it kept the state from violence. However worldly-wise he may have been, More was convinced that the power of truth ruled over the power of sin and fear. He was thus committed to public life, and to the idea that his business lay in escape, that is, in lawyer's skill, because he was convinced that it is in and through our everyday commerce with one another that God's love is known.

Viewed this way, More can be understood as knowing that a refusal to "work within the system" was not only a matter of conscience (which is always admirable but sometimes seems to suffer from a tinge of solipsism), but a *social* responsibility. More's act of conscience was not something discontinuous with his work as a lawyer or as chancellor. He saw the act of conscience as required by and consistent with the character of his public commitment. More trusted the law because he insisted that he must be able to live in a society that could be trusted, and he had an obligation to stand by what he knew as the truth because the truth is finally the only safeguard a society can have. Societies need a trust that is grounded on truth. Without it, violence comes all the sooner.²⁶

C. *Society's Dependence on Truth*

More could equivocate on much of the conceptual content in the issues he faced—or, at least, he played a diplomatic game of disguising truth in ambiguity. But he refused to take the oath. Equivocation stopped there. That was because for him oaths reach to the heart of what society is, to truthfulness itself. "When a man takes an oath he's holding his own self in his own hands." A society that does not demand truthfulness is a society that cannot be trusted. In our view, More's understanding of the necessity to maintain a sense of selfhood—"that little area in which I must rule myself"—was not so much the unique act of the existentialist, authentic man, as it was the normal obligation of all people who seek to live in a truthful society. An untruthful society is not only dangerous, but corrupting. It encourages those who live in it to distrust one another.

And the reason why More, the statesman who resigns, cannot forsake his

²⁶ The relation among trust, truth, and cooperation is one that can be studied in small settings. Deutsch, *The Effect of Motivational Orientation Upon Trust and Suspicion*, 13 HUMAN REL. 123 (1960). T. SHAFFER & R. REDMOUNT, *LAWYERS, LAW STUDENTS, AND PEOPLE* 153-92 (1977), contains examples from legal education.

own conscience for the sake of public duties is not only to maintain personal integrity, but because personal integrity *is* a public duty. A leader who does not insist that we be truthful leads us to moral chaos. He may trade in optimism but he does not trade in hope. His leadership may take the appearance of stability, but that is only because it trains people for roles in which they are not capable of being truthful, and are therefore incapable of hope.

The truthless society is organized despair. It is a place where people cannot be sure that there are any grounds for hope. It is a world described by John Lecarre, where the last illusion of the illusionist man is that he has no illusions.²⁷

IV. Conclusion

More's hope was built on the conviction that truth finally transcends power. His hope insisted that our existence, and in particular our social existence, is held by a power beyond that of the state. Because of that conviction he was schooled in hope and his hope was not diluted by those who were optimistic. The time for him to begin refusing to attempt to use power was the moment he began to have to be untruthful, to sacrifice the truth which was the ground of his hope. Two generations later English lawyers would remind the king of Bracton's thirteenth-century principle, "*non sub homine, sed sub Deo et lege,*" but it may have taken the blood of More, and other lawyers, for England to get that far.

More's claim that God is "love right through" was not only a "religious claim," but a political statement. Such love, which is beyond skill and knowledge, is the necessary condition for society because it provides the self with the depth that is necessary for the social order. It is important that we understand this point, because this is the answer to the common misinterpretation of More's refusal to condemn anyone who did take the oath. It is at best anachronistic to make the liberal assumption that More thought that a good social order should allow freedom of conscience in the sense that each conscience is private. (And Bolt is not so naive as to suppose otherwise.) The reason that the first duty of every loyal subject is to be loyal to his conscience is not because conscience is an end in itself, but because the subject's failure to be true to himself is a failure to be true to the love that provides us a basis for being able to trust and share ourselves and to accept the trust of others.²⁸

More would say that the reason that one must stand on one's conscience is not because the state is just, but because it is not just. Thus, in response to Margaret's argument that he is trying to make himself a hero unnecessarily, he says:

More: That's very neat. But look now . . . if we lived in a state where virtue was profitable, common sense would make us good, and greed would make us saintly. And we'd live like animals or angels in the happy land that needs no heroes. But since in fact we see that avarice, anger, envy, pride, sloth, lust, and stupidity commonly profit far beyond humility, chastity, fortitude, justice, and

²⁷ See J. LECARRE, TINKER, TAILOR, SOLDIER, SPY (1974).

²⁸ See note 21 *supra*.

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.

Margaret: (*Emotionally*) But in reason? Haven't you done as much as God can reasonably *want*?

More: Well . . . finally . . . it isn't a matter of reason. Finally it's a matter of love.

Thus More's confrontation with power came about because he was truthful, and because he insisted on hoping that truth is deeper than the optimism of those who too quickly resolve differences through the use of power. More was not seeking martyrdom. He was not even seeking an argument—the issues, as he saw them, were too serious for that. He was seeking, and insisting on, the existence of the truth. The fact that the truth led to his death is not an indication that More's convictions were mistaken. It is an indication of how deeply our world is built on fear.²⁹

²⁹ We are grateful for the suggestions and criticism of James Childress, Edward M. Gaffney, Thomas Ogletree, Robert E. Rodes, Jr., Nancy Shaffer, Mary Jo Weaver, and John Howard Yoder.