

Law without Virtue: Lessons from the Sanctuary Scene in Thomas More's *Richard III*

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I. Introduction

The moment Queen Elizabeth relinquishes custody of her eleven-year-old son, Prince Richard, knowing that by doing so she condemns him to die, defies understanding. Although the sanctuary scene in Thomas More's *The History of King Richard III*² remains a puzzle, "More writes in a way that demands discussion and careful weighing of subtle factors and details."³ The law is a compelling force in *The History of King Richard III* and, in the sanctuary scene, it is argued, manipulated, and defeated. Was there a lesson More was trying to convey? Is that lesson relevant to the practice of law?

Professor Wegemer's gracious invitation to deliver this paper has compelled me to study More's *The History of King Richard III* with particular emphasis on the sanctuary scene and Queen Elizabeth. In my view, More uses the absence of virtue in the sanctuary scene to demonstrate that, without virtue, there is nothing to check and balance the manipulation of the law. Rules operate in a negative manner telling us what we cannot do, limiting our freedom, while the virtues go beyond what is required and promote good.⁴ Law, when practiced and implemented well

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²Thomas More, *The History of King Richard III* (Gerard B. Wegemer & Travis Curtwright eds., Center for Thomas More Studies 2003).

³Email from Gerard B. Wegemer, Ph.D., Director, Center for Thomas More Studies, University of Dallas, to Barbara J. Panza, Staff Attorney, Texas Fifth District Court of Appeals (Sept. 21, 2006, 17:54:51 CST) (on file with author).

⁴See generally, James W. Perkins, *Virtues and the Lawyer*, 38 Cath. Law. 185, 187-89 (1998) (discussing character and rules with regard to the legal profession).

and right, fosters and is sustained by virtue.⁵ This can be seen through an examination of Queen Elizabeth's arguments and actions in the sanctuary scene.

II. Absence of Virtue

In the sanctuary scene, More provides his readers with a chilling view of the law without virtue. To More, laws formed social bonds and sustained society.⁶ Is the sanctuary scene an attempt to show how law, by itself, is not enough? Is virtue a means of checking and balancing the implementation of the law, so it cannot be manipulated by the corrupt? To understand how More may have used the absence of virtue in the law, it is necessary to consider how More may have understood virtue. Then, the sanctuary scene may be analyzed in terms of the absence of virtue.

A. The Meaning of Virtue

Contemporary lawyers probably believe that virtue in the law is synonymous with justice. But is this how More would have thought of it? Does More's depiction of the absence of virtue and its consequences in the sanctuary scene refer only to the absence of justice? Based on More's education and personal beliefs, and the images associated with the law during his time, it appears that More's definition of virtue would have encompassed the four cardinal virtues.

1. Cardinal Virtues

Augustine applied the neo-Platonic tradition to theology.⁷ From the writings of Thomas Aquinas came an Aristotelian interpretation of theology and philosophy.⁸ However, Aquinas borrowed his cardinal virtues from Plato.⁹ More being learned in both theology and Greek would have been familiar with the writings of Augustine and Aquinas as well as Plato and Aristotle. As a result, virtue as understood by these theologians and philosophers will aid in defining how More would have interpreted virtue.

The classical virtues of Catholic moral teaching or the four cardinal virtues are: (1) prudence; (2) fortitude; (3) temperance; and (4) justice.¹⁰ These principles reflect the appropriate mean or middle ground of human passions.¹¹ Because human passion is capable of producing a wide range of action,¹² a person must discover the middle ground or virtue.¹³ Extremes represent vice.¹³ It is through the rational

⁵See generally, Timothy W. Floyd, *The Practice of Law as a Vocation or Calling*, 66 Fordham L. Rev. 1405, 1421 (1998).

⁶Blake D. Morant, *Lessons from Thomas More Dilemma of Conscience: Reconciling the Clash between a Lawyer's Belief and Professional Expectations*, 78 St. John's L. Rev. 965, 990 (2004).

⁷See THOMAS AQUINAS, ON LAW, MORALITY, AND POLITICS xiv (William P. Baumgarth & Richard J. Regan eds., Hackett Publishing Company 1988).

⁸See *id.* at xiii, xv.

⁹See Perkins, *supra* note 4 at 199.

¹⁰See THE POCKET AQUINAS 183 (Vernon J. Bourke ed., Washington Square Press 1960).

