



## An Iconic Lawyer, Thomas More

*Janine Langan*

This talk was delivered to members of the Thomas More Lawyers' Guild at the Thomas More Day Dinner, 22 June 2010. Janine Langan is the William J Bennett professor emerita of Christianity and Culture at the University of Toronto and the founder of the Christianity and Culture Program at the University of St. Michael's College.

**T**he patron saint of lawyers, in France, is St. Yves. In the popular version of this fact, St. Yves was canonized because he was the rarest of birds: an honest lawyer. But we should not chuckle too fast. Thomas More, however prudent and gifted for diplomacy, did in fact lose his head precisely because he wanted to remain 'an honest lawyer', a true Man of Law. Why is the legal profession intrinsically both so fascinating and yes, so dangerous? More's witness will serve us here as focus for meditation on this topic.

More was a Humanist, a close friend of Erasmus; which means he joined in the struggle to reform a society the corruption of which was blatant, at a time when change was blowing in the wind. But he chose to eschew the enlightened scholar's approach to this project, an approach which his friend had chosen, and which had served Erasmus so well. He threw himself instead into the dangerous fray of the English court. This choice was the natural continuation of the course More had taken at the start of his career: joining the legal profession rather than monastic life, to which he was deeply attracted and which he had experienced among the Carthusians.

Not that More had any illusion about the probability of success as counselor to the great and guardian of the law. With great humor and brilliantly, *Utopia* gives us glimpses of the reasons for his choice. The dream country of Utopia, so peaceful, logical, orderly and prosperous, is indeed no where. And should it exist, that would be at the cost of dictatorship and isolation from the rest of mankind.

Why then chose the practice of law over a life of contemplation and insight? Because Law, no less than monastic life, or philosophy, is dedicated to reform in the name of an ideal not yet achieved, the reign of Justice, as distant from our experience as the reign of God. Unlike the other two, however, the lawyer is fully involved in the concrete. He chooses full immersion in the chaos of the present in order to help alleviate it, while the monk flees the world and attempts to reform it by reforming himself first. Lawyers work on the dangerous edge where the ideal attempts to take flesh. More had enough access to 'the world' and the attendant corruption to have little illusion about bringing about the true reign of Law to his beloved England. Outrageous pomp contrasting with the misery of the poor, hypocrisy, treason and violence in high places were blatant. This made reform all the more necessary, this called for action. Becoming a lawyer, a political figure, offered a venue to insure that only the lesser evil would occur. More hoped his advice to the great would dampen their abuse of pride and power. By defending the Law, he could manipulate to a point the players on the world stage, and make England more human a society.

Professor Silano used to say that the highest form of theology is Canon Law, because not only did it affirm God's call to humanity, it attempted to give it concrete status in the face of its failure to take hold. Similarly, the secular lawyer must have the courage to hold on to Truth, even when facing an intractable world; he is called to come up with a viable *modus vivendi* for transcendence in real time. He must be creative enough to find the least harmful compromise; he must have the sense of humor to laugh at the paradoxical distance between his ideal, his vocation, and his achievement. He is the builder and the protector of the law of the land, and thus makes it more difficult for citizens to do evil, and easier for them to see the good. The law may be an ass, but it is still the fundamental bulwark patiently built, generation after generation, by courageous lawyers, to help humanity grow slowly out of self-inflicted chaos.

Naturally, an endeavor this paradoxical entails tremendous risk. The greatest of these in fact is becoming enmeshed oneself in the very mess one hopes to alleviate. The better one succeeds, the greater the pressure of wealth and pride, the greater the temptation simply to rejoin the culture one is attempting to challenge. More's personal life was therefore a long struggle to discipline himself

first for the inevitable struggle, intellectually, physically and spiritually. He rose at 3:00 in the morning, examined his conscience carefully daily, went to morning mass, read and wrote. He wanted to be fit for his public performance, to be true to his call.

For then as now, lawyers qua guardians of the Law had to be their culture's reality check, and no one likes reality checks. They were called to challenge a deeply hypocritical society, an artificial culture, the virtual reality of the court, a political correctness stronger even than ours, since breaching it could lead to the stake. But at the same time, lawyers had to make Justice believable; they had to make believable the hope that there can be such a thing as justice beyond vengeance; that we can aim for the common good beyond self-vindication. This, by the way, is why lawyers are, to this day, resented by the *hoi polloi* almost as much as priests, and for the same reason: We bank on them to re-ignite our hope in the victory of truth over confusion, of the good over corruption; but they often fail to provide any thing more than power trips, self-vindication, or an apology for the *status quo*.

