



THOMAS MORE ON THE RELATION OF LAW AND POLITICS:

The History of King Richard the Third

OR

IS LAW POWERLESS BEFORE TYRANNY?

3-5 November 2006

Friday, Nov. 3, 2006

4:00 – 5:30 p.m.

Lynch Aud.

More on Tyranny

Dr. George Logan, editor of *The History of King Richard III* (Indiana UP, 2005); principal editor of the Cambridge *Utopia*; co-editor of the *Norton Anthology of English Literature* (5th-8th editions); author of *The Meaning of More's "Utopia"* (Princeton UP); Professor, Queen's University, Canada

7:30 p.m.

Lynch Aud.

Differing Designs, Differing Rhetorics: Why Two Versions of More's *Richard III*?

The Annual Thomas More Lecture by **Dr. Elizabeth McCutcheon**, author of numerous articles on More (esp. his rhetoric) and *My Dear Peter: The Ars Poetica and Hermeneutics for More's Utopia*; editorial board member of *Moreana* since 1976; Prof. Emerita and former chair of Graduate Studies, English Dept., U of Hawaii.

Saturday, Nov. 4, 2006

9:00 a.m. – 10:30 a.m.

Lynch Aud.

Educating Citizens for Self-Government: More's *History of King Richard III*

Dr. Gerard Wegemer, director of Center for Thomas More Studies; author of *Thomas More on Statesmanship*; co-editor of *A Thomas More Source Book*.

More's Reflections on Complicity with Evil in *The History of King Richard III*

Dr. Joseph Koterski, SJ, Fordham Univ., Philosophy Dept.; editor-in-chief of the *International Philosophical Quarterly* since 1994, prolific in publications dealing with his expertise in the areas of natural law theory and conscience.

11:00 a.m.–12:30 p.m.

Lynch Aud.

Ministry of Defense: The Art of the Narrator in More's *History of Richard III*.

Dr. Stephen W. Smith, Hillsdale College

"These Matters Be Kings' Games": More's Poetry and *The History of Richard III*

Dr. Travis Curtright, Ave Maria University

2:00–3:30 p.m.

Lynch Aud.

Judging Thomas More on Law and Liberty: Lawyers Give Their Readings of *Richard III*

Louis Karlin, Second District Court of Appeal, Los Angeles, CA

Barbara Panza, Fifth District Court of Appeals, Dallas, TX

David Oakley, Private Practitioner, Princeton, NJ

4:00–5:30 p.m.

Lynch Aud.

Conflicting Readings of *Richard III*: Speakers and Audience Discuss and Cross-examine Each Other

Sunday, Nov. 5, 2006

9:00-10:30 a.m.

***Richard III*, More's Political Poems, *Utopia*: What They Show about Law & Justice**

Thomas More Studies

Volume 2

2007

Thomas More's *Richard III*

Differing Designs, Differing Rhetorics: Why Two Versions of More's Richard III?

ELIZABETH MCCUTCHEON

Questions and Discussion

More on Tyranny

GEORGE M. LOGAN

Questions and Discussion

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More's Reflections on Complicity with Evil In The History of King Richard III

JOSEPH KOTERSKI, SJ

Questions and Discussion

Comedy and Tyranny in Richard III

STEPHEN W. SMITH

Questions and Discussion

Concluding Round Table on Richard III

with GEORGE M. LOGAN

CLARENCE H. MILLER

ELIZABETH MCCUTCHEON

Lawyers' Perspectives on the Sanctuary Scene in Richard III

Law and Tyranny

LOUIS KARLIN, ESQ.

Law without Virtue

BARBARA PANZA, ESQ.

Questions and Discussion

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Differing Designs, Differing Rhetorics: Why Two Versions of More's *Richard III*?

Dr. Elizabeth McCutcheon

I want to thank Gerry Wegemer and the entire Center for Thomas More Studies for inviting me to speak this evening. I am delighted and honored to be in such distinguished company. I've come lately to the study of More's *Richard*, a work that continues to fascinate and puzzle me. In the last few years, I've written an essay and given two short papers about More's history, and I have become more and more curious about it—and more and more frustrated. I found myself revisiting what I thought were simple questions: in fifteenth and sixteenth century England what was the criterion for kingship, so to speak; who, if anyone, chose a king; and when did someone become one? There are answers to these questions, of course: by right of inheritance, following the death of the previous king, upon coronation. But More's history, like the troubled course of kingship in fifteenth and sixteenth century England, belies such straightforward answers. And questions of this sort are an important subtext for More's work, although I cannot claim any special knowledge of English law. In fact, as I once told my husband, "I need to find some lawyers," so you can see just how providential Gerry's invitation was. I could not hope for a better audience.

In the spirit of transparency and due disclosure, I also must tell you that the title of my talk promises more than I could possibly deliver or you would want to hear. This is what I want to do. First, I'll show what the English and Latin versions of More's *History of Richard III* have in common. I'll use George Logan's reading edition, backed up by Richard Sylvester's edition in the Yale series, for the English version, and the text in volume 15 of the Yale edition of *The Complete Works of St. Thomas More*, edited by Daniel Kinney, for the Latin version. Then I'll point out differences between them, emphasizing their structure and design. Thirdly I'll discuss the three passages that William Rastell, More's nephew and the first editor of More's English Works, translated from Latin and inserted into the English version of the *History*. We don't know why Rastell chose these passages (there are other possibilities), but they do occur at strategic moments in More's work. The first one, near the end of Queen Elizabeth's eloquent speech in sanctuary (45), shows how alert More was to audience and structure and how apparently small changes in rhetoric can affect character and situation. The second, which Rastell inserted after Richard has both the princes in his power (48-51), offers one of two explanations for the alliance between Richard and Buckingham and says something,

by indirection, about significant shifts in focus between the two versions. The third passage, which is about Richard's III's accession (95-96), ends the Latin version. Its importance has gone largely unrecognized, but I think that this passage is especially interesting, because it highlights political questions that involve the author as well as the work.

The king's accession is essentially a legal occasion, while his coronation, which is primarily sacramental, customarily follows it. Generally we hear much more about the latter, with its sacraments and elaborate ceremony. But Richard III separated them and actually dated his reign from his accession day on June 26, when he appeared in Westminster Hall and sat himself on the throne of justice, rather than from July 6, when he was anointed and crowned in Westminster Abbey. Why did he do this? Why does More's Latin version emphasize his accession, while his English version omitted it and chronicles that included a version of More's history added a passage about the coronation, instead? What are the connections between Richard's accession and his repeated claims that he was *elected* (*that is, chosen*) by the people, a patently false claim that invites many legal and political questions? And what does this say about More's idea of the relation between the king and the people: who serves whom? But I anticipate.

The Latin version of *The History of Richard III* was published for the first time in 1565, just eight years after Rastell's English edition of 1557. But we know very little about the history of either one during More's lifetime. We don't know when he began writing them, why he chose to write two versions, and why he left them unfinished and unpublished in print form, although a number of manuscripts circulated in England and on the continent before the 1540s, when Hardyng and Halle included a version in their English chronicles. Rastell assigned the date 1513 to the English version, but most scholars prefer a period between 1514 and 1518, or even later, for the English and the Latin. For one thing, More's history is a humanist work, like his Latin epigrams and his *Utopia*, which date from about the same period. Indeed, I think that we could very well see his history as an exploration of the worst state of the commonwealth, and thus the antithesis of *Utopia*, which asks if there could be a better or best state and if so, what it might be like. There is also circumstantial evidence for a date after 1513. More is deeply indebted to Tacitus's *Annals*, and Daniel Kinney has identified the many verbal echoes between these and other classical works. But a manuscript with the first six books of the *Annals*, with the history of Tiberius, who is a clear predecessor of Richard, was only discovered or recovered in 1509 and first published in 1515 (CW 15, 613). Moreover, some of More's contemporary historical references date from 1515 and later. Earlier scholars, like Lumby, assumed that More wrote the Latin first, and then translated it into English. But today most editors agree that the two are not literal translations of each other but were written more or less concurrently. Note, though, that since Rastell's English version includes three translations from a Latin version (though one that is not extant), it is a composite text.

From a historical perspective, we can subsume both versions under the umbrella of "rhetorical historiography" (Logan, xxxi), emphasizing the *rhetorical* Hannah Gray usefully distinguishes this kind of humanist history from later historical writing, which aimed at a more "scientific" method: she explains that "The humanist

rhetoric of history did not visualize history as a method, as a system, or as a body of facts which could become tools for theoretical analysis. It visualized history rather as *historiae*, as facts given form and life through eloquence, and as moral types made concrete." (As quoted by Schellhase, 26-27; see n. 40; see also, Ren. Humanism) As a "rhetorical historian," then, More exploited the resources of language and rhetoric, shaping the facts and "facts" to create an indelible and frightening picture of a usurper king. Moreover, speech, description, interpretation, and dramatic narrative action are all filtered through a sophisticated and cagey narrative voice, about which we'll hear more later in this conference.

Nevertheless, Gray's characterization doesn't quite fit either version of More's *History of Richard III*. To begin with, More is concerned with the political as well as the moral, or, to be more precise, "moral" includes the political and goes far beyond any easily detachable exemplars or models, which, in any case, are negative. Moreover, Gray's discussion takes the humanists' generally optimistic or positive valuation of speech and *oratio* for granted. But even as More exploited the humanists' love of eloquence, he interrogated and parodied it, showing, both directly and indirectly, its limits, abuses, and dangers for the polis or kingdom. In a way we can even speak of "two rhetorics," rhetoric and eloquence as we experience these within the individual speech and passage, and the larger or macro rhetoric that emerges in the course of the work as a whole, generates irony and ambiguity, and complicates any interpretation of the text. We can see one way More does this if we juxtapose the narrator's showy eloquence and lavish praise of Edward IV, near the opening of the *History*, with Buckingham's savage, but equally rhetorical indictment of Edward later on. One overpraises; the other radically dispraises, offering an excellent instance of what we now know as "negative" campaigning. To what extent can either of these passages be trusted? Trust is a fundamental concern in both versions, but in reading them we discover that neither language nor action is necessarily trustworthy. Language itself is duplicitous and truth, though not relative in a postmodern sense, hard to discern, albeit essential for the wellbeing of any community. This is exactly the arena in which a rhetorician with a conscience, like More, flourishes.

So More's rhetoric (which I am using here in a broad sense) can raise more questions than it answers. Specifically, it invites troubling questions about the rhetorical as well as the other means that Richard employed as he set out to usurp the crown and insisted that he had been elected, that is chosen, by acclamation, notwithstanding the behavior of the populace, which saw through the various schemes of Richard, Buckingham, and the others. In effect, More's rhetoric operates on two levels throughout his histories, then. There is the obvious eloquence of the debates, sermon, proclamation, exchanges, etc. But this rhetoric fails or is repeatedly undercut by the presence or exercise of power at crucial moments within the story—as with the culmination of the exchanges between the Cardinal and Queen Elizabeth in the sanctuary scene, or the exchange between Edward and his mother over his predetermined notion to marry Elizabeth Gray, or the scene between Hastings and the Protector in the Tower. This makes for sometimes savage black humor and a tragic-comic mix that further complicates any interpretation of an already dense and difficult text. Ultimately, then, More uses rhetoric to reveal the frightening power of "power," which is manifested in what is

done rather than what is *said*, although, ironically, he does so by being a superb rhetorician.

As rhetorical history, the two versions necessarily have a lot in common. Their topics, style, and unusual mix of tones significantly overlap, so much so that Rastell felt comfortable translating passages from the Latin to fill what he treated as gaps in the English text. They also share sources that reflect More's immersion in Roman as well as English history and a lively interest in classical forms, although they resist any simple classification as to literary kind: they have been treated as history, biography, monograph, declamation, drama, and dramatic and/or satiric tragicomedy. In fact, it is almost impossible to talk about one of these kinds without involving others. More has isolated a particularly short and controversial reign, and biography is pervasive since he is more interested in Richard, his character, and his motivations than in simply narrating the story or in chronology as such.

Additionally, both versions have an unusual number of speakers and speeches, both direct and reported, which make up a much larger place in his texts than they do in either his classical models or in contemporary or near-contemporary accounts. Easily one third of More's Latin version consists of direct discourse. And Richard Sylvester has pointed out that "A good deal of what is 'original' in More comes in the fictionalized speeches . . ." (CW2, lxxix, n.3). To give you just one example: the Crowland Chronicle, an almost contemporary chronicle of Richard III's reign, has just a few lines, all narrative, on the sanctuary incident, while More invents a particularly powerful and dramatic scene. In fact, even the number of More's speakers is daunting: in addition to the narrator himself, with his various asides, there are something like twenty-four speakers (actually more, since some of these are unnamed groups). And these span the whole of English society, from King and Queen to the people at large, specifically Londoners, who may or may not have joined in the cry of "King Richard" at a crucial moment, but are usually silent or "murmuring" bystanders.

More often uses these speeches to highlight character and psychology—he seems less interested in narrative drive than in the persons as performers, who in some sense are playing a variety of roles. This means that his history is patently dramatic. Tending to think in terms of "scenes" and close-ups, More brings us much closer to the events being narrated, making us interested observers and a second audience, an effect magnified by the active presence of the unnamed narrator who frequently speaks to us and, for the English version, the orality of More's narrative style.

Nevertheless, there are differences, both small and large, between the two versions. Most obvious is the fact that More wrote his history in two languages—Latin and English. There are at least two, possibly more, reasons to explain why he chose to do this. He was fascinated by the nature of language, he was at home in both languages, and he made training in language and rhetoric a centerpiece of the "school" he directed for his children, wards, and others. We know that he had his children do double translation, for example, turning a piece from English to Latin and back again. So More could have begun the work as an experiment of a more sophisticated sort. What could he do in two very different languages—Latin and English—with essentially the same material? But it seems to me that his interest in the topic goes far beyond any notion of an experiment or a challenge, although it may include that. Both versions are too long, too sustained, and too deeply

researched (however much historians take issue with the “facts” the narrator offers) to characterize them as experiments. So I would argue that the existence of versions in two languages substantiates the importance of the story, character, and issues for More.

Secondly, that he wrote versions in two languages means that he had two different but overlapping audiences in mind. One would be a homegrown English readership, including but not limited to lawyers like his nephew, civil servants, clerics, other historians, and men and women from the nobility, the gentry, and the middling classes who had an interest in the history and politics of their own country. By contrast, the audience for the Latin version would be a somewhat more learned group, living both in England and on the continent. This would have been made up of men, for the most part, who knew their Latin well, and in many cases were professionals—hence fellow humanists, jurists and lawyers, clerics, administrators, and other civil servants. At the same time, the many fine adjustments in the Latin version, as in the Latin words for Parliament and law court, together with More’s frequent explanations of English places and customs, give it a more classical air and make it slightly less familiar. It is as if the writer stands a little further from the action at times, or has an anthropological sensibility. Likewise, the many classical allusions and verbal echoes thicken the texture of the Latin text and give it an extra and more “literary” dimension. By contrast, the English version can be more colloquial, if not downright homely, at some points, and what Lumby calls vaguely Euphuistic at others, and it relies more on alliteration and bold metaphors.

There are also striking differences in the design of each version, albeit More left both unfinished. Actually, I want to qualify this—and here I may be going out on a limb. The Latin version is technically unfinished; that is, it lacks certain dates, other details need to be tidied up, and Latinists have objected to its redundancy and awkwardness in phrasing. On the other hand, the action is so concentrated that its formal design seems to me complete. Unlike the extended classical histories of a Sallust or a Tacitus, the annals of English chronicles, or his own English version, the *Historia* covers less than three months (not counting flashbacks and prequels), from the death of Edward IV on April 9, 1483, to the accession of Richard III, on June 26—with his subsequent coronation in July treated (I think deliberately) as an afterthought and satiric put-down.

At the same time, the Latin version makes a perfect hundred and eighty degree turn to tell a doubly tragic-comic story that simultaneously rises and falls. It rises or “rises” as Richard neutralizes or eliminates possible rivals, cows the clergy, gathers allies through intimidation and/or promises of rewards, marshals military support from his Northern base, and manipulates public opinion (or tries to), until he takes possession of the throne of justice on June 26, about two and a half months after the death of Edward IV. Ironically, though, his rise is both a comic and a tragic fall. It is comic insofar as he and others become increasingly less adept at playing their parts or maintaining decorum, as when Richard arrives late for Dr. Shaa’s elaborate sermon praising him, while Dr. Shaa finds himself repeating the passage, thus ruining the planned effect of a “miracle” and rendering himself and the protector’s entrance absurd. There is a second kind of fall, as well, this one moral and political, as Richard abuses every aspect of the kingly ideal of justice and morality, all the

while dissembling his motives and playing the part of a good king—repeatedly claiming that he was following the law and had been elected by the people. This was a tragic fall for all of England. Richard’s abuse of power outdid the behavior of other king-usurpers, including that of his own brother, Edward IV. In this and other ways, More writes a regal tragi-comedy, mixing the two with frightening political implications.

By contrast with the Latin version, More’s English version is looser and closer at times to a traditional chronicle form, since it continues through the summer and early fall of 1483, breaking off with that famous exchange between Buckingham and Morton, which anticipates plots and rebellions to come. In fact, the English version promises to be longer still. At one point, for example, the narrator anticipates the death of King Richard and says he’ll return to this later. His language is gripping, a tour de force of alliteration, as he shows us Richard, “slain in the field, hacked and hewed of his enemies’ hands, harried on horseback dead, his hair in despite torn and tugged like a cur dog,” (101-102). So More seems to have envisioned the history of a complete reign, beginning with Edward IV’s death, and ending, less than three years later, with Richard’s humiliating death in battle and the triumph of Henry VII. He just might have had a circular representation of life, the popular image of Fortune at her Wheel, in the back of his mind. In that figure, Fortune turns her wheel while a figure claws his way up the wheel, is crowned at the very top, and subsequently tumbles off. In fact More had drawn upon a rehted framework earlier, in his *Pageant Verses*, by blending the circular stages of life from womb to tomb with Petrarch’s triumphs. (Chew, fig.36, 51, 52; my article.) But he had given himself a well-nigh impossible task here, even if he had had the leisure he always longed for. The intended scale is too ambitious for the kind of history that he was writing, with its many close ups and sustained dialogues and debates. He would have had to rely far more on chronology and narration of the sort we find in Polydore Vergil or the Crowland Chronicle to cover the entire reign, even a short one, without utterly exhausting himself and his readers. Moreover, although the description of Richard’s death is unforgettable, thanks to its alliterative runs, More was not much interested in martial history or battle scenes, preferring to focus on motivation and psychology. In addition, I think that More risked losing or at least blurring the focus of his English narrative, both formally and because history betrayed him, whether we think of the subsequent beheading of this Buckingham and a later one or the unhappy reign of Richard’s successor, Henry VII, whom More detested. In any case, in his English version, the design or “wheel,” to pick up the image I alluded to, stops abruptly just past the top, with inklings of plots and rebellions ahead.

I want to turn now to the three Latin passages that Rastell translated and inserted into More’s English version. And here I must pause a minute, to play detective. Rastell is very careful to mark where each of these passages begins and ends. But he does not explain why he has inserted them. That is, he does not say that there were actual gaps in the English text, although he is scrupulous in preserving blanks elsewhere. Rather, it seems that he set the English and Latin versions side by side, and noticed that the Latin passages had no English equivalent. Richard Sylvester suggests that Rastell wanted to preserve as much of More’s writing as he could. It is also possible, I think, that Rastell found these passages

particularly telling, since he could have chosen others.

In the first one, Queen Elizabeth recollects her earlier flight to sanctuary in Westminster Abbey and the birth of her older son, Edward V, there. Almost certainly More did not intend to include it in his English version, at least as we have it. George Logan's text and notes say as much: the Queen's speech reads more smoothly if we move from the preceding paragraph, where she determines that she is the younger brother's guardian, and that no one can remove him from sanctuary, to part of the original English text: "*Wherefore here intend I to kepe him*" (45).

I can only guess why More omitted it—and I look forward to hearing your ideas. Though the Queen's Latin is slightly redundant, it makes a strong emotional appeal. Here, where she gave birth to the heir to the throne while her husband was in exile, thirteen years earlier, she struggles to save his younger brother, and she speaks in elegant parallels with haunting rhythms, heightening the pathos of her situation even as she pleads by precedent, lawyer-like. Sylvester surmises that "More may have developed the passage only in his Lt. Version because he thought that the facts which the Queen relates were well enough known to an English audience" (CW2, 206, 39/7-24). This is plausible, but her speech is dramatic, not explanatory. This passage makes a fine emotional and rhetorical climax, and the Queen had every reason to allude to this earlier event, which had endeared her to Londoners. It seems to me, then, that at this point, at least, More's Latin speaking Queen is a more empathic or sympathetic character than his English speaking one, who seems more business-like, even calculating, given the innuendoes in the narrator's later description of her marital bargaining with Edward IV. More's English version seems to intensify a bad press, in other words, while Rastell just may have been responding as an Englishman, proud of the Queen's actions.

Rastell's second addition is more puzzling still, and almost certainly mistaken, since it is at odds with the alternative explanation for the alliance between Richard and Buckingham near the end of the English version, just as Buckingham is about to break it. From my point of view, it also distorts the focus of the English version and highlights, albeit unintentionally, the difference in structure between it and the Latin that I have already described. According to the Latin version, Richard approached Buckingham only after the relatives of the Queen had been arrested and he had seized both of King Edward's sons and placed them in the Tower of London. On the other hand, the English version claims that it was Buckingham who initiated the overtures, and that he did so *very* early on—just after Edward IV's funeral services. Both the initial impetus and the timing are different, then, and the reasons for the alliance between the two men correspondingly different. According to the Latin version, Buckingham, who had already shown impressive rhetorical skills in the debate about sanctuary, is partly intimidated, partly bribed, into working with Richard, who needs a clever partner and henchman for the political theatre that becomes increasingly important. On the other hand, the Buckingham who appears in the English version and precipitates the alliance is more ambitious and far less troubled by conscience. Similarly, it makes sense that Richard, who dominates the action throughout the Latin version, takes the initiative there; in the English version, however, Buckingham is about to emerge as a major threat to Richard as the narrative stops. In fact, I've simplified a more complicated story—More's narrator rather coyly hedges his bets and considers alternative explanations in both

versions. As he remarks elsewhere, "whoso divineth upon conjectures may as well shoot too far as too short" (12). But the dynamics of the plot and the narrator's voice, to the extent that we can trust it, support the case I'm making.

I turn now to Rastell's third addition, which follows an intense public relations campaign that was orchestrated by Richard, Buckingham, and the mayor of London to persuade the people that Edward V's claim to the throne by inheritance was invalid and that they should acclaim Richard as their king. First Dr. Shaa, a well-known preacher, then Buckingham himself, deliver well formulated speeches at St. Paul's Cross and the Guildhall, two important sites, one sacred, one sacred, for Londoners. Both Shaa and Buckingham claim, among other things, that Edward V was a bastard and that Richard is the only legitimate son of the Duke of York, and hence the only legitimate heir to the throne, while Shaa appeals to the Bible and Buckingham portrays Edward IV as the very epitome of a bad king, by contrast with the virtuous Protector. But Dr. Shaa's open-air sermon only renders him a laughing stock. More makes the most of a suitably rhetorical put-down and has the poor man dying soon afterward from humiliation and shame. And Buckingham's finely crafted speech does not fare much better; first he repeats it, then the recorder reads it, but it is greeted by silence each time—a devastating putdown for such an acclaimed orator. Indeed, the people stand "as men amazed" (89). Then Buckingham, perplexed by such "marvelous obstinate silence," (89), asks more directly still, and now some of his servants and those of John Nesfield, along with a few apprentices at the lower end of the hall, recognize their cue and cry out "King Richard! King Richard!" (89). "And when the duke and the mayor saw his manner, they wisely turned it to their purpose and said it was a goodly cry and a joyful to hear, every man with one voice, no man saying nay." (89-90)

After this we have the scene at Baynard's Castle, which again seems to function both literally and symbolically, as a fortress and thus an image of power. Edward IV had earlier accepted the people's acclamation there, and their mother—the woman Richard has been so busily impugning—is living there. Now Buckingham begs the protector to assume the heavy and unwanted burden of kingship, having been nominated by the unanimous consent of the people, and Richard oh-so-reluctantly accedes to his petition. And here, as earlier, More directs our attention to the responses of the people. While the nobles go inside with the king (so called from that hour), almost certainly to engage in behind the scene maneuvers, the people head for home and comment on the show that they have just observed. Some are insulted; "there was no man so dull that heard them but he perceived well enough that all the matter was made between them," (94), that is, prearranged. Others treat it as a ceremonial convention, by analogy with the consecration of a bishop, or compare it to a stage-play, where the sultan is played by a shoemaker (94). Thus More deviously strips the tyrant of his clothes, while pretending the reverse, since the people observe that "these matters be kings' games, as it were stage plays, and for the more part played upon scaffolds. In which poor men be but lookers on." (95) It is the part of a prudent person to pretend not to know what one knows, but what they have seen is a regal tragicomedy, and to take action would disrupt the drama and land themselves in great danger.

I am sorry to summarize some of More's most deliciously comic (and ominous) scenes so briefly. But I need to move on to Rastell's insertion, which begins by

describing Richard's passage through London to Westminster Hall on the next day, June 26. There, "when he had placed himself in the Court of the King's Bench, [he] declared to the audience that he would take upon him the crown in that place there where the king himself sitteth and ministreth the law, because he considered that it was the chiefest duty of a king to minister the laws" (95). Richard follows this up with an oration, designed "to win unto him the nobles, the merchants, the artificers, and in conclusion, all kinds of men, but specially the lawyers of this realm" (95). And he follows this with a theatrical demonstration of his charity, as he takes the hand of one Fogg, "whom he had long deadly hated," having had him brought out of sanctuary, where he had fled for safety. Since Fogg was actually removed from sanctuary on June 28, More is enlarging the accession scene so as to emphasize its absurdity and theatricality.

This third insertion (the actual end of the Latin version) concludes with a very brief description of the coronation. "And that solemnity was furnished for the most part with the selfsame provision that was appointed for the coronation of his nephew (96). In fact, the coronation was spectacular—"unsurpassed by any of his predecessors," according to James Gairdner's treatment of these events. Wardrobe accounts of the time confirm the partial truth of More's claim—some of the gowns designed for the attendants of Edward V were remade for Richard's coronation. But More is also dramatizing how, in every way, Richard appropriated the property and the inheritance of the nephew whom he was charged with protecting, whose crown he usurped, whom he had "disappeared," and whom he is thought to have had murdered.

A lawyer himself, Rastell would have been particularly interested in this scene. Certainly he was correct in thinking that the English edition needed something about the accession and coronation. Otherwise, there is an inexplicable gap between the scene at Baynard's Castle on June 25 and the events narrated in the English version after June 26. And it seems inconceivable that More would omit any description of the culmination of Richard's plots and design to seize the crown. All the same, I think that More must have left a gap in his English version, if not literally, then metaphorically. For it's a big jump—too big a jump—to the beginning of the next section of the English version, which begins, "Now fell there mischiefs thick" (96). It looks to me as if More had not decided how to handle the accession and coronation in his English version or had second thoughts. The accession scene not only highlights troubling questions about the law but was potentially very dangerous, touching so directly on the king's matters. In any case, the Latin version that Rastell translates does not really work once inserted into the English version. To downplay the coronation makes perfect sense as a final derogatory flourish in the Latin, but rhetorically is far too emphatic a closure for the ongoing English narrative.

I need to return to this insertion, however, because it raises so many questions. More must have known when Richard's coronation occurred, which means that he has deliberately exaggerated the delay; in one Latin text he makes it close to a month later, when there were only ten days between the accession and the coronation. I think that this was yet another way for him to call attention to Richard's accession and the claims he made there. In fact the separation of the accession and coronation was not typical in pre-sixteenth century England,

according to A. J. Armstrong, whose fascinating reconstruction of the ceremonies and politics of the Yorkist kings I am following here. Normally the accession of the king in Westminster Hall happened just prior to his procession to the Abbey for his sacramental anointing. But Richard III was following a pattern initiated, ironically, by his brother, Edward IV, who was also a usurper. Armstrong puts it bluntly: "whereas in a regular coronation the enthronement on the King's Bench was, however impressive, a subordinate moment because a prelude to the anointing, for Edward IV and Richard III, who literally made their way to the throne, elevation accompanied by acclamation was of supreme significance, recalling the legendary days when Teutonic chiefs were raised upon the shield." He adds, "The enthronization in the great hall unambiguously announced the taking possession of the realm," for here was "the heir of England seated on the King's Bench, that place from which the law-giving virtues of the Crown could be held to emanate . . ." This illegal seizure, in the very place where law was based, is, of course, what More wants to emphasize.

An important corollary needs reiteration. The accession was primarily a secular enthronement, unlike the sacramental one in the Abbey. And the issues involved are primarily legal and judicial—this was a way for Richard, like Edward before him, to establish a legal (or quasi-legal) case for his possession of the crown, so that it would be seen as both *de jure* and *de facto*. So More both shows and mocks a political act, driven by the exercise of power, as he traces the stratagems and ceremonies formulated by Richard to compensate for his lack of a prescriptive right to the throne.

More was on firm historical ground here; his hyperbolic black comedy ridicules what other chroniclers reported in more measured terms. Richard was unpopular with the populace, and his propaganda campaign was a failure, even though a similar one had succeeded when his brother usurped the throne, or, as Buckingham so delicately puts it, "anticipated the time of his inheritance" and "attained the crown by battle" (83). According to a recent biographer, in fact, "The cardinal issue in Richard III's reign was his urgent need to attract support wherever and by whatever means he could find it. Never before had a king usurped the throne with so slender a base of committed support from the nobility and gentry as a whole, or with so little popular enthusiasm" (Ross 147). Thus Richard had good reason to want to "win unto him the nobles, the merchants, the artificers, and, in conclusion, all kind of men, but specially the lawyers of this realm" (95). Nor is it surprising that Richard looked to Parliament the next year for validation of obviously shaky claims—claims that were in fact softened.

I want to underscore a related issue—namely the question of election and/or acclamation by the people. This is obviously a specious claim in Richard's case. But it is telling that he makes it. Some idea of election and a role for the people seems to have been very much in the air in the late fifteenth and the earlier sixteenth centuries. At least two other contemporary accounts, Polydore Vergil's and Hardyng's, use similar language with respect to the election of Henry VII on the battlefield, following his defeat of Richard III. Hardyng puts it this way: "The multitude in the meane time with one voyce and one minde proclaimed him [Henry, Duke of Richmond] kyng. When Thomas Stanley sawe that, he toke kyng Richearde his croune whiche was founde emongest the spoile, and by and by put it vpon

Henries hed as though he had been then created kyng by the eleccion of the people as it was wont to be in the old tyme, and this was the first token of his felicity" (126; cf. Vergil, 226).

Even more striking is the way that More repeatedly emphasizes the stubborn, albeit passive, resistance of the people to the claims made by and for Richard. While a few nobles and at least one cleric offer some slight resistance to him, it is the people, with very few exceptions, who deny Richard's claims or at least refuse to participate, instead remaining silent observers. Their passive resistance, admittedly prudent, nevertheless calls into question the very grounds on which Richard claimed the kingship. And it suggests that the people have some voice, since even Richard and Buckingham try to win their support. So More's history, like some of his political epigrams, shows both his loathing for the bad king or tyrant and his sympathy for the people. There are rhetorical similarities as well; in both epigrams and history More likes to use a very simple observer to observe that the emperor has no clothes. Similarly, Richard's repeated attempts to gain the people's acclamation imply that no king rules absolutely, but has obligations to the people whom he is supposed to serve. Richard himself mouths and perverts these obligations, which More emphasizes in the Latin text that Kinney edits. For after Richard declares his intention to carry out the laws, he adds that he does this because "to act as their [the people's] servant was the essence of kingship" (CW 15, 485).

It is more than time to respond to the third part of my title: Why two versions of More's *Richard III*? My answer should be obvious: the story of Richard III allowed More to explore and dramatize some of the most troublesome and critical ethical and political questions facing his or any commonwealth. And he was not alone in his concerns: witness the writings of fellow humanists, like Erasmus. For these reasons, he would have wanted as broad a readership as possible, hence two languages and two versions. Other differences naturally follow. In writing in Latin, More could build a tessellated text that would appeal to a sophisticated and highly literate audience, and construct a classically shaped and disciplined narrative with its many imagined speeches. By contrast, his English version would appeal more to a native audience, familiar with English chronicles and English history, and probably more interested in narrative generally—narrative that in England has a long tradition of mixed genres rather than classical unities.

But this raises other questions. If More thought his history was that important, why didn't he finish it and see to it that either or both versions were printed? Yale's editors offer two possible reasons. Many powerful descendants of the nobles who appear in More's history were very much alive in the second decade of the sixteenth century, and the portrayals of their ancestors are hardly flattering (CW2, lxix). And More's history was dangerous, insofar as it might be read (I think quite mistakenly) as a handbook for would-be tyrants, or, more specifically, as encouragement to a later Duke of Buckingham (CW2 ciii-civ; cf. Pollard).