¹¹See SAMUEL ENOCH STUMPF, ELEMENTS OF PHILOSOPHY 33-34 (3d ed., McGraw-Hill, Inc., 1993); AQUINAS, *supra* note 7 at 49.

¹²See STUMPF, *supra* note 11 at 33-35; AQUINAS, *supra* note 7 at 49.

¹³See STUMPF, *supra* note 11 at 33-35; AQUINAS, *supra* note 7 at 49.

power of the soul that the passions are controlled and action guided.¹⁴ The virtues lead to the ultimate end, happiness.¹⁵ Although they were a part of Catholic teaching, the virtues remained secular and philosophical in nature.¹⁶ The virtues are skills, traits of character, and habits or dispositions.¹⁷ In order for a state to be virtuous, it is necessary for each person to attain each of these virtues because states are composed of individuals.¹⁸

First, prudence “discerns and sets the standards of moral action.”¹⁹ It governs the intellect. Prudence is the mean between foolishness and overconfidence. Prudence is a skill and an affinity for deliberating as to what is right, balancing a respect for tradition and others’ opinions with individual thought that is not clouded by self-deception.²⁰ “It involves a three-step operation: deliberation, judgment, and decision.”²¹ Prudence may take different forms depending on the end to which it is directed.²² Aquinas discussed three species of prudence: (1) prudence; (2) domestic prudence; and (3) political prudence.²³ Prudence, by itself, is directed toward one’s own good.²⁴ Domestic prudence is directed toward the common good of the home.²⁵ Political prudence is directed to the common good of the political community or kingdom.²⁶ Political prudence directed toward the community is legislation and directed toward individuals is the common good.²⁷

Second, fortitude is courage or strength. It governs the will. Fortitude is the mean between cowardice and foolhardiness. Courage means knowing what to fear and what not to fear.²⁸ The only object of fear should be moral evil.²⁹ A man should not fear poverty and privation.³⁰ Fortitude may be achieved for the safety of the community or for upholding the rights of another.³¹

Third, temperance is moderation or self-restraint in conduct, expression, and indulgence of the appetites. It governs the appetites. Temperance is the mean between denial and overindulgence.³² Temperance reconciles the need for support,

affection, and respect with obligation.³³ Temperance should not be practiced out of servile fear or fear of punishment, but out of charity and love of justice.³⁴

Fourth, justice “draws one to fairness; namely to whatever may be generally due to others.”³⁵ Justice is a general virtue because it is the harmony of prudence, fortitude, and temperance.³⁶ It is the mean between leniency and severity or vengeance. Justice is the fair and impartial administration and maintenance of conflicting claims and the assignment of rewards and the imposition of punishment.³⁷ However, it is also “the principle or ideal of just dealing or right action,” and “conformity to truth, fact, and reason.”³⁸

If the cardinal virtues are the mean between extremes does More suggest that, in the absence of these virtues, rulers will have excess and subjects deficiency?

2. Images Associated with the Law

Lawyers are familiar with the personification of Justice, who appears on buildings, in art, and in court rooms. The image of Justice has been with us for more than 2000 years.³⁹ However, the image of Justice was not traditionally depicted alone.⁴⁰ Rather, Justice is one of a series of images associated with the concepts of the virtues and vices.⁴¹ In medieval traditions, Justice appeared with Prudence, Fortitude, and Temperance as one of the four cardinal virtues.⁴² If More was writing both history and literature, did he use the imagery prevalent in his time to symbolize virtue or the absence of it?

The traditional personification of Justice contains both aspirational goals and warnings. Justice is portrayed as a woman robed in white to symbolize she is without moral blemish. She is blindfolded because she should use only pure reason in her judgments, not her senses. Justice is regally dressed with a crown showing she is noble and a scepter lays on a table beside her, which symbolizes her authority. In one hand, she holds scales to ensure balance; that each man should receive no more or less than his due. In her other hand, she brandishes an unsheathed sword representing the rigor of justice and that she does not hesitate to punish. She rests against a bundle of lictor’s rods, which is a Roman symbol of a judge’s power to punish and execute. Around the lictor’s rods, a serpent, which represents hatred, is unwinding, and a dog, which symbolizes friendship, lays at her feet. On the table with the scepter are books, which also represent her authority, and a skull, which

¹⁴ See STUMPF, *supra* note 11 at 33–35; AQUINAS, *supra* note 7 at 49.

¹⁵ See Perkins, *supra* note 4 at 196–98; STUMPF, *supra* note 11 at 33–35.