We often hear it said that More is remembered, not for his life, but for his death; not as a lawyer, but as a martyr. His beheading, however, was the long-expected and fitting conclusion to a carefully orchestrated public life. Though fully aware of the envy of his peers, of the capriciousness and murderous violence of his future boss, More eventually accepted the most dangerous of roles a lawyer could take on, advisor to the monarch. It was a chance to alter the direction of English society in a period of great change. It was also his moment in the lime light, so he could propose to the public a personal image as close to the ideal Christian humanist as possible. Justice is what the just man does, said, Aristotle. Through his writings, life style, family situation, personal appearance, and also through his death, Thomas More molded himself into a Renaissance avatar of the Just Man. True guardian of the law, he used his legal skills to make England into a society in which every person could act out his or her personal conscience, so that every English man or woman could more easily be a Just Man or a Just Woman, like himself. More played that role to the bitter end. He knew well that once Anne Boleyn had entered Henry's life, no advice would curb his master; but he also knew that the issues at stake, England's

appurtenance to the universal church and freedom of conscience, were worth risking all; so he did. His death was simply the last act of his life, its stamp of authenticity.

Let us then focus for a moment on More's last years, and watch the unfolding of the events leading to this memorable death.

On May 15 1532, the King convoked his bishops at Canterbury. They were to accede to unprecedented demands which would reduce the English Church into little more than an agent and ward of the state. Led by the aging archbishop Warham, 6 of the bishops present and many of the abbots yielded; and the Submission of the Clergy was ratified. Within a few hours, Thomas More tendered his resignation as Lord Chancellor.

By December, Anne Boleyn was pregnant. The King and his mistress were secretly married January 25, 1533. Warham had died, Cromwell, the King's faithful servant, had been named archbishop. On May 23, the English Church declared Henry's marriage to Anne Boleyn to be licit. On June 1<sup>st</sup>, she was crowned queen of England. More did not come to the ceremony, and kept quiet.

The king would not give up on getting More's public approval, however. On February 15 1534, More was summoned before four members of the King's council, who offered him honor and wealth should he sanction the divorce and remarriage of his Majesty. He refused. The council turned to threat; More was told of a new accusation: the King regretted having written so strongly against Luther in favor of the Popes' authority, and More had been the instigator of this mistake. More demonstrated that he had merely answered questions the King put to him on this matter as best he could. He knew however that he had sealed his death warrant. On his return, he was so merry that his son in law Roper asked him why? More answered: 'I have given the devil a foul fall, and with those Lords I have gone so far, as without great shame I can never go back again.' Once and for all, More had made it impossible for himself to act in the future against his conscience.

In March 1534, the Parliament passed the Act of Succession, declaring the children of Henry and Anne to be legitimate successors to the throne, and the marriage to Catherine to be null. Anyone refusing to take the appended oath

would be charged with treason, drawn and quartered. More was summoned to Lambeth to take the oath. He encountered there a crowd of clerics merrily swearing, but could not be budged, though Chancellor Audley told him in dismay that he was the first person to refuse to swear. For an instant, More seemed shaken by Cranmer's argument that he ought to follow his known duty to obey his King rather than persist in his own uncertain dissenting opinion. But he reminded Cranmer that alone or not, he could no more deny his own conscience than Cranmer could deny his own. More's irrevocable decision to be true to his own grasp of Justice to the point of martyrdom had by then been fully internalized: This had become clear to More on the way from his beloved Chelsea to Lambeth: According to Roper, while sitting sadly in the boat taking him there, More had 'suddenly rounded Roper in the ear, and said, 'Son Roper, I thank our Lord **the field is won.**' And won it remained.

In the last days of 1534, Parliament passed the Acts of Supremacy and the Act of Treason which made it an offence punishable by death to deny the King his title as Supreme Head of the Church of England. On April 28 1535, three Carthusian priors were hanged, drawn and quartered because they had refused to recognize Henry VIII as supreme Head of the Church. Faced with this dreadful example of what happened to the obdurate, More was interrogated on April 30<sup>th</sup> by five counselors, presided by Cromwell. The Act stated that 'anyone who might ... maliciously wish, will, or desire, by words or writing, or by craft, deprive (the royal family) of their dignity, title or name, or slanderously... pronounce, by express writing or words, that the King our Sovereign Lord should be a heretic... would be punished as a traitor.' More thus chose to keep silence on the issue. Cromwell said that the King ordered him to speak his mind. More answered that the King knew well what he thought, since More had ever 'from the beginning ... well and truly from time to time declared his mind unto his Highness.' From then on, More added, he was determined 'neither to study nor meddle with any matter of the world'. Cromwell pointed out that More's 'demeanor in that matter... of likelihood made now other men so stiff therein as they be.' The King would have More's submission or his life. More's final reply was a last appeal to keep the law of England just: 'I do nobody harm, I say none harm, I think none harm, but wish everybody good. And if this be not enough to

keep a man alive, in good faith I long not to live.’ But the law was no longer able to keep the worst from happening.