I want to turn this question around. While More did not have his work printed, it did circulate in manuscript—presumably to an inner circle or coterie in England and on the continent. In any case, how on earth could he have had it printed for general circulation by 1518 or later, even if he had finished it? For the Tudor kings generally, and for Henry VIII specifically, whose ambitions led to the development

of an imperial kingship, such an emphasis on law and the will of the people surely would have been very suspect indeed, even subversive, especially when More himself was already involved in the king's business and hoping to be more so. I also think that More's history was intrinsically dangerous in ways that other contemporary accounts are not. It insists that kings should serve the people, and offers no example of a good king, only examples of more or less bad ones. Finally, it boldly deconstructs the mystery or mystique of kingship and other authority, whether secular or clerical. And More does this in a most interesting way. Other chronicles and accounts say more about the actual troops or show of force that accompanied the Cardinal or Richard. For instance, Polydore Vergil, whose hardly unbiased account was commissioned, so to speak, by Henry VII, writes how "Richard duke of Glocester, as though the terryfyed judges had decreyd of his syde, rode the next day after from the Towr through the myddest of the cytie unto Westmynster, in robes royall, and gardyd with fyrme force of armyd men, syttinge in the royall seat." (186) More's narrative does not ignore the presence of force. But More often prefers to use rhetoric to uncover the *modus operandi* of power and to show political theatre for the tragi-comic "game" or performance it is, one which can end on the scaffold, and in More's case, did. So he also shows us just how seductive, omnipresent, and dangerous it is. No one in his *History of Richard III* seems to be altogether exempt from the lure of power, with the partial exception of Jane Shore, whose many kindnesses go unrewarded; Sir Robert Brackenbury, the constable of the Tower (who refused to put the two princes to death); and most of the populace at large, who are concerned with self-preservation. And that is what makes More's history such a very powerful and disturbing work, one that is, unfortunately, just as relevant today.

**“Differing Designs, Differing Rhetorics:
Why Two Versions of More’s *Richard III*?”
— Questions and Discussion
with Dr. Elizabeth McCutcheon**

Gerard Wegemer: Do you trust the narrator? Do you trust him in one part or another more?

Elizabeth McCutcheon: He’s cagey. He’s very cagey. The whole thing is a construct. More has taken the facts and shaped them; he’s worked them, so it is very difficult to know where to stand with that narrator. You could check the narrator against the facts. Some of them, no one knows. The Buckingham-Richard alliance is obviously one that—they didn’t have tape recorders then, they didn’t have Bob Woodward. (laughter) So, you know, they’re coming to speculate all of them, and it could have gone either way, as the narrator suggests. So, it’s a murky business, politics, in the 16th century and politics today, and the narrator is watching his p’s and q’s as well.

Clarence Miller: Is he not establishing himself as the credible narrator by being willing to admit that he does not know, and that it is not known, and that it could be one way or it could be another. That is, it could be called cagey, but it could be, simply, that I’m trying to be as honest as I can, no?

McCutcheon: Well, yes and no. More had to know when the coronation was, and the narrator purports not to know, or he misinforms. Now, coronation dates are something that, if you grow up in a country with a king, you *know*.

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Miller: But there are striking things, striking inaccuracies, you know that the age of Edward, and things like that...that could be...I don’t know how that could happen unless its just haste, carelessness, would be corrected later...that kind of thing.

McCutcheon: I have trouble, at times, distinguishing between More’s hyperbole, which is very real. He loves to play with under- and over-statement, and for a good rhetorical position, the king should be older than he is, in a sense. In the beginning, he wants an older, kinder king. I read an interesting article lately, which is arguing that Edward IV had one thing really going for him: that the common people did like him. And that comes out in that early speech, so, even there, its hyperbole, its exaggerated. Buckingham is probably more correct about certain things, and yet, if you think of the role of the people, that early stress on Edward IV didn’t have that mystique of kingship apparently that Richard was aiming for. I mean, Edward IV married a commoner, or, at least, not royalty, and when he went hunting, he invited people to join him, and Richard didn’t do that. Richard, actually, apparently, its historical fact, Richard did go around with a crown on his head, and that crown was found on the battlefield at Bosworth and was placed on Henry VII. Richard was very anxious to establish his authority, and on his processions, on his progresses, he’s wearing a crown. Apparently, Edward IV didn’t do that. So the common touch seems to be a part of it. So, it’s very hard to separate out these strands.

Miller: I think he did, occasionally, leave blanks that he wanted to fill in later, check dates, and things like that, but something as important as the coronation, you don’t forget that.

McCutcheon: Yes, you don’t forget the coronation. And he gives different dates for it in the different Latin versions. It’s very strange.

Miller: But you seem to be suggesting that the Latin one is rounder in a way. That the English is not. Obviously, the English is going to go on after that, but that the Latin had reached a type of period.

McCutcheon: That’s my feeling about it. As I say, I’m going out on a limb on that, but it makes a very nice—whether it was accident or deliberate—it makes a nice stopping point, especially the way he treats the coronation because that is very different from the way that the other chroniclers treat it. It is obviously a put-down. It’s a satiric trick. It’s kind of like what Milton does later when, after Satan goes back to Hell and Adam and Eve have fallen, and he’s telling his troops how wonderful everything is, and he’s expecting applause, and instead the troops turn into snakes and they all go, “Hissssss.” And something like that is happening. The coronation, which should have been the high point, is just a kind of afterthought. And that’s a real slam at Richard.

Miller: The fullness...you think of the Cataline and the lyrical thing; they also have a kind of, they come to a kind of end. And the Latin, you can think of it as coming

to a kind of end, whereas the English seems to go on. But you made another point when you were talking earlier about Buckingham because in the early 1520's another Buckingham got his head cut off, and whether More thought that this was time to stop playing the game of kings.

McCutcheon: I'd like to know more about More and that Buckingham because in *The Four Last Things*, More is very upset by that beheading of the Buckingham in the early 1520s, and Collard made that point a long time ago, and I think there's some truth to it because he's shaken by it, in a way.

Miller: He wants the reader of *The Four Last Things* to be shaken by it also. This very powerful man is suddenly...

McCutcheon: Right. Right.

Mary: I was wondering if there is anything to the fact that in More's day the word "History" could mean "Story," and the word "Story" could mean "History." I wonder if in the Humanist idea of History, you were supposed to be creative from time to time. And I noticed that two of the names that he got wrong, supposedly the first names, Hastings and Joseph, the names that he substituted were Edward and Richard. One guy's real name was William.

McCutcheon: Yes. Shaw. I think he gets the preacher's first name wrong.

Mary: I wonder if when he made Hastings' name—one of them he made Edward and the other one he made Richard—was there a point to that, maybe?

McCutcheon: Well, I think More was a poet, as Erasmus says. And I think he was extremely creative. And he is writing in a time when he, in particular, is interested in fiction and fictionalizing. Dr. Logan talked about that in those wonderful episodes in the first book of the *Utopia*. And that fiction actually is uncannily close to fact. It can move either way. You can take fact and turn it into fiction, or you can take fiction that really is fact, and he plays with those, and its related to his stage metaphor of life is a stage-play metaphor, too.

Mary: Could More have meant that to play with the facts is okay, as long as you just don't slander anybody?

McCutcheon: Some people would say that he slandered Richard. There is a fierce debate going on about Richard III, but for More he is clearly a usurper king, almost as Dr. Logan pointed out, this tyrant theme, but unfortunately not the only one, you see, Edward IV was a usurper, Henry VII was a usurper...

Audience: Henry IV was a usurper.

McCutcheon: I know. English history is not very happy at this period.

Audience: Thank you very much. One of the parts of the psychology that I find

least believable is the part with Edward IV's speech expecting everybody to be reconciled and to play nice. I'm wondering if you could comment on the psychology of it, if you have any thoughts, and particularly what I'm thinking about is, as we've been trying to discuss the rhetorical strategy of More, is it possible that maybe what this is, is what we have is somebody who didn't take care enough to secure the protection and then finds himself at death's door and needs to do what he can, but doesn't take decisive enough action, but that, in a way, the rhetorical presentation of it may be, in addition to whatever of historical fact there is, that what this is in that episode and in many other episodes, is more a meditation on kingship, not a meditation on how to be a tyrant, but a meditation on how easily it is to fail to rise to the challenges of statecraft and of kingship.

McCutcheon: Let me back up a bit. The real Edward died unexpectedly. He was relatively young, and they didn't really expect him to die. Now, More complicates this by making him older and thus, presumably, should have made more plans. I see it really the way Dr. Logan talked about it this afternoon where, ominously, the king is describing a situation which happens and which foreshadows a lot of the action to come. And I don't know that I can address the particular question you're asking because I haven't read it that way, truthfully, except that, Edward's speech is not listened to by the people around him. So, from the very beginning, you have something being said and the people; the nobles around him feign friendship, which, in fact, is false. So that false note is struck from the very beginning. And that's important.

Logan: The whole scene is very artificial. The speech is quite artificial; here's a guy almost on the point of death, who speaks in beautifully symmetric sentences and so on, who's spry and who makes jokes that he'll soon be in that place that all the preachers are talking about, and he laughs that he knows more about it than they do. And of course the audience is artificial too. He is giving an unbelievable deathbed oration. I don't think people on their deathbed talk like that; of course, not many people can talk that way even when they're in the prime of health, it's such a beautifully crafted speech.

McCutcheon: In a way its like opera, isn't it? Opera is beautiful, even when people are dying.

Logan: That's really a good parallel. This is not something out of real life at all. It is something out of a heightened version of life. And again, this is typical of the genre. These people are always giving these wonderfully eloquent speeches in histories of this kind. And, of course, if the speech and the speakers are artificial, the audience is artificial too. They are not really paying a bit of attention; they are only paying attention in that they say the polite thing. More says they say what they thought at the time, but they are not really listening. They do not intend to change their behavior one little bit. Two things: one, the response of the audience suggests what the courts are like. Hythloday's remarks on courts of *Utopia* certainly forms a nice gloss on the courtly behavior in *Richard III*: they're all self-serving sycophants. All are ambitious for themselves. Two, regarding the artificiality of Edward's speech, what it's really *there* for is for thematic purposes. What More wants there is

a prediction—an accurate, detailed prediction—of what exactly is going to come true, and it just happens that Edward is the vehicle for that prediction. His other choice would have been to say it as narrator, but he decided it would be more dramatic to have it come from a dying king. And it also gave him the opportunity to imitate a classical passage—a passage in Sallust’s *Jugurtha* that I quote in the edition.

McCutcheon: There’s another factor, which is this taste for rhetoric. There are incidents in the Renaissance where someone was preaching for three hours, and at the end of it he stops, and people say, “No! No! Continue!” It is hard to imagine any audience today responding in that way. They lapped up rhetoric. It’s hard for us because we have phonographs, we have radios, we have ipods, we have all this stuff surrounding us, but there, they had the human voice, and the music, and the street cries. They are tuned in a different way, orally, and it may not have seemed quite so artificial to them as it does to us, although there is obviously convention there, too. It is hard to put yourself back. I did a little study of a lady-in-waiting at the court of Elizabeth, and, unusually, she is not writing letters of suit; she is writing letters back to her family reporting on what is going on at court. And she will report that the Lord Admiral came up to her and asked her something, and said that he was “her good friend,” and “friend” is a cold word at this time. Friends are allies, friends are people who are going to do favors for you, or who want you to do a favor for them. And at the end of this little exchange, she says to her father, “I will walk very warily. I spoke no more to him that day.” And that walking very warily is what the narrator is doing, what More doubtlessly did, what I think everyone had to do in that court situation; it’s very scary, very scary stuff. There were spies all around, I’m sure the ambassadors are writing back and forth. Look at Hastings trusting Catesby and getting upended. You just have this terrifying... I think of Skeleton Scoosier’s court. Skeleton really gets at that anxiety and fear of that poor courtier who doesn’t know which end is up. It was a dangerous game to play, no matter how you played it.

Matthew Mehan: How do you trust the narrator in getting the coronation date dead wrong, emphatically, several times. I wonder if there is a relationship between that, if it is intentional and not a mistake or inclusion at the end, and the intentionally getting it wrong that we see over and over again, as the process that the Londoners say, maybe its king’s games. They come up with various reasons why they ought not to say anything, why they ought not to get involved. And even the narrator provides various excuses for why they did not speak, whether it’s from awe, or looking around hopefully to let anyone else speak first, or fear. I wonder if there is an analogue to the narrator’s getting facts wrong, or whether there is a relationship there, and it may be carefulness and then the Londoners saying to themselves, “Let’s get it wrong so that we don’t have to get it right.”

McCutcheon: I think some of the facts that he gets wrong are just haste. On the coronation, that is a different kind of mistake. But you are also asking, or seeming to suggest that the people should have responded differently?

Mehan: Not necessarily that they should have responded differently, but that whether there was a response at all, maybe silence was the best move, but that

afterward then they have to interpret their silence, and they clearly did not interpret their silence honestly. It was fear; whereas, its “Well, no, it’s actually this process and I have no place.” They would have been afraid if they had had no place. So there would have been no fear if they had had this option to speak. So there is this sort of fear, this sort of getting it wrong on purpose that there is in politics.

McCutcheon: I don’t know that they get it wrong. They are playing a part that they feel safe about. Is that the same as getting it wrong?

Mehan: The Londoners say, “Well, we don’t want to get up there because we’re afraid they’ll smack us on the head.” But, it’s not because it’s a show; rather, it’s because of the smack on the head that they are worried about marring the play. It’s not that they want the art to continue but that they don’t want to get hit on the head.

McCutcheon: I don’t know if I’m understanding you. I think they are afraid of being hurt. There is a class thing operating here. There are nobles and the mayor, and different power groups are all opposed to the king. No one asked me who these people are. It’s easier to say who they are not than who they are. The narrator slithers a little bit on who these people are. At times, he is not just talking to the servants. The people are what we would call the common man, the citizens, or people living comfortably enough but have no notion of really rising in the world, and they are playing it safe. And in this world, that is a sensible position to play. It is not a happy position to play. Two hundred years later, we might call it “people power” which is a fit anachronism.

Thomas More on Tyranny¹

George M. Logan²

The first biography of More—just a nine-page sketch—appears in a 1519 letter of Erasmus, the great Dutch humanistic scholar who was the preeminent public intellectual of the early sixteenth century. By 1519, Erasmus had known More for twenty years, and, among other points of contact, had coauthored a book with him in 1505-6 and had drafted his satiric masterpiece, *The Praise of Folly*, while a guest in More's house in 1509. So Erasmus spoke with the authority of long acquaintance when he said, in the biographical sketch, that More “has *always* had a special hatred for tyranny.”

And indeed there is much evidence, in More's writings, that this was the case. The book he wrote with Erasmus was a collection of translations, from Greek into Latin: a collection of short works by the second-century A.D. satirist Lucian, and for it More and Erasmus each wrote a translation of Lucian's declamation “Tyrannicide,” and a response to it. Moreover, tyranny is the subject most frequently treated in the 280 or so Latin epigrams—that is, short, pointed poems—that More wrote in the years roughly 1500-1520—that is, in his twenties and thirties: see the “Poems on Politics” that the Center has made available to us online. Most important, tyranny is, as we shall see in detail in a few minutes, arguably the central concern of *Utopia*—published in 1516—and *inarguably* the central concern of More's other great political work—which was written around the same time—, *The History of King Richard the Third*.

Exactly what did More mean by tyranny? More was a Renaissance humanist, steeped in classical Greek and Latin, so it is safe to assume that the term encompassed for him the usual senses that it carried in those languages—which are, moreover, its senses in the English of More's time. The English word “tyrant” derives, via French, from the Latin “tyrannus,” which in turn transliterates a Greek

word. In these classical languages, “tyrant” means an absolute ruler, especially one who gains power by extra-legal means—by usurping it. The term is, though, not necessarily pejorative: it can designate *any* holder of absolute power. Vergil, for example, applies it to Aeneas. The great *Oxford English Dictionary* documents the fact that “tyrant” had these same senses in sixteenth-century English: “usurper”; “despot”; and the morally neutral “absolute ruler.”

In one particular genre of classical writing—political theory—, though, which developed in the participatory, constitutional governmental milieu of Athens, “tyrant” is *always* a pejorative term, opposed to “king”—*good* monarch. In these writings, the tyrant is associated with various bad traits of character and various kinds of bad behavior—most of these the behaviors that we ourselves associate with tyrants—, but what I'm particularly interested in here is one simple, low-threshold criterion for tyranny, enunciated by Aristotle. Elaborating on a passage in Plato's *Statesman* [31], Aristotle promulgated [*Nicomachean Ethics* 1160] a six-fold classification of governments, divided into three pairs, each of them opposing a law-abiding good form to its lawless, despotic version: aristocracy versus oligarchy, constitutional democracy versus mobocracy, and kingship versus tyranny. Aristotle's analysis of tyranny is characteristically systematic and detailed. He is, for one thing, very clear on the defining difference between a king and a tyrant: the difference is that a king rules in the interest of the people, and a tyrant in the interest of *himself*: “tyranny is monarchy ruling in the interest of the monarch” [*Politics* 1279b; cf. *N.E.* 1160a-b]. Aristotle also expresses this difference metaphorically: the rule of a king over his subjects is like the relationship of a (good) father to his children, whereas the rule of a tyrant is like the relationship of a master to his slaves; alternatively, the relationship of a king to his subjects is like that of a shepherd to his flock.

Centuries later, Aristotle's simple, economical definition of tyranny was propagated in medieval scholastic philosophy; and in Britain it is in evidence near the time of More's birth, notably in writings of the pre-eminent political thinker of fifteenth-century England, Sir John Fortescue, chief justice of the Court of King's Bench.

For More, too, this is clearly the central meaning of “tyrant”: his conception of the difference between a true king and a tyrant is precisely Aristotle's, right down to the metaphors. In one of the Latin epigrams, No.120, the true king is pronounced to be safe among his people, because “they judge none other would promote their interests better.” By contrast, in No.198, a bad king “feels that the people were created for him so that...he may have subjects to rule.” And the metaphors: in No.109, “The Difference between a Tyrant and a King”: “A king[,] who respects the law[,] differs from a cruel tyrant thus: a tyrant rules his subjects as slaves, a king thinks of his as his own children.” And No.115, “On Kings, Good and Bad,” changing Aristotle's shepherd to sheepdog: “What is a good king? He is a watchdog, guardian of the flock, who by barking keeps the wolves from the sheep. What is the bad king? He is the wolf.”

With this conception of the difference between true kings and tyrants in his mind, what do you suppose the monarchies of Europe looked like to More? Right. At the end of *Utopia*, Raphael Hythloday—the fictional character who in the second section of that work (called “*Book 2*”) delivers the account of the fictitious newly discovered island commonwealth of *Utopia*—makes it forcefully and memorably

¹ The following is a lightly edited transcription of Dr. Logan's talk at the 2006 conference.

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clear what *he* thinks of the governments of Europe: “When I consider and turn over in my mind the various commonwealths flourishing today”—i.e., all of them—“so help me God, I can see in them nothing but a conspiracy of the rich, who are advancing their own interests under the name and title of the commonwealth” [105—here as elsewhere, quoting Logan/Adams edition (2002)]: not *purely* tyrannies, as the word “conspiracy” implies—there’s more than one rich person, not just the king, in most or all of these countries—but a deadly combination of *two* of the corrupt forms of government, tyranny and oligarchy. (Aristotle had stressed that both tyrants and oligarchs are marked by what he calls their “aim and end of amassing wealth” [*Pol.* 1310b]. It’s not hard to think of examples.)

The fact that Hythloday regards the European states as pernicious combinations of tyranny and oligarchy doesn’t necessarily mean that *More* did: if there is one central, well-established point in modern criticism of *Utopia*, it is that we cannot simply *assume* that Hythloday always speaks for *More*. But in fact the identity of their views on this particular point is surely confirmed when we examine the treatment of the European states in the rest of *Utopia*.

Book 1 of *Utopia* is a dialogue—debate—on the question of whether Hythloday should engage with practical politics—as distinguished from political theory—by joining a king’s council. This is just a fictionalized way of exploring the general question of whether people like *More* and Erasmus—that is, humanist sages—should take this step. The “pro” position is argued by *More* himself—more precisely, by a somewhat simplified, mildly fictionalized version of himself. *More* argues that people like Hythloday can do some good by counselling rulers, and that it is therefore their duty to do so. The “con” position is taken by Hythloday, whose argument is that it is useless for people like himself to join a royal council (roughly equivalent, in that monarchy-dominated era, to what would now be taking a job in the White House). He offers two principal reasons for his position. First, most kings “apply themselves to the arts of war, in which I have neither ability nor interest, instead of to the good arts of peace” [14]. Second, kings’ councils are populated by “people who envy everyone else and admire only themselves,” and whose only object is to ingratiate themselves with their superiors, so that no genuine exchange of ideas goes on in councils.

Like other humanists, Hythloday is fond of proving his points by examples, and so he supports his position here by recounting at length a conversation that took place, he says, around 1497, at the dinner table of John Cardinal Morton, who was Henry VII’s Lord Chancellor. (In fact, *More* made up the conversation, though surely he had heard some similar ones, perhaps actually at Morton’s table, since he had *waited* table there during the two year’s when he had been a page in Morton’s household.)

The conversation that Hythloday quotes verbatim—which is thus a dialogue *within* the dialogue on whether he should join a royal council—is on the subject of English criminal justice; in particular, why the punishment for theft (for theft of any size, the punishment is hanging: one strike and you’re out) is not working. The dialogue opens with an observation, by a pompous lawyer at Morton’s table, that although thieves are “being executed everywhere, . . . with as many as twenty at a time being hanged on a single gallows” [15], the incidence of theft is undiminished. (*More*, voted “lawyer of the millennium” in a 1999 poll of British lawyers, has nothing good to say about lawyers in *Utopia*.) The position that Hythloday reports

himself as having taken on the punishment of thieves—and *here* there is nothing to suggest that he’s not speaking for the author—is that capital punishment is simply not a good solution to the problem of theft, not only because this punishment is morally wrong (in view especially of “Thou shalt not kill”) but also because it’s bound to be ineffective, since it attacks the symptoms of the problem but not its causes.

Hythloday’s purpose in recounting the conversation at Cardinal Morton’s is to illustrate—in the dismissive response, to his ideas, of the lawyer and the rest of those in attendance on the chancellor—that no real exchange of ideas goes on in councils. But the *author’s* purposes are broader than those of his character Hythloday, and this episode of *Utopia* is *primarily* interesting for its analysis of the ills of English society, into which (as in other societies), issues of crime and punishment provide a window. The root cause of most theft, Hythloday reports himself as having argued at Morton’s, is not thieves, but the nature of the English social and governmental system, which, not checking the greed and vanity of the upper classes and thus countenancing a grossly inequitable distribution of wealth, forces some poor people to *become* thieves—that is, in order to feed themselves and their families. Not *all* theft is the result of poverty—it’s not as if *More* didn’t believe in Original Sin—but much of it is. As a consequence of existing law, and of the unfettered ability of the strong to make themselves richer at the expense of the weak, many of the poor are, as Hythloday terribly says, “driven to the awful necessity of stealing and then dying for it” [16]. This is a perfectly accurate assessment of the situation at the time.

Obviously the person in the best position to do something about this situation is the king—Henry VII, at the time of the supposed debate—, as he certainly would if he were a *true* king—that is, one who ruled in the interest of all the people. But Hythloday does not say one word about the king—though *More* despised Henry VII, and certainly regarded him as a tyrant. (*More’s* attitude toward Henry is abundantly clear from the Latin poem he wrote on the occasion of the king’s death in 1509 and the accession of his son: “This day”—that is, the day of Henry *VIII’s* coronation—“is the limit of our slavery, the beginning of our freedom.”) But by 1516, when he wrote Book 1 of *Utopia*, *More* evidently thought it just as well not to directly criticize the father of the current ruler, even through the voice of a fictional character distinguished from himself. So instead, in Book 1, he explicitly blames only a bad law and the *rest* of the rich: the oligarchs—the bad eggs among the nobility and gentry, and some leaders of the clergy.

But if *More* didn’t feel free, in *Utopia*, to write openly about Henry VII as a tyrant, and in 1516 still thought Henry *VIII* was a *good* king, he felt perfectly free to characterize other European monarchs as tyrants—especially the kings of England’s old enemy France.

When Hythloday concludes his account of the debate at Morton’s, he finds that *More*—that is, the character *More*—agrees with everything he has said. But *More* still doesn’t agree with the conclusion that Hythloday draws from his example, namely, that there would be no point in his joining a royal council. So Hythloday tries to persuade him with two further examples: in this case, accounts of two meetings of particular royal councils—fictional accounts, and developed as satire, but in essence all too realistic, just as his account of English criminal justice had been.

The first of these additional examples is an account of a meeting of the council of the king of France: Hythloday doesn't specify which one, but what he says about this king seems to point especially to the one actually reigning at the time More wrote, Francis I. In the classical theory of the tyrant, one of the hallmarks of tyrants is their taste for war, and of course the fact that "most...[kings] apply themselves to the arts of war" was the first reason Hythloday offered for not wanting to join a council. In Hythloday's example, the king of France has a truly boundless interest in war. The imagined council meeting that Hythloday narrates is one on foreign policy—that is, one in which "all...[the] king's most judicious councillors [are] hard at work devising a set of crafty machinations by which the king" may conquer as much of other kings' territory as he possibly can: in particular, how he "might keep hold of Milan and recover Naples, which has proved so slippery"—in the period, France won and lost Milan and Naples a couple of times each—; "then overthrow the Venetians and subdue all Italy; next add to his realm Flanders, Brabant, and the whole of Burgundy"—ruled by the Hapsburgs at the time—, "besides some other nations he has long had in mind to invade" [28].

This is not an outrageous slur on the king of France. The list of intended conquests is exaggerated a little—heightened for satire—but in fact the account conforms closely to actual French policy in the period. Why is this policy tyrannical? Because, of course, it is in the interest of the king rather than of his subjects (though it's not even really in the *king's* interest, Hythloday very plausibly argues—and *we* have a fresh reason to know that wars and occupations don't always turn out to be in the interest of the leaders who instigate them). The point that the wars are not in the interest of the subjects is made in the second half of the example, where Hythloday imagines himself, as a *member* of the council, rising to oppose the "crafty machinations" of the other councillors:

Now in a meeting like this one, where so much is at stake, where so many distinguished men are competing to think up schemes of warfare, what if an insignificant fellow like me were to get up and advise going on another tack entirely? Suppose I said the king should leave Italy alone and stay at home, because the kingdom of France was almost too much for one man to govern well, and the king should not dream of adding others to it? Then imagine I told about the decrees of the Achorians, who live off to the south-east of the island of Utopia. Long ago these people went to war to gain another realm for their king...When they had conquered it, they saw that keeping it was going to be no less trouble than getting it had been. The seeds of fighting were always springing up: their new subjects were continuously rebelling or being attacked by foreign invaders; the Achorians had to be constantly at war for them or against them, and they saw no hope of ever being able to disband their army. In the meantime, they were being heavily taxed, money flowed out of their kingdom, their blood was being shed for someone else's petty pride, and peace was no closer than it had ever been...Moreover, suppose I showed that all this war-mongering, by which so many different nations were kept in turmoil for...[the king's] sake, would exhaust his treasury and demoralize his people, yet in the end come to nothing through one mishap or another. [29-30]

Does this sound at all familiar? Whenever a parallel of that kind comes to your mind (perhaps one or two already have), it's an indication that More has accomplished

what he *set out* to accomplish, which was not merely to illuminate sixteenth-century politics, but, more important, to illuminate politics in *general*: he's a political *theorist*. In both these books, the number and precision of parallels with other times—especially times *after* More's, which of course he hadn't witnessed—show how astonishingly accurate and deep and general More's understanding of politics was.

But back to Hythloday, who, after his French example, offers another one, also of an imagined meeting of a royal council. This second council is on domestic policy; and just as foreign policy turns out, in the French council, to mean "how the king can conquer as much of other kings' territory as possible," domestic policy turns out to mean "how the king can fill his treasury by appropriating as much of his citizens' property as possible." The account of this council has exactly the same structure as the account of the French one: a plethora of nefarious schemes proposed by the other councillors, and then Hythloday imagining himself rising to oppose these schemes, in a beautiful speech that nearly makes one weep, in its simple common sense and common decency, and its sad distance from the way politicians usually think and speak. As in the first council, Hythloday's final point—made to "More" at the end of the example—is that giving such speeches in such councils does absolutely no good—as, for example, they did absolutely no good in the run-up to our current war. This is, again, why Hythloday thinks guys like himself should keep out of politics.

More doesn't say what country this second king rules: he's just "rex quopiam"—"some king or other." But who he really is, at least primarily, is clear: he's Henry VII. Various ones of the extortionate policies discussed in the meeting were employed by various European monarchs of the period. But *all* of them were employed by Henry VII.

The passage also has a clear connection with the famous—or notorious—part of Aristotle's treatment of tyranny in the *Politics* [V], where he dispassionately summarizes the methods by which tyrannies can be preserved. There are two opposite methods. The first of these encompasses the "traditional" methods of the tyrant, which he sums up under three headings: "breeding mutual distrust among the citizens"; rendering the citizens incapable of action by impoverishing them; employing various means "to break the spirit of...[the subjects]. Tyrants know that a poor-spirited man will never plot against anybody." This last one is quite close to the last thing Hythloday tells us about the recommendations of "some king or other"'s councillors: "It is important for the king to leave his subjects as little as possible, for his own safety depends on keeping them from getting too frisky with wealth and freedom. For riches and liberty make people less patient to endure harsh and unjust commands, whereas poverty and want blunt their spirits, make them docile, and grind out of the oppressed the lofty spirit of rebellion." In 1498, the Spanish ambassador to Henry VII's court reported to Ferdinand and Isabella on "the impoverishment of the [English] people," and added that "The King himself said to me, that it is his intention to keep his subjects low, because riches would only make them haughty" [*Sp. Cal.* I, 177; quoted *CW* 4.365].

Then there's the second, opposite method for preserving tyrannies, which is for the tyrant to "act, or at any rate appear to act, in the role of a good player of the part of King." Rapacity, for example, can be masked. Several of the policies recommended by "some king or other"'s councillors are beautifully crafted

instantiations of this tactic. One councillor “suggests a make-believe war, so that money can be raised under that pretext; then when the money is in, . . . [the king] can make peace with holy ceremonies, which the deluded common people will attribute to the prince’s piety and compassion for the lives of his subjects” [31]. (Something very like this happened in England in 1492, when Henry VII not only pretended war with France and levied taxes for the war—which was hardly fought—but collected a bribe from the French king for not fighting it.)

Though More felt, by 1516, that his treatment of tyranny in the reign of Henry VII needed to be coy, no such need inhibited his account of Richard III. The view of Richard as a tyrant was one that everyone shared—or, at least, everyone who spoke up—; and it was a view that the Tudor monarchs who succeeded Richard strongly encouraged.

But here let me insert an excursus on the question of whether Richard really *was* a tyrant; that is, on whether More’s depiction of him is accurate in this fundamental respect. Richard has of course had many passionate defenders. A notable recent instance was a 1996 mock trial at the Indiana University Law School, a trial of Richard (*in absentia*) on the most notorious of the charges against him, that he ordered the murder of his brother’s children, the “little princes in the Tower.” William Rehnquist presided in a three-judge panel, and Richard was acquitted on a split decision. All I can think is that the prosecution must have had a lousy lawyer, or else the fix was in. Be that as it may, there is little doubt that Richard committed acts that satisfy the sixteenth-century criteria for a tyrant. (He doesn’t necessarily satisfy *our* criteria: it is a sad commentary on our time that we have reset the bar for tyrants very high. In the aftermath of the twentieth century, to qualify as a tyrant you pretty well have to kill many thousands of people, or millions: be a Saddam Hussein or a Hitler or a Stalin; and Richard is very small potatoes in *that* league.) Once established on the throne, Richard did not rule despotically. He made a great point of ruling by law, and through Parliament, and he was especially interested in law reform and the administration of justice. If More had gotten that far in the *History*, presumably he would have interpreted this aspect of Richard’s reign as an application of Aristotle’s second method for preserving a tyranny: acting, “or at any rate appear[ing] to act, in the role of a good player of the part of King.” But by sixteenth-century lights, Richard was a tyrant in any case, for two reasons.

First, recall that simply being a usurper would qualify him, irrespective of the nature of his subsequent reign. To be sure, Richard had his henchmen proclaim—and in 1584 had Parliament proclaim—that his brother Edward’s children were illegitimate, which would certainly make Richard the rightful heir. But his case was damaged by the fact that shortly after Edward’s death he had publicly sworn, and caused many others to swear, allegiance to Edward’s elder son as the rightful heir, and he had in fact accepted appointment as the young Edward V’s official “protector” for the period of his minority. Some protector: it seems impossible to dispute More’s caustic remark that by the appointment of Richard to this office “the lamb was betaken to the wolf to keep” [29 in the Logan edition]—which resonates with his characterization, in one of the Latin poems I quoted earlier, of the wolf as an appropriate metaphor for a tyrant.