¹⁶ See Perkins, *supra* note 4 at 199.

¹⁷ See *id.* at 198.

¹⁸ See STUMPF, *supra* note 11 at 140.

¹⁹ See Perkins, *supra* note 4 at 200 (quoting James F. Keenan, S.J., *Proposing Cardinal Virtues*, 56 *Theological Studies* 709, 718 (1995)).

²⁰ *Id.* at 189.

²¹ *Id.* at 200.

²² See AQUINAS, *supra* note 7 at 272.

²³ See *id.*

²⁴ See *id.*

²⁵ See *id.*

²⁶ See *id.*

²⁷ See *id.* at 273–74.

²⁸ See STUMPF, *supra* note 11 at 139.

²⁹ *Id.*

³⁰ *Id.*

³¹ AQUINAS, *supra* note 7 at 69.

³² See *id.* at 236 (discussing obedience).

³³ See Perkins, *supra* note 4 at 201 (discussing fidelity).

³⁴ See AQUINAS, *supra* note 7 at 238 (discussing obedience).

³⁵ See Perkins, *supra* note 4 at 200.

³⁶ See STUMPF, *supra* note 11 at 138–39.

³⁷ See WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY 1228 (1981).

³⁸ *Id.*

³⁹ See Dennis E. Curtis & Judith Resnik, *Images of Justice*, 96 *Yale L.J.* 1727, 1728 (1987). However, some of the attributes of the image of Justice have changed over time. See *id.* at 1734.

⁴⁰ See *id.* at 1729, 1743.

⁴¹ See *id.* at 1729.

⁴² See *id.* at 1730. The four cardinal virtues were often joined by the three theological virtues, Faith, Hope, and Charity. *Id.*

symbolizes man's mortality and Justice's immortality.⁴³ However, some of these images also possess warnings. For example, the dog and snake are reminders that both friendship and hatred can corrupt judgment.⁴⁴

Conversely, the image of injustice portrays a devil breaking the scale of justice and tearing the blindfold from Justice's eyes, while beating her.⁴⁵ Because injustice destroys justice, we recognize injustice must be avoided.⁴⁶

Although the image of Justice has remained in our iconography, the images of her companions have disappeared. Few would recognize the personifications of Prudence, Fortitude, and Temperance catalogued in Renaissance iconography.⁴⁷ Prudence was depicted as a woman looking into a mirror, which she holds in one hand.⁴⁸ Fortitude was personified as a woman with a lion skin leaning on a broken column.⁴⁹ Temperance was symbolized as a woman carrying a bridle and a pitcher.⁵⁰ Temperance holds a bridle because, as a bridle retrains a horse, temperance holds man's appetites in check.⁵¹

It is assumed that the image of Justice has survived, at least in part, because governments consciously use justice imagery to legitimate their exercise of power by associating themselves with the concept of justice.⁵² If the imagery of the four virtues was prevalent in More's time, was he attempting to show that Richard III's reign was not legitimate through the absence of the virtues in the sanctuary scene?

B. Analysis of the Sanctuary Scene

Queen Elizabeth is the most perplexing figure in the sanctuary scene. As a result, this analysis of the sanctuary scene focuses on the Queen. First, to fully appreciate the sanctuary scene, it is necessary to review the Queen's background. The background of Queen Elizabeth is paradoxical to the Queen in the sanctuary scene. Or, is it? Second, to better understand the sanctuary scene, it is essential to review Queen Elizabeth's deliberation and actions in the sanctuary scene. The Queen's arguments are prudent, delivered with fortitude, and temperate. Yet, at the conclusion of the sanctuary scene, the Queen's deliberations and act of handing over young Prince Richard lack these qualities. Why does More provide his readers with two, inconsistent images of the Queen? Does More attempt to heighten the absence of virtue in the sanctuary scene by suggesting that, at one time, the Queen may have been virtuous? Or, if More is mocking the Queen's virtue, and it is necessary for individuals to attain the virtues before a state may be virtuous, does More depict the absence of virtue in Queen Elizabeth to show that not only was Richard III's reign lacking in virtue, but so was Edward IV's? Is More telling his

readers that Richard III's tyranny was inevitable because it had deeper roots and the people in the best position to stop him were no more virtuous than he?