So Thomas More, in prison, prepared for death, girding his loins against possible apostasy, knowing, as he told his daughter Margaret, how weak and afraid of pain he was. Though he knew he was already condemned, he fought for his life to the end with all his legal skills. Why? To make sure that he himself was not grandstanding as a martyr; but also for the sake of the law, that it remain true to itself; and for the men of law who were about to condemn him, that they return to respect of their own conscience. His defense was simple, and based on his silence: He reminded his judges that ‘Neither your law, nor any law in the world is able justly and rightly to punish me, unless you may besides lay to my charge either some word or some fact in deed.... In things touching conscience, every true and good subject is more bound to have respect to his said conscience and to his soul than to any other thing in all the world.’

On July first, More appeared in Westminster Hall, indicted on four counts. He managed to have the first three dropped; he was finally condemned on the fourth, the accusation that he had explicitly denied Parliament’s authority to declare the King supreme head of the Church in England. This was supported by the false witness of Rich: More, Rich testified, had told him Parliament could no more make the King Supreme Head of the Church, than declare God was not God. More skillfully discredited this testimony, and two more witnesses were called. They had been in the cell at the time of More’s conversation with Rich, moving out More’s books and papers. Both of them avoided the issue, saying they had paid no attention to what was being said, so busy were they taking More’s stuff away. Though there obviously was no viable evidence against More, the jury took only fifteen minutes to render the verdict: ‘Guilty.’

As Lord Chancellor Audley began to pass sentence, More attempted a last maneuver: He called for an arrest of judgment, demanding his right to ‘speak why this judgment should not be given against him’. This would be his first and last opportunity to give the conscience of his country a living voice. In a passionate speech, he gave his judges a last chance to remember their personal responsibility as guardians of England’s law, by questioning the legitimacy of the law they were using to condemn him before it was too late. He argued that

England, a single realm of Christendom, could no more make a law 'disagreeing with the general law of Christ's universal Church' than the city of London would make a law 'against an Act of Parliament binding the whole realm.' Henry's demands amounted to calling for the Church's surrender of its spiritual autonomy into his hands. More pointed out that this was a flagrant breach of the 1225 Magna Carta which stated 'that the English Church shall be free and have all its rights undiminished and liberties unimpaired.' In fact it violated the King's own coronation oath. Things were getting too hot. Audley interrupted him: "How could he alone challenge the unanimous view point of 'all the bishops, universities, and best learned of this realm.' More answered that, should numbers matter, there were probably more holy men alive and dead on his side than on Audley's.

Shaken, and 'loath to have the burden of that judgment wholly to depend on himself,' Audley openly asked advice of Lord Fitz-James, then Lord Chief Justice of the King's Bench, '...whether this indictment was sufficient or not.' There was dead silence for some time. Chief Justice Fitz-James finally broke it .... 'My lords all..., I must confess that if the Act of Parliament is not unlawful, then is not the indictment in my conscience insufficient. (Roper, p.46) Ponder that sentence for a moment with its double negatives; what a cop out! And how horrifying that general refusal to accept obvious responsibility, from the greatest Lords of the realm to mere servants! More was in that room the lone witness to Justice.

Audley then completed his task. 'Lo, my lords, you hear what my Lord Chief Justice says', and he immediately gave judgment against More. He would be 'hanged till half dead, then cut down, his bowels taken out, his head cut off, and his body quartered into four parts, to be set up where the King should appoint.' The last chance to check King Henry's power grab was gone. Once again tyranny had succeeded not through war, but through law; not at the hands of criminals, but of famous lawyers; not through the force of evil, but through the negligence and cowardice of those who considered themselves good and responsible.

The law entitled More to the last word. He did not ask for mercy, but offered forgiveness. ' Like the blessed apostle Paul was present and consented to the

death of St. Stephen and kept their clothes that stoned him to death, and yet be they now both twain Holy saints in Heaven ...so I verily trust.. that though your Lordships have now here on earth been judges to my condemnation, we may hereafter in Heaven merrily all meet together, to our everlasting salvation. I desire Almighty god to preserve and defend the King's Majesty and to send him good counsel.'