Richard also had a good claim to the title of tyrant from the extra-judicial killings that he *certainly* ordered in the period leading up to his coronation, as well as those two others that he is *presumed* (with all due respect to the Indiana verdict)

to have ordered shortly after it. The certain ones were the executions of the queen’s brother Lord Rivers, a son by her first marriage, and Sir Thomas Vaughan—all of whom Richard took prisoner when he seized control of the young king—and the execution of his ally Lord Hastings. Even if we were to grant the validity of Richard’s charges against these men (which there is not much basis for doing), his executions of them without trial were certainly the lawless actions of a tyrant. Then there’s the putative murder of the little princes. There isn’t really any way to prove this charge beyond a shadow of a doubt (though I think the test of “beyond a *reasonable* doubt” is met), but the charge is made not only by More (and, of course, by Tudor apologists) but also in seemingly all accounts from the years of Richard’s reign, including what are now regarded as the most authoritative contemporary accounts of his rise. (Recall that *More* wrote about thirty years after the events.) Moreover, mainstream modern historians are generally agreed that it is highly likely that Richard did commit this heinous crime—which, to be sure, was of a kind—“dynastic” murder (in the nature of things, usually of relatives)—not uncommon in the vicious politics of the era.

Since More’s account of Richard breaks off around September 1583—that is, only a couple of months after the usurpation—the subject of the *History* as it stands is, of necessity, primarily the means of *gaining* a tyranny rather than (*Aristotle’s* subject) the means of *preserving* one—which in fact Richard wasn’t very good at. What, in More’s view, enabled Richard to seize control of England—which he *was* very good at?

First, it required certain personal qualities in Richard, which More sums up in the character sketch of him near the beginning of the work—one of the many brilliant rhetorical set pieces in the *History*. (In the kind of history-writing that the humanists revived from classical Greece and Rome, character sketches were a standard and even essential feature, since individual character was regarded as the primary causal agent in history.) The key personal qualities in More’s character of Richard included some that we could only call “good”: Richard had “wit”—that is, intelligence—and courage; and More concedes that he was a good military leader. And then there were the *bad* traits. “He was malicious, wrathful, envious”; and above all, two other traits, which More dwells on especially. (1) He was a profound dissimulator: “He was close and secret, a deep dissimuler: lowly of countenance, arrogant of heart; outwardly companionable where he inwardly hated, not letting”—refraining—“to kiss whom he meant to kill. . . .” (2) (Already implicit in the sentence just quoted,) he was “dispiteous”—pitiless—“and cruel,” especially in the service of his ambition: “Friend or foe was muchwhat indifferent to him:”—that is, the distinction was not important to him: the execution of Hastings is of course the great example—“where his advantage grew, he spared no man’s death whose life withstood his purpose” [9-12].

Another excursus: are these claims about Richard’s character accurate? Yes, I think so (unlike the stuff about his physical deformity and his ominous birth—some, at least, of which More himself clearly takes with several grains of salt). Richard was intelligent and courageous, a good military leader—a *real* one: he died leading his troops in battle at Bosworth Field. “Dispiteous and cruel”? The example More gives—“He slew with his own hands King Henry the Sixth, being prisoner in the Tower”—is of doubtful validity (and More acknowledges that the evidence for it is only hearsay), but there are other examples that support this charge: especially

those extra-judicial killings that are certain. And as for “deep dissimuler,” there is no doubt whatsoever. Richard and his agents did deceive the queen into having the young Edward V escorted from Wales to London by a relatively small force, so that he and the duke of Buckingham and *their* armed force could seize control of the young king and his principal attendants. Moreover, he certainly deceived his key allies into thinking that he sought only to counter the queen’s undue influence on Edward V, not to displace him. Perhaps that was all that he sought at first: opinions have varied on this point. But surely he was dissimulating when he still maintained this claim as late as six days before finally tipping his hand via Dr. Shaa’s scandalous sermon proclaiming the bastardy of the young king and his brother.

But More also believed that Richard’s ability to seize the throne depended on the existence of certain qualities in *others*—namely, the realm’s other wielders of power, the aristocracy and the higher clergy. That these conditions were requisite for Richard’s rise to power is, in effect, asserted in another rhetorical set piece near the opening of the work, the deathbed oration of Edward IV. Though Edward doubtless spoke some last words of some sort, and though there is an early report [Mancini 69] that he tried, in his final illness, to reconcile the feuding Lord Hastings and Marquis Dorset, the speech More gives him on his deathbed is essentially fictional, like all the others in the work: such glittering fictional orations are the single most conspicuous hallmark of the kind of rhetorical historiography the humanists revived from the classical world. The orations could be used to show off the historian’s rhetorical prowess, to convey his interpretation of the speaker’s character and motives, or to convey his interpretation of the events treated in the work. Here the point—whose validity is illustrated, More clearly thinks, in what follows—is that factional divisions and selfish ambition among the powerful were necessary conditions for Richard’s seizure of the throne: “where each laboreth to break that the other maketh,” he has Edward say,

and, for hatred of each of other’s person, impugnech each other’s counsel, there must it needs be long ere any good conclusion go forward.... a pestilent serpent is ambition and desire of vainglory and sovereignty, which among states [that is, noblemen] where he once entereth creepeth forth so far till with division and variance he turneth all to mischief—first longing to be next the best, afterward equal with the best, and at last chief and above the best.... if you among yourself in a child’s reign fall at debate, many a good man shall perish and haply he too, and ye too, ere this land find peace again. [15-17]

This speech is the major thematic statement of the *History*—the major statement of More’s interpretation of what *happened* in England in the period of Richard’s rise, reign, and fall. In the remainder of the unfinished book, More demonstrates how Richard’s personal qualities, working on the ambition and factionalism of the other aristocrats (and on the—initial—gullibility of the commoners) made possible his seizure of the throne. Nearly every episode of the *History* illustrates this thesis in one way or another; but here I’ll speak only about one of the really crucial episodes, the third major step in Richard’s *coup d’état* (after the seizure of the young Edward V and his attendants, and, later, the arrest of councillors loyal to the king and the summary execution of their leader, Lord Hastings): the extraction of the king’s younger brother from sanctuary.

The sanctuary episode is the longest one in the unfinished *History*, occupying nearly a fifth of it, and it is also one of the most brilliant, made up very largely of the characteristic virtuoso orations of classical and humanist historiography—which here, in the cases of Buckingham’s speech and the preceding, much briefer one by Richard, serve, among other things, to underscore the point that *rhetoric*, specifically in combination with Richard’s dissimulation, was another important factor in his rise to power.

That rhetoric could be a powerful tool for bad purposes was of course no news—and is no news to you and me, in the closing weekend of an American election campaign. For us, though, “rhetoric” is a word that has almost entirely lost its original signification and has now become merely a synonym for “BS.” In Western educational, legal, and political tradition from fifth-century B.C. Greece through the nineteenth century, however, it meant “the art of verbal persuasion,” and it was a highly *developed* art, which constituted, along with philosophy, one of the two great educational traditions of classical Greece and Rome, and was passed on to the Middle Ages and beyond as one of the three fundamental educational disciplines that constituted the “trivium” (grammar, rhetoric, and dialectic).

From the time of Plato, the power of rhetoric for evil was an enduring theme, especially of the rival tradition of philosophy. The Sophists of fifth- and early fourth-century B.C. Greece, famous for their rhetorical skills, were condemned—in a phrase that stuck for two millennia and more—for “making the worse appear the better cause.” Rhetoricians themselves were aware of, and their works sometimes discussed, the dangerous power of rhetoric when directed to bad ends; and this was still a concern in the early-modern era, both of philosophers (such as Hobbes) and of masters of rhetoric (such as Milton).

As the phrase “make the worse appear the better cause” suggests, a center of concern was with the rhetorical technique known as *paradiastole*—“redescription”: the redescription, especially, of a good thing as bad (for example, of a virtue as a vice), or of a bad thing as good. Googling *paradiastole*, I was charmed to find an example cited from the comic strip “Frank and Ernest”: advertising a car that won’t start as having a “very quiet engine.” *Paradiastole* is now known by the much easier-to-pronounce name of “reframing” (a form of spin) and, needless to say, remains a staple of politicians—and is also no more than every *litigator* is obliged to do, and not necessarily dishonourably.

Buckingham’s oration in the sanctuary episode is identified by its very first words as a *paradiastolic* exercise. It begins by interrupting the archbishop of Canterbury, who has just said that if he cannot persuade the queen to yield her younger son, it will be the result not of lack of effort on his part but of “womanish fear” on hers. “Womanish fear? Nay, womanish frowardness! quod the duke of Buckingham” [33]. And he is off, to redescribe the queen’s thoroughly justified fear as mere female perversity: a task in which he succeeds, persuading most of his audience—which comprises the secular and religious grandees of England assembled in council—that if the queen refuses to yield the child it will be perfectly legal to extract him forcibly, despite the age-old, very powerful privilege of sanctuary.

Of course rhetoric never operates in a vacuum: its effect is conditioned by the relation between speaker and audience, and other aspects of a speech’s context. In the present instance, there is a strong incentive, especially for ambitious people, to

believe—or, at the least, appear to believe—the second-most powerful nobleman of the realm, especially when he is speaking on behalf of the *most* powerful one. More wonders whether the clergy—normally staunch defenders of sanctuary—who expressed agreement with Buckingham spoke “as they thought” or “for his pleasure” [37]. This is, of course, one of those royal councils Hythloday plausibly claims are always full of self-serving sycophants. And here there is additional reason to agree with the speaker, since most of what he says does in fact make perfectly good sense (sanctuary was, as Buckingham asserts, scandalously abused), and when what he is proposing does not appear to be pernicious: More stresses that neither the laymen nor the clergy would have acquiesced to the proposition that the boy could legitimately be removed from sanctuary if they had thought any harm was meant to him—that is to say, the continuing success of Richard’s dissimulation was a necessary condition of the success of Buckingham’s rhetoric.

This last point, like the importance of having an audience that is eager to please, is underscored by the contrast between the success of Buckingham’s sanctuary oration and the failure of his equally brilliant oration at the London Guildhall (near the end of the book). In the latter case, Buckingham fails because Richard’s dissimulation is no longer in place, and because he is not addressing people with much to gain by believing (or “believing”) him. At this stage, Buckingham is asking—cajoling, threatening—the commons of London to endorse Richard’s claim to the throne; and this time his speech is greeted not with assent but with shocked silence. This had also been the response to Dr. Shaa’s sermon: “the people were so far from crying ‘King Richard!’ that they stood as they had been turned into stones, for wonder of this shameful sermon” [80]. By this time, though, it wasn’t crucial that the rhetoric be successful: once the younger prince, too, was in Richard’s control, the usurpation was a *fait accompli*.

Karl Marx says “Philosophers [have] explained the world in many ways: the point is to change it” [Theses on Ludwig Feuerbach, No. 11]. Marx is not a person with whom I agree very often. But I think he was onto something there. So does More think there is any way to prevent or dislodge tyrannies?

Book I of *Utopia* is centrally concerned with the question of how—or whether—existing tyrannies can be, if not overturned, at least ameliorated. The primary subject of the dialogue of Book I is the extent to which good and wise counsellors can deflect a monarch from tyranny. This had in fact been a subject of debate in political theory dating back to the *Republic* Plato is famously pessimistic on the matter: there’s no use sending philosophers to counsel kings: there will be “no...road to real happiness, either for society or the individual,” unless philosophers become kings, or kings somehow—not by having philosophers as counsellors—become philosophers [473C-D]. Until that time (evidently not imminent), philosophers, as he says in another passage, realizing that “political life has virtually nothing sound about it, and that they’ll find no ally to save them in the fight for justice”—so that, if they mix with politics, “they are likely to perish like a man thrown among wild beasts, without profit to themselves or others,—...will...keep to themselves, like a man who stands under the shelter of a wall during a driving storm of dust and hail” [496C-D].

This is the position that Hythloday maintains in Book I of *Utopia*. In the course of his argument, in fact, he quotes both these passages from the *Republic* [28, 37]. His one significant change from Plato is to postulate a different, but no more cheering,

fate for the humanist philosopher who is foolish enough to attempt to counsel kings: his colleagues will either “seduce...[him] by their evil ways, or, if...[he] remain[s] honest and innocent,...[he] will be made a screen for the knavery and folly of others” [36-37]. Since 2003, I simply cannot read this passage without thinking of Colin Powell at the U.N., expending much of the credibility he had gained in an outstanding career by making other people’s bogus case for Saddam’s WMDs.

There had, however, been an opposed strand in political theory in classical antiquity. Plutarch, for example, had argued that it is a wise man’s duty to counsel rulers, because he can in this way positively affect their behavior. In *Utopia* Book I, as I noted earlier, More puts this position into his own mouth; and he argues it as powerfully as he makes Hythloday argue the opposite one. In his own *life*, of course, More ended up following this path, joining Henry VIII’s council two years after the publication of *Utopia*. He did so, though, evidently without any illusions as to the limits on what he might accomplish. As he has “More” say in perhaps the most memorable passage of the book, “If you cannot pluck up bad ideas by the root, or cure long-standing evils to your heart’s content, you must not therefore abandon the commonwealth....you must strive and struggle as best you can to handle everything tactfully—and thus what you cannot turn to good, you may at least make as little bad as possible. For it is impossible to make everything good unless all men are good, and that I don’t expect to see for quite a few years yet” [35]. Still counting. At best, then, More looks for very modest results from people counseling rulers.

Nor does the *second* book of *Utopia* offer reason for optimism that tyrannies, once established, can be successfully opposed—except by external force: the Utopians, Hythloday reports, sometimes go to war “to liberate an oppressed people, in the name of compassion and humanity, from tyranny and servitude” [85]. The commonwealth of Utopia has seemed problematic to many readers in various ways, not least in this interventionist foreign policy—of which we have learned to be suspicious from recent times’ experience with “wars of liberation,” whether undertaken by bad guys (various Communist states) or supposedly good guys (us)—and there are compelling reasons to doubt that Utopia was in all respects More’s ideal commonwealth.

But whatever we—or More—may think of Utopia in general, there is no question that its governmental structure was carefully designed as a thought experiment in how to prevent tyrannies from arising. Plato (in his later political work *The Laws*, not the *Republic*) and Aristotle agree that the best *possible* constitution is a mixed one. For them, this is a mixture of monarchy and democracy. In the mixed constitution of the commonwealth of Utopia, however, the element of monarchy is very strictly limited, and democracy is combined with *true* aristocracy—an aristocracy of intellect and character—to produce a government that acts in the interests of the citizenry rather than its own, and is carefully safeguarded against tyranny. Utopia is a federation of fifty-four largely independent city-states, each with an elected assemblyman for each thirty families; these assemblymen elect the chief executive officer of the city-state, from a slate of four chosen by the people of the four quarters of the city. Actively seeking any office disqualifies a person for all of them [82]. The chief executive of the city holds office for life, “unless he is suspected of aiming at a tyranny” [48]. There is no national executive, though once a year a national senate meets “to consider affairs of

common interest to the island" [43]. Very tellingly, Hythloday reports that the Utopian officials "are never arrogant or unapproachable," and "are called 'fathers,' and that indeed is the way they behave" [82]. That is, the traditional metaphor for a good king fits *all* the Utopian officials.

There is reason for thinking, too, that this governmental structure is close to what, given a free choice, More would have chosen for England. One of the longest and most interesting of More's Latin epigrams speaks directly to this matter: No. 198 (which I quoted earlier), entitled "What is the best form of government," argues that government by an elected senate and consul—as in the Roman Republic—is superior to monarchy: "a senator is elected by the people to rule; a king attains this end by being born...the one feels"—this is the part I quoted before—"that he was made senator by the people; the other feels that the people were created for him so that...he may have subjects to rule." More does acknowledge, though, that it's not easy to find a senate-full of good people (as we know). Moreover, the epigram comes to a dispiriting conclusion, which is that there is no practical point in discussing the possibility of a different form of government, since only an absolute monarch has the power to bring about such a change! A similar point is made at the end of *Utopia*, where More has himself say that

while I can hardly agree with everything...[Hythloday] said..., yet I freely confess that in the Utopian commonwealth there are very many features which in our own societies I would wish rather than expect to see. [107]

The *History of King Richard the Third* offers perhaps a little more hope. There are several junctures where, More suggests, Richard's rise might have been forestalled. If factionalism had not riven the nobles, he would not have been able to play one group of them off against the other. Then there is a series of moments where a little less gullibility on the part of one person or another could have saved the day: there were missed opportunities at each stage of Richard's coup. If the queen had not been persuaded to reduce the size of the young king's armed guard...In connection with the fall of Hastings, More avers that Richard could have been stopped by the aristocracy, if not for Hastings's fatal gullibility and over-confidence: if Hastings had paid attention to Lord Stanley's suspicions and his urgings that the two of them flee London, then, More says, they would have "departed, with divers other lords, and broken all the dance" [53]—upset all Richard's plans. In the sanctuary episode, there are three institutions that, especially working together, had the power to stop Richard: the aristocracy—especially in this late-feudal era when aristocrats could raise private armies among their retainers—; the Church; and that greatest, impersonal English institution, the common law. As More shows, though, the aristocracy and the Church were brought—by the artistry of Richard's dissimulation and Buckingham's rhetoric—to collude with Richard rather than oppose him. But why could the *law* not stop Richard? The other brilliant speeches in the episode are the queen's; and the principal matter of her longest speech is the legal arguments that substantiate her right, and her child's right, to sanctuary: twice in the speech she directly cites legal opinion for points of common law [44, 46]. Her arguments on the legal position are surely correct; why do they not prevail? Because all that is necessary in order to neutralize the force of law is for one

cunning rhetorician to ambiguate the legal position, which Buckingham very successfully does.

Yet even if Richard had been thwarted, the book, and our knowledge of More's times, suggest that he could not have been terribly optimistic about the prospects of good government resulting: for the alternatives to Richard were not much better. It's impossible to know how the young Edward V would have turned out, though More makes the prince's own father express plausible fears about the likely effect on him, when he takes the throne, of the rival blandishments of the warring courtly factions: "while either party laboreth to be chief, flattery shall have more place than plain and faithful advice; of which must needs ensue the evil bringing-up of the prince, whose mind...shall readily fall to mischief and riot, and draw down with this noble realm to ruin, but if grace turn him to wisdom" [15].

And indeed if Edward V had lived and turned out badly, he would, given his father and mother, have come by it honestly. One of the surprising things about the *History* is the difference between the way Edward IV and his reign are characterized at the beginning of the book and the way they are characterized toward the end of it, in Buckingham's Guildhall oration. In the opening of the *History*, More praises Edward as a sort of J.F.K.: supposedly a good king, though admittedly a skirt-chaser. In Buckingham's speech, though, we have a radically different portrayal of him, as not merely a sexual predator out of control but also as an ingenious and relentless extorter of his subjects' money; above all, a master in using the law as a mechanism of extortion. And in truth, though Buckingham is hardly a disinterested authority, and though his rhetoric is hyperbolic, his account of Edward is on the whole much closer to the historical Edward than is the idyllic portrayal in the book's opening pages. More, then, knew the charges of Edward's detractors, and he surely knew—judging from his generally accurate representation of the charges, through Buckingham, and of the supporting evidence for them—that the charges were valid.

So this was the king who (except for the three months in which Edward V was nominally king) preceded Richard. And who followed him? Henry VII, whom, as we have seen, More regarded as little, if any, better than Richard. And possibly by the time More broke off the *History*—we unfortunately don't know when that was—he was beginning to foresee that Henry's *son* might turn out to be the worst of the lot. Tyranny in Aristotle's and More's sense was simply the order of the day in More's Europe, as indeed it has been in almost all times and places. Though More clearly felt—as evidenced in his public career—that one was obliged to try, he believed that *most* of the features of a good society were in the category of things he "would wish rather than expect to see."

On the other hand, the fact that he wrote the two books I've been discussing (though he left one of them unfinished) is perhaps an indication of hope. I don't believe he wrote just to enhance his stature in the community of humanists—Erasmus and the others. His books teach us to see the political world clearly. And any hope of effective action against tyranny—against government in the interest of the rulers rather than the ruled—lies, obviously, not in the actual or would-be tyrants but in the rest of us, and depends crucially on our being successfully educated: for one thing, educated to be immune to *paradiastole*: to be able to see things for what they really are, and call them by their right names. On Tuesday you'll have a chance to show what you've learned.

More on Tyranny ? Questions and Discussion with Dr. George M. Logan

Clarence H. Miller: You suggested that More thought that the Utopian kind of democracy without a monarch or a unifier would be in some ways admirable and useful, but would he not have seen that precisely that sort of arrangement, in a way, in Italy and in Greece, absolutely did not work at all?

George M. Logan: Yes, you would think that he would have seen that. Again, we always run into the problem of More's own slipperiness in *Utopia*. Are we supposed to notice that? Are we supposed to do exactly what you've done?—say hmm, you know, that's been tried, particularly in fragmented Italy and in a fragmented Germany as well, and it didn't seem to work too well. Maybe we are. Maybe that's not put forth seriously as an ideal by More. On the other hand, maybe it is.

I don't think I've really thought about this before I started writing this paper. I knew tyranny was important in *Utopia*, but I don't think I realized—and perhaps I just deluded myself about what I thought I was writing about—but I didn't realize how important it is. Now I do think you can argue, not entirely implausibly, that it is the central concern of *Utopia*, and that the main thing that the Utopian construct in Book 2 is about is to construct a government that would not be liable to tyranny, and would maybe go off to cure some neighboring tyrannies as well. Everything in the Utopian government's structure points this way. The word "tyranny" is used a couple of times: The governor of the city rules forever, unless he's suspected of tyranny, and so on. Everything in it: this democracy with very careful controls, and of course only people from the class of scholars—people like Erasmus and More and Hythloday—are eligible for these public offices anyway—it's very, very carefully constructed to be tyranny-proof. But you do wonder: When you get up to the level of the missing national executive, one explanation would be that you're supposed to see that this is a problem; two other explanations would be that More—and this happens all the time to inventors of an imaginary commonwealth—it's very hard to keep track of everything that you're supposed to keep track of—hey, you're supposed to wash the clothes, run the supermarkets, etc. The world is really, really complicated, an enormously complex system, and

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even if you're as smart as More, it's hard not to leave a few loose ends here and there. And maybe he just didn't think that part through—maybe he was distracted when he wrote that. Or, and this is a third line of explanation, maybe his philosophy, the almost all-consuming nature of his hostility to tyranny, and the strong purpose in the book to come up with a governmental system that would be immune to tyranny—maybe it simply blinded him. He thought, Oh boy—this is really the capstone of all—great, this is good: There can't be a national conflict because there isn't any national leader. I admit: it's so bogus, the desire to create a guaranteed tyranny-proof government, that he's just failed to recognize what the example of Italy and some other places should have suggested to him. It wouldn't work—they had nobody at the top. It's a tantalizing idea—would we be better off with *nobody* at the top? (laughs) Perhaps.

Miller: Try Yugoslavia.

Logan: Well, no. Exactly. Right. And I immediately think of that wise old proverb that one thinks about all the time now in connection with Iraq: "Better a thousand years of tyranny than one day of anarchy."

Daniel Janeiro: You insinuated that, in the sanctuary episode, the three institutions together—the aristocracy, the commoners, and the Church—could have, in their combined strength, resisted *Richard III*, but with two of those institutions in collusion with him, law in itself was incapable of being an obstacle. What would More's opinion be, that the law lacked the interpreters that could interpret it correctly and resist that ambiguation of the law, or are those other institutions necessary in order for law to resist?

Logan: Well, they certainly help, huh? Strength in numbers. And that's the crucial episode of the whole story, isn't it? Because More has the Queen say it in some particularly elegant way . . . I can't remember the passage. I've read this book a lot more than most of you, but I've not read it nearly as recently as some of you have. But she says, in effect, that, with just the one son, he's no further ahead. Everything depends on him getting the second son.

And the episode answers your question, doesn't it? We have the brilliant attorney on the one side, Buckingham—just a dazzling speech: It's funny, it's clever. A lot of what he says is absolutely true. He makes tremendous hay with the fact that the system of sanctuary was so scandalously abused and was the subject of such widespread discontent in the period. He turns that background fact tremendously to his advantage in this particular case. But then, when the Queen finally appears, the Queen speaks just as well as he does. She's just as smart; who knows how smart she was in real life? More says she was wise, but again, these are fictitious speeches, and he can make her just as smart as he chooses because *he* was so smart. And he makes her *very* smart—to my mind, she talks at least as well as Buckingham does himself. And of course she has obvious right and common sense—the mother's right to have her children with her on her side. So why didn't it work? Because she wasn't backed up by force. Buckingham's speech makes it more or less respectable; it gives people a way out, as it were—it gives the assembled grandees a halfway decent excuse that they can believe, or at least

pretend to believe, about why it's OK to take that eleven-year-old boy away from his mother and put both those children under the protection of someone who, the queen points out, stands to gain a huge lot from their protection. She would have had to have force on her side to prevail. So no, the law itself, where so much is at stake—the most brilliant lawyer in the world, in a case like that, can't carry the day.

What needed to have happened was for there to have been a profounder vision among the grandees, huh? If half the archbishops and bishops had said, No way, and half the aristocrats had sent their henchmen off to raise their private armies, then this wouldn't have happened.

David Oakley (lawyer): Is it safe to conclude that More, with respect to sanctuary, would be in favor of the preservation of the institution? I'm wondering if we can conclude that, based on the fact that he seems so impressed with how powerful tyranny is, mowing down institutions and people and so on, and that, in this sense, sanctuary would function as something of a check—perhaps the *only* check—on political power?

Logan: Maybe. Again, I don't know what his position on sanctuary boils down to. I know for sure it was interesting to him. It was apparently a *very* interesting, obsessively interesting, question to a lot of people in that time, in part because it was so abused—what Buckingham says about the way career criminals used sanctuary was absolutely true, not an exaggeration as far as I can make out. And More, always a lawyer and city court judge for a while, must have seen a lot of this.

One of the things that's most impressive about More is that he can do more than one thing at a time—he can do several things at a time. This speech is to illustrate the importance of corrupt rhetoric in Richard's rise to the throne, corrupt rhetoric working in combination with Richard's dissimulation. It's also simply a virtuoso piece. More loves to write speeches: Just about half of this book is speeches. It's one of the ways in which he is most characteristically a Renaissance humanist. Rhetoric is these guys' central discipline. Cicero is their god. They loved to write speeches, and they tended to be very good. And again and again More writes these dazzling speeches for these people.

But I think your point is good. More's so bewildering, huh? You can make an argument for More as a new humanist and as representative of an important radical—we can invoke him—well look at *Utopia*, you know: if ever a guy's got a reputation as a radical political thinker—and yet you can equally portray him as a quite conservative, late medieval figure, the way he's portrayed in Peter Ackroyd's biography from 1998, and of course in the Reformation thing, where he's holding out for a traditional, medieval church against this radical revision. But yes, certainly there is a part of him—he's a guy who's extremely aware of the importance of institutions. Again, that's maybe the most striking thing about the Utopian construct in Book 2 of *Utopia*: the care, the thoughtfulness, that goes into designing institutions which together create a structure which will channel people in the right ways. So yes, I would be surprised if he personally would have been interested in just doing away with the institution of sanctuary. And no doubt one reason why he wouldn't have been was because, every now and then, it figured importantly into the political life of the nation, in the way that it does in this instance. He must have

been pretty discouraged about it, though. One of the things I point out in one of the footnotes in the edition is that this was far from the first time that a prince had been extracted from sanctuary. This had become *de facto* the way things worked: Whenever you were powerful enough, and there was somebody in sanctuary you wanted out of sanctuary, you just went and took him out. A lot of that ran in the family.

Stephen W. Smith: In your introduction, you mentioned Cicero's advice on writing history: He said that historians should tell the truth. Then you also note that the opening speech from Edward IV and the characterization of Edward's reign represent the most radical break from the truth as More probably knew it: why do you think More started the *History* with what sounds like a kind of dissimulation of his own?

Logan: I do say something about this in the introduction too. I think he started that way because he was knocked over by the recently rediscovered and printed first six books of Tacitus's *Annals*. His "hero" is very much a Tacitean figure: The portrayal of Tiberius in the first six books of Tacitus's *Annals* is really the *locus classicus* the portrayal of a tyrant—specifically a dissimulating tyrant. Tiberius is a big dissimulator, just as Richard is. It's not that hard, I guess, to imagine what this would have been like. In 1509, these first six books of the *Annals*, which were *known* to have existed at some point, but which had been lost for centuries, all of the sudden were discovered, recovered in some monastic library and printed shortly thereafter. And I said it was like if, suddenly, another *Hamlet* were discovered, or three *Hamlets*—here's this huge, big chunk of stuff. And Tacitus seems clearly to have been More's favorite historian—in particular, the historian he felt the most temperamental kinship with. It would be nice to know when he saw these first six books—when did they first reach England? Dick Sylvester, who edited *Richard III* for the Yale Complete Works, hypothesized that this introduction was rewritten in the aftermath—that he had written it in a somewhat different way, and then, when he read Tacitus, said, Oh boy, I've got to have an introduction like that, and went back to replicate what Tacitus does, which is to start with the late years of Augustus, a good emperor, succeeded by a bad emperor. As the passage that I quote in the Introduction indicates, it seems clear that More is imitating quite consciously some of Tacitus. Some of the things he says about Edward's last years are very like some of the things that Tacitus says about Augustus's last years. On top of that, they're not even *true* of Edward—the fact that he's imitating Tacitus there would be clear anyway, but it's made even more clear by the fact that he's gone so far out of his way to do it: he says things that are not just like what Tacitus says about Tiberius, but that are in fact false to what he knew about Edward.

What the whole thing illustrates, of course, is the neighboring point that I made in that section of the Introduction about Cicero and his views of history. Cicero says on the one hand that history is a branch of demonstrative oratory, the flashiest, most rhetorical thing. He gives a list of the genres of demonstrative oratory, and then at the end says that all these kinds of writing are for *entertainment*. He says that on the one hand, then on the other, history has to tell the truth—that's the historian's first obligation. Well of course those two things don't fit together, and as I go on to say—and I don't say it *quite* this way, but nine times out of ten,

number one triumphed over number two. For historians in this tradition, if it were a choice between writing another flashy, fictitious speech or jazzing things up or imitating Tacitus in a beautiful way, *or* telling the strict truth as the documents showed it, they pretty much always chose to write the flashy speech.

Gerard Wegemer: Given the importance of rhetoric in this book, as you just mentioned, why wouldn't More give Richard any great speeches like Buckingham or the Queen? Shakespeare reverses it.

Logan: Well, but Shakespeare kind of *had* to give him great speeches, didn't he? Because he is the hero and protagonist of the play. And of course, the other thing that Shakespeare does—this has often been pointed out—in a sense, which no doubt made More spin in his grave for a few seconds (he probably still is), he fused the narrator of More's book with the protagonist Richard. And both these works are full of caustic and often enormously funny irony, sarcasm, and so on, but in More's book, it's the *narrator* who says all those caustic, ironic, brilliant, witty things, huh? And Richard himself is not a particularly funny guy at all. He's not a barrel of laughs or anything. But when you turn that material into a play, the narrator of course drops out, and you don't have a narrator. So what are you going to do with all that wonderful, delicious stuff of humor in More's work? What Shakespeare obviously did was transplant it to Richard himself, so that Richard becomes the ironist, the master of sardonic wit.

Fr. Joseph Koterski: (**Wegemer:** One last question.) When you raised the question about not preventing a tyrant, but just watching it, the question occurred to my mind—how about tyrannicide? Do you find More ever countenancing that, thinking about that, dismissing it on principle? Does he ever discuss that?

Logan: I don't know any place that he talks about it. We do know that he was very interested in Lucian's declamation on tyrannicide, and translated that and wrote a response to it, but that thing is such a rhetorical exercise: It's just a glittering, paradoxical piece, and I don't know if you can draw much of a conclusion from that as to More's actual views on tyrannicide. The standard attitude in the period, interesting and I guess entirely predictable, is that it is *never* right to kill a non-usurping king, however tyrannically he acts. If he were a legitimately crowned king, then Heavens no, it would be the worst thing in the world to kill such a person. But that it *is* OK to kill a usurper. And surely that is the attitude that More would have taken toward this particular usurper if he had gotten that far in the *History*. I don't think there's any question that he would have regarded tyrannicide as absolutely A-OK in this particular instance.

Thomas More's *History of King Richard III*: Educating Citizens for Self-Government

Dr. Gerard Wegemer

In his *Historia Richardi Tertii*,¹ Thomas More does for England what Sallust did for Rome and what Thucydides had done for Greece. Sallust, who himself imitated Thucydides, had special importance to More. As Richard Sylvester points out: More must have known Sallust “almost by heart”; he was required reading in More’s school, and his histories are “significantly echoed in [More’s] *Historia*.”² There is evidence that More lectured at Oxford on Sallust in 1513 or shortly afterwards, and we know that Sallust held an important place among the English Renaissance humanists,³ just as he did among the Renaissance humanists of Florence.

The great Renaissance leader of Florence Leonardo Bruni—a classical scholar and a chancellor like More—based his history of the Republic of Florence on Sallust’s in his dangerous task of recovering and strengthening republican rule in an age of tyranny.⁴ Sallust was the experienced general and senator promoted by Julius Caesar; Sallust’s long reflections led him to conclude that Rome grew “incredibly strong and great in a remarkably short time” only “once liberty was won”—that is, only once wise and experienced leaders changed the Roman government from monarchy to a republic, with the explicit intent to “prevent men’s minds from growing proud [*superbia*] through unlimited government” (*Catiline* 6.7-7.3).