1. Background of Queen Elizabeth

More's description of Queen Elizabeth's background depicts a woman of virtue possessing prudence, fortitude, and temperance. It is interesting that More directly refers to Queen Elizabeth's virtue at least two times: "Whose appetite when she perceived it, she virtuously denied him,"⁵³ and "The King much marveling at her constancy... set her virtue in the place of possession and riches."⁵⁴

More also advises his readers that Queen Elizabeth was a prudent woman. He directly referred to her wisdom at least three times: "This plan that the Queen *not unwisely* devised..."⁵⁵ and, "Whom when the King, beheld and heard her speak, as she was both fair, of a good favor, moderate of statute, well made and very *wise*, he not only pitied her, but also grew enamored with her,"⁵⁶ and again, "But that she did so *wisely*, and with so good manner, and words so well set, that she rather kindled his desire than quenched it."⁵⁷ More also provides other examples of the Queen's prudence. Queen Elizabeth, the widow of Edward IV's enemy, was prudent enough to recognize his victory to ensure her own security under the new king and to attempt to have her lands restored.⁵⁸ Also, she was wise to Richard III's threat to her son, Prince Edward, and, as a result, surrounded him with her relatives.⁵⁹

Queen Elizabeth is depicted as a woman of fortitude. In fact, More refers to her as bold and daring: "And finally after many a meeting, much wooing, and many great promises, she well spied the King's affection toward her so greatly increased that she *dared* somewhat the more *boldly* say her mind..."⁶⁰ More relates that Queen Elizabeth had the courage to petition her late husband's enemy for the restoration of her lands and to refuse the King's affections, as well as speak her mind to the King.⁶¹

In providing a background on Queen Elizabeth, More tells his readers of her temperance. He specifically refers to her temperance at least three times: "Whose *appetite*, when she perceived it, she virtuously *denied* him," "And in conclusion she showed him plain that as she knew herself too simple to be his wife, so thought she herself *too good to be his concubine*," and "The King much marveling at her *constancy*... so much esteemed her continence and *chastity*."⁶²

More describes the Queen as one who seeks the fair resolution of conflicting claims, i.e., justice. The Queen petitions Edward IV for the return of her late

⁴³ See *id.* at 1748 discussing C. RIPA, BAROQUE AND ROCOCO PICTORIAL IMAGERY (E. Maser ed., 1971) (1953).

⁴⁴ See *id.* at 1748–49 discussing RIPA.

⁴⁵ See Judith Shklar, *Giving Injustice Its Due*, 98 Yale L.J. 1135, 1136 (1989).

⁴⁶ See *id.*

⁴⁷ See Curtis & Resnik, *supra* note 39 at 1731.

⁴⁸ See *id.*

⁴⁹ See *id.*

⁵⁰ See *id.*

⁵¹ See *id.* at 1731 n.20.

⁵² See *id.* at 1743.

⁵³ MORE, *supra* note 2 at 53 (emphasis added).

⁵⁴ *Id.* at 54 (emphasis added).

⁵⁵ *Id.* at 11 (emphasis added).

⁵⁶ *Id.* at 53 (emphasis added).

⁵⁷ *Id.* at 53–54 (emphasis added).

⁵⁸ *Id.* at 53.

⁵⁹ *Id.* at 11.

⁶⁰ *Id.* at 54 (emphasis added).

⁶¹ *Id.* at 53–54.

⁶² *Id.* at 54 (emphasis added).

husband's property.⁶³ The fact that she petitions Edward IV for the return of property suggests that there is another claim to the land. However, she seeks justice through a recognized legal procedure, i.e., petition to the King, and appears to request only the lands she is due, i.e., the lands her late husband gave to her during their marriage.⁶⁴

However, More's praises of Queen Elizabeth's virtues must be accepted with caution. Despite More's description of her as prudent, courageous, temperate, and just, other descriptions should cause his readers to ask if she is actually lacking in those qualities. Although More suggests the Queen is prudent, after Edward IV's death, she appears to have been easily persuaded that her son, Prince Edward, need not travel from Wales to London with great speed or protection.⁶⁵ Also, More's description of the Queen's fortitude is countered by her marriage to her first husband's enemy.⁶⁶ Further, despite More's tale about the Queen's temperance in refusing Edward IV's advances, he tells his readers Edward IV had an insatiable appetite, from which no woman was safe. More states:

[T]he King's greedy appetite was insatiable and everywhere over all the realm intolerable. Of no woman was there anywhere, young or old, rich or poor, whom he set his eye upon, in whom anything liked, either person or favor, speech, pace, or countenance, but without any fear of God or respect of his honour, murmur or grudge of the world, he would urgently pursue his appetite, and have her, to the great destruction of many a good woman. . . .⁶⁷