This was his last offer of human kinship to his judges; his last reminder to them and to us that they too were still free and responsible to the Law, traitors or not: that they should not give up, because of this one fall, on being true guardians of the Law, as he had attempted to be himself.

More was beheaded on July 6, and went to the scaffold jesting. Indeed, miraculously, **the field had been won**. An officer lent him a hand as he mounted the stairs, and More quipped, 'when I come down again, let me shift for myself as I can.' He died as he lived, in good humor, having reconciled in himself through his death the opposite ends of the human paradox, 'the Kings good servant, but God's first.'

Did Thomas More die for nothing?

From a practical standpoint, More had lost. By the next summer, Cromwell was plundering and destroying England's monasteries. Politically driven religious fanaticism was tearing up Christendom, and Europe was putting into question by the viciousness of its religious wars the very worth of Christianity,

And yet, his very last work, *De Tristitia*, a meditation on Christ's Passion which fanned his courage into flame during his last days in the tower, ends on a possible answer to our question: 'Who can know how many have been helped by those whom we see face death with fear and trembling, but whom we also observe as they break bravely through the hindrances blocking their path, the obstacles barring their way with barriers harder than steel, that is their own weariness, fear and anguish, who by bursting these iron bars and triumphing over death take heaven by storm.'

For More's most powerful witness to justice may be, not what he argued as a successful lawyer, politician and humanist, but what he wrote in captivity and his

acceptance of his death. For he left us a careful record of what he went through while awaiting torture and death, struggling alone with what Christians called 'the flesh and the world', successfully demonstrating what it means to be fully human.

All his life as we have seen, More, to train himself for his vocation, cultivated all the classical virtues, temperance, prudence, justice, courage, as well as his own natural wonderful sense of humor. *The Dialogue of Comfort against Tribulation* is his last exercise, from the tower, in such rational discipline. I can only send you to read it for yourselves if you haven't already done so; this talk must end. However, as the last chips came down, he saw that these virtues would not suffice to keep him true to himself and to his call, in the face of mounting terror. And so he spent his last month in prison opening up to other virtues, virtues that cannot be self induced, but are graciously given: faith, hope and love. Those would get him over the hump, when his desperate attachment to his body, his fear of torture and death, threatened to overwhelm his will to be true to whom he was meant to be. Reaching for help, he turned outward, to the center of that community of fully human human beings he willed to join, Christ.

In Christ's agony, reality and truth, fact and justice, time and eternity had really met, in the concrete world: Man had fulfilled his divine call, and first been paradoxically glorified. Here, God had fulfilled His incarnation. Christ's agony in the garden had preceded and now accompanied More in his long days of terror in the tower. His very latest work, *De Tristitia*, i.e. On the Sorrowfulness of Christ, gives us a glimpse of what then happened. Here again, I can only suggest that you read it for yourselves. Contemplating Christ's agony, minute by minute, anguish by anguish, as described in the gospels, triggered More's admiration, his gratitude and his love. He became integrated into this 'cloud of Glory' which surrounds Christ's 'revelation of Man to himself', the multitude of saints and martyrs, who transcended death in love of Him. Indeed, he became fully one with all humanity waiting to be saved by this love, and with the community charged with witnessing to it, the Church he was defending with his life. Bolt was almost right. Ultimately, More died indeed 'not as a matter of reason, but as a matter of love.'

Very beautiful, you may say, but what has this to do with More qua Lawyer, the topic of this paper? Remember the beginning of More's career: The choice not to take flight into ideas, but to tackle chaos at its most blatant in the name of Justice; not in the abstract, but where words meet blood and gold. He knew this meant risking his own body, but also his own soul, if the lure of power and conspicuous luxury, if the fear of violent evil became overwhelming. He also knew, having no illusions about human nature, that eventually this would leave him terribly alone, to the point of questioning his own rationality. Love of Christ, love of the Church, love of England, love of the Law, love of Man, helped him transcend that loneliness, and find the courage to incarnate perfectly the Justice he lived for in acceptance of his own death.

As Psalm 85 sings, there are moments when Justice and Peace embrace, when Faithfulness reaches up from earth and Righteousness leans down from Heaven. Such moments are our most precious heritage, and Thomas More carved one of them into history. Let us meditate them; they remain our best chance to conquer despair and cowardice in our own struggle for Justice; in our own effort to become worthy of our call as lawyers and as human beings to bring the transcendent Truth we love into reality.