Sallust was not a favorite author among the Tudor monarchs.

Sallust’s two histories each focuses upon one specific event of the late war-torn Roman Republic,⁵ just as More focuses upon one three-month event of war-torn England. Sallust’s two histories, when considered together, give an interpretation

of what caused the rise and fall of the great Roman Republic and, implicitly, of Roman civic health understood as just and peaceful self-rule. More’s *Historia*, especially when considered with its companion pieces *Utopia* and *Epigrammata*, reveals England’s strengths and weaknesses, and it points to an understanding similar to Sallust’s of civic health.

Especially by its profound influence on Shakespeare, *Richard III* may well be More’s most important and most influential political writing. Shakespeare studied More’s work so closely at the beginning of his career that not only did he structure his first four plays around it, but he continued wrestling with the issues it posed, dramatizing his own conclusions only in the last of his thirty-seven plays at the end of his life.

That influence is also seen in Ben Jonson, who owned (illegally) a copy of More’s Latin Works. Significantly, *Utopia* “is nearly unmarked,” yet there are over 1600 markings in Jonson’s distinctive hand throughout “the roughly 3000 total lines of print” in *Historia Richardi*.⁶

The mysterious and engaging character of More’s *Historia* is evident from the first sentence which asserts that “King Edward...succumbed to fate” and then four other times in the first paragraph “fate” (*fatus*), “fortune” (*fortuna*) or “chance” (*sortem*) are named as causes of the king’s history (314/5, 10, 12, 17). Yet later, right after the nobles unanimously consent⁷ to make Richard “the sole protector” of the young thirteen-year-old king, the narrator raises the question whether this important event in history came about through ignorance (*inscitia*) or through fate (*accidit fato*).

Why open a history attributing the major action to fate or fortune?—a view opposed by any Christian historian or classical author such as Sallust, whom More imitates closely. As we will see, More’s history takes the same stance as Sallust and many of the classical thinkers: that fortune changes with character.⁸

That opening sentence goes on to declare that King Edward IV “succumbed to fate” when he was 53 years, seven months, and six days old. In fact Edward died at 40, and from bad diet and immoderate living, rather than mere fate.⁹ His age at

¹ See volume 15 of *The Complete Works of St. Thomas More* (New Haven: Yale UP, 1986). All references are to this text unless otherwise noted. The remarks in this paper refer primarily to the Latin version, which—as Daniel Kinney (clii) argues—seems to be the final and most complete text. At that early stage of his writing career, More was experimenting with both English and Latin in his poetry and in his prose. As that experimental period came to a close—i.e., when he began writing *Utopia* and the most polished version of *Richard III*—he turned to Latin, just as he would do again at the end of his life when writing his final book, *De Tristitia Christi, On the Sadness of Christ*.

² Sylvester, CW 2, lxxxvii-lxxxviii

³ William Nelson, “Thomas More, Grammarian and Orator,” in *Essential Article: Thomas More*, ed. Richard Sylvester and Germain Marc’hadour (Hamden, CN: Archon Books, 1977): 154.

⁴ See Patricia J. Osmond, “*Princeps Historiae Romanae*: Sallust in Renaissance Political Thought,” *Memoirs of The American Academy in Rome* 40 (1995): 101-43. See also her “Sallust and Machiavelli: from civic humanism to political prudence,” *Journal of Medieval and Renaissance Studies*, 23.3 (1993): 407-38.

⁵ Sallust’s *War with Jugurtha* takes place around 118 B.C. when the Roman Republic is already in decline, while *The War with Catiline* focuses upon the famous conspiracy against the Roman Republic in 63 B.C., just a short time before the Republic’s actual fall and before the rise of Rome’s hereditary emperors.

⁶ Robert C. Evans’ *Habits of Mind: Evidence and Effects of Ben Jonson’s Reading* (Lewisburg: Bucknell UP, 1995): 162, 168. For the full text of *Historia Richardi* go to http://www.thomasmorestudies.org/library_richard.html.

⁷ They do so, based on their trust in Richard’s “integrity” (358/23). For the importance of Sallust’s use of “integrity,” see William W. Batstone, “The Antithesis of Virtue: Sallust’s *Synkrisis* and the Crisis of the Late Republic,” *Classical Antiquity* 7.1 (April 1988): 1-29. Batstone argues that Sallust gives a “subtle and sophisticated” and “disturbing meditation on the late Republic” centered upon the meaning “complete virtue.”

⁸ Consider that *The War with Jugurtha* opens with an argument for virtue as the only way to overcome the fickleness of fortune “since fortune can neither give to any man honesty, industry, and other good qualities, nor can she take them away” (1.3). In *The Catiline*, Sallust argues that “[t]he fortune changes with character” (2.5)—a common idea expressed centuries earlier by Heraclitus (see fragment 119).

⁹ In a similar way, the opening paragraph claims that “Elizabeth...by the guidance of fate became the consort of Henry VII and the mother of Henry VIII.” In fact, Richard III worked hard to marry Elizabeth and Thomas More’s own mentor, as More’s English *History* tells us, was the careful architect of Elizabeth’s marriage to Henry Tudor and thus finally ending the War of the Roses. In the

death was of immense import historically and politically because if Edward *had* lived 13 additional years, his two sons would have been 26 and 24 rather than 13 and 11, and therefore not prey to Richard's manipulation.

To appreciate More's literary project in *Richard III*, one has to grapple with the artful complexity of the narrator's voice. What is the narrator's point of view? Is it dark and pessimistic about human nature and the possibility of justice? If so, is the tone sarcastic and even bitter? Or is the narrator wise, detached, even humorous? For example, does the narrator really believe the report he gives on the second page?

[F]rom early youth throughout his life, whenever business did not call him away, [Edward] was particularly given to dissipation and wantonness, *like virtually everyone else*; for you will hardly persuade anyone in good health to restrain himself when his fortune permits great extravagance. (319, emphasis added)

Does the narrator really believe that human beings will be dissolute and wanton whenever good fortune allows?

To appreciate the narrative subtlety and sophistication at work, one must go beyond categorizing this voice by merely identifying it with what we would call today a limited narrative point of view, a narrative strategy that expresses what a particular character would think himself. That describes, in part, what More does in this instance: the narrator adopts Edward's understanding of himself. To appreciate the distinctive character of what More is doing, however, we have to go back to Thucydides whom Sallust and More both imitate as the great master. What Plutarch says of Thucydides, we could say of More and Sallust: "Thucydides aims always at this: to make his reader a spectator.... [The events] are so described and so evidently set before our eyes that the mind of the reader is no less affected than if he had been present in the actions."¹⁰

More's highly artful and sophisticated ways of engaging our minds as if we were actually present and involved are seen in rhetorical devices such as "dialysis" or "the dismemberer" in which the narrator sets forth alternatives but leaves it to us to decide which is actually correct—thus indicating the great difficulty of accurately discerning true motives. Another example would be the many types of irony that the narrator uses, irony that takes us by surprise or makes us smile even when we may not know why. More also uses allusion masterfully—and ironically.

For example, throughout the Latin version, More uses Roman terms such as *senate*,¹¹ *forum*,¹² *senatusconsulto*,¹³ *res publicae* or commonwealth,¹⁴ *patribus*

or fatherland,¹⁵ and "bona fide."¹⁶ Without saying so directly,¹⁷ More invites a comparison between the Roman republic and England's faltering parliament that works with a sometimes strong and sometimes weak hereditary monarch. But More goes beyond this comparison to build upon London's sturdy three-centuries-of-ever-refined traditions of self-government.¹⁸ Why else does More refer habitually to the aldermen of London as the *senate* of London, meeting in the *forum* of London where the Recorder is present so that they are assured of making decisions in full knowledge of the *law* (470). Yes, there is a corrupt mayor and the aldermen go along when they can do nothing else, but the courageous London citizens refuse to pander to Richard's and Buckingham's offers or to prostitute their freedom for personal advantage. And their tears and heart-felt sorrow move us to pity at the tragedy they—and we—witness.

Significantly, the English are never called "subjects" in this history.¹⁹ More never uses "subject" in his poetry either; instead he consistently uses "citizen" or "people."²⁰ That self-government is at the heart of the work is indicated in many ways. Take, for example, Richard's and Buckingham's concerted efforts to win (with transparent deceptiveness²¹) the English people's consent. Richard says explicitly that people cannot be governed without consent.²² As one critic put it in speculating about More's overall project in this work, "the most vital issue of his

¹⁵ 470, 476; 316, 336, 378, 390, 478.

¹⁶ 332, (340), 354, 356, 358, 362, 364, 366, 368, 374, 378, (384, 386), 392, 394 [cp. *Utopia*], 396, 398, (402), 404, 414, 416, 420, 426, 432, 438, 442, 444, 446 [cp. *Utopia*], 450, 458, 464, 468, 484; perfidiam 404, 416; 19n 39n, 45n

¹⁷ Morus, the character and narrator in *Utopia*, advises and uses the same "indirect approach."

¹⁸ Already in 1215 London had annual elections for their mayor, a privilege written into the *Magna Carta*. For Londoner's struggle for independent self-government against the English kings, see Gwyn A. Williams, *Medieval London from Commune to Capitol* (U of London, Athlone P, 1963) and Caroline M. Barron, *London in the Later Middle Ages: Government and People 1200-1500* (Oxford UP, 2004). The significance of More the Londoner is well explained in James McConica's "The Patrimony of Thomas More" in *History and Imagination: Essays in Honor of H. R. Trevor-Roper* (NY: Holmes & Meier Publishers, 1981): 56-71.

¹⁹ In the English version "subject is used only once, when Edward IV is trying to convince his mother that it is acceptable for a king to marry a subject. See CW 2, 62/4.

²⁰ Damian Grace, "Subjects or Citizens? *Populi* and *cives* in More's *Epigrammata*," *Moreana*, no. 97 (March 1988): 133-136. See also his "Thomas More's *Epigrammata*: Political Theory in a Poetic Idiom," *Parergon* N.S. 3 (1985): 115-29. In his 1516 letter to Erasmus about *Utopia*, More states explicitly that wise and prudent rulers are not "swayed by the fact that they would not have many under them as subjects [*subiectos*], as the term is now used by kings to refer to their people [*populum*], who are really worse off than slaves [*seruos*]; for it is a much higher honor to rule over free people [*liberis*]..." (Elizabeth Rogers, *Selected Letters*, Yale UP, 1961, p. 80).

²¹ Note the strength and the repetition of the narrator's insistence that good and wise people saw Richard and Buckingham's actions for what they were: 482/2-7, 432/27-434/2 (*adulationis intolerandae*: intolerable flattery... *sacrilegae palpationis*: blasphemous adulation), 454/6-12, 470/15-17, 472/15-16, 472/25-474/2, 484/15-22. That the narrator agrees with the prudence of this silence by the wise, consider 482/20-24. That More agreed with this silence, consider that he used the same strategy at important times in his own political life.

²² 480/7-8, 19-20; 484/1-5.

English version of *Richard III*, the narrator raises this issue of fate not in the opening lines, but in different ways. For example, after "the lamb was given to the wolf to keep," the narrator asks if the murder of the innocent princes was caused by fate or folly (20).

¹⁰ *On the Fame of the Athenians* 347, Hobbes' translation found in Hobbes' letter prefacing his translation of Thucydides.

¹¹ 320, 322, 358, 420, 454, 474; 4n, 61n, 69n.

¹² 454, 482; 61n, 69n.

¹³ 320, 450, [466]; 4n.

¹⁴ 342, 348, 394, [466, 468], 478, 480.

history” was Richard’s effort to win over the people.²³ Winning over the nobles and the clergy proves to be easy since each of them has a personal interest, leading both cleric and noble to take “counsel of his desire,”²⁴ thereby leading to blindness—and Richard’s success.

The people of London, however, are seasoned in their “everyday forms of resistance”²⁵—constituting a formidable force for both Edward IV and Richard III. Edward and Richard²⁶ were both violent usurpers of the throne, and both acknowledged the absolute necessity of winning over the people, although neither succeeded.²⁷ Throughout *Richard III*, both are constantly judged by the people, and More’s independent voice as an historian differs greatly from court historians precisely in the privileged perspective given to “the people,” especially those presented as wise.²⁸

More’s history is more forthright than Sallust’s²⁹ about political sovereignty belonging to the people. In the Latin version of this *History*, More says explicitly

²³ Page 15, T. G. Heath, “Another Look at Thomas More’s *Richard*,” *Moreana* nos. 19-20 (Nov. 1968): 11-19.

²⁴ 440/3; Logan 72.

²⁵ Page 260, Peter C. Herman, “Henrician Historiography and the Voice of the People: The Cases of More and Hall,” *Texas Studies in Literature and Language*, vol. 39.3 (Fall 1997): 259-283.

²⁶ Catiline is presented—like More’s Richard III—as “an evil and depraved nature” who from “youth up . . . reveled in civil wars, murder, pillage, and political dissension” (5.1). Instead of being restrained by public virtue, he—like Richard III—was “spurred on . . . by the corruption of public morals” (5.9). Catiline is for Sallust an exemplum of the disease threatening Rome just a short time before the Republic’s fall. Sallust identifies Catiline and the corrupted public that fostered his rise as characteristic of “the worst and most vicious” in the history of the Roman republic. Catiline’s lust for power, Sallust observes, “was spurred on” not only by his own “haughty spirit” and guilty conscience (*conscientia scelerum*) “but also by the corruption of the public morals, which were being ruined by two great evils of an opposite character, extravagance and avarice” (*Catiline* 5.6-8)—both of which are major factors in More’s *History*.

²⁷ Although the narrator, adopting the perspective of King Edward, claims that Edward did win over the English by the end of his life, this claim is undermined by statements made later in the work—and by the actual historical record.

²⁸ Herman 263.

²⁹ One important reason Sallust gives for choosing the topic of *The War with Jugurtha* is that “it marked the first successful resistance [by the Roman people] to the insolence [*superbiae*] of the nobles” (5.1). As we will see, More’s history has a similar intent. But what power did or could the Roman people have over the wealthy and politically domineering patricians and senators? Sallust and More agree that the source of power of the Roman and English people are the same: popular sovereignty based on rule by law. Especially considering that Sallust wrote during the time of the Emperor August Caesar, Sallust seems at first surprisingly forthright about political sovereignty belonging to the Roman people (*Jugurtha* 8.2, 14.7, 31.9, 17, 20, 22-25), a sovereignty that necessarily involves rule by law (*Jugurtha* 21.4, 31.9, 17, 18, 20, 33.2, 35.7; *Catiline* 6.6), which in turn is protected by the internal law of virtue (*Jugurtha* 1.1-3; 4.5-6; 14.19; 85.4, 17, 20, 31-2; *Catiline* 1.4; 2.1, 5, 7; 52.21, 29; 54.4). I say “at first surprisingly forthright” because as Tacitus makes clear, Emperor Augustus was able to consolidate his centralized power only by making public appeals to the Roman tradition of republican self-rule—just as Richard and Buckingham do in *Richard III*.

that Parliament’s “authority in England is supreme and absolute,”³⁰ and Richard argues to the English people that “the title [*ius*] and the profit and the ownership” of a “genuine commonwealth” is “totally” theirs and not the king’s.³¹ More’s history makes clear that the kings of England must be elected—even if the “ludicrous election” is transparently manipulated by Buckingham and Richard.³²

In their effort to win support from the “honest citizens” of London,³³ Buckingham and Richard know they have to address the Londoners as “citizens” and “the people,” and to promise rule by law. Buckingham presents ironically Chief Justice Markham as a hero for defying Edward IV’s orders to make a ruling against English law (458; 62), and Richard insists ironically on being crowned in Westminster Hall “where the king himself sits and ministers the law,” because he considered “that to carry out the laws and to act as their servant was the essence of kingship” (485; 73).

Richard also recognizes the self-governing temper of the English people when he says—with dramatic irony, of course—that “no earthly man can govern [the English] against their wills,”³⁴ a principle recognized by Sallust in his history of the Roman republic—and by Cicero, whom Sallust discretely presents as the “best of Roman consuls.”³⁵

Considering the work as a whole, More’s *History* shows that Richard’s rise to tyranny could have and should have been stopped at many points, except that nobles and clergy of virtuous character were lacking. Hastings helps Richard come to power, even though he is aware of Richard’s cruel and ambitious character. Lord Hastings knowingly collaborates in killing Richard’s political opponents and he knowingly and maliciously lies (356), prostituting his reputation to do Richard’s will. Jane Shore is not alone in her willingness to sell her services.

The other nobles and the clergy show the same lack of citizen virtues as Hastings: all are willing to prostitute themselves and their country—and even their souls³⁶—to further their own political interests.

The Narrator’s Bona Fides

Ultimately the narrator proves to be a wise spokesman of tradition who gives voice to thirty-five of the English text’s fifty-nine proverbs.³⁷ He also proves to have the voice of a father of his country—of his *patria*³⁸—who suggests that institutional changes are desperately needed in England.³⁹ What these changes need to be are

³⁰ 320; CTMS 4, n. 3

³¹ 480/18-20.

³² 484/22, 482/15-24; CTMS 52, 72, 74

³³ Note the distinction that Buckingham makes at 472/15-16.

³⁴ 480/8; CTMS 72

³⁵ See, for example, the speech that Memmius makes to the Roman people at *Jugurtha* 31 and 23-29.

³⁶ See CW15, 367. In the English version see pp. 23 and 34; compare 34 and 392.

³⁷ See Brenda M. Hosington’s “More’s Use of English Proverbs in *The History of King Richard III*,” *Moreana* 134 (June 1998): 5-24. No comparable study of the Latin text has been done.

³⁸ Pages 336, 378, 470, 476.

³⁹ To prevent avarice from corrupting the character of citizens into “lawless tyranny,” Sallust similarly reports that the old and experienced “fathers” of Rome “altered their [monarchical] form of

suggested especially by his subtext of Roman republicanism and by his perceptive analysis of the place of marriage in English society. For example, the narrator shrewdly shows the disastrous consequences of politicizing marriage when, with deft irony, he has Edward IV articulate the consequences from his own self-interested point of view: arguing that personal happiness and the goods of marriage cannot possibly be achieved when marriage is seen as a means to increase wealth, power, and foreign alliances.⁴⁰ The narrator's commentary of Jane Shore's premature marriage is another revealing example of this English father's wise perspective.⁴¹ And there is the rant of King Edward's mother aghast that the "sacrosanct majesty" of a prince's blood would "spawn mongrel, degenerate kings" by marrying an apparently virtuous commoner (440). Since the only reputable people in this history turn out to be the commoners, here is powerful irony indeed.

Throughout *Historia Richardi*, however, two related words more than any others emerge as an important measure of both action and character; those words are *fides*⁴² and *amicitia*. More uses *fides* well over thirty times, usually in the context of a critical decision. By doing so, he repeatedly calls to our mind what was for the Romans the basis of all justice.

"*Fides*" or "*bona fides*"—the quality of trust or reliability—was the first virtue in ancient Rome to become a divinity, and the great lawgiver Numa built the temple of Fides in the middle of Rome, right next to the temple of "Jupiter Supreme and Best" (Plutarch "Numa"; *De officiis* III.29.104). "Bona fides" remains, of course, an indispensable legal concept in our own day, "implying the absence of all fraud and unfair dealing or acting" (Smith 207). In fact, all experienced citizens and all true friends know the importance of establishing the "*bona fides*" of those they choose as friends or as leaders.⁴³

Cicero explains that *fides*, understood as "truth and fidelity to promises and agreements" is the very "foundation of justice" (*De officiis* I.7.23) and that as long as Rome ruled by justice and *fides* it "could be called more accurately a protectorate"⁴⁴

government and appointed two rulers with annual power, thinking that this device would prevent men's minds from growing arrogant though unlimited authority" (*Catiline* 6.7-7.3).

⁴⁰ See esp. 442ff.

⁴¹ 424/23-426/3.

⁴² In More's English text, the most frequently used equivalent of *fides* is "trust" and sometimes "special trust" but More also uses "faith" or "good faith."

⁴³ This is a theme dominant in Shakespeare's plays. For example, shortly before King Duncan is murdered by placing too much trust in Macbeth, he complains that there is no way to judge those we can trust: There is no art / To find the mind's construction in the face: / He was a gentleman on whom I build / An absolute trust. (*Macbeth* 1.4.11-14, emphasis added) This inability to judge, that allows the tyrant Macbeth to arise in Scotland, seems to be the same as what allows the tyrant Richard to arise in More's history of England.

Or is it possible that More agrees with Duncan's tragic view of human intelligence? As I imply in this paper, More follows his greatest classical teachers in positing the opposite view—and not only positing that view but in devising a history that exercises and develops the very art that Duncan did not believe to exist.

⁴⁴ Consider the power of repeatedly (at least forty-five times in the Latin edition) calling Richard the "Protector." The best known literary example of similar irony is Shakespeare's rhetorical master Antony calling Brutus an "honorable man."

of the world than a dominion" (II.8.27). *Bona fides* is so important, says Cicero, that the very bond of humanity requires it (III.17.69) and that it is presupposed in "all the transactions on which the social relations of daily life [especially friendship]⁴⁵ depend" (III.17.70). Several times in his book *On Duties*, Cicero presents the famous consul and hero Regulus as the example of a Roman embodying *bona fides*, a person willing to undergo the cruelest torture and death rather than go against fidelity to his word and to Rome. Such a character is strikingly absent from *Richard III*, except for the silent Londoners who refuse to capitulate to Buckingham's or Richard's enticements to their self-interest, and Chief Justice Markham who loses his position as chief justice rather than go along with the King's illegal actions.

The example of Lord Hastings shows how *fides* and friendship affect civic life. When Hastings' fellow nobleman Lord Stanley expresses grave concern about the secret second council Richard has set up, Hastings boasts that he has no fear because he has a friend—a lawyer—of "special trust [*fides*]" who attends that council and supposedly reports everything to Hastings. This lawyer

was Catesby, who was of [Hasting's] near secret counsel and whom he very familiarly used, and in his most weighty matters put no man in so special trust [*fide*], reckoning himself to no man so dear, since he well knew there was no man to him so much beholden as was this Catesby, who was a man well learned in the laws of this land....⁴⁶

Although Hastings is the person who "by special favor" raised Catesby "in good authority" and gave him "much rule" over Hastings' own affairs, the narrator tells us that instead of returning loyalty or *fides* to Hastings, Catesby "trusted by [Hastings'] death to obtain much [more] of the rule" and that trust in his own advantage was Catesby's "only desire...that induced him to be partner and one special contriver of all this horrible treason."⁴⁷

In this context of Catesby's treasonous misuses of *bona fides*, the narrator makes one of his most artful and memorable comments, about Hastings:

Thus ended this honorable man, a good knight and a gentle one, [especially dear to the king on account of his trustworthiness (*fidem*)]⁴⁸, ... a loving man and passing well beloved; very faithful, and trusty [*fidus*] enough, trusting too much [*fidens nimium*]. (45, 421)

The inability to trust wisely is not only a question of individuals like Hastings in this history, but as the narrator tells us, it characterizes England at large as well.

⁴⁵ See Cicero's *De Amicitia* for the important connection between *fides*, *amicitia*, and good political life. 14.49-15.55 uses the example of King Tarquin as the type of character who could not "procure...true friends" and it quotes Tarquin's complaint that he was unable to distinguish "*fidus amicos*" from "*quos infidos*" (15.53). 14.50 points to pride (*superba*) as an especially debilitating character trait. Other passages of special significance for *fides* and *amicitia* are 17.64-18.65 and 23.86-25.96.

⁴⁶ This is a quote from the English version, CTMS 39, but compare the Latin at 404/1-16.

⁴⁷ CTMS 40: 404-06.

⁴⁸ CW 15, 421/5-6.

After Richard has both young princes in his hands, the narrator comments: "For the state of things and the dispositions of men were *then* such that a man could not tell whom he might *trust* or whom he might fear" (37, emphasis added; *confidas*, 398/19). What happened "then" that allowed such a state of affairs to arise? The answer to this question is, of course, the major task of More's history.

Queen Elizabeth (1437-92) embodies this problem more mysteriously than any other character in the *Historia*. How could the Queen hand over her sick son to their greatest enemy? She has had thorough experience in English ways for forty-six years—nineteen of those as queen. As she points out, her last stay in sanctuary saved the life of her eldest son. How then could she be so trusting, right after she has just eloquently and persuasively invoked recent and past history, English law, church law, and natural law, and her personal experience?

Fides is invoked before, during, and at the end of this most dramatic scene of *Historia Richardi*. Richard begins his ploy by saying that he needs the help of the right intermediary. He says, "I think we should send some venerable and influential emissary to the mother, someone who cares about the king's honor and the reputation of our order but who also commands some [friendship] and trust (*"amoris*⁴⁹ . . . *et fidei*) from the queen" (362).

When the Cardinal chooses to do Richard's business, he introduces himself to the Queen as her "trustworthy and loving friend."⁵⁰ After their spirited debate, she stops and reflects. In the short paragraph just before she decides to hand over her son, "fides" is invoked five times in the narrator's summary. Then, the Cardinal scornfully ends by saying that the Queen "seemed to doubt either their prudence or *good faith* in the matter, their prudence if she thought they were dupes of another man's perfidy, their *good faith* if she thought they were knowing accessories" (392).

Here the narrative challenges us to review the evidence given, to decide if the Cardinal was simply Richard's dupe or knowing accomplice. But the narrative poses a problem even more difficult next.

At this climactic moment of decision, why does Queen Elizabeth so readily capitulate? Why does she not do more to protect her young son, a son who is sick and specially dependent on her as both mother and queen? Why does she not at least make a public scene, standing up for the clear legal and natural rights that she has so well articulated? Why does this Queen not combine the passion of a mother with the passion of a queen concerned for the good of her country in protecting her sons, even to death? Every prompting of nature and all her considerable experience of the past should have led the Queen to lay down her life to protect her young sick son. Does she fail because of *fear* (354)? Yet she shows extraordinary power and passion in confronting the Cardinal and these nobles. Does she suffer from *poor judgment*, something she has already lamented in letting herself be convinced to send a much too small guard for her elder son (351)? Yet her speech has just set forth all the difficulties, dangers, and protections with extraordinary clarity. Is she *momentarily blinded* in a pressured moment of haste? Or is she *deceived* by the Cardinal's appeal to trust or *fides*? These are questions that the narrator forces us to ask, leading us to probe deeply the motives at work (in ways that Shakespeare does

in each of his plays).

The most puzzling example of misdirected *fides*,⁵¹ therefore, is Queen Elizabeth, who decides to turn over her son to Richard—"the lamb . . . to the wolf" (20)—but this issue of *fides* runs throughout the entire history.⁵²

Besides *fides*, other significant Latin terms point to the narrator's preoccupations, terms such as *superbia* (pride) and *virtus* (virtue).

Superbia or pride is a major theme that More raises in *Richard III*, *Utopia*, and his poetry. Throughout his life, in fact, pride is perhaps the most persistent and central theme that he explores. It is also an important theme in Sallust. Sallust says that he chooses the subject of *Jugurtha* because it is the Roman people's first resistance to the "*superbia*" of the nobles (5.1), a *superbia* that was fostered by prosperity and unchallenged power (41.3) and that subsequently gave rise to "parties and factions" (41.2-3). In *Jugurtha*, Marius argues that yearly elections prevent the growth of *superbia*. In *Catiline*, the narrator reports that wise fathers of the Roman *res publicae* changed from monarchy to a republic, to prevent rulers from degenerating into pride and tyranny (*superbiam dominationemque*, 6.7).

How *superbia* is treated in More's *Utopia* and *Epigrammata* would be a separate study. But in *Richard III*, however, consider the quote that "long-confirmed power [*potentia*] turns many princes to pride [*superbia*]" (318/20-21), and King Edward's deathbed lament that *superbia* was the "odious monster" causing the major troubles of his reign (334).

As for the importance of virtue: Looking back over hundreds of years of Roman history, Sallust found himself asking "what quality in particular had been the foundation of so great exploits" (*Catiline* 53.2). His answer? "After long reflection I became convinced that it had all been accomplished by the eminent virtue of a few citizens" (53.4). Sallust's *Catiline* begins by praising virtue, which, the narrator says, alone is "splendid and lasting" (*Catiline* 1.4), and which would allow kings and rulers (*regum atque imperatorum*) to be "as potent in peace as in war" and "human affairs would run an even and steadier course" (*Catiline* 2.3), rather than "turmoil and confusion" which result "when sloth has usurped the place of industry, and lust (*lubido*) and pride (*superbia*) have superseded self-restraint and justice" (2.5).

The Work of Citizenship

The great mystery of More's laboring for many years on his *Richard III* without publishing it becomes clear when we consider the republican lessons of civic liberty which are proposed, the same lessons set forth by Sallust. Thomas More's project in *Richard III* is similar to Sallust's: to educate civic leaders to that level of virtue and citizenship needed to accomplish the great and most difficult work of justice and peace. It is an education that aims at the type of judgment and character lacking in

⁵¹ In his deathbed speech, King Micipsa advises Jugurtha to "prove virtuous" by fidelity (*fide*) with his fellow Numidians since "neither armies nor treasure form the bulwarks of a throne, but friends" who are won "by duty and trust" ("*officio et fide*," *Jugurtha* 10.4-6).

⁵² Early on, for example, the narrator asks us how it is that Richard was able to triumph over all the bonds of nature and society, of loyalty, good faith, and law to achieve his will, when "every prompting of either nature, fidelity [*fides*], or gratitude should have moved [Richard] to lay down his own life to thwart any enemy of" these young princes (321).

⁴⁹ See Cicero's explanation of the relationship between *amor* and *amicitia* in *De Amicitia* 8.26-9.32.

⁵⁰ He also appeals to "both the realm's public interests . . . and her own private interests" (378, emphasis added).

Hastings and the Queen.

To the careful reader, i.e., to the reader who has learned to exercise sharp-sighted prudence, *Historia Richardi* reveals dramatically and with penetrating irony how a nation fails in self-government; in doing so, *Richard III* also points to clear principles and highly valuable prudential advice about good self-government; it points—just as the Roman historian Sallust did—to the importance of self-governing institutions such as the senate, but even more importantly to prudent citizens capable of governing themselves for the good of the commonwealth.⁵³

More never published *Richard III* during his lifetime,⁵⁴ not just because it implicated powerful political families in egregious corruption, but because it shows in brilliant relief the major weaknesses of a primitive form of hereditary government doomed to self-destruction. To show this claim more clearly would require a study of *Richard III*'s companion pieces, *Utopia* and the Latin Epigrams that were published with the 1518 edition of *Utopia*. For example, one of More's original poems on politics, modeled in part on Greek sources, is "On Two Beggars: One Blind, One Lame" [Epigram 32].

There can be nothing more helpful than a loyal friend [fidus amicus], who by his own efforts assuages your hurts. Two beggars formed an alliance [a legal term in the Latin, foedera contraxere, commonly used in treaties for trade or peace—the same term used in *Utopia*] of firm friendship [solidae amicitiae]—a blind man and a lame one. The blind man said to the lame one, "You must ride upon my shoulders." The latter answered, "You, blind friend, must find your way by means of my eyes."

In this poem, human deficiency—the fact that we are all either blind or lame in some way—is not a reason for sadness or bitterness. Rather, an individual's deficiency is presented as the occasion, the opportunity, for loyal friendship, and for politics marked by free conversation. Yet the last lines promise more: "The love [amore] that unites, shuns the castles of proud kings [superborum regum] and rules in the humble hut." Love that unites requires humble rule by law.

Perhaps the speaker of this poem and the narrator of *Richard III* agree about the requirements of human happiness and civic justice.⁵⁵

⁵³ This prudence, for example, explains the odd but effective institution of sanctuary—effective in view of the oft-repeated tyranny of English monarchs.

⁵⁴ One reason More would be able to face his own death with such admirable calm and good humor was that he studied England's history so profoundly that he accepted his death as the cost for strengthening England's tradition of self-government under law.

⁵⁵ Compare, for example, 378/14 and 402/27-404/17 with the language and themes of Epigram

“Educating Citizens for Self-Government” ? Questions and Discussion with Dr. Gerard Wegemer

David Oakley: Is it possible that you’re a little harsh on, say, the Cardinal? He really is not quite sure what’s going to happen. But you’re accusing him of a pretty heinous sin, of making an oath on something he knows is false. I take it that is what you’re talking about—when he says, “Let the kid out of sanctuary and I’ll take care of him.”

Wegemer: According to the narrator, the Cardinal “dared lay his own soul in pledge” (46).

Oakley: Right. I think that seems a little harsh. And a similar, though not as strong, case can be made for Buckingham: It’s a nasty enterprise that can’t be avoided. Aren’t you stretching your case in those two instances?