Accordingly, it is necessary to balance his description of Queen Elizabeth as a virtuous woman who rebuked the King's illicit advances against his description of Edward IV as a man who would not take "no" for an answer. Finally, More suggests the Queen may have been less than just to her husband's family, some of the lords, and the people of England. More hints that the Queen and her family may have played a role in Edward IV executing his bother, the Duke of Clarence, for treason. He states:

For were it by the Queen and the lords of her blood, who highly maligned the King's kindred (as women commonly, not of malice but of nature, hate them whom their husbands love), or were it a proud appetite of the Duke [Richard III] himself intending to be king, in any case, heinous treason was there laid to his charge, and, finally, were he faulty or faultless, attained was he by Parliament and judged to the death. . . .⁶⁸

In addition, the Queen keeps her son from his father's family and surrounds Prince Edward with her kin. More states, "Adjoined were there unto him others of the same party, and in effect, every one as he was nearest of kin unto the Queen was so

planted about the Prince."⁶⁹ The Queen appears to do this more from a desire to ensure her family receives her son's favor when his is king, than for his safety. More advises, "This plan that the Queen not unwisely devised whereby her blood might from the beginning be rooted in the Prince's favor. . . ." ⁷⁰ Also, More tells his readers the Queen bore a grudge against the Chamberlain because he had Edward IV's favor and was made Captain of Calais, an office her brother claimed had been promised to him.⁷¹ And, the Queen married Edward IV when the Earl of Warwick had already arranged his marriage to the daughter of the King of Spain, subjecting the people to further civil war.⁷²

More provides his readers with much of the Queen's "virtuous" background after the sanctuary scene, while many of the descriptions of her less than virtuous qualities appear before it. Why does More describe the Queen as virtuous after he has shown his readers that she acted without virtue in the sanctuary scene? Whatever More's reason, it is against this backdrop that the Queen's arguments and actions in the sanctuary scene must be analyzed.

2. *Queen Elizabeth in the Sanctuary Scene*

The sanctuary scene begins when Queen Elizabeth learns that her son, Prince Edward, her brother, her son by her first husband, and her other friends have been arrested.⁷³ The Queen appears to fully comprehend what Richard III is planning because, when she heard the news, she bewailed her child's ruin.⁷⁴ After hearing the news, the Queen took her younger son, Prince Richard, and her daughters into sanctuary.⁷⁵ More states that she does so in "all haste possible."⁷⁶ However, despite her great haste, the Queen waited for her servants to bring her things and even had walls torn down to facilitate moving them into the cathedral.⁷⁷ And, while her children were in peril and her servants were busy transporting her things, Queen Elizabeth sat alone desolate and dismayed.⁷⁸ If the Queen was truly concerned for the welfare of her children, was it wise of her to linger to take her material possessions into sanctuary? Was this an act of prudence and temperance?

Although the Queen's concern for her material possessions smacks of imprudence and a lack of temperance, More's readers should not ignore the possibility of other imagery in this scene. At the same time the Queen is breaking down walls to bring her things into the cathedral, the Chancellor delivers the Great Seal to her.⁷⁹ If the personification of Fortitude is a woman leaning on a broken column, is it possible More describes the Queen breaking down walls to show at that moment, with her second son in sanctuary and the Great Seal in her possession,

⁶⁹ *Id.* at 11.

⁷⁰ *Id.*

⁷¹ *Id.* at 7.

⁷² *Id.* at 53, 57.

⁷³ *Id.* at 16.

⁷⁴ *Id.*

⁷⁵ *Id.* at 16–17.

⁷⁶ *Id.* at 17.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.* However, he later retrieves the Great Seal. *Id.* at 18.

⁶³ *Id.* at 53.

⁶⁴ *Id.*

⁶⁵ *Id.* at 13.

⁶⁶ *Id.* at 54.

⁶⁷ *Id.* at 64.

⁶⁸ *Id.* at 4.

she is in a position of strength? Or, does it merely foreshadow that she will allow the law of sanctuary to be torn down, just as she tore down the walls of the very cathedral she hoped would shield her and her children?