Wegemer: The narrator points out that Cardinal cuts off the Queen and cuts off her interlocutors at key points. For example, once the Queen’s reason begins to prevail, the Cardinal uses other tactics to avoid reasoning with her. When the Queen is asked, “Well, what evidence do you have that Richard’s going to do your son any harm?”—and she starts listing all the reasons, the narrator tells us that the Cardinal stops that line of inquiry. The Cardinal has also made a deliberate choice to be Richard’s spokesman in a highly controversial political matter. It’s very interesting how the narrator details the way that Richard flatters the Cardinal, or we could say the way Richard “sets him up”: “Oh my good friend the Cardinal,” Richard says. Then Richard praises the Cardinal as the best and wisest spokesman to go to the Queen, since the Cardinal is her friend. But all those references to “friend” and “*fides*” in referring to the Cardinal is similar to the eighty-plus times that the word “Protector” is used for Richard III.

Now, for Buckingham, Buckingham clearly does it because his self-interest is at stake. Does he know how badly? I think the narrator leaves that uncertain, but we get the clear impression that this fellow is governed simply by self-interest.

Don Stevenson (lawyer): Jacques Barzun, in his book *From Dawn to Decadence, Thomas More Studies 2* (2007)

says that “More either invented or allowed himself to propagate in a work of his own the big lie in favor of the Tudors under whom he served, the lie that Richard III, the king whom the Tudor Henry VII overthrew, was a deformed monster who murdered his nephews, the young princes, in the Tower. Ever since Horace Walpole in the late eighteenth-century, a number of scholars have come to believe that Richard was the very opposite of the legend: handsome, able and innocent of blood.” I wonder if there’s anything to the idea that More, in beginning to write this, might have actually tried to be an apologist for Henry VII and then, as it veered into dangerous territory, as it circulated among his friends, they recommended that he not publish. Is there any idea of his initial motivation?

Wegemer: We know that More did not like Henry VII. He even gets into trouble politically because he published a poem that is highly critical of Henry VII. So, I don’t think he has any favoritism towards the Tudors—or towards the Yorkists Richard or Edward; they all come off pretty badly. But I would push the point that More is showing that the difficulty is with hereditary monarchy, with a system based on privileges of a certain bloodline rather than the tested qualities of mind and character needed to rule a free people.

Clarence Miller: Sallust seems to be a follower of Julius Caesar, and benefited by him. That doesn’t suggest that he’s entirely in favor of government by the rule of law. Sallust likes the tribunes of the people; he does not like the Senate because they’re corrupt. But in fact it is Julius Caesar that he admires and follows.

Wegemer: Early in his life, Sallust certainly followed Caesar, but when he writes his *Histories*, it seems quite clear that he’s showing the difficulties with Caesar—as well as the difficulties with Cato. And Cicero, whom Anthony and the followers of Julius Caesar killed, emerges as the great leader for Sallust. But Sallust can’t say so openly or directly. This is the difficulty of writing politically sensitive histories. Although Sallust says only in passing that Cicero was the greatest of the consuls, that’s an explosive parenthetical remark. True, Sallust’s two examples of how Rome becomes great by the virtue of the citizens are Caesar and Cato. And when you first compare them—and this is the most famous part of that history—they seem pretty well-balanced. Yet *does* Sallust think that they’re both equally good: Cato, who defends the Republic, and Caesar, who becomes the great enemy of the Republic? In thinking about the histories as a whole, we are provoked to ask: Who really is better? Cicero is! Because Caesar and Cato each lacks something essential: Cato is overly rigid and overly preoccupied with his reputation for virtue and austerity; Caesar is overly ambitious. Who’s the only Roman who can govern Rome? And who’s the one, in this history of Catiline, that saves Rome? Although Sallust never praises Cicero for the way that Catiline is defeated in that short history, it’s clear to anyone who knows the period that Cicero is the one who saves the Republic. So Sallust is in a very difficult position, just as More is in a very difficult position.

George Logan: I’ve been stewing over that remark by Jacques Barzun. Barzun is obviously a very great scholar, but that’s an offensive couple of sentences, really. He suffered from bad brief there: he hasn’t really done his homework on that. First

of all about More inventing the anti-Richard stuff: As I said yesterday, his take on Richard, far from being invented for the sake of being an apologist for the Tudors, is very, very close to the most authoritative views of Richard from the actual period. These are in the records of an Italian diplomat who happened to be in London at the time of the usurpation, a guy named Dominic Mancini, who went back to Europe and wrote at the behest of his patron an account of the usurpation, which was then not published, and wasn't published until 1936. Lo and behold, when it turns up, it's remarkably close to what More has to say about Richard. And this was the view of someone who was presumably more or less disinterested, who just happened to be in England, was not involved in English politics at all, then went back home to Europe and wrote this. And then, of course, the other most authoritative source, which is regarded as *the* most authoritative narrative source for the period, for the reigns of Edward IV and Richard III, by this anonymous and tantalizingly unidentified figure writing in the monastery at Crowland. This is the so-called “Second Continuation of the Crowland Chronicle.” But whoever this guy was, he was an insider who knew a lot about the politics of the period. He had evidently been in the government in some capacity. And again, his take on Richard and the usurpation is very, very close to More's.

Secondly, it's simply not true to say that Horace Walpole shed the true light on the thing, and that all right-thinking people since Walpole tend to agree that Richard got a bad rap. That's really not the case. Again, modern historians find those two contemporary historians I mentioned to be the most authoritative accounts of the usurpation, so naturally enough, they tend to agree that those accounts are, by and large, pretty close to the truth. It's certainly true that the overall view of Richard has softened considerably since the sixteenth century, essentially because people realize that politics was an extremely nasty game in the late fifteenth century, and that Richard was probably not a whole lot better or worse than the average politician. The murder of the little princes, for example: First of all, there does seem to be pretty strong evidence. What would be surprising, really, would be if he *didn't* murder them (Laughter.), because this kind of dynastic murder in circumstances analogous to these was certainly the rule, and not the exception. In the fifteenth century, people were always having relatives bumped off, because, of course, it was relatives who competed with them, and who were obstacles on the road to the throne. So it was quite standard to pull people out of sanctuary if you needed to have people bumped off. The politics appears very close to *The Sopranos* (Laughter.)—that kind of situation. So I really think Barzun, for all his brilliance and imminence, was speaking without having properly investigated the situation here, and I wanted to come to the defense of More and to the defense of mainline historians, as it were, starting with those guys in the 1580s, and culminating in people now.

Elizabeth McCutcheon: The marriage issue is a fascinating one. It looms large in More's *Utopia*, in the section really about contracts, and marriage in the Renaissance was a contract. Also, of course, the whole hereditary thing depends on legitimacy, but that is all very suspect in *Richard III*, so there are just so many connections between the marriage and the heredity, the legitimacy and illegitimacy of all of this, that I think we can really even say, what you said is wonderful, but we can push that even further. Even if you were a subscriber to hereditary kingship, the

whole thing is suspect in the fifteenth and sixteenth centuries. That's why they're all usurpers. They're all claiming some kind of legitimacy by inheritance—that's very suspect.

Wegemer: This may be the deepest question: How does one change—from the roots—the weaknesses of a culture? How did Homer do it for his warrior society? How have other great poets done it for their societies? More goes back to the Greeks because he wants to learn from them. How do you get people to think outside of images that they've grown up with?

Another major question has to do with the issue of judgment: How do you see whether a person is a tyrant or a virtuous person? The externals are never going to tell you, so how do you look past appearances? In the classical view, such education is the work of the liberal arts, especially literature. Studying liberal arts was seen as a necessary preparation for those who would govern, liberating or freeing one to see outside one's own traditions, one's own limited conceptions to see the truth of things, horrible as it may be. Literature such as More creates shows the complexity and the danger of being duped by a good “friend” such as Catesby or by a person you've just chosen to govern.

One last point. Look at the picture of the snake and the dove published in the 1518 *Utopia*. In the Latin version of *Richard III*, More alludes to Christ's command to be “wise as a serpent, innocent as a dove” (Mt 10:16). It's a parenthetical criticism of Henry VI for being more innocent than wise. The same allusion is made in *Utopia*, but there Peter Giles, More's good friend is praised for having innocence and wisdom. *But*, as the drawing shows, you need two parts serpent to protect one little dove. (Laughter.) And the serpent *must* be crowned.

**The Problem of Dirty Hands:
Thomas More's Reflections on Complicity with Evil
in the *History of King Richard III*
Fr. Joseph Koterski, S. J.**

I. Introduction

Thomas More's *The History of Richard the Third* can be profitably read from many perspectives. The approach that I want to champion here is intended to see this book within the context of moral philosophy, especially as practiced by Renaissance humanists. The scholarly literature on this book is rightly filled with discussions about the vagaries of Richard's life and the veracity of More's account, about the influence of various classical sources on More and the influence that More's account exercised on figures like Shakespeare as well as on Richard's reputation within English historiography. What I would like to add to the conversation is the perspective of moral philosophy. To undertake this project I intend to divide my labors into four parts: (1) the context of More's writings in the period of the composition of the *History of Richard the Third*, (2) the resources of rhetoric and history for moral philosophy, (3) the general problem of "dirty hands", and (4) the results of More's humanist approach for the problem of dirty hands, that is, the problem of cooperation with evil that More would have wanted to understand for himself and the dangers of complicity against which a Christian statesman like More would have wanted to inoculate himself and to warn others.

II. The Clusters of More's Writings

There is a period in More's life when his mind was given primarily to addressing the threat that he perceived in Lutheranism, and another period where More's focus is mainly on trying to challenge as well as to continue to form the conscience of his king. Earlier in his life there is a period in which the writings that are still extant show the sparkle of a young man testing the waters, exploring themes, and honing his skills.

The decade from which the *History of Richard the Third* comes is the period during which More was busy preparing himself for public service. It is not just that More took seriously the task of readying himself in general for storms that he knew

would be coming, even if he could not know in advance their specific contours. I believe that he took great pains to anticipate some of the difficulties that were more than likely to occur in public life. It seems clear that by the time of the composition of this work he already had enough of a taste of politics to realize that it is not for the faint of heart and that the stakes can be high. Likewise, his experience had given him a lively sense of the need for astute compromises within the sphere of politics, but equally the need to be clear on one's principles, those non-negotiable principles of Christian morality on which no compromise is possible. Having recognized the need to think through questions about the moral dimensions of politics—so far as he could, prior to being faced with the specific dilemmas of having to choose some course of action, especially in the inevitable situations where the best thing that one can do is to determine what might bring on the lesser of two evils—he made use of the resources of the Catholic tradition of moral thinking on such topics. His own preference for considering these questions is the style that today we associate with the fashion of the humanist scholar and statesman.

In the *Utopia*, for instance, he seems clearly to have reflected on the question of the non-negotiable principles of Christian statecraft. As Prof. Gerard Wegemer has shown so clearly in *Thomas More on Statesmanship*,¹ the second book of the *Utopia* involves a systematic denial of the fundamental principles of Christian political philosophy that More would have learned from his study of Augustine. Much like the sustained ironies of the *Republic* that was his model, More worked to envision what a state would look like that was shorn of the basic protections that the principles of Christian morality provide.

This decade in which More composed the *History* and the *Utopia* falls within the period (1500 to 1516) during which More also composed various poems on tyranny. Some of the more caustic among them show his clear hatred of corrupt government in any form, not only in the form of utter despotism but also that of amoral statecraft. In addition to his humanist inclination to use the expansive possibilities of imaginative fiction and the highly controlled satire of short verse forms, More shows the humanist penchant for thinking through the problem of government through his focus on history and biography, larded especially with the tools of rhetoric, in *The History of King Richard the Third*.

Although unpublished during his lifetime, the *History* provided More yet another venue besides the *Utopia* for thinking through some important problems of political philosophy. It is not only the veiled allusions of the *Utopia* but the sordid machinations recounted in the life of Richard III that provided a way for More to explore the webs that can ensnare those who need to work close to the center of political power. The life of Richard III offered not only an object lesson in the ways of a usurper, a despot, and a tyrant, but a stage on which to ponder the temptations of a courtier to bend the truth and to risk being all too clever for his own good in rationalizing the commands that a sovereign may impose. I do not at all mean that More is guilty of moralizing—in fact, *The History of King Richard the Third* usually steers clear of explicitly drawing the morale—but for those who have eyes to see, the events narrated say all that it is necessary to say.

¹ Gerard B. Wegemer, *Thomas More on Statesmanship* (Washington, D.C.: The Catholic University of America Press, 1996).

III. *The Resources of Rhetoric and History for Moral Philosophy*

The renewal of attention to rhetoric and history, and especially the use of rhetoric in the writing of history, is one of the most important aspects of Renaissance humanism. In the then newly recovered texts of ancient historians Renaissance humanists found ready models for their efforts. Thucydides, for instance, expends considerable ingenuity in developing speeches for the main characters at each of the crucial junctures of his story. By shifting to the voice of the proponents who were engaged, for instance, in the Melian dialogue Thucydides can bring to the reader's attention not just the chief aspects of the situation that were in play for the participants, but the ways in which they attempted to persuade the public whom they addressed. In the *History* More seems to have been especially indebted to the writings of Sallust about the case of Jugurtha, in particular for the deathbed scene of Edward IV. Jugurtha was the adopted son and co-heir of Micipsa, whose sons Jugurtha murdered in order to gain possession of the throne. In the *Annals* of Tacitus, a book that was only newly recovered during the decade of More's composition of the *History*, we find an important classical model for More's considerable use of rhetoric within historical writing. Besides the service that rhetoric provides for a realistic portrayal of the events under description, the judicious employment of this rhetoric serves also for Tacitus's own commentary on the events of his time.

The use to which More and other writers of Renaissance humanism put these classical models of rhetoric and history frequently includes the exploration of problems in moral and political philosophy. Given the rich biographical and historical resources within which we are accustomed to operate today, it can be difficult for us to appreciate the liberty that these models afforded the writers of the Renaissance. The forms of writing typical of scholastic thought, and especially the forms of inquiry characteristic of the nominalism that dominated late scholasticism, were dry and confining. Even for those who have a deep appreciation for the clarity and rigor of scholastic thinking, and its efficiency in making sharp distinctions, raising and refuting objections, systematizing vast masses of material, and training minds in the habits crucial for good philosophizing, including the area of morality, one cannot help but notice the ways in which the scholastic style can seem excessively limiting.

While I do not believe that the differences between scholasticism and humanism are simply a matter of temperament, there are some respects in which temperament plays a considerable role. The sphere of ethics is a case in point, for the razor-sharp distinctions possible in a scholastic culture trained in a certain pattern of abstractions readily appeals to someone intent on the unification of knowledge.² But to one who is interested in the affairs of state, and especially the affairs of state in a political era more fluid than most, the writing of biography and history will seem more attractive. And the Tudor period was an age of great fluidity—in part, due to the discovery of a whole new world, in part to the religious stirrings that eventually resulted in the Reformation, and in part to the

entry of Machiavellian currents into politics in a way that changed the some of the ground-rules of the game.

But just as it is unfair—in fact, seriously mistaken—to suppose that the new humanists were all Protestants and that the old scholastics were always Catholics, I believe that it is inappropriate to suppose that political philosophy done in humanist style was innocent of the insights of scholasticism. The history of Renaissance philosophy is all too clear about the way in which nascent Protestant convictions as well as the ways in which Machiavellian reasoning found fertile territory among those who still wrote in scholastic style. There are scholastic treatises on the absolute power of the king, for instance, as well as arguments for practices such as tyrannicide.

What the use of rhetoric and history opened up for moral philosophy, as did the use of allegory and fiction, was a way to explore questions of moral psychology and even casuistry, without the confining forms of treatise, syllogism, and disputed question. The rhetoric of praise and blame that Renaissance humanists learned from classical oratory made possible not only elegant but frank comment on moral questions as well as an authorial evaluation of the actions and the plans of public figures and a thorough exposition of the causes of important events. The genre of history, larded with orations, character portraits, and narrative accounts, offered new kinds of opportunities for commentary on the significance of various events and the exploration of moral problems of current concern.

IV. *The Problem of Dirty Hands in General*

One of the particularly crucial problems for a Catholic preparing himself for a career as a statesman is the problem of dirty hands. It does not take terribly much experience in the world of politics to realize that one will have to make alliances with individuals of a questionable sort. Politics is, after all, the art of the possible, and the character Thomas More in the *Utopia* argues vigorously against the reluctance of Hythloday ever to enter the political arena. It seems to me that More has a certain confidence that it will be possible to distinguish between cases of moral principle, on which no compromise is possible, from cases on which it is possible to work together, perhaps with something like a close-pin on his nose, so as to accomplish some particular aim. But the person who is readying himself to undertake such a life needs to confront the fact that there will be recurrent temptations to rationalize one's compromises and to risk crossing some lines that should not be crossed. In short, the would-be statesman has to reflect on the problem of dirty hands and to form a sense of how to proceed in the rough and tumble of a world that gives little chance for lengthy deliberation when speedy action is required.

The Catholic moral tradition that More knew makes an important distinction between material cooperation with evil and formal cooperation with evil. Formal cooperation with evil refers to any situation in which one deliberately chooses to assist with a wicked project of another, whether by adopting this project as one's own end or by selecting some means that is intrinsically disordered and wicked out of a desire for some otherwise legitimate good. Needless to say, for this tradition, one is never permitted formally to cooperate with evil, because one may never

² See Richard W. Southern, *Scholastic Humanism and the Unification of Europe*, 2 vols. (Cambridge MA: Blackwell, 1995).

deliberately choose to perform an act that is wicked, whether as an end or as a means. But this moral tradition is also mindful that it is impractical (if not impossible) to insist upon such a level of purity that one may never be involved whatsoever with anything that in any way touches on what is wicked. Certain forms of such involvement (called by this tradition “material cooperation with evil”) are undesirable but sometimes unavoidable, whether in situations where one is confronted with options that are all undesirable and thus facing a need to choose the lesser evil, or where an otherwise morally permissible course of action involves some physical contact with wickedness without in any way sanctioning it or enabling it. If I might cite a relatively straightforward example from the present day, one may never deliberately perform an abortion, or make a piece of equipment whose only use is to perform an abortion, or undertake the financial negotiations that would make possible the funding of an abortion clinic. But one may be a postal worker who delivers the mail, including checks, to an abortion clinic that happens to be on his route. One may work for the electrical company that provides electricity to a city whose buildings number various abortion clinics. The reasoning involved here is that one may never formally cooperate with evil, but that there are also situations in which one’s cooperation is only material.

V. *The Problem of Dirty Hands*

Within the text of *The History of King Richard the Third*,³ I would like to direct our attention to the scene in which Richard gets control of the second prince, despite the “protection” that the Queen seeks to retain by the appeal to “sanctuary” (350-96 in the Latin text). The basic story, as you will remember involves the Queen’s flight with Prince Richard after she learns that Richard has taken charge of the young King Edward and has managed to arrest Rivers and Grey and Vaughan. The narrative includes the strange scene of the Archbishop of York bringing the Great Seal to the Queen and then secretly recovering it, only to have it stripped from his possession as one unworthy to bear it. It includes the “persuasions” that Lord Hastings uses to calm fears and the rhetoric that Richard uses to persuade some of the officials of London, particularly by his account of the way in which he treats Prince Edward. It includes the speeches by which Richard and his minions try to persuade the lords of Edward’s council, and Buckingham’s speech against the abuses of sanctuary, just after the Cardinal’s declarations that nothing can break the immunity of sanctuary. The scene closes with the debate that ensues between the Cardinal and the Queen and the Queen’s decision to handover her son.

Having framed the question for the council of nobles as a matter of recognizing that the royal boys would be more safe in the hands of the protector than in those of the Queen, Richard urges that “it was only malice, frowardness, or folly that caused her to keep him” (32). The protector tries to persuade the council to affirm that there would be greater likelihood of peace in the kingdom “if the mother be by good means induced to deliver him.” The Cardinal (here More by mistake writes “the Archbishop”) is dispatched to convince her, but they all assume that there will

be no attempt to remove him from sanctuary “against her will.” The text then turns to the right of sanctuary:

“For it would be a thing that should turn to the great grudge of all men and high displeasure of God, if the privilege of that holy place should now be broken, which had so many years been kept, which both kings and popes so good had granted, so many had confirmed, and which holy ground was more than five hundred year ago by Saint Peter his own person in spirit, accompanied with great magnitude of angels, y night so specially hallowed and dedicate to God (for the proof whereof they have yet in the abbey Saint Peter’s cope to show) that from that time hitherward was there never so undevout a king that durst that sacred place violate, or so holy a bishop that durst it presume to consecrate.” (32-33)

After the rhetorical flourishes here in the narrator’s voice, presumably to establish on historical and religious grounds the inviolability of the right of sanctuary (and even to invoke the “interesting” evidence of St. Peter’s cope!), the text returns to the report of speeches. The Cardinal (once again mistakenly called “the Archbishop of York” at this point in the text) solemnly voices the view that nothing can break the immunity of sanctuary:

“And therefore... God forbid that any man should, for anything earthly, enterprise to break the immunity and liberty of that sacred sanctuary, that hath been the safeguard of so many a god man’s life. And I trust,” quod he, “with God’s grace we shall not need it. But for any manner need, I would not we should do it. I trust that she shall be with reason contented, and all thing in good manner obtained. And if it happen that I bring it not so to pass, yet shall I toward it so far-forth do my best, that we shall all well perceive that no lack of my devoir, but the mother’s dread and womanish fear shall be the let.” (33)

We have here a humanist version of the traditional concept of an exceptionless duty: “But for any manner need, I would not we should do it.” In the language of the scholastic philosophy, we have a clear statement of principle, articulated in terms of a universal negative, a statement of something that is wrong *semper et ubique* (always and everywhere), and for this reason there is a refusal even to consider the prospect that the right of sanctuary should ever be compromised.

The immediate reply to the Cardinal by Buckingham is a stinging rebuke: “‘Womanish fear? Nay, womanish frowardness!’ quod the duke of Buckingham.” His scornful remarks seem entirely designed to force the Cardinal to treat the matter in some other way: “For I dare take it upon my soul, she well knoweth she needed no such thing to fear, either for her son or for herself. For as for her, here is no man that will be at war with women...”. Buckingham then tries to undermine the legitimacy of any fear on her part—the protector’s party bears her family no ill will, and they could not possibly be thought to “hate the king’s noble brother, to whose grace we ourself be kin.” In fact, Buckingham insists, it is only his safety and honor that they have in mind, and for this reason she ought to bring the child out to a more honorable place. Having thereby explained his own good intentions, Buckingham turns the consideration to the possibility that she may refuse. In his so doing we get an analysis of the legitimacy of taking the boy by force that rests on

³ In what follows, the passages I cite come from the following edition: *The History of King Richard the Third*, ed. George M. Logan (Bloomington IN: Indiana University Press, 2004).

what I have called above the distinction between formal and material cooperation—according to the distinction that Buckingham wants us to use, the physical crossing of the line of sanctuary could be an act of wrongdoing in the formal sense or might be merely a technical transgression and thus only a matter of material cooperation. It is, I think, a false application of the traditional distinction, a misuse of a legitimate strategy, but one that gets its persuasive force with the council from Buckingham's clever and sustained use of rhetoric. We have here, I submit, More the humanist imagining the devious use of what is in principle a legitimate and useful moral tool, for the persuasion of the council to accept a means to Richard's end that they really ought to reject and one that they would have rejected had they held fast to the moral absolute that the Cardinal stated in the speech quoted above.

The reasoning that Buckingham proposes involves a lengthy discussion of the privilege of sanctuary. Admittedly, the appropriate limits to the right of sanctuary were much discussed in More's time and are found even in his *Utopia*.⁴ There More has his characters employ one of the very same reasons that Buckingham here avers, namely, the abuse made of the privilege by career criminals. That More puts this reasoning into the mouth of Buckingham may well have been a good way for More the author to reflect on the question for himself—just as he sometimes does in the *Utopia*. I can well imagine that More may have had questions about it personally. But the way in which the reasoning of Buckingham proceeds suggests to me that in the *History* we mainly have here More operating as moral philosopher, exploring the ease with which one can misuse the distinction between material and formal cooperation with evil through self-serving rhetoric and the re-definition of crucial categories.

Buckingham's first gambit, once he turns to the question of what to do if the Queen were to refuse to hand the child over, is to suggest that the more she "feareth to deliver him, the more ought we fear to leave him in her hands" (p. 34). Her fear about missing some opportunity should give them grounds to fear her designs. Listen then to the language with which he starts to redefine the sanctuary question: "For she will soon think that if men were set (which God forbid) upon so great a mischief, the sanctuary would little let them. Which good men might, as methink, without sin somewhat less regard than they do." In short, he thinks that the forcible removal of some types of refugees is not so great a matter—a material complicity to be regretted, not a formal crime that would be sinful. After raising the possibility that their inaction could give her leeway to send the child abroad and thus render them subject to the judgment of having been poor councillors to the king (a grave misdeed, compared with whatever misdemeanor would be involved in taking the child out of the sanctuary).

In a move that is precisely the necessary strategy required for a successful use of the distinction between material and formal cooperation in moral analysis, Buckingham then turns his speech to defending the claim that he will not be engaged in formal complicity: "And yet will I break no sanctuary therefor. For verily, sith the privileges of that place and other like have been of long continued, I am not he that would be about to break them" (34). His sphere here reveals the mind of a person who is fixed on never violating sanctuary (that is, a refusal ever to

engage in formal complicity), but who then turns within a few lines to a distinction that will allow him to enter into the situation of material cooperation (that is, a justification for technically violating the protection of sanctuary but not formally doing anything wrong). The distinction that he employs is between what he considers legitimate purposes of a sanctuary and its abuse. Those who have been reduced to poverty by the loss of their goods at sea or by bad loans deserve to have a place of refuge from their "cruel creditors." Likewise, a situation in which the crown is under dispute would (he argues) justify their being a place of refuge for one party whom the other party considers a traitor. But, he insists, "it is pity the sanctuary should serve" thieves, "of which these places be full, and which never fall from the craft after they once fall thereto." As for murderers who take refuge, he cites Ex. 21:14 to argue that God orders that willful killers be pulled from altars and slain.

Having made his basic distinction between legitimate and illegitimate uses of the privilege of sanctuary, Buckingham elaborates his case largely in terms of the far greater proportion of illegitimate than legitimate refugees who actually use the right of sanctuary. His conclusion turns on a principle of the sort that proportionalist moral philosophers in our own day could have stated no more clearly:

"What a rabble of thieves, murderers, and malicious, heinous traitors, and that in two places specially: the one at the elbow of the city [that is, close by the City of London, at Westminster], the other in the very bowels! [the one at the monastery of St Martin's le Grande near Cripplegate]. I dare well avow it: weigh the good that they do with the hurt that cometh of them, and yet shall find it much better to lack both than have both." (35-36)

The proportional reasoning that Buckingham invokes here would have been perfectly in place for a discussion in Parliament about whether or not the law ought to maintain so many (or even any) places of sanctuary, for that is a decision about the number of places and for this decision one has to weigh the benefits and the burdens of one number rather than another. But such proportionate reasoning is illegitimate in a situation where one has already established places of sanctuary that are open to any who ask, without any further conditions placed on those who seek refuge. His reasoning tries to take the matter out of the domain that the Cardinal had articulated as the prevailing assumption, namely, that places of sanctuary, once established, are inviolable. Rather, Buckingham tries to reframe it in terms of the distinction between those cases that would truly be violations of the right of sanctuary (namely, refugees who take refuge for the right reason) and merely technical violation of a place of sanctuary. The latter case would not be a case of formally wrongdoing but merely a material cooperation by the use of force within a sacred space in the case of someone who has no genuine right to claim such sanctuary.

Sensing his rhetorical advantage, Buckingham then builds the rest of his case in elaborating the crucial distinction between those who have a legitimate right to sanctuary and those who do not:

⁴ See *Utopia* (CW 4.81, CU 75-77).

“Now unthrifths riot and run in debt upon the boldness of these places, yea, and rich men run thither with poor men’s goods: there they build, there they spend, and bid their creditors go whistle them. Men’s wives run thither with their husbands’ plate, and say they dare not abide with their husbands for beating. Thieves bring thither their stolen goods and there live thereon.”

If things were really this way, one might wonder how the Queen and her child ever found room at all! Buckingham then makes a rhetorical appeal to the council whom he is addressing by flattering their wisdom:

“Howbeit, much of this mischief, if wise men would set their hands to it, might be amended, with great thank of God and no breach of the privilege. The residue, sith so long ago I wot never what pope and what prince more piteous than politic hath granted it, and other men since, of a certain religious fear, have not broken it, let us take a pain therewith and let it a God’s name stand in force, as far-forth as reason will—which is not fully so far-forth as may serve to let us of the fetching forth of this nobleman to his honor and wealth, out of that place in which he neither is nor can be a sanctuary man.”

In short, the formal act of violating a sanctuary depends not on the fact of having taken refuge in the designated place, but on the status of the refuge-taker:

“A sanctuary serveth always to defend the body of that man that standeth in danger abroad, not of great hurt only, but also of lawful hurt. For against unlawful harms, never pope nor king intended to privilege any one place: for that privilege hath everyplace. Knoweth any man any place wherein it is lawful one man to do another wrong? That no man unlawfully take hurt, that liberty the king, the law, and very nature forbiddeth in every place, and maketh, to that regard, for every man every place a sanctuary.”

The sophistry involved here involves a confusion between the physical protection that a sanctuary affords and the moral security that innocence ought to afford a person. But if moral security were enough, no physical protection would be needed. And the very presumption of the establishment of sanctuaries is that those who are threatened may not be able to find a reasonable judge to verify their innocence and to withstand the pressing attack of a hunter. My reflections here are not meant to decide the question that Buckingham has raised, a question that would be a legitimate object of legislative inquiry in the abstract. My intent is merely to point out that the whole point of sanctuary is to provide safety for anyone, independently of the reason and thus is not subject to the sort of judgment that he is trying to make about the legitimacy of the sanctuary claim.

The peroration of Buckingham’s case makes the claim that the child neither needs nor can have sanctuary for any legitimate reason, and that he is too young to have asked for it. The nobles are persuaded: “When the duke had done, the temporal men whole, and good part of the spiritual also, thinking none hurt earthy meant toward the young babe, condescended in effect, that if he were not delivered he should be fetched.” They direct the Cardinal first to try to secure the Queen’s

cooperation, and only to use force if necessary, and the scene then moves to the Cardinal’s interview with the Queen.

VI. Conclusions

In this passage More shows a clear sense of the distinction that moral theorists had carefully articulated between formal and material cooperation in wrongdoing. He presents it, not in the abstruse categories of the schools but in the rhetorically fulsome speech of an agent of Richard the Third who knows exactly what he is doing. The traditional distinction is utterly reasonable, and by the force of the rhetoric the council is unfortunately persuaded. It is not, I submit, that the distinction is faulty.

Rather, it seems to me that More the moral philosopher is really focused on a different aspect of the situation: the abuse that can be made of a valid and legitimate distinction in moral casuistry, especially when someone makes the case in a proportionalist manner, by citing cases designed to upset the listener by offering valid evidence of actual abuses of a right like sanctuary and the resultant injustice. But in calling the reader’s attention—or perhaps simply his own attention—to the slippage from the abuse of a right to a willingness to do a wrong—More is proving a sophisticated moral philosopher and, I think, preparing himself to spot such reasoning, whether in others, or even in his own deliberations within his conscience. His strong sense of what he could learn by history and biography, and especially by exploring the power of rhetoric to move a group of people and to cover over irreducible distinctions, would prove essential to his vocation as a Christian statesman.

“More’s Reflections on Complicity with Evil” ? Questions and Discussion with Dr. Joseph Koterski, S.J.

Gerard Wegemer: What do you make of Morton’s actions at the end of the English version of *Richard III*? As a clergyman, is it legitimate action to lead someone on by flattery?

Koterski: Thank you. It is a wonderful question, and I think it is very, very right for More to be raising that question with regard to a person of such eminence, and whom he so respected from certain respects, as Cardinal Morton. But nonetheless, it is not permissible to lead someone on by flattery in that way. Again, I think that More had to be constantly alert of the fact that sometimes even the people that you like, the people who you sometimes admire, sometimes can fall astray of these things. And so, what I see in More is just a tremendous honesty—that he can point out, even about someone who was his own patron at such a young age, and whom in the *Utopia* he would make a very sympathetic character in attempting to have that put in the mouth of Hythloday when he’s reciting the whole matter of the dinner that goes on and the ways in which Cardinal Morton managed to do so many good things, that there are parts here where even Morton is very deeply troubled. And it’s the deep respect in which an Aristotle and an Aquinas and this longstanding realist tradition in ethics would say that, in justice, we have never to be respecters of persons, so it’s never going to be a case of, Because a person we like does it, therefore it’s OK, or Because a person we admire does it, it must in fact somehow be acceptable. But in fact, it *needs* our deep moral scrutiny, and More, I think, needed to have even a deep moral scrutiny of Cardinal Morton.

Elizabeth McCutcheon: That speech has always puzzled me, because there is an element of self-protection in it as well—in the Buckingham speech at the end of the English section. Because, clearly Morton is worried that his speech may be reported to the king, and so he expresses it in such a way that he ties it into Buckingham: The king has all these great qualities, and he thinks that the only person who would be better would be you, Buckingham. If Buckingham repeats that speech, Buckingham

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indicts himself, so it’s a kind of checkmate situation, if you see what I mean. And there’s a rhetorical term for that which I can’t remember—something about, You’ve turned the cat in the pan, or something like that.

Koterski: Checkmate is a good image.

McCutcheon: Yes, it’s a checkmate kind of thing, but it’s a *weird* thing, because Morton is leading him on, yet Morton is self-protecting. Buckingham has been sort of edging in that direction, and there’s an odd duplicity that’s going on there, with self-protection on both parts. It’s really unnerving, but a wonderful speech, a wonderful scene.

Koterski: Thank you.

Clarence Miller: Even in the *Utopia*, Morton is compromising—legitimately there, and we don’t know why here. When he takes up the proposal that had been made and modifies it—about how you treat thieves.

Koterski: It could be. I didn’t see that one as compromising Morton so much as I took him to be engaged in dinner conversation, and we’re trying to elicit from the other players how this is going to play out.

Miller: No, no: It’s not a question of moral action on his part. But it is an ideal which has been presented, and which he then modifies and brings down to earth.

Koterski: Thank you very much.

Comedy & Tyranny in *Richard III* Stephen W. Smith

Greatness knows itself.
—Shakespeare, *Henry the Fourth, Part One*

I. Introduction

The moment is terrible, infamous, tyrannical—and more than slightly ludicrous. King Richard, having hewn his way at last to the throne of England through a terrible drama of fraud, malice, and violence (one wonders where he would fit in Dante’s *Inferno*?), turns to consider one pesky item of business that remains: the fate of his two nephews, the young Princes imprisoned in the Tower of London following the famous Sanctuary scene. Chillingly and simply, More tells us first how Richard gave the order that the Constable of the Tower kill the young princes “in any way” he fashions fit, and then how the tyrant became most vexed at learning that the Constable “would never put them to death, even if he had to die” himself (75). That very night, Richard complains to a trusty “secret page” about this matter and sighs like a betrayed parent: “Ah, whom shall a man trust?” (75). The page responds by recommending Sir James Tyrell, a man of ready “strength and wit”—though something imperfect in truth and good will—for that infamous office. After narrating this dark exchange, More suddenly reveals one of the strangest details into the history: “For upon this page’s words King Richard arose (for this communication had he sitting on the stool, an appropriate court for such a council) and came out into his bed chambers...” (76; emphasis added). All the court Richard has left, apparently, is the humble commode, a solitary and merciless throne. Suddenly, the terrible tyrant shrinks in stature and seems to become—one of us—but a man. After this brief moment where the narrator invites us to participate in a surprising even shocking chuckle, the *History* of Richard’s tyranny grinds on, and the two Princes are promptly relieved of their lives.

Far from being an odd exception, or isolated perversity in an otherwise serious tragical history, this strange jest is in fact the last of many conspicuous moments of comedy in More’s *History of Richard the Third*. As George Logan has pointed out in his introduction to the work, More’s main classical models, specifically Tacitus and Sallust, differ from More in one important respect: they are seldom humorous in tone, save in a ponderous ironic way, and they lack the strange and “brilliant lightning” of More’s comic wit (xxxix). Like the perplexing errors and dissimulations marking the manner of More’s text, the presence of subtle—and not so subtle—comedy throughout the *History* challenges equations of More’s writing with the classical authors, and raises the question of whether More’s artful comic

wit makes or mars the *History of Richard the Third*. This essay will explore the comic moments in More’s writing with an eye to discerning how provoking unexpected laughter may be seen as part of More’s larger strategy in the work to provide conscientious readers with a “ministry of defense” against the “tragic games” of tyrants past and present—and perhaps against the inner tyranny that is the common struggle of all. How More’s use of comedy helps the reader to see better through the spectacles of tyranny—and especially helps us to confront the “blindness of our mortal nature” at its most painful and tragic moments—is the present business of this essay.

II. Tragedy and Comedy in *The History of Richard the Third*

A reader may readily see, I think, how the *History* is tragical, deadly and dark, but the same reader may be perplexed by the presence of comedy and laughter throughout the tale, of mirth amidst the madness, often at crucial moments of decision and turns of plot. While I believe More’s comic wit and temperament colors the whole tale of *Richard the Third*,¹ it may nevertheless be initially observed that the history divides into two parts. The first part—from the opening portrait of Edward and the “heaviness” of his death to the “painted process” and “gay matter” of the Sanctuary scene—is *more apparently serious and tragic*, while the second part remains serious but is now *more obviously marked by comic* touches and surprising laughter, which become increasingly palpable after Richard gains control of the Princes. After this key triumph, as the narrator notes, Richard “open[s] himself more boldly” to his aristocratic lackeys (36) and reveals the various tyrannical inventions and devices that will become as obvious as the hunch on his back throughout the rest of the *History*, though Richard hardly cloaks himself with lingo-cunning earlier. Whereas in the earlier part of the *History*, the “wise” perceive Richard’s nature and malicious devices better than others do (19, 34), in the second half More’s comic art serves to foster just such wisdom, or mother wit, in readers who may have missed the subtler ironies in the first part on first reading because of a lack of “wise mistrust” of apparent greatness, or a failure to recognize the laughable littleness of most men in the work (38). Let’s now make a short survey of the strange moments of comedy in the second part of the *History*, and explore More’s use of comedy.

III. Strawberries, Sorceresses, a Sore Shriveled Arm—and Hastings Beheaded

After the imprisonment of the princes and on Friday the thirteenth of June, Richard continues to push his tyranny forward by orchestrating the fall of the vainly sure Hastings. Having made his famous and seemingly innocuous request for strawberries from Morton’s garden, Richard leaves the council chamber, then returns dramatically altered, “frowning and frothing and gnawing on his lips” and all the brutal violence of his soul apparent (40). Out of nowhere, he promptly accuses

¹ For example, with the whole *History* in mind, the opening portrait of Edward is clearly, though subtly, ridiculous. His deathbed atonement would be laughable, if it weren’t so fatal. This is the first of many moments of laughter-and-tears in the *History*.

the Queen and others with her of plotting his destruction. Though plotting the destruction of others is hardly an unusual form of neighborly affection in *The History of Richard the Third*, Richard's explanation of the plot against his tender person is magnificently and transparently ridiculous, and the reader feels the first urge to laugh at the ludicrous devices of tyranny, indeed at the tyrant himself, when Richard presents himself as a *most unlikely* victim of *most unlikely* duo of witches.

Then said the Protector: 'You shall all see in what way that sorceress and that other witch of her counsel, Shore's wife, with their affinity, have by their sorcery and witchcraft wasted my body.' And therewith, he plucked up his doublet sleeve to his elbow upon his left arm, where he showed a shriveled, withered arm—as if it were ever otherwise. And thereupon every man's mind sore misgave them, well perceiving that this matter was but a quarrel, for well they knew the Queen was too wise to go about any such folly. And also if she would, yet would she of all folk least make Shore's wife of council, whom of all women she most hated, as that concubine whom the King her husband had most loved. And also no man was there present but well knew that the Protector's arm was ever such since his birth. (41-42, emphasis added)

What fascinates me here is the obvious, laughable quality of Richard's ploys—the witchcraft of his wits, which the first part of the *History* invites us to consider as deep and so difficult to resist, here seems a comic sham that invites immediate mistrust. Each man in the council knows that what he proposes is patently false; each man is perhaps even tempted to laugh at such folly and gamesmanship; and yet Richard seems to dare men to do anything more, from this point on, than privately chuckle at his tyranny even as they passively participate in it and countenance his madly multiplying lies. Like Hastings before his beheading, every honorable man in the *History* seems "easy to beguile" in this strange comic-tragic way.

After the beheading of Hastings, Richard decides to "set some color on the matter" for the sake of the eyes of other men. Like the accusation of witchcraft and sorcery, the appearance of Richard and Hastings in old ill-faring armor presents another transparent tyrannical sham (45-46), and Richard seems like a man whose actions threaten to mar the serious drama he is trying to direct. Again, however, no "substantial man" complains of the obviously ill drama unfolding, but each rather "answered [Richard] fair, as though no man mistrusted the matter, which of truth no man believed" (46). At present it's safe to suggest that at least one function of the comic touches in *The History of Richard the Third* is to throw into terrible relief these moments of sheer weakness, frailty, folly and fear—the text frequently turns from laughter to sudden sad spectacle of men compromising themselves, and participating in the bad comedy of tyranny by failing to act in a way consistent with their clear knowledge of the truth.

The pattern continues with the more than suspect proclamation circulated after Hastings' execution. In this case, however, More's focus shifts to the people's response to Richard's hocus pocus. As in the case of the ill fitting armor and the unlikely accusations of witchery, the neatly and curiously composed proclamation, on nice parchment, fools no one—"every child," More tells us, "might well perceive that it was prepared beforehand" (47). Moreover, the schoolmaster's famous diagnosis, "Here is a gay goodly cast, foul cast away for haste" calls attention

to the increasing hastiness of Richard's devices and inventions, and their patent, laughable duplicity. As in the earlier cases, the response here to clear perception is merry—a merchant waggishly suggest that the proclamation was composed via prophecy—yet again decidedly muted. The gay, goodly cast of *Richard the Third*, it seems, from high to low, instantly perceive Richard's malice and lame art throughout the remainder of the text, but in each case resistance is limited to private knowledge and laughter—and essentially public compliance, with varying degrees of culpability. The play of Richard's plot and art reads like a dark farce of folly, or an *opera buffa*, which provokes smiles and scorn and silence.

The final comic touch in this section of the *History* comes with Richard's final ridiculous accusations against Shore's wife, which this time provoke outright laughter from onlookers. Unable to find so much as a pointy nose or hat or even an old broomstick in support of his earlier accusations of witchcraft against Shore, Richard boldly tries his hand at truth for a change:

...he laid heinously to her charge the thing that she herself could not deny, that all the world knew was true, and that nevertheless every man laughed at to hear it then so suddenly so highly taken, that she was wicked with her body. And for this cause (as a goodly continent prince, clean and faultless of himself, sent out of heaven into this vicious world for the amendment of men's manners), he caused the Bishop of London to put her to open penance.... (47-48)

Here More elicits laughter both through Richard's plotting and especially through the truly absurd image of Richard himself, hunchbacked and shriveled, descending to earth to mend it like a second son of God. Like his brother Edward, who so dubiously arranged an ineffectual "atonement" before his death after a life of sheer willfulness and voluptuous pleasure. Needless to say, but Richard is obviously anything but a saviour in *Richard the Third*, neither for himself, nor friends, nor people, nor country. [Digression: Edward on charity? "Love one another"—like I love my three concubines!] Despite the ludicrousness of Richard, the Bishop of London supports him, and the sense becomes quite strong that neither the lords, nor the Church, nor the people are willing to mar Richard's play, his regal tragicomedy or "tragic games," despite their better knowledge.

Having repeatedly rendered visible the ridiculous spectacle of Richard's tyrannical art—and raised uncomfortable questions about craven responses to that art, More continues to employ humor for quite serious ends, but now through his amusing yet distressing digression on King Edward the Fourth's character and desires—and frailties.

The portrait of Edward's trusty concubines and the narrative of his marriage decision are presented both merrily and disturbingly, in a manner oddly reminiscent of More's presentation of Richard's tyrannizing. Obviously, these details about Edward's character are of great consequence for our reading of the *History*, as they come to us through the narrator and collaborate at least in part Buckingham's pointed complaints about Edward later. Like Richard's tyrannical devices, Edward's fleshiness and willfulness are obvious to all onlookers, including Edward himself. Indeed, More strangely shows us how Edward is in the habit of laughing at his own evil in the same way onlookers laughed at Richard's games. Like those same onlookers, too, Edward does nothing but laugh—and the consequences

are not unfunny.

Regarding his need for a fleet of concubines, Edward jests that he has “three concubines in whom three diverse qualities differently excelled: one the merriest; another the williest; the third the holiest harlot in the realm, as one whom no man could get out of church [cf. Sanctuary!] lightly to any place, but it were to his bed” (49). While Edward makes light over the very lecherous habits Richard will later exploit in his quest for the crown, it is intriguing to note that we glimpse in Edward’s three harlots an image of virtues usually separate in the *History*—merriment, wit and wisdom, and holiness. Here More uses an odd jest to both point out the problem with Edward, and perhaps to suggest one reason for the near universal collapse of character in *Richard the Third*—division.

In Edward’s questionable decision to marry Elizabeth Grey, we see another questionable plot whose truth is only too apparent: though Edward tries to dress the decision up, he is in fact hastily pursuing fulfillment of his powerful appetites. As More famously observes, Edward follows the “counsel of his desire” and presses for the marriage in “all possible haste.” Not surprisingly given the other moments like this in the *History*, Edward’s friends are then asked to support his ridiculous plan: “then asked [Edward] counsel of his other friends, and in such manner, as they might easily perceive it remedied not greatly to say nay” (54). There is in this case, however, one voice of resistance, the Queen, who critiques Edward for “a little wanton dotage” on Elizabeth and his obvious lack of “wisdom” in wildly pursuing “an improper thing” and a “very blemish” and “high disparagement to the sacred majesty of a prince” (55). In response to the Queen’s bald diagnosis of Edward’s littleness and folly, Edward evasively answers “part in earnest, part in play merrily,” since the narrator tells us, “he knew himself out of her rule.” [cf More’s poem, who can rule a king?] While he first tries to “satisfy her” soberly, he concludes by merrily revealing the key fault of his character—he will not, he says, act “against his appetite,” that is, he will not give up the unlimited liberty of choosing according to the counsels of his desire regardless of wisdom [Interestingly, if one looked at the soul as a kind of court, the counselor usurps the king]. Though the truth of the King’s guiding principle, his appetite, is clearly revealed here, Edward attempts to color over the unpleasant truth with a final jest [he remarks that a minimum they will not be childless, since she is a widow and has children, while he is a bachelor and has some too], which, though humorous, “nothing appeases” the Queen, who nevertheless remains unable to resist Edward’s plot to marry Elizabeth Grey.

After this curious digression on Edward, we return to the darkly humorous narrative of Richard’s tyranny at the point where he “pretend[s] that King Edward and his children are bastards. Though the narrator characterizes Richard’s pretext as yet another case of “simple” invention, he now tells us a bit more on why it succeeds. First, he tells us that Richard’s simple inventions please those “to whom it sufficed to have so mething to say, while they were sure to be compelled to no larger proof than they themselves pleased to make” (58). Such inventions, in other words, provide just “enough” rationale, howsoever obviously questionable it may be, to win the support of men like John Shaa, who seconds Richard’s invention with his shameful sermon delivered at St. Paul’s Cross. Like a number of Richard’s other accomplices, Shaa is presented at first as having “no scrupulous conscience,” and of being a man of “more learning than virtue” and “more fame than learning.” Moreover, like some of the farcical and ridiculous villainy earlier, Shaa’s sermon on

the text, “bastard slips shall never take root” (Wisdom 4:3) is not only suspect, but this time the performance is actually marred by haste, delay, and miscues on the part of Richard and the Doctor, and the invention fails, though not without a last comic attempt to save appearances that simply completes his folly.

For while the Protector delayed along the way lest he should arrive before those words, and while the Doctor, fearing that the Protector should come before his sermon would come to those words, hastened his matter thereto, the preacher came to them and past them and entered into other matters before the Protector came. When the Doctor beheld his coming, he suddenly left the matter with which he was in hand, and without any deduction thereunto, out of all order, out of all frame, began to repeat those words again. (60)

As the narrator remarks, the people were very far from crying out “King Richard!” at this point, for “they had been turned into stone, for wonder of this shameful sermon” (60). Here Shaa and Richard’s devices are clearly no laughing matter—though Shaa hides away like the proverbially wise owl afterwards, he has been shown to be a fool for all the world to see, and though he seeks to evade the testimony of his “conscience,” which “well showed him” the truth of his foolish conduct, a friend tells him the unwelcome truth (rather rare in *Richard the Third*) and he withers up and dies.

At this point in the *History*, it becomes much clearer that participating in Richard’s tyranny, while it may provoke some comic laughter among onlookers or readers, costs the actual performers their honesty...drives them into fatal ridiculousness and folly...leads them to silence or betray their own conscience...and having given them the lie destroys their integrity and their lives. Indeed, after Shaa’s strange death, the narrative turns from comedy to tragedy with terrible swiftness.

The final moment I’d like to consider is similar to the Bastard slips sermon—namely, Buckingham’s ridiculous “performance” at Guildhall. Buckingham—perhaps the Mark Antony of *Richard the Third*—is both obviously well-spoken and “not unlearned” in the least. Like Shaa too, Buckingham does not hesitate to make a mockery of himself, in the manner of Richard’s other concubines, by performing a key role in the final act of Richard’s tyranny. In this case, Buckingham “rehearses” Richard’s case for the throne in front of the people. While brilliant and witty, Buckingham’s words become patently ridiculous as he explains Richard’s pretexts and inventions, but also as he presents a woefully ludicrous image of Richard as wise man. After he speaks at length with all his art, he shamefully receives no response from the people—silence was in the Guildhall, something the masterful speaker Buckingham is unaccustomed to. The narrator again invites laughter at this ridiculous moment through the brief exchange between Buckingham and the Mayor:

“What means this that this people be so still?”
“Sir,” said the Mayor, “perchance they perceive you not well.”

Following this humorous whispering, Buckingham ridiculously attempts to mend his speech a little by rehearsing it again “somewhat louder,” so mething that only

increases the incomparable folly of his speech: “every man much marveled that heard him, and thought that they never had in their lives heard so evil a tale so well told” (67). Not exactly the rhetorical triumph Buckingham imagined for himself, and yet intensely memorable. After this perception, we again encounter the moment of truth—how will the crowd react after seeing through a gifted man’s nonsense? What is best to do?

After more silence, the Mayor asks the Recorder to present Buckingham’s case yet again a third time. Careful to distance himself from the Buckingham’s opinions, the Recorder “tempers the tale” and repeats it, but still “marvelous obstinate silence” reigns in the Guildhall and Buckingham is moved to force the moment to its crisis by demanding that they give an answer. While whispering strangely amongst themselves like a “swarm of bees,” perhaps a sign of wisdom, the people are suddenly betrayed “an ambush of the Duke’s servants and of Nesfield’s, and others belonging to the Protector” who cry out absurdly, “King Richard! King Richard!”. Still the people remain silent, yet Buckingham and the Mayor seize the opportunity for one last lame invention: “they turned it to their purpose and said it was a goodly cry and a joyful to hear, every man with one voice, no man saying nay.” Buckingham claims a transparently ridiculous victory, though the narrator again darkly hints at the cost of all who participate in the folly of Richard’s tyranny:

And therewith, the lords came down, and the company dissolved and departed, the most part all sad, some with glad semblance who were not very merry, and some of those who came thither with the Duke not able to hide their sorrow, were glad, at his back, to turn their face to the wall while the sadness of their hearts burst out of their eyes. (69)

It would be impossible at this point to conclude that here comedy has suddenly become tragedy, the last of many such memorable images in the *History of Richard the Third*. Well, not quite the last. After the “mockish election” and the coronation, More leaves us with a surprising, final image of Richard. Having achieved at last the fruition of an earthly crown, having killed or corrupted through his devices and inventions his fellow countrymen, Richard attempts to make a kind of atonement through a final ridiculous device:

He made an open proclamation that he did put out of his mind all enmities, and he there did openly pardon all offenses committed against him. And to the intent that he might show a proof thereof, he commanded that one Fogge, whom he had long deadly hated should be brought then before him. Who, being brought out of the sanctuary nearby (for thither had he fled for fear of him) in the sight of the people, he took him by the hand. Which thing the common people rejoiced at and praised, but the wise men took it for a vanity. In his return homeward, whomsoever he met, he saluted. For a mind that knows itself guilty is in a manner dejected to servile flattery.

The man who would be king, then, has become a slave—and knows it.

“Comedy and Tyranny” ? Questions and Discussion with Drs. Stephen W. Smith and Travis Curtright

Jeffrey S. Lehman: What is the culpability of the people in *Richard III*?

Stephen Smith: You can look at the nobles, the clergy and the people as the three guilty parties, and certainly the people don't seem to have any other option but to withhold their consent, and removing one's consent is actually a pretty curious form of resistance, a sort of private witness against tyranny.

One thing that comes out in More's *History*, but also, I think, in his pupil, Shakespeare, is the actual, relative rarity of virtue and freedom, especially among those who appear to be great and free—they can do whatever they want. In fact, the “bastard slips” sermon in *Wisdom* [Chap.4]: If you look at the immediate context of it, right around that line, then you find, “when virtue is present, they imitate it; when it vanishes from the earth, they long for it” [4:2]. And I think that one of the ways in which I'm moved by writing like this is to long for something better that is absent, as it were.

Travis Curtright: Are the people really interested in their own liberty? Or are they simply interested in their own safety? You'd think that if the political prescription is to endow people with liberty, that More would have assumed then that the people were capable of bearing that yoke, right? But then, when you turn to the history, he does portray them as individuals primarily concerned with their own safety. So one option is that it may be anachronistic for us to say that there's a seedbed of democracy in More's England, but it does seem in Epigram #198, and particularly at the end of it, that More does push the envelope on the question of the people themselves, to consider whether or not they should give rule over to anybody, the implication being that they are capable of self-governance. So that does seem to me to be a somewhat revolutionary thought...or a profound misreading on my part. (Laughter.)

Smith: It occurs to me that rule by the people can't be much worse than rule by the kings in *The History of Richard III*. Also, thinking of Shakespeare's history plays: At a minimum, they're very hard on monarchy.

Louis Karlin (lawyer): I'd like to follow up on an observation Professor Logan made last night, where he talked about, in the movement from More's *History* to Shakespeare's play, there was something important lost, where the irony from the narrator was folded into the Richard character. I wonder if you have any thought on

that: About how the narrator becomes part of Richard's own character in Shakespeare.

Smith: Well I hadn't thought about that point at all, but I find it interesting. On the point of irony: The moments of comedy in *Richard III* are *at once* funny and chilling. As I worked through it, I couldn't help it: There's no way to read it as if it were Lucian. Lucian is funny if you're reading *A True Story* or a satire like that, but when Lucian unfolds in the world of history, it's both laughable and sorrowful.

As far as the Shakespeare goes: Where I see the irony of the narrator the most in [More's] *Richard III* is in the art of Shakespeare. I think that the mind that made *Richard III* formed the mind of Shakespeare. So I would find the irony and the art and the interest in Shakespeare, wherever he is.

Curtright: “Hypocrisy with style”: That to me seems the perfect definition of Richard's irony, in *Richard III* *qua* Shakespeare, but also as a narrative strategy at work in the plot. A lot of times the narrator will set up things that are subsequently undermined by either action or speech, by using *martyria* or *testimonia*. “Some men say,” or “other men say, or “I have it on good, credible authority, however . . .” And whatever action has preceded or comes after these comments is oftentimes framed by this sort of ironical deconstruction.

David Oakley (lawyer): Dr. Smith, What do you make of More's going on to more or less equate Shore's wife with the council? Is that comedic, or is that some sort of hit against the counselors to bring them down to a lower level—you have tyranny, and the best you can do is pillow-talk? What do you think about him basically apologizing, saying, Well, you may not think it's important for me to go on like this, talking about this lady, but. . . .

Smith: Well, my first, honest response is that I'm not sure I understand the digression on Shore's wife. But she's a fascinating figure in *The History*, because she seems interestingly different to me from the other characters. A counselor usurping the place of the king is interesting to me too, because, in Edward's own case, the counsel of his own desire usurps his rule over himself, and that, to my mind, would be something like an inner tyranny, understanding tyranny as usurping. Beyond that, I don't have an answer for you. It's a good question.

George M. Logan: That's very interesting about Jane Shore as a good counselor—I'd never thought about that before. But of course counselors in the book in general, and in *Utopia* too, are not put in a very favorable light. What Hythloday says about counselors at the beginning of *Utopia*—that they're self-serving sycophants, that they're knee-jerk conservative, that they're willing to do anything to their careers—is of course borne out not only in *Utopia*, by and large, but certainly by the counselors in *Richard III*, and of course above all in that sanctuary scene, where the assembled grandees of England go along with this wretched proposal. And by striking contrast, Jane Shore is the one good counselor—other than Morton, of course. What the portrayal of Jane as a good counselor links itself to in my mind is More's generally very favorable treatment of

the common people; and this brings us back to an earlier question—whoever it was—about how More sees the common people relative to the clergy and aristocrats. There's no question that he has much more sympathy with, and tends to show higher regard, for common people in both these books. Again, in *Utopia*, the royal counselors, with the exception of Morton, are treated with contempt, and the higher clergy, of course, are villainized in the episode on enclosure. And then, in *Richard III*, in the sanctuary scene, we see the same thing.

By contrast, we have enormous sympathy for the plight of the common people in the Morton episode of *Utopia*, many of whom he says are under "the terrible necessity of stealing, and then dying for it." And in *Richard III*: As far as I recall, there are only two places in *Richard III* where the common people are taken in by Richard's and Buckingham's stratagems. We're told that they are deceived by the display of armor, back on page 29: "Yet much part of the common people were therewith very well satisfied, and said it were almoise to hang them"—it would be charity to hang these guys. And then on page 96, the common people are taken in by the pardoning of Richard's former enemy Fogge: "Which thing the common people rejoiced at and praised, but wise men took it for a vanity." But everywhere else, one of the things that More works to wonderful comic effect, in the Buckingham Guildhall speech, in the Dr. Shaa speech, and elsewhere, is the fact that the common people are not in the least taken in by this stuff. They see through Richard, they usually go as far as they possibly can in withholding their assent. So suddenly this episode with Jane Shore links itself in my mind with those other treatments of the common people. Generally speaking, with some exceptions, the common people are both more perceptive and more decent than their "betters" in both these books.

Mary Gottschalk: I was thinking of what you said, Steve, about when Richard says these patently ridiculous things, and everybody's probably thinking to himself, yeah-right, but nobody says anything. I'm wondering if we could put that together with the way that the book starts by claiming that Edward was 53 when he died. Could this be an equivalent to someone writing a book now that starts with, "JFK was 53 years old when he was assassinated"? All the readers know he was not. The reader keeps reading, but he's thinking, I don't think so! It also could have been a way of getting to write that standard introduction about how wonderful the reign of Edward was, when he was obviously adding on fictional years to his life so he could make this claim. It was during those peaceful, nonexistent years that we all know were nonexistent.

Smith: Well, a couple of things come to mind. One thing I've been thinking through is about the writer of this *History*: If Richard's artful device is dissimulation, invention—things like this—there's a counter-art from More that's *similar*, and yet we have to distinguish it from the tyrant's art. But both are there. I think the text is marked by dissimulation for rhetorical ends that are not bad. This is a large question, but I think the art of the narrator is a counter-art to the art of the tyrant. It comes up in Shakespeare, where the gifted villain and the gifted good man are both presented as artistic, almost like dueling artists. And I wonder about More's writing of this story: It's a counter art to the art of the tyrant. Prospero vs. Iago.

Daniel Janeiro: Towards the end of *Richard III*, the comment is made that "these matters be kings' games," at a point in the *History* in which politics is described as theater, and Richard certainly knows that he *is* good theater and that people are going to want to watch. In that section, the commoners are described as the "audience." In another passage from *Utopia* that also discusses theater, the people are presented more as performers—silent performers. My question is this: Do you think that More places the responsibility on the people to act? Is their silence an action? Are they performers in this play, or are audience-members just watching it?

Curtright: Politics as theater: Well, there are two senses of political theater in your question, I think. One is what we see in Lucian's *Menippus*: that we each have a place in the world, a fortune, so we shouldn't play a tragic role in an ongoing comedy, nor a comedic role inside an ongoing tragedy. And then political theater as a manipulation of appearances, as in the line that the narrator gives us just after Richard and Buckingham hatch their plot for usurpation. It's something to the effect of, But then they both left to direct the minds and eyes of other men away from where their thoughts otherwise cast.

So what part do the people play in this? I think that what Dr. Logan just said about the judgment of the common people is insightful, because, in the sanctuary scene, what's the one argument that really moves Queen Elizabeth? It's the argument that the Cardinal makes when he says that you shouldn't distrust our wit nor our truth. And by wit, he means our capacity to make an intelligent judgment about the Protector's intentions; and by truth, he means loyalty or steadfastness—Our loyalty to you, Queen Elizabeth. And she thinks about that, and she says that she doesn't doubt their truth, or their loyalty to her, but she sometimes fears their wit, that is, whether they've made a good assessment of Richard. And as it is, she makes a calculation: Huh, wit vs. truth—I'll give my son over to people that have truth, loyalty—people that I can trust, even if I don't necessarily go along with their wit, their intelligence.

And the commoners are almost the inversion of that, aren't they? They have wit, but not unflinching loyalties in any one particular direction, so they can see things as they are, and yet, if somebody else is made king tomorrow, then maybe they'll go ahead and salute that fellow as well.

Smith: At the end, where More remarks that wise men shouldn't meddle any further in these things, that's, to my mind, one of the more unsatisfactory moments in the book, because it's clear to me that More himself has meddled in kings' games. So it's a great question to me of how More intends to move the reader. Certainly that line from Hastings, that "he forestudied no peril," and that's why he was undone, seems to link up here. I remember a line from *Macbeth*, where he says, "being unprepared, / our will became the servant to defect / Which else should free have wrought" [2.1.18-20]. So when I think of the artists in this case not taking his advice, meddling in kings' games, precisely for the sake of helping others develop the wisdom that seems to be sorely lacking in the world of *Richard III*, even to develop what he calls "wise mistrust," not only of appearances, but also perhaps of ourselves and our own tendency to follow the counsel of desire rather than truth.

Law & Tyranny in More's *History of King Richard III*: An Examination of the Sanctuary Debate

Louis Karlin

Tell me, tell me some, some pitying angel,
Tell quickly, quickly, quickly say,
Where, where does my soul's sweet darling stray,
In tiger's or more cruel, more cruel, cruel Herod's way?
Ah, ah rather, rather let his little, little footsteps press
Unregarded through the wilderness,
Where milder, milder, where milder savages resort,
The desert's safer, the desert's safer than a tyrant's court.

Nahum Tate, *The Blessed Virgin's Espostulation*

I. Introduction

In this lawyers' panel, we ask whether practicing judges and attorneys have any special insight into Sir Thomas More's *History of King Richard The Third* (the *History*),¹ as well as into the central themes of More's *History*—the relationship of law to politics and, specifically, whether law is powerless in the face of tyranny. More did not write the *History* especially for legal professionals, but legal arguments and the counselors who advance them figure importantly in the work, and More devotes a large section of the *History* to a detailed legal debate about whether Queen

Elizabeth is justified in keeping her son, the young Prince Richard, in sanctuary. In this paper, I will try to show how More's presentation of technical, lawyerly details figures into these broader concerns.

As a humanist, More sought to use literature to help foster classical and Christian virtues across the spectrum of the statesmen, scholars, clergy, merchants, and educators who would be his readers. His Richard III is as much classical Roman tyrant as son of York. While it would be a very naïve reader who understood the *History* as an attempt to preserve a factual record of Richard's ascension to the crown, it would be equally mistaken to read his work as an academic update on his Roman models. Rather, the *History* stands as a chilling indictment of tyranny, with the clear implication that classical models offer important insights into a timeless political disease.

As Professor Gerry Wegemer wrote in his invitation to lawyers for this conference, the *History* tends to show the weakness of law, rather than its effectiveness. And the person most articulate about the rights and protections of law—Queen Elizabeth—seems the biggest loser, despite her persuasive appeal to English common law and privileges. The careful reader, regardless of any legal training, will get the strong sense that legal arguments have no inherent power to enforce existing rights, but function as tools used cynically by the powerful to achieve their ends. We see that Richard the tyrant cares deeply about cloaking his evil actions in legal rectitude.² He doesn't seek, as modern tyrants, to change the current paradigm or language of justice to fit his ambitions. Rather, Richard accepts the traditional legal and moral framework on the surface, while subverting it to achieve his ends.

As the *History* unfolds and Richard's duplicity becomes more transparent, More illustrates how such a cynical manipulation of legal concepts and traditions will devalue them on all levels of society. By the time Richard declares that he wants to be crowned at the Court of the King's Bench at Westminster Hall because, "he considered that it was the chiefest duty of a king to minister the laws" (95), not only will his readers know that Richard's declaration was meant in bad faith and to deceive, but More intimates that his subjects were not taken in, for More places this declaration directly after the scene in which Richard and Buckingham enacted the charade of Richard's having the crown forced upon him after repeated denials. There, More related how the commoners perceived these actions as "kings' games, as it were stage plays, and for the more part played upon scaffolds" (95).

So, is More's view of law and lawyers entirely negative? I do not think that legal training is the key to answering that question. The key is an understanding of More's humanistic literary approach with specific attention to his reliance on irony, as seen in his own *Utopia* and in his great friend Erasmus's *Praise of Folly*. In the *History*, More portrays successive failures of law to check a tyrant—and, by implication, his readers see how it could have been otherwise if Richard's adversaries had challenged the legality of the tyrant's actions, as well as if members of Richard's party had put honor and principle ahead of private gain. One does not need a law degree to see that the queen was the clear winner of the sanctuary

¹ Thomas More, *The History of King Richard The Third, A Reading Edition*, Ed. George M. Logan (Indiana Univ. Press 2005). All further citations to the *History* shall be taken from the Logan edition.