In the conclusion of the sanctuary scene, the Cardinal arrived with a company of lords to demand that the young prince leave sanctuary.⁸⁰ The Queen responded with solid legal arguments founded in the laws of God, nature, and man.⁸¹ Her arguments clearly defeat Buckingham's earlier justifications for not recognizing sanctuary.⁸² The Queen's arguments also demonstrated she possessed a clear understanding of her situation, and that she was eloquent and intelligent. The Queen exhibited fortitude when she defied the Cardinal and the lords in his company by refusing to leave sanctuary, even though she knew Richard III waited ready at hand to forcibly take her son.⁸³ The Cardinal promised that, in relinquishing her son from sanctuary, the Queen would personally profit and provide assistance to her friends. The Cardinal tempted the Queen advising, "And she in this doing should both do great good to the realm, pleasure to the Council and profit to herself, assistance to her friends that were in distress, and over that (which he knew well she specially valued), not only great comfort and honour to the King, but also to the Duke himself...."⁸⁴ However, the Queen exhibited temperance, by holding her desires in check.

But then, the Queen deliberated. She had not considered that Richard III would forcibly take her son from sanctuary.⁸⁵ She had made no plans for her son to flee elsewhere and had no persons appointed to convey and protect him on such a journey.⁸⁶ She justified her lack of preparation on the speed of events.⁸⁷ However, she had time to organize the removal of her possessions to sanctuary.⁸⁸ Although she observed the Cardinal was more ready to depart than some of the company, she did not demand he uphold his office and enforce the law of sanctuary. And, despite her mistrust of Richard III and his supporters, she judged that she could rely on the Cardinal and some of the lords' good will to protect her son because even if they were deceived she did not think them corrupt.⁸⁹ Ultimately, the Queen waived her solid legal arguments, deciding to hand Prince Richard over to the Cardinal and his company, even though she knew she was sending him to his death.

When the Queen deliberates and delivers her son to their enemies, More challenges his readers to rethink the Queen's virtue. To do this, he uses her arguments and actions as well as imagery. First, More's description of the Queen's deliberation questions her prudence, domestic prudence, and political prudence. If prudence is directed toward one's own good, has the Queen acted prudently? The Queen is an enemy of Richard III. She has also claimed sanctuary. It was in her own

interest to demand the enforcement of the law of sanctuary. By allowing Richard III to manipulate sanctuary, she has placed herself in danger. Furthermore, she needed sanctuary in the past, and it is possible she might require it again in the future.

If domestic prudence is directed toward the common good of the home, has Queen Elizabeth acted prudently? The Queen's act of handing Prince Richard over to their enemies and allowing them to manipulate the law of sanctuary placed her entire family in danger. She placed Prince Edward, who had already been arrested, in even greater peril by giving Richard III control over both of her sons. As the Queen acknowledged:

Each of these children is the other's defense while they be asunder, and each of their lives in the other's body. Keep one safe and both be sure, and nothing for them more perilous than to be in one place.⁹⁰

Also, she has not only requested sanctuary for herself and Prince Richard but for her four daughters. By handing over her son, she also jeopardized her daughters.

If political prudence is directed toward the common good of the kingdom protecting the community through legislation and acting toward their common good, has Queen Elizabeth acted prudently? Sanctuary was a recognized law that provided both the innocent and guilty with a place of refuge. Although it was under criticism at that point in history, it was created and enforced for the good of the community. The Queen allowed Richard III to manipulate the law so that its purpose was abrogated. Also, the Queen recognized Richard III as a tyrant. By giving him control over both heirs to the throne, she thwarted the common good by ensuring her subjects would suffer his tyranny unchecked, even by sanctuary.

More may have also used imagery to show the Queen's imprudence. More depicts a tragic scene when he describes the Queen handing over her son: "And she kissed him and blessed him, turned her back and wept and went her way, leaving the child weeping."⁹¹ Is More trying to do more than stir emotion? Renaissance iconography depicts the personification of Prudence as a woman looking in a mirror. Is More using this imagery to show the Queen's imprudence by telling his readers she could not look at her own actions?

Second, More invites his readers to reconsider whether the Queen was acting with fortitude. If fortitude is strength and courage and may be achieved for the safety of the community or for upholding the rights of another, has the Queen acted with fortitude? The Queen recognized Richard III's ambition and that he was a tyrant. Yet, she gave him her son, providing Richard III with even more power and leaving her kingdom unprotected from his tyranny. Also, although she zealously advocated her son's rights, she waived those rights when she delivered her son to their enemies. When she deliberated, the Queen revealed that she believed she was defeated and could not keep her son because Richard III would immediately take him from her. She also determined that it was "needless or without remedy to resist" and decided to rely on the power and strength of the Cardinal and the

⁸⁰ *Id.* at 28.