² See G.M. Logan, *Humanist More*, at p. 21 (Nov. 5, 2005) ("Dissimulation, More decided, was Richard's ruling trait . . .").

debate—a debate More structures to enable the general reader to discern the good arguments from the bad ones, revealing the tyrant's duplicity and hypocrisy. In More's *History*, the characters who participate in, or listen to, the various legal debates can usually distinguish the good from the bad arguments. Power nevertheless triumphs due to the failure of individuals to stand up for the law and against the tyrant. This leads not to the simplistic conclusion that power beats law, but points to a more complex and intriguing understanding in which respect for law as a requirement for true justice remains for the readers a transcendent value, even when thwarted.

II. *Background To The Sanctuary Debate: King Edward's Dying Speech*

King Edward's dying speech sets the *History* in motion and offers a paradigm of justice that the canny tyrant will subvert his own ends. The king's speech is filled with many of More's favorite rhetorical devices—rhythmical phrases filled with alliteration, rhyme, and antitheses used to punctuate or balance complex sentences. The crux of King Edward's plea is that the opposing factions should shed their longstanding animosities and join in friendship around his heirs—for the good of the kingdom.

More ironically undercuts the king's plea for simplicity and artlessness—"plain and faithful advice" and "good plain ways"—by voicing it in highly wrought rhetoric: "For it sufficeth not that all you love them, if each of you hate the other." Power must be exercised in concord. "For where each laboreth to break that the other maketh, and, for hatred of each of other's person, impugnech each other's counsel, there must it needs be long ere any good conclusion go forward. And also while either party laboreth to be chief, flattery shall have more place than plain and faithful advice." That path will lead to ruin, whereas if "grace turn to wisdom," then "good plain ways prosper" (15). Thus, More, a careful reader of *The City of God*, presents through the dying king St. Augustine's impossible-to-achieve-on-earth ideal of political friendship, where rulers and citizens act with humility and benevolence for the common good. However, More proceed to have this idealized vision systematically undercut.

Following the king's speech, More introduces another important theme—the false appearance of benignity designed to cloak malignant motives. The lords, seeking to comfort and reassure the king "with as good words as they could, and answering, for the time, as they thought to stand with his pleasure—there in his presence (as by their words appeared) each forgave other and joined their hand together, when (as it after appeared by their deeds) their hearts were far asunder" (17).³

Upon King Edward's death, Queen Elizabeth's eldest son, Prince Edward, leaves Wales for his coronation in London, heavily guarded by lords of the queen's party. Richard works to revive the old party animosities, while speaking publicly in support of King Edward's dying declaration. It is a very sophisticated argument: From what we know about the members of Queen Elizabeth's party, in order to

preserve the fragile peace, we must be skeptical of her parties' motives—implying, of course, that Richard's motives are beyond reproach. Richard's speech concludes with an amazing sentence in which More uses earthy, bodily metaphors to convey the realistic, commonsense view of human nature that will help Richard thrive in the face of so many disadvantages: "Nor none of us, I believe, is so unwise oversoon to trust a new friend made of an old foe, or to think that an hovery kindness, suddenly contract in one hour, continued yet scant a fortnight, should be deeper settled in their stomachs than a long-accustomed malice many years rooted" (20). Of course, this is the counter-argument to King Edward's speech. It is also diametrically opposed in its rhetoric—where the king appealed to grace and altruism, Richard appeals to the man's basest motives.

Next, More describes the argument Richard uses to fatally persuade the queen to withdraw the main force protecting Prince Edward on his journey to London. Richard appeals to the king's dying speech and charges the queen with violating her husband's directive: To surround the prince with a partisan army makes the implicit point that the old factions are alive and well, contrary to the peace made in the king's presence. What do her actions say, but that those in Richard's party cannot be trusted?

Richard places the queen in check by this maneuver. He isolates her brothers and trusted lords, imprisons them, and prepares them for summary execution. This leads to another key point I mentioned at the outset. In his rise to power, Richard the tyrant does not overtly seek to overturn the legal order. Rather, he repeatedly appeals to contemporary legal standards and argues that his actions are proper. For instance, when Lord Hastings—then in league with Richard against the queen's party—seeks to justify Richard's actions to the commons and allay their suspicions about the imprisonment of the lords in the queen's party, Hastings assures them that those imprisoned would receive due process in the form of an impartial hearing before the proper deliberative body (28).

Richard has neutralized the lords in the queen's party, allied himself with the powerful Lord Buckingham, and brought the Prince of Wales, unprotected, into his control. The prince's coronation is about to take place, but Richard knows that there is one person he must capture before he can assure himself of the crown—the prince's younger brother, Prince Richard.

III. *Richard and Buckingham's Arguments Against Sanctuary*

The queen, realizing what the protector is up to, and perceiving herself and her son, Richard, to be in mortal danger, has retreated to the sanctuary of Westminster Abby. The protector addresses the lords and commons with his first argument against the queen's invocation of the sanctuary privilege on behalf of the young prince. His address builds on his prior argument against having a large force accompany the Prince of Wales to his coronation: By claiming sanctuary, the queen is implicitly making the malicious charge that the protector and his counselors cannot be trusted. Next, he posits that it is unnatural to keep the King-to-be from his closest friend and playmate—his younger brother. No one would stay in sanctuary without a reason (and one would naturally suppose that two young brothers should be together), so the queen's reason must be that she is perversely

³ We'll see this again, for instance, when Richard bears himself before the prince upon his entry into London "with all semblance of lowliness." (29)

trying to subvert the new order by her “malice, forwardness, or folly” (32). By focusing on a somewhat minor or homely justification—the separation of brothers and playmates—Richard seeks to portray his own motives as commonsensical and natural, while casting doubts on the queen’s motives. Of course, the queen—having fallen for Richard’s tricks before—does not trust the protector and is seeking to protect her family’s bloodline and preserve her sons’ claim on the throne.

Richard proposes sending the cardinal⁴ as an emissary to persuade the queen to release the young prince and, if that fails, to have him forcibly removed from sanctuary. He asks the lords’ opinion on his proposal, stating that he’s open to being persuaded by their “better advices” (32). All voice their agreement, but the cardinal makes a strong stand against violating sanctuary, should the queen not release the prince. He argues that sanctuary is an institution and privilege of longstanding authority, established by Saint Peter’s successor, having lasted 500 years, and respected by popes and kings. In essence, the cleric argues that the privilege derives from a spiritual authority, binding on earthly rulers as a protection against tyranny: “God forbid that any man should, for anything earthly, enterprise to break the immunity and liberty of that sacred sanctuary, that hath been the safeguard of so many a good man’s life” (33).

Lord Buckingham steps into the debate, effectively as Richard’s lawyer. His rhetoric is impressive and persuasive, at least on its surface. His first paragraph uses alliteration and antitheses impressively and in much the same way as King Edward’s deathbed speech. In attacking the queen’s motives, Buckingham plays on “honor,” “dishonor,” “wealth” (meaning “well being”), “will,” “wit,” “God,” and “good”:

Whose honor if she as much desired as our dishonor, and as much regard took to his [the prince’s] wealth as to her own will, she would be as loath to suffer him from the king as any of us be. For if she have any wit [intelligence] (as would God she had as good will as she hath shrewd wit), she reckoneth herself no wiser than she thinketh some that be here, of whose faithful mind she nothing doubteth, but verily believeth that they would be as sorry of his harm as herself, and yet would have him from her if she bide there. And we all, I think, content that both be with her, if she come thence and bide in such place where they may with their honor be. (33-34)

Buckingham not only asserts that the queen must be mistrusted because she could have her family together simply by leaving sanctuary, but he goes on to assert that if the queen imagines Richard and the lords in London are so dangerous to her son, then she will make every effort to send him out of the country.

This argument is a highly wrought, artificial attack on the queen’s motives. But the sense comes to this: Once you accept the premise that “we”—Richard, Buckingham, and the lords present—all have the new king’s and the young prince’s

best interests at heart and lack any evil designs, it follows that the queen is either being silly, imagining threats, or maliciously impugning “our” motives. But More has already informed “us” the readers that Richard’s motives are malignant. So we know the premise is false and the arguments are misguided at best. Although the extent of Buckingham’s loyalty to Richard is not yet clear, we know that he is driven by his hatred to wards the queen’s party.

Through More’s use of irony—one of the tropes most highly prized by the Renaissance Humanists in general and More and Erasmus in particular—the *History* instructs us to be wary of rhetorically impressive legal arguments. The lesson for the practicing lawyer and judge is clear: No matter how appealing an argument sounds, we must identify the its premise and test its accuracy, taking special care to factor the client’s interests and biases into the equation.

So with the reader put on guard, More has Buckingham make his detailed legal argument. Building on what came before, he asserts that if the queen imagines the protector and the lords are so dangerous to her son, then she will make every effort to send him out of the country, which would give them a good and blameless reason to fetch the prince out of sanctuary. Nevertheless, Buckingham protests, far be it for him to break the sanctuary privilege, given that it is such a longstanding institution.

The next step of his argument is critical. He makes the very modern-sounding assertion that in terms of reasonableness, tradition provides little or no support for the privilege as it now exists. If he were to start from a clean slate as a lawgiver, he would not institute the kind of sanctuary currently recognized. Like a judicious reformer, Buckingham identifies what he considers to be the two legitimate and narrow bases for sanctuary: (1) a “deed of pity” for innocent debtors to maintain a place of liberty from their cruel creditors; and (2) for those on the losing side of a contest for the crown. Of course, it is the second basis that fits the queen’s situation most closely, but it immediately disappears from Buckingham’s argument. For Buckingham’s purposes, that justification is inapplicable since his starting point is that the protector has no such evil designs against the queen’s party; and, even if Richard harbored such designs, they would not apply to the prince, who, after all, is the king’s brother.

So we get a detailed, pragmatic explanation of how sanctuary is being abused by persons who do not fit those two categories and who are merely availing themselves of the privilege to commit crimes with impunity. Buckingham tries to paint the cardinal’s reliance on tradition and religion as superstitious and naïve. The cleric had appealed to St. Peter and his relics as a justification. In a rhetorical turn worthy of More’s best, Buckingham points to the privilege abusers as making God and Saint Peter the “patrons of ungracious living” (36).

Buckingham paints a very effective, if one-sided, picture: “Men’s wives run thither with their husband’s plate, and say they dare not abide with their husbands for beating. Thieves bring thither their stolen goods and there live thereon. There devise they new robberies, nightly they steal out, they rob and rieve and kill, and come in again—as though those places gave them not only a safeguard for the harm they have done but a license also to do more” (36). Buckingham therefore asserts that a reasonable sanctuary privilege should be tailored to exclude such abusers from its protection.

⁴ As Professor Logan explains in his edition, More confuses the cardinal and the Archbishop of York in the *History*. (*History*, at 32 fn. 16.) For consistency, I will refer to the cardinal, rather than the archbishop.

While that argument is persuasive, it is obviously highly partisan. (To the contemporary reader, one can't help but think that sanctuary provided one of the rare protections against an abusive husband.) No one can deny that a sanctuary law that serves mainly to foster and protect lawbreakers is deserving of serious reform. Like Hythloday's criticism of the harshness of English penal law in *Utopia*, this criticism has the ring of truth. But the fact that it is made by a person with dubious motives requires that the reader maintain some ironic distance.

The next step in Buckingham's argument is to show that the prince falls outside the scope of those properly seeking sanctuary. The main purpose of sanctuary is to protect those against whom the law has a *legitimate* claim: Those who are being pursued illegally have no need of the privilege because the crown by definition will aid those with law on their side. For them, Buckingham asserts, every place is a sanctuary (37). Once again, it would be impolitic to make the obvious rejoinder: What if the crown is not concerned about justice? What if it's acting unjustly itself? I think More wants the reader to think of this kind of objection and wonder why no one makes it.

Buckingham then argues that it is only the person in peril by lawful means who needs sanctuary. Since the prince is recognized as innocent by all, what claim can he have to sanctuary? Only one who believes the prince is guilty of some crime could believe him a proper candidate for the privilege. Why is his mother the queen invoking the privilege on his behalf? It is not like baptism, where original sin prompts the minor's guardian to seek the sacrament. So, by invoking sanctuary, the queen is implicitly accusing the prince of having a guilty conscience. We know that the prince would not countenance that, argues Buckingham, so what is really going on is that the *queen* needs sanctuary and she's keeping the prince there against his true interests. As such, her actions are no different than those of a thief who seeks to keep his stolen goods with him in sanctuary—something the church agrees would be improper (37).

It follows that if the prince has no reason to invoke sanctuary, one could hardly violate the privilege by removing him. Buckingham's final sentence makes it clear that his argument is premised on the supposed good faith of those in his own party: "And he that taketh one out of sanctuary to do him good, I say plainly that he breaketh no sanctuary" (38). The problem with this line of argument is obvious. Not only do we readers know that the protector's motives are malicious, but sanctuary would be a hollow haven if it could be breached by anyone who professed benevolent intent.

It should also be noted that from the perspective of basic appellate advocacy, there is another problem with Buckingham's case on behalf of Richard. As previously mentioned, Buckingham skips over the justification that actually applies—protection of members of the disfavored party in a contest for the crown. Finally, the fact that sanctuary is in need of reform does not respond to the real issues, which must be determined on the currently existing state of the law—whether the prince is entitled to sanctuary and whether the queen is entitled to invoke the privilege on her son's behalf. Thus, without any special knowledge in the applicable law, the general reader sees that Buckingham's argument is dubious at best.

Which leads to the next question: Does the *History* accurately reflect the law of sanctuary at the time of Richard III? Recent scholarship shows that More's portrayal was fair and well informed. A 2004 article by Trisha Olson⁵ surveys the history of sanctuary law and demonstrates that the privilege derived not only from the concept of a sacred and inviolable place, but also from the belief that a holy person (typically, the bishop) was duty-bound to intercede on a wrongdoer's behalf—a fleeing sinner, who had prostrated himself at the church's altar and accepted the assigned penance. Sanctuary served as a mode of reconciliation between the offender and the polity or between feuding parties. In a time when private revenge was a primary mode of justice, sanctuary provided a means of controlling blood feud and preventing violence. For St. Augustine, a bishop was justified in "giving refuge to the fleeing wrongdoer in any and all circumstance" (*Olson* 479). In contrast, as Olson explains, "Roman jurists conceived of sanctuary as protection for those unjustly accused of a wrong or for the oppressed," rather than "a safe haven for the otherwise guilty wrongdoer.... [A]sylum offered only a momentary respite until formal inquisition could be made and a judgment rendered." (*Olson* 479-80).

As early as the 10th and 11th centuries, the English crown imposed limits on sanctuary, denying it to public thieves, and to those deemed guilty of murder by lying-in-wait and of breaching the king's peace. (*Olson* 490-491.) By the late 12th century, canon lawyers themselves began to see the need to limit the privilege in response to an acceptance of criminal law's retributive and deterrent functions. (*Id.* at 535.) "Canonists were uniformly troubled about allowing refuge to the professional outlaw." (*Id.* at 537.) "From the twelfth century onward, the canon law, augmented by various papal grants, was moving toward increasing restriction about who may seek refuge." (*Id.* at 538.) "In late thirteenth century England, Edward I mandated that the goods and property of debtors who had taken sanctuary could nonetheless be seized. A century later, justices argued that sanctuary should only be granted to those who if punished risked the loss of life or limb. And by the fifteenth century the House of Commons, speaking for a disgruntled citizenry who saw sanctuary as 'providing refuge...for bandits' began its attack to modify sanctuary further." (*Id.* at 539, footnotes omitted.) When King Henry VII complained about sanctuary abuse, Pope Innocent III instituted three reforms—sanctuary could not be invoked by repeated offenders, sanctuary would not extinguish creditors' rights, and custodians could be appointed to ensure that sanctuary-seekers did not escape. (*Id.* at 538.)

Olson twice refers to More's *History* as accurately portraying the sanctuary debate—first, when Buckingham describes how repeat offenders use sanctuary as a safe haven,⁶ and then when the cardinal traces the origins of sanctuary at Westminster Abby to Saint Peter. (*Olson*, at 540-541.) This second point is the one that Buckingham ridiculed as being superstitious. However, as Olson explains, the concept of sanctuary as holy ground had become the church's main justification for the privilege, as the idea of sanctuary as an alternative means of punishment and social reconciliation passed into desuetude.

⁵T. Olson, *Of The Worshipful Warrior: Sanctuary and Punishment in The Middle Ages*, 16 St. Thomas L. Rev. 473 (2004) [hereinafter, *Olson*].

⁶Olson mistakenly attributes Buckingham's statement to the cardinal/archbishop. (*Olson*, at 540.)

Similarly, in a very recent essay, the legal historian R.H. Helmholz counters the accepted understanding that More was largely ignorant of and uninterested in Roman and canon law.⁷ Helmholz points out that at the time More wrote the *History*, “the law of sanctuary, which allowed persons to escape justice by taking refuge inside a church, stood badly in need of reform” (*Helmholz* 18). Contrary to modern notions, the church was not a bitter opponent to reform. Rather, its approach was far more balanced than that of English common law. “[C]anon law held that asylum should be confined to those most in need” (*Ibid.*). Much of Buckingham’s argument in favor of reform to eliminate abuse was consistent with canon law, which limited asylum for murderers only to those who killed inadvertently. “Those who used sanctuaries to sally forth, commit crimes, and then return to church were likewise excluded under the canon law...” (*Ibid.*). Similarly, Buckingham’s assertion that stolen property taken into sanctuary should always be returned to the victim was in accord with canon law, but not the common law (*Ibid.*). In the *History*, More has the churchmen agree “that by the law of God and of the church the goods of a sanctuary man should be delivered in payment of his debts, and stolen goods to the owner”—although More says that it was a portion of the clergy who agreed and that More was not sure whether they were speaking to please Buckingham or as they actually thought (37-38).

I think this tends to show that More intended that Buckingham voice a very sophisticated legal argument. Buckingham needed to win over the clergy to help Richard’s cause, so he appealed to fact that canon law was in the vanguard of sanctuary reform and that it had recognized greater limitations than in the common law.

Finally, More loaded Buckingham’s attack on sanctuary abuse with more than legal precedent. He also had Richard’s “lawyer” speak in terms that echoed Biblical prophecy. This is from Chapter 7 of Jeremiah, which is part of the Church’s daily readings:

Stand in the gate of the Lord’s house, and proclaim there this word, and say, Hear the word of the Lord, all you people of Judah, you that enter these gates to worship the Lord. Thus says the Lord of hosts, the God of Israel: Amend your ways and your doings, and let me dwell with you in this place. Do not trust in these deceptive words: ‘This is the temple of the Lord, the temple of the Lord, the temple of the Lord.’

**** [check Chicago Style]*

Here you are, trusting in deceptive words to no avail. Will you steal, murder, commit adultery, swear falsely, make offerings to Baal, and go after other gods that you have not known, and then come and stand before me in this house, which is called by my name, and say, ‘We are safe!’—only to go on doing all these abominations? Has this house, which is called by my name, become a den of robbers in your sight? You know, I too am watching, says the Lord. (*Jeremiah* 7:1-11.)

⁷ R.H. Helmholz, “Thomas More and the Canon Law,” Address to the Nicholson Center Workshop (Feb. 20, 2006) [hereinafter, “*Helmholz*”].

Of course, More, the consummate ironist, makes Buckingham speak on behalf of the arch-deceiver Richard at the very same time he invokes Jeremiah’s prophesy.

Clearly, then, More wants his readers to pay careful attention to the context in which arguments are made, and to distinguish between the quality of the arguments and the motives of the person making the argument. The fact is that Buckingham’s criticism of sanctuary abuse is consistent with the prophet’s. And we should note that the queen, although she had good reason to flee to Westminster, does not fit the image of the fleeing penitent for whom the privilege was originally established. Rather, her motives seem entirely human and political—to save her skin, preserve her blood line, and live to fight another day. More did not leave out the unsavory details of her flight, which included her frantic moving of furniture and belongings into the cathedral buildings, even smashing down walls to cram her goods inside.

IV. *The Queen’s Response*

The cardinal, in the company of a number of lords, arrives and presents her with a summary of the protector and council’s reasons for demanding that the prince leave sanctuary, concluding with the argument that the king’s brother should have the company of his natural playmate. The queen’s response is a masterstroke: She tells them that she’d like nothing more than to have them playing together, but the prince has only just begun to recover from a serious illness and, given the very real danger of a relapse, there was no safer, more natural place for him to be than with his mother as caregiver (40).

After the queen easily parries the cardinal’s lame reply that she had no problem in letting her eldest son live away from her care in Wales (she points out the Prince of Wales was healthy), the cardinal makes another misstep. Picking up on her comment that she does not intend to place herself or the young prince in the same kind of jeopardy facing her friends, the cardinal asks if she knows any reason that her friends are in danger. Her response is swift; she knows they have been imprisoned. Once again, we see the kind of effective rhetoric employed by King Edward and Lord Buckingham, but this time used without the cloying artificiality of the former or the misleading intent of the latter: The queen asks why she should trust that her friends would “do well enough” when their case is examined?

“In that I am guiltless? As though they were guilty. In that I am with their enemies better beloved than they? When they hate them for my sake! In that I am so near of kin to the king? And how far be they off? [fn.]—if that would help, as God send grace it hurt not.” (43)

At that point, the cardinal points out that the protector and council do not believe that the prince is entitled to sanctuary or that she can invoke the privilege on his behalf. As such, they would feel justified in removing him forcibly should she refuse to deliver him peaceably. Once again, the queen’s counterargument is masterful, rhetorically and legally. She first exclaims that by forcibly removing a sick child from sanctuary and the care of his mother, the protector would be violating God’s law and acting as a “tyrant” (44). The queen is the first person to use that term for Richard. Next, she belittles as a “goodly gloss” the legal argument

that she cannot invoke the privilege for her minor son. The queen tells the cardinal that she has been informed by her “learned counsel” that English common law makes her the guardian of the prince. In that capacity, she has full right to invoke the privilege for him. That is, contrary to Buckingham’s position, it would be erroneous to consider the prince as an independent subject who must personally invoke the privilege, much less as the queen’s property, which could be taken from her possession.⁸ As Professor Logan explains in his notes, the queen’s position was “firmly grounded in English common law”—because the prince’s status was not the product of feudal service owed to the crown, he was not an independent vassal, but the queen’s ward (44n34).

After explaining how she and her sons have been protected by the sanctuary privilege in the past, the queen draws on the justification that Buckingham tried to gloss over in his arguments—the protection of those on the wrong side of a contest for the crown. Had there been no sanctuary privilege for her in the past, her son the new king might not have survived. At this point, the queen gives voice directly to the reason why her son needs and deserves sanctuary: The protector cannot be trusted because of his past actions and present ambitions. It is in the protector’s interest to depose the king and dispose of the prince. Her words, though artful, sound refreshingly candid and heartfelt:

God’s law privilegeth the sanctuary, and the sanctuary my son—sith I fear to put him in the protector’s hands, that hath his brother already, and were, if both failed inheritor to the crown. The cause of my fear hath no man to do to examine. And yet fear I no further than the law feareth, which, as learned men tell me, forbiddith every man the custody of them by whose death he may inherit less[fn.] land than a kingdom. (45-46)

Once again, having been accurately instructed by legal counsel, she explains how England’s common law supports her position (46n43).

V. *The Queen’s Capitulation*

Having laid bare the legal fallacies and the moral failures that drove Richard and Buckingham’s arguments, the queen nevertheless concedes and gives up her son to the protector. Is this a clear demonstration that tyranny triumphs over law? I don’t think so. The demonstrable fact that tyranny can and often does succeed, despite the legal restrictions that should have hindered the tyrant, does not prove that tyranny must always triumph or that the rule of law can never be an effective restraint on the incipient tyrant.

The queen had strong, prudential reasons to capitulate. Her action cannot be viewed simply as a lack of courage. She is not convinced by the protector and

Buckingham’s arguments, but by the cardinal’s heartfelt avowals of good faith: “he durst lay his own body and soul both in pledge, not only for [the prince’s] surety for also for his estate.[fn]” (46). The queen doubts and fears Richard’s motives, but she does not appreciate the full enormity of his ruthlessness. And, of course, she recognizes the implicit threat that Richard’s men will forcibly remove the prince if she insists on the sanctuary privilege—indeed, as Professor Logan notes, “neither Richard’s father nor Edward IV had declined, in earlier exigencies, to remove noble enemies from sanctuary by force” (47n50). On balance, the queen hopes that the prince will be better protected by the cardinal and others if she accedes to the council’s demands.

Nevertheless, her capitulation demonstrates one of More’s major themes: Law can serve as a check on tyranny only if those charged with applying and enforcing it act with energy and courage, rather than passivity and self-interest. The queen capitulates mainly because she has no effective power to protect her rights and those of the prince because Richard has already captured her allies. As the *History* unfolds, More will show the readers how the lords and commoners quail or remain silent when presented with Richard’s empty dramatic displays. Standing up to tyranny is far from easy, and when the lords and clergy shirk their responsibilities, the commoners see the prospect as especially dismal.

The importance More places on having disinterested statesmen and lawyers who are committed to the law, rather than to their self-interest is illustrated by the “personnel” choices Richard makes. Once again, More leaves it to his readers to imagine the ideal, by depicting the negative image only. Richard employs Sir Richard Ratcliffe to execute the queen’s lords in Pomfret. Ratcliffe is a longtime collaborator in the protector’s lawless enterprises, “having experience of the world and a shrewd wit, short and rude in speech, rough and boistous of behavior, bold in mischief, as far from pity as from al fear of God” (67). This is hardly a portrait of virtue. As More demonstrates, such a man will not stick at the niceties of due process. At the lords’ execution, Sir Richard prevents the victims from speaking, since that might have “inclined men to pity them and to hate the protector and his part” (*Ibid.*). Instead, he “caused them hastily, without judgment, process, or manner of order, to be beheaded, and without other earthly guilt but only that they were good men, too true to the king and too nigh to the queen” (67-68).⁹

The protector then chooses another knight, Edmund Shaa, Mayor of London, to be his agent in London. Again, More’s character portrait of Shaa illustrates the kind of statesman a tyrant needs if he is to overcome the legal impediments to his advancement: Shaa was highly ambitious and proud of heart. For his agent on the spiritual side, Richard chooses Shaa’s brother John, who had a reputation for learning, but was lacking in conscience and virtue. These are not statesmen in the classic sense—persons who exercise their skills impartially for the good of the polis, without regard to their own advancement. But they are just the sort of person the tyrant will enlist to “help frame the city to their appetite” (68). Once again, More implies the ideal type of lawyer/statesman by depicting its opposite.

⁸ For a contemporary example of a tendentious misuse of legal classifications to support a preordained ideological result, see J. Goldberg, *Involuntary Servitudes: A Property-Based Notion of Abortion-Choice*, 38 *UCLA L. Rev.* 1597, 1657 (1991) (arguing that a “property-based” theory of a woman’s “bodily autonomy” entails a licensee status for the “embryo/fetus” that supports a “woman’s right to exclude the embryo/fetus” from her body).

⁹ In this description, the reader will notice a chilling echo to the queen’s response to the cardinal in which she explained why she should distrust the protector: “In that I am so near of kin to the king? And how far be they?[fn.]” (43)

VI. *Conclusion*

Thus, the *History* tells the story of how the abuse and neglect of law is a major force in the rise of tyranny. More does not make Richard's rise seem inevitable, much less providential. In the *History*, the lords and lawyers as well as the commoners generally distinguish the good from the bad arguments, but power wins out because no one has the courage to stand up for the law and against the tyrant. Thus, by irony, or negative implication, we are left to imagine what might have happened if individuals gave law the strength to impede the tyrant's rise. More not only instructs readers on how to recognize incipient tyrants, but illustrates the tragic consequences of allowing tyranny to grow. We see over and over how Richard's adversaries underestimate his capacity for ruthless action.

What would a true lawyer/statesman look like? Erasmus's *The Education of a Christian Prince*, published in 1516—about the same time as More was writing the *History*—sets out the positive characteristics as an ideal. His section on "Magistrates and Their Duties" draws on Aristotle for the "important and judicious observation that it is useless to establish good laws if there is no one who will labour to uphold what has been so well established; indeed, it sometimes happens that the best established laws are turned to the total ruin of the state through the fault of the magistrates".¹⁰

Erasmus did not "name names" either positive or negative in his discussion, but contemporary Chinese history gives us vivid illustrations of heroic, virtuous lawyers. One is Chen Guangcheng, a 34-year-old, self-taught lawyer who attracted international attention for exposing forced abortions and sterilizations in eastern China. This August, according to state media reports, he was sentenced to four years and three months in prison on charges that he damaged property and disturbed traffic.¹¹ As Joseph Kahn reported for the *New York Times*, the Chinese leadership had been "eager to create the impression that it is building an impartial legal system" and "[t]he ruling party has encouraged the idea that people have legal rights as a way of checking petty corruption, improving efficiency and channeling social grievances into the party-controlled judicial system."¹²

Mr. Chen took those reforms seriously, and brought lawsuits to organize a class-action suit last year on behalf of residents of the city of Linyi who had been forced to undergo abortions or sterilization in a campaign to meet population control quotas. The result was a government backlash against Mr. Chen, as well as against other human rights lawyers in China. Local Communist Party officials retaliated against Mr. Chen by putting him "under house arrest and later charging him with destroying property and blocking traffic. His supporters say the charges are concoctions and that Mr. Chen was under police guard at the time the crimes were said to have occurred."¹³ A few weeks later, the guilty verdict against him was

entered after a closed-door trial at which he had been deprived of his defense team.¹⁴

That was where my essay ended back in September. On November 1, 2006, however, the *New York Times* reported that a Chinese appellate court reversed Mr. Chen's conviction and ordered a retrial.¹⁵ Such reversals are rare in China:

"It is unclear why an appeals court in Linyi, which is the same urban area where local officials ordered the crackdown on Mr. Chen, would decide to overturn the verdict against him. [¶] It is possible that higher authorities told the court to do so. But it is also possible that the maneuver was intended to prevent having the case appealed to a higher court that does not answer to local authorities."¹⁶

The *Los Angeles Times* reported that the appellate decision was likely reflected politics, not law: "Human-rights activists and legal experts said this did not appear to represent a legal check on official abuses or a strengthening of rule of law as much as it reflected Beijing's desire to blunt damage to its international reputation."¹⁷ But, to me, whenever a higher court reverses a decision recognized as a travesty, the rule of law is strengthened.¹⁸

In any event, Mr. Chen's courageous actions stand as the embodiment of lawyerly opposition to tyranny. As More well understood, there is no guarantee that law will triumph over power, but by exposing injustice and opposing tyranny, the lawyer/statesman fulfills his highest calling.

¹⁴ Fan, *loc. cit.*

¹⁵ Joseph Kahn, "Rights Advocate Wins a Retrial, A Rarity in the Chinese Courts," *New York Times* (Nov. 1, 2006).

¹⁶ *Ibid.*

¹⁷ Mark Magnier, "Court Invalidates Rights Activist's Conviction," *Los Angeles Times* (Nov. 2, 2006).

¹⁸ Subsequent events have given little cause for optimism. Mr. Chen's retrial ended in a conviction. "The retrial has been marred by apparent official efforts at intimidation." ("China Again Convicts Rights Advocate," *New York Times* (Dec. 1, 2006); see also Joseph Kahn, "Rights Group Urges China to End Curbs on Lawyers," *New York Times* (Dec. 11, 2006) ["Rules requiring Chinese lawyers to submit to government supervision when representing clients in politically delicate cases have dealt a serious blow to the country's legal system and should be rescinded, Human Rights Watch said in a report to be issued on Monday."].)

¹⁰ *The Erasmus Reader*, p. 271 (E. Rummel, ed. 1996).

¹¹ Maureen Fan, *Washington Post* (8/24/06)

¹² Kahn, "Chinese Crackdown on Rights Lawyers Signals Effort to Deter Increasing Legal Challenges," *New York Times* (Aug. 19, 2006).

¹³ *Ibid.*

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

Barbara J. Panza¹

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.

Lawyers' Perspectives? Questions and Discussion

With lawyers Louis Karlin, Barbara Panza, and David Oakley

David Oakley: I have one question, and this is really just for Lou. The thrust of the argument is that Richard cloaks his tyrannical actions in legal rectitude, and what immediately springs to my mind is, "well then, what do you make of the execution of the Queen's allies, Lord Rivers and company?" That's a total absence of any process. It couldn't be any more explicit: the text says "no process." They weren't even allowed to talk before their execution. How do you want to sort that out?

Louis Karlin: Well, I think that, from the first talk—Professor Logan's talk—we learned that tyrants have two ways of acting: one of them is to play the role, and one is to use the fist—the iron fist. I would say that this might be more the iron fist. I think it's also a way to interpret the strawberry scene, where he's not trying to be judicious or anything; he's just testing whether he has the power to make the lords quail. It's absurd, but they're terrified of him. At that point, he knows he can go forward: he's got the lords.

For the execution scene, I think that it doesn't fit with the idea that he's trying to show that everything he does is legal, but it really plays into the theme of tyranny in a different way, which is, "how do you prosper as a tyrant?" Well, you hire people like the executioner. In each case where he makes his personnel choices, we see the kind of people you need if you want to have a thriving tyranny. So there's Richard Radcliffe; and he says that Radcliffe was a longtime collaborator in the Protector's lawful enterprises, "having experience of the world and a shrewd wit, short and rude in speech, rough and boisterous of behavior, bold in mischief, as far from pity as all fear of God." And so obviously this is far from a portrait of virtue, and he doesn't stick at any of the niceties of due process, so I think that what he's showing is, again, these are the kind of people you want to carry out your purposes. It doesn't fit with that aspect of his role—acting, but it gets at the other side of his tyrannical actions.