⁸¹ *Id.* at 29–34.

⁸² Compare *id.* at 23–28 with *id.* at 29–34.

⁸³ *Id.* at 31.

⁸⁴ *Id.* at 29.

⁸⁵ *Id.* at 34.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.* at 17.

⁸⁹ *Id.* at 34.

⁹⁰ *Id.* at 35.

⁹¹ *Id.* at 35–36.

company of lords to protect her son.⁹² The Queen gave way to her fear of Richard III and her foolhardy desire to trust the Cardinal and some of the lords.

Third, More causes his readers to question the Queen's temperance. If temperance reconciles the need for support, affection, and respect with obligation, has the Queen acted with temperance? Prince Richard was an eleven-year-old boy who needed his mother's support and affection because he was in danger and had been ill. He also needed respect for his nobility and his right to sanctuary. As his mother, the Queen was obligated to act as his guardian and keep him safe. The Cardinal was obligated to uphold the law of sanctuary. The Prince's needs do not appear to be in conflict with the Queen's and the Cardinal's obligations. However, the legal arguments made for not respecting sanctuary represented the prevailing criticisms of sanctuary.⁹³ It is possible the Cardinal was attempting to preserve the law of sanctuary by recognizing the need for reform. However, rather than trying to balance the best interest of the child against the need for legal reform, the Queen abandoned her son's needs.

Also, More may have used imagery to depict the Queen's lack of temperance. Renaissance iconography portrays Temperance as a woman carrying a bridle and a pitcher.⁹⁴ When the Queen hands over her son, she not only turns away, she weeps.⁹⁴ It is interesting that More does not mention the Queen weeping when Edward IV dies, she learns of her older son's arrest, or she flees with her children to sanctuary.⁹⁵ Is this symbolic of water being spilt from Temperance's pitcher?

Finally, More dares his readers to review the justice of Queen Elizabeth's decision to hand over Prince Richard. If justice draws one to fairness in conformity with truth, fact, and reason to ensure that each receives his due, has Queen Elizabeth acted with justice? By handing over Prince Richard, the Queen knows Richard III will take the crown from both young princes. She also knows that because of Richard III's ambition, neither of her sons is likely to survive. Further, although she gave solid legal reasons why Prince Richard was entitled to sanctuary, she failed to preserve those rights.

More may have also used imagery to depict the Queen's unjust decision. Renaissance iconography personified Justice with a serpent, representing hatred, unwinding around the lictor's rods, which are the symbol of Justice's authority, and dog, representing friendship, at her feet. These are reminders that hatred and friendship can corrupt judgment. In the sanctuary scene, the Cardinal arrived with various lords. It appears that some of these lords are friends and some are foes. The Queen had authority over Prince Richard because she was his mother and through her sons, the heirs to throne, she had authority over the lords. Despite her authority, the Queen let both her foes and her friends corrupt her judgment. Her foes with their threats to forcibly remove the young prince and her friends with their promises of good will and protection.

III. Conclusions

In the sanctuary scene, More shows that while law governs our lives, those who argue, interpret, and enforce the law must go beyond what the rules require to ensure that the law promotes social good and is not manipulated by the corrupt. He uses Queen Elizabeth to demonstrate that legal eloquence, intelligence, and creativity are not the privilege of virtue. In order for the law to be virtuous, those who practice it must be virtuous. In short, virtue is required to ensure that the law has integrity. It is not by mistake that More ends *The History of King Richard III*, with reference to virtue and the need for virtue to sustain society. The history ends with Doctor Morgan, Bishop of Ely and More's teacher, opining to Buckingham, "[I]t might yet have pleased God for the better store to have given [Richard III] some of such other excellent virtues for the rule of reign. . . ."⁹⁶

⁹² *Id.*

⁹³ See generally, Trisha Olson, *Of the Worshipful Warrior: Sanctuary and Punishment in the Middle Ages*, 16 *St. Thomas L. Rev.* 473 (2004).

⁹⁴ MORE, *supra* note 2 at 35–36.

⁹⁵ *Id.* at 8, 10, 16–17. Although More mentions on page 10 that none could refrain weeping, it appears from page 8 that the Queen was not present.

⁹⁶ *Id.* at 84.