Oakley: Well, let me just pose one question to Barbara before we open it up. When I was listening to you, I thought of this line from one of the worst scripts in Hollywood ever made for movies—*Star Trek*—and I think that the line is "resistance is futile." And I was thinking that the queen's predicament is precisely that:

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"resistance is futile." She's in an incredibly bad spot: it's not so much a question of weighing arguments as risking death. If not death, then social upheaval, which should give anyone, especially a queen, some pause. And so, I'm wondering how you would respond to the following: tyranny is a juggernaut, and she's faced with a situation that would not fall into one of Fr. Koterski's non-negotiable things—you said it better, Fr. Joe—so when it comes to reducing her contingent around Edward V, and it comes to releasing the other boy out of sanctuary, she's persuaded. But it's interesting to note that she is only persuaded after she makes the best possible effort you could under the law—she, of all people—she's not trained, she's not a counselor, she's not a lawyer, but she makes the best argument, and in the end she realizes that this is not going to work. It's a prudential judgment, not a non-negotiable sort of thing. She may be a person who's persuaded poorly, or easily persuaded, but can we condemn her? Isn't this all about tyranny, and not about her lack of virtue?

Barbara Panza: Well, is "resistance futile?" We know that she says the cardinal seems more ready to depart, which might suggest that there's some wavering on his part. She never pushes him to a decision—"are you going to enforce this law of sanctuary, or aren't you?" She lets him find a way out, which is "oh, you'll protect my son? OK." So, I don't know that resistance is futile, because we don't know what he would have done. We also don't know what would have happened if she had barred the doors, hid the child under her skirt, and said "come and get him," for everybody to see. So that's why I said that she waves her argument. She has a solid legal argument in support of the law, but she gives up. She gives up too soon. And we would say of a lawyer, if he didn't pursue it to a judge's ruling, then he gave up too soon. You can object, and the judge can say "oh, that's a good point," and if you don't get him to say "sustained" or "overruled," then it's gone. And I think she never pushes the cardinal to that point, so I don't know that resistance is futile.

Audience: Is this a case in which the cardinal is both a judge and an advocate, and that that's part of the reason why this doesn't work? If you're arguing against the advocate, and the advocate also gets to make the decision on whether or not there's going to be sanctuary, does that soften the position in terms of weighing or pressing the argument?

Panza: I think it's a very good point, and I hadn't thought about it that way, and of course that could also be an idea that the judge needs to be impartial, because he's certainly not demonstrating that he's impartial.

Audience (previous speaker): Because it seems like a sham, hearing her trial, and that's what you get at the end when she realizes that force may be used as opposed to argument.

Panza: On the other hand, you could say that the judge interprets the law, and I would say that she's looking in a way for him to enforce it. So it depends on how you want to see his role, and of course, if it's both, then that's problematic.

Gerard Wegemer: I want to go to another good point that Barbara made: Queen

Elizabeth never acts like a mother in this scene. The Queen never says, "Over my dead body." She doesn't strongly resist, or ask for the law's protection. She never even thinks about the law in her deliberations—perhaps because she has lived her life according to privilege. She has, for example, gone around the law, putting her sons in positions of authority and doing other things based on privilege and not law. I wonder if that would be another factor in considering why the Queen does not insist that the cardinal obey the law.

Karlin: I would add to that that, where you don't have a strong commitment to the rule of law, it makes a lot more sense to get what you want through privilege than by availing yourself of the law. So if you know that, in some area of administrative law, everything's really squishy, or that a certain agency will do whatever they want, or that a certain court tends to rule in one way, or that the courts can't be trusted, then you're not going to entrust yourself to the courts. And certainly, in More's England at this time, you've got a lot of competing jurisdictions, and the rule of law really hadn't taken hold as strongly as More would have liked. I think he did see it as a protection for the individual, but it was a protection that hadn't taken hold yet, so the notion that you could just make your legal argument and win, I think, would probably be naïve. I agree that More leaves open the possibility that she really should have pushed it, and it might have been better prudentially, and for a lot of other reasons, but at the same time, she was in a real predicament, and the cardinal comes in with the guys behind him. It's the implicit threat. And certainly, as the history develops, we see that the starting point of rational argument and rhetoric becomes more and more of a joke—literally a joke, as Professor Smith showed—and all you have left is force. So, in that kind of a world, it makes much more sense to avail yourself of someone who pledges himself rather than trusting in the law.

Panza: And to add to that: of course we've discussed that there were competing factions, and I think one of the interesting things is that, although we sense that some don't want to go along with Richard, there's no real show of leadership. And I think that, at some point, she could have taken that role. More certainly gives her the opportunity with that legal argument, and leaves you wondering, "would some of these people been willing to follow her if she had been willing to take that leadership role?" Perhaps sometimes people are waiting for someone to say it first, or to take the action first.

Matthew Mehan: To follow up on that question: what good is she securing by allowing for this calm and decorous way of letting go of her son, as opposed to a "come and get him" way? To that point, you either have to accept that all of the very excellent arguments that you were granting that she was making according to common law—either she doesn't believe them as she's making them, so when she comes to deliberation those arguments have no anchor in her deliberation, or there is something else driving the choice—that she's not actually interested in justice, as Dr. Wegemer was implying. Because I don't think you can have it both ways.

Karlin: I think it's very similar. You can certainly read it. The reading of failure of courage is certainly a very strong one. I think there's another reading too, though,

which is that her action is in a way very similar to that of the common people, which is to respond with silence. She systematically and accurately refutes the legal arguments, so when she makes her choice, it's very clear to everyone in that room, and to the readers, that it's not because she was convinced. "You didn't prove to me that Prince Richard is incapable of invoking sanctuary. You didn't prove that I'm using it for the wrong purposes. Not one of those things is driving my decision. I'm making the decision based on something entirely different, which is that you, cardinal, have put up your own life as a pledge." So I think that's a different way to read it, and, I think, a powerful one.

Mehan: But isn't that undercut by the observation of the force, that the cardinal's brought the enemies as well? That his pledge surely has to seem false to someone with such intellect as the queen, when she sees he's standing there with the goons?

Karlin: Well, you do have the cardinal, who is, at least theoretically, another person of authority, who could have influence on the Protector.

Panza: If I could just add: you were asking "what good did the queen achieve?" and now that I've bashed her, I'll defend her and say that you could say that she did achieve something: although she sacrificed her sons, she saved her daughters, and we know that one of her daughters went on to marry the next king, so in some way she did preserve the dynasty.

Don Stevenson (lawyer): I'm a lawyer too, but I'm a corporate lawyer, and so to me, this isn't a trial—this is a negotiation. She learns early on that the fix is in on this: she is not going to win with legal arguments, so now it's time to make a deal. She looks around her, and he goes through in great detail: the Protector is ready outside; she looks around at the goons, as you call them; because she wasn't ready for this—and this might be imprudence—she doesn't have anyone to help her; she has no plans to get the boys or the family out of there. She has to make a deal right then, and she's wise enough—and I think very prudent in this sense—to see that when the cardinal, in an age of faith, here's a man of God and, as cynical as we now know he is, she's there at the moment. He pledges his body and soul. She knows there's got to be some goodwill somewhere—there may be something deep down. And the mother says, "I've got to put Moses into the reed basket and set him loose, and I think it truly is the best deal she's going to get. And it says: she thought she could make them more warily to look to him, all the more circumspect to see to his safety if she with her own hands gave him to them of trust." So part of the reason this story is so poignant all these years later for us is that they just so brutally violated that trust. But I think it was the best shot she had.

Karlin: I think that's an excellent observation. One way for a lawyer to look at this is as competing appellate arguments with the reader meant to be the judge, in a sense. But certainly, the more practical way is that this is much more like high-powered settlement negotiations. I think that's exactly it, because so much of what lawyers do is miles from the courthouse. Most litigators wouldn't know how to try a case if their lives depended upon it. What they do is manage lawsuits and disputes, and so a lot of what's going on is guesswork as to what the court would ultimately

decide, factoring in the cost of litigation and the mounting cost of actually going into a trial. So there is bluffing, there is maneuvering, where you don't really know what the court would do if this thing actually were to go to trial, with the knowledge of the lawyers on both sides that the trial something way, way beyond that we'll probably never get to. So the virtue of a lawyer, either of prudence or otherwise, is to try and make a case for what you think would happen if this were actually to go to trial, and to back it up by saying, "you know, but it might not go that way, and it's going to cost you at least \$150,000 between now and next may to find out, so do you want to take a risk, or do you want to make the deal now?"

Audience: Just to piggyback on that question: can we surmise what would have happened to her if they did force the child's being taken?

George M. Logan: I think that she would have been in pretty much the same position. What would have happened would have been exactly what did happen, that is, that the child disappeared with his older brother into the Tower of London and was never seen again. It's not in Richard's interest to tar and feather the queen, or to pretend otherwise than that she is still the queen, whom he greatly respects, and whose children he greatly respects as well.

And I think that this recent analysis is exactly right: I think she took her best shot under very difficult circumstances.

Wegemer: She takes her best shot as a negotiator, as someone interested in the crown, because she doesn't do it as a mother. So here is another way this history shows that politicizing marriage and the family isn't good for either the family or the country. Because in her deliberations she never thinks, "This is my son who's sick," or "this is my son who will die if I don't take care of him." What, then, is on her mind? What motivates her? She actually comes up on top in this deal: she becomes the new dynasty's queen mother, and so that's the problem—she's treating her son as a pawn in political negotiation; she's calculating; she's not really prudent.

Logan: Gerry, you're always so harsh on her. Aren't you affected by that very last moment in the scene where she weeps and the child weeps, and she turns and kisses him one last time, and so on? I think she takes, quite reasonably, what she thinks is the best possibility of keeping her child alive, too, apart from anything else. And it was, I think, her best shot. If those guys, the aristocrats and the prelates, had exercised the power that collectively they had, then the child would have stayed alive. But of course she by no means thinks that this is definitely going to be the outcome. She doesn't question their *truth*; she questions their *wit*—"are you guys smart enough, really, to see through this guy?" And of course they weren't, and of course the reason why she suspected that they weren't smart enough is that she herself had not been smart enough. It's funny: if we took the story outside More's book and looked at just the historical record, then I'd probably come closer to agreeing with you, Gerry, because in real life the queen was not a nice type at all, and what happened at the sudden, unanticipated, premature death of the king was that we had these two powerful, ambitious, ruthless people contending for position; that is, the queen and Richard. And it's the most impressive thing about

Richard: he just instantly blew her out of the water. It was all over—and it may not even have been her decision, and it may just have been the royal council's decision, and the case for doing it this way was made by Richard's ally Hastings—but once the entourage of the young prince was reduced to something smaller than the entourage that Richard and Buckingham could muster, it was over. And of course, the queen is sort of, "fool me once, shame on you; fool me twice, shame on me"—she doesn't make the same mistake again: as soon as she hears what has happened at Northampton, she immediately goes into desperation mode and goes into sanctuary, but it's already too late. She doesn't get a second chance. Gerry *thinks* she has a second chance, but I don't think she *does*. She makes the best possible, or the least bad, choice in a difficult situation. She takes her best shot without thinking that it's a very *good* shot.

Oakley: Gerry, your critique is that it's really not so much a moral failure as a systemic failure. In other words, your critique really goes to something horribly and profoundly wrong with dynastic monarchy, and I don't think it's fair to characterize it in terms of moral failure, because what you're seeing is behavior which is canalized by a certain culture. And this culture invites this sort of behavior. And I don't think it's a fair judgment to expect her to do otherwise. I think she played her part pretty well. She got along. And More makes that pretty clear in a lot of other places. As long as you can get along without hitting up against something non-negotiable....

Wegemer: You articulate very well what Sallust's criticism is of monarchy: that when politics works on privilege rather than on law and justice, it has a very bad effect on your citizens, because when you get citizens to think in terms of self-interest, rather than benevolence and self-sacrifice even unto death—that "I'm willing to die" (and the queen is never willing to die for her son)—then that seems to me to be both a corruption of the family and the state.

Fr. Joseph Koterski: Well, I hesitate to disagree with Dr. Wegemer and Dr. Logan at the same time (Laughter), but I'd offer a third point of view: that she's right in principle, but that she didn't take her best shot. That is, it seems to me that she was acting as a mother, and that's why she took them into sanctuary, and that she there found herself perplexed by whether she holds to the sanctuary or whether she yields to the thing. And so I took it that she is honoring the principle that she needs to preserve her son, so she's got the two options of either "come and get him" or "I'll give him to the cardinal because he's going to offer us protection." So I would say that she's acting on principle and that she's got her son's best interests at heart, but I think she makes the wrong bet with regard to what's the best possibility. And when I think about human relations—let's just come away from *Richard III* for a minute and come at it more from the point of view of how people make decisions in crisis—one of the things that I've found most interesting in my own life, thinking about that, is one of the rules for the Spiritual Exercises of St. Ignatius. He's got these two sets of rules for how to interpret spirits that are moving: the first week, Rule 12, has to do with when somebody is confronted with the evil spirit in front of you, and the idea that is basically suggested in Rule 12 is that, in front of something that's passive, a show of strength will dominate,

whereas, in the presence of something that's really strong, one will simply cower. So it seems to me that, if we were trying to apply something like that to the queen, if she had shown more strength, and not just said simply, "come and get me," but really raised a fuss, I would have thought that that would have been her best shot, trying to elicit some of the people who were nearby to come to her aid—that is, force a division of the house at this point. And that would have exposed whether or not, with the cardinal and the goons, there was an ulterior motive other than what they were suggesting, or not. But then, instead, when she yields—maybe on a corporate model—it's precisely what happens with any corporate model, but not when she makes her best shot, but her worst shot, because in a way, she doesn't realize what the strength of raising a fuss, standing on principle, and trying really to serve her own motherly interest motherly care would have done. Sorry to disagree with both.

Hilary Brink: I was just looking in the text at a later example, and the figure of Sir Robert Brackenbury comes to mind. He's the constable of the Tower who refuses to put the two children to death, and it's interesting that the figure who's before him is Our Lady, an alternative queen, who's only mentioned once. If I could just read a quotation from the text: it says that Sir Robert Brackenbury, after he has been asked to murder the princes, "kneeling before a statue of Our Lady in the Tower, he proclaimed the answer that he could never put them to death, even if he should have to die" and I think that that illuminates the ultimate detachment that you have to have in order to stay consonant to the right law.

Mehan: Imagine a mother who goes to a principal because gang members are beating up on her kid at school in the classroom constantly. She comes in with the rulebook, the city code, state law, the rules of the school, and says, "Look, here's the case: enforce it; take care of it." And he answers, "Ughh." And she answers, "Well, OK, but can he go to your house after school where he can be safe?" That is, if she can't trust him to enforce the rules that are at the school, any reasonable mother wouldn't think that he'd be able to stand courageously and alone, as an individual without any rules or institutions to bolster or buttress him, against those gang members. She has to know, since she doesn't press the issue, that she doesn't trust him—or you could buy the "womanish fear" argument, which I don't see because she's so reasonable. So, because she doesn't press her case with him, she doesn't trust him, so there's some other reason than the oath reason. "Well, I'm going to trust him anyway"—that's the excuse maybe, but it doesn't seem sufficient.

Panza: I agree with that. That's my point, and, bringing up the corporate negotiation analogy, you want some level of transparency, so you'd want to force this out into the open. And he's not really making a decision, he's not making a call, and she's not really forcing him to commit one way or another. She's giving him a sort of third option: "Oh, OK, you protect him then." And they're in sanctuary: this is not in public, not for all to see—this is a select few of the lords and the cardinal. So I think that she should have gone kicking and screaming and made this public, and exactly: Why should she trust him? If he won't uphold his office, and he has a duty to uphold and enforce this law, then why does she think he's going to

stand up to Richard later on?

Gerald Malsbary: The Latin might be a little clearer here than the English: "...prestare censuit / sponte ut illum tradere quam invita videretur..." [Kinney trans: "she thought it would be better if she seemed to be giving him up freely instead of unwillingly"]. She makes this choice, thinking that the others would do a better job watching out for the boy, yet she made a show of willingness rather than being forced. It's that "sponte" [freely] rather than "invita" [unwilling]. These are legal terms. It's kind of manipulating in a way, because she's saying that she hopes her show of willingness is going to stir up their motivation to take care of the boy.

Audience: Another question is, if the queen doesn't have confidence that the cardinal's going to enforce the law of sanctuary, I wonder what motive she has to think that he'll protect the young prince any better once they've left?

Concluding Roundtable on *Richard III*

with Drs. Clarence H. Miller, George M. Logan,
Elizabeth McCutcheon *et al.*

Jeffrey S. Lehman: In Tacitus, especially in the *Life of Tiberius*, the question arises: Who is responsible for the birth and then the growth and perpetuation of tyranny? Various people come to mind: there's the senate, there's Tiberius himself, there's Sejanus, and there's the people. Based simply upon what is given to us in More's *King Richard III*, who or what is most responsible for allowing Richard to murder the two young princes?

Louis Karlin (lawyer): The way More presents it, the problem is incremental. Where there are failures, they are usually failures of courage. But obviously the important first step is when the Queen is convinced—persuaded—not to defend Prince Edward with a show of force. But even with that happening, I think what you have to look for are the instances in which people could have stood up to Richard but didn't, either because Richard appealed to their personal gain or because they underestimated Richard or because they were afraid of Richard. I think you can look at almost every set piece and see that, when he should have known better, a given person let Richard have his way. And I don't think that More presents Richard's rise as being at all providential. Although it's his character from birth that sets everything in motion, there is always the opportunity—the agency—for other men or women to stand up to him.

George M. Logan: I would endorse that, but first of all, the point about his rise not being seen as providential: More was a guy who would have believed in Providence. But there's no suggestion, as far as I can make out, anywhere in the *Thomas More Studies* 2 (2007)

book, that Richard is the scourge of God or anything, sent to punish people for their sins. Of course, one of the things that's very striking about the book is how generally secular it is, in the sense that, in general, it's an account of historical causality. It's not about what More thought or believed, that the ultimate cause of everything that happens on the earth is God. But he talks about *proximate* causes. He talks about causes within human character, especially human ambition. So no, there's no suggestion, I think, that this was inevitable in the sense of being providential. So why did it happen? I think that Lou's point is exactly right: that there are multiple failures, and I'm sitting here trying to think of what you lawyers call it—is it “shared liability”? You know: there's plenty of blame to go around here. And then I thought of a horrible, black parody: it takes a whole village, a whole country, to kill a child. (Laughter.) All these people failed sequentially and collectively, and that's what resulted in this, and that's surely More's point, huh? Richard's the great villain and the main instigator and so on, but More makes it extremely clear that he wasn't operating in a vacuum, you know, and he required either the active or passive cooperation of a whole lot of other people in order to realize the opportunity of a lifetime for himself.

David Oakley (lawyer): I want to stake out a position which is going to annoy some people, and I don't want to upset Fr. Koterski because I'm going to sound like a liberal theologian, but how about this argument: that the main cause—and I'm not contradicting Lou or Prof. Logan—the main cause is the social structure, the structure of sin. The problem is dynastic monarchy. I've learned something in an article from Dr. Logan, and I'm going to use it now for my argument. He says that “By one measure of tyranny, which More seems to be employing, most monarchs were tyrants.” What struck me the most when I read *Richard*, although this was my first time through, is something that Dr. McCutcheon brought up, and that's the sheer terror—the sheer terror. And in my own work, we talk to people who get arrested, and they experience the sheer terror. And some of the people I represent—and this is very rare—are innocent—I mean, practically innocent—and they're *really* terrified. And it's the sheer terror of the force of law. Right up to the beginning, when Lord Rivers and his buddies are cleaned out—taken down—that's shocking. It's a force of nature and you're powerless in front of it. And then the strawberry scene, followed up by the king: “I want you dead by dinner, and I'm going to have an early dinner.” (Laughter.) It's scary. And to get to some of Prof. Wegemer's arguments, it's hard to function within a monarchy: how *do* you give “plain, faithful advice” to a guy who has total control over not only your goods but your person? So, in the face of that, I don't think we should really be surprised by these moral failures—I think they should be expected. If anyone seems to be sympathetic to human brokenness and the fact that we have to muddle through and get along in life because it's not perfect, it's More, with his Augustinian pessimism about social structures. So that's one argument: that the real cause here is social structure.

Fr. Joseph Koterski: I don't think you sound like a modern liberal theologian. Because I think there are good cholesterol and bad cholesterol reasons for social sin. (Laughter.) Very much as both *Veritatis Splendor* and *Evangelium Vitae*, and especially the second, use the term, they make a distinction between whether it's a structure

that's going to enable people to be sinful, as opposed to a structure which itself is sinful. And in the modern papal documents, there's no willingness to accept the second—that's the modern theologian that they're resisting, and I don't think you sound like that, because I think even in what you've proceeded to explain thereafter, using the term, it's more that the structure—for instance, this all-powerful monarchy—as a structure, makes possible the nefarious use of all that power, and all the examples you cited were examples of ambitious kings who misused it. And hence, to resist that, I think that what you have to do is to be constantly on the alert against appeasement. You have to find political friends who will resist politically as long as the king is relatively behaving, and, if we get to a situation where the person has really become tyrannical, then one has to strike out vigorously against appeasement. So I absolve you of any hint of modern liberalism. (Laughter.)

Clarence Miller: You started out with Tacitus, and Tiberius's rise to power and Richard's rise to power. Richard did it almost all by himself: he created his means. But Tiberius had help. Richard's was done by previous murders—I can't keep all these fellows straight, but he had to murder them before he could get up there. This matter is bloodier, more brutal: the kids, and the three beheaded at Pomfret, sure—but actual candidates, apart from the kids, Richard didn't have to worry that much about. It's a different kind of case, I think. And also the structure: what is the structure? It's the king and the parliament and the people. And this is true in Rome and it's true in England. And for all of them, you've got the people who have a knack for rebellion, and in Sallust and also Tacitus, the kings are corrupt—so you've got a tyrant there and the senate, and the structure is just whatever people make of it, I think.

Elizabeth McCutcheon: I'm fascinated by the question some have been asking: could this have been different, or could it have been changed? And that is a question that More, also struggles with in *Utopia*, and this is another connection between the two works, and—I come to this from having been both a teacher and an administrator—that he touches the two horns of the dilemma. If you're inside the structure, you know that you have to keep it going. If you're outside of the structure, you can see the problem, but how do you effect a change? It gets so complicated in practice, and I think that's part of the issue between Hythlo day and More the character. And in a different way, that's what we're asking in *Richard III*: could it have been different? And again I think More gives us two answers. We've been talking about the structural dilemmas, and in the *Utopia* again, he's asking whether we could change the structure so that people wouldn't be thieves, so that everyone *would* have enough to eat. There's a Russian term for this: we're concerned with freedom of press, freedom of religion, but there is a strain in More that's saying, is there such a thing as freedom to have a house over your head, to have food enough to eat, to have a job, to have medical care? And we're still fighting over this question of, should every person have free medical care, and who should be responsible for that? So he's very keen on the structure. On the other hand, I think he believes in original sin. He does not think that all people are going to be good. We're again going between these kinds of positions: Richard certainly manipulates the structures, but he also has defects of character that are not

structural, but implicit in a person somehow.

Stephen Smith: On the point of what kind of change is possible, or how could things have been otherwise, I teach Shakespeare in addition to More, and I've noticed over the years how thoroughly Shakespeare reveals the problems and then how satisfied he is in the plays with small improvements, and at the end of *The Tempest*, you get there and Prospero says he hopes that the three men of sin's character is a little clearer after the play, and it's strange to see such a small victory. But I doubt he wrote *The History of Richard III* thinking that someone would read it and say, hey, shouldn't this be a constitutional republic? A radical conversion like this only takes place over a lot of time. What would be the hope for, say, a particular reader—for one person reading this book? Maybe some small change is aimed at. I'm wondering about that.

On another point that I wanted to come back to from earlier, the question of resisting to the point of blood in *Richard III*, I was reminded of that scriptural verse listening to the debate: "You have not yet resisted to the point of shedding blood." And I wonder about the hesitancy to resist in that form. If you recall, in *King Lear*, at the blinding of Gloucester, there's the one servant who intervenes in the middle of the scene, and says "I've served you my whole life, and I offer you no better service than to tell you to not blind that old man right now." And he's killed. And one can read this as pointless and fruitless and meaningless in a terrible, dark work, or as a flash of amazing beauty that many readers remember and take comfort from. So I'm wondering if the work doesn't focus on the unwillingness to resist to the point of shedding blood.

Travis Curtright: Just one question on the structures of sin: Does monarchy as a kind of regime lend itself toward what Augustine called "the lust for domination," more so than some other forms of government? Yet, as the aristocrats indicate at Edward's deathbed, it's faction that enables Richard to work his magic. Faction was the firm foundation upon which to lay all his future plans, and of course faction could be a problem in other forms of regime as well, couldn't it?

Koterski: As we continue to think about the structures of sin, one could ask whether it's a problem of monarchy or of Christendom, in this sense: at that time, this question that you've raised, Stephen, about who's willing to resist to the point of blood—even these high clerics are not willing to resist to the point of blood. The higher clergy are too compromised. Certainly More will find this, later in his life, to be the case, when Fisher and very few others are willing to take a strong stand against this. And you see the way in which, when you've got the particular order of Christendom which More would have known, when the clergy are still far too deeply involved in the affairs of the state, as you stretch that out further, into the nineteenth century and the changed experience under Pius IX, when the papacy finally loses its papal states, Pius IX is certainly very upset about that and retreats to the Vatican. But in a way that may have been the greatest gift of the Holy Spirit to the Church, freeing the papacy from being a temporal power, and instead allowing it again to exert a moral authority, and to work out an entire, tremendous revision of Catholic social teaching, to have a stance that has an independence from the temporal world. There's still a seat on the international scene, but it's not a

temporal power, and that allows it to use the moral force it has, where here, it seems to be cooperating and complicit in any number of these decisions, and perhaps a part of this structure, which isn't sinful, but can be easily used for sinful means.

Gerard Wegemer: Yes, every spiritual leader fails except the archbishop who first gives the seal of office to protect the Queen, but then takes it back out of fear. Then we find out that he immediately loses his political office. So what More does is to show England as it really is, probing why. Why, for example, is there so much faction and so little loyalty and friendship, even in the family? More shows us several failures: the clergy, the family, and then hereditary monarchy. From this history, we see that the English traditionally supported elected monarchy, but the narrator says unequivocally that parliament is the absolute authority in England. But how could a political system work by giving power because of blood rather than education, talent, political consent, concern for the common good, and all the political arts? More's *History* forces us to raise such questions and to wonder how do England might foster friendship rather than faction, healthy families rather than political positioning, or devotion to the common good rather than one's own interest.

But to return to Jeff's opening question, if pressed to say who's most responsible for the murder of the two boy-princes, then it's the Queen. (**Audience:** "The butler did it...") (Laughter.) She's the boy's mother, so she has the most responsibility to protect him. But what produces a Queen Elizabeth? It seems to me that that's the deeper question. I'm wondering what other people think.

Karlin: Well, on that point, I think that the digression about showing the courtship between Elizabeth and Edward is important. I think one way to look at that is in regard to the Queen and her virtue: it's a very pragmatic, materialistic one. The kind of virtue that she's showing is not anywhere near heroic virtue. She fends off the king and doesn't give in because she says, the cost of that is my becoming queen. So she plays her advantages well, and she's certainly not acting immorally, but there's no sense of any deep virtue here. It's very much pragmatic thinking and cost/benefit-type ethics, I think. I don't think there's any sense of deep virtue in the Queen. I'm not condemning her at all—I think she acts pretty well under the circumstances, but when you're talking about the principle of defending children with your life, it takes more than a pragmatic, situational set of ethics, and I don't think More shows anyone in *The History* as having that kind of strength or that kind of development. How do you get that? Well I think that More is saying that you get that, very importantly, by reading books like *King Richard* and *Utopia*, and discussing them, not by making snap judgments. At the beginning of Book 1 of *Utopia*, the question is, what's a good reader? And *King Richard* really forces you to become a good reader, because the layers of irony, the reversals of expectation, the sudden humor, the ability to try to keep all of this going requires a lot of attention, and requires friendly discussion. I don't think you can read *Richard* alone: you have to discuss it with someone. You certainly need Dr. Logan's notes. So I think we can create a community of intelligent, discerning people, but it requires work and it requires education.

Miller: I don't know if education can ever bring a person to give up his life, to shed blood. This comes from grace, as we all know. You can know what you ought to do, you can try to do it, but not be able to do it. In other words, I don't think that More would believe that you educate people to the point where they're willing to give up their lives for anybody. It is too much.

McCutcheon: I'm more sympathetic with the Queen's petitions, I guess. I think she's functioning as a queen would have been expected to function at that time, in the sense that so many of these things were essentially business matters. Marriage was really a business matter, having children was an essential part of the business, so the negotiation notion is a very real one. On the other hand, if we're going to take up the idea that she's a mother, which she is, she has other children to think about. Admittedly, they're not sons, they're daughters, but they're sitting in sanctuary with her, and she remains in sanctuary until, what, the next spring, when she strikes a bargain with Richard. So it would not have been easy for her to take the obvious alternative, which was to go overseas, because she just had too much baggage and not enough help, and the timing is such that everything happens so rapidly. One thinks, for instance, of what's happening in Lebanon: people suddenly packing up their possessions and moving; when you go to sanctuary, I suppose you don't have beds and you don't have a stove. You're not just packing a little suitcase and moving. So she can't really escape overseas, and I think she makes the best of a really bad situation, but it certainly shows the calculatedness of this kind of world, or this kind of structure. And it's even more calculating since heredity is such a very weaselly term in this period.

I just also want to pick up on something else: election and acclamation are somehow blended in this work. Traditionally, that is, back in Anglo-Saxon times, the kings were elected by the chiefs around them and hoisted on that shield. The odd thing is that they refer to that, but it's really boiled down to acclamation. It's interesting that the people do *not* refer to Richard as their king, so that, even on the grounds of acclamation, there's a failure. And the whole issue of kingship, at this point, I think, is a structure under tremendous strain, and very difficult.

Logan: It's exactly what Elizabeth said: it wasn't as if flight from the country was an option for her, nor would she have thought in a million years that she had *any* incentive to flee the country, because up until the day that she went into sanctuary, she was absolutely in the catbird seat. She had both her children—her sons—in her own control (and sons, of course, are the only ones that count dynastically), the younger son with her and the older son surrounded by a military force in the charge of her brother, Lord Rivers, so of course she had no reason to think that she needed to leave England. And when it suddenly became the case that it *would* be a good thing, it was far too late. Though he's small potatoes in terms of the death toll, one of the things that Richard had very much in common with Hitler was a recognition of the value of blitzkrieg: when he moved, he moved like *that* and it was all over before anybody realized what was happening.

Smith: Let me just begin by saying that I disagree with everyone. Just kidding. I actually want to talk a little more about the education point you brought up. Having spent the time working on the ridiculous in the work, I've been thinking about

Aristotle, who said that comedy is about the ridiculous, and, in particular, Philip Sidney after More said that somehow the experience of comedy leads us to see the common errors of our life, to see the ridiculous such that we would never wish to be so ridiculous ourselves. And I wonder about the work—it's interesting that Sidney's trying to focus on our desires—perhaps in the friendship offered by the author to the reader, there is something like a counsel of desire, namely that, if you read *Richard III* carefully, I think it would be fairly impossible to desire to be like the man in this book. And that's not a small victory. If Edward's desire was for vainglory, or concubines or whatnot fleshiness, what about redirecting those desires, say, to truth, or to something like that? I wonder if that wouldn't be a way of looking at this—the kind of education, the kind of friendship that the author offers the reader.

Miller: I didn't mean that education was pointless. No, I didn't mean that. People had been talking about being willing to die, and that's yet another matter. That's all I meant.

Wegemer: Yet didn't the Romans design their rhetoric and their education to do just that?—to get citizens to want to die for their country? Plutarch presents Regulus as an admirable hero, as someone who not only dies, but freely undergoes torture. That is arguably what the greatest poets have done: fashioning images of virtue and justice, in a way that, yes, your best citizens *will* want to die for what is true and good.

What kind of education does *that* take? An education that, in part, convincingly shows that your country is worth dying for, that it works for justice, honors the family and one's eternal soul. Virgil shows that Aeneas's roots go down into the underworld, and that he's like an oak tree that can withstand any winds, but is also willing to die. But wouldn't More also be thinking that Christians can be willing to die according to their belief in the afterlife? But where does the afterlife come into the minds of any of the characters in *Richard III*?

Miller: It's true, as you know, that in the *De tristitia*, there's a comparison of the eager martyr and the reluctant martyr, and More was very, very much aware that we cannot all expect, nor even should expect that we will be martyrs. Now, it's true about dying for your country. It's a beautiful thing to die for your country, but as a soldier, that's another matter: when you're willing to die but your not faced directly with it, but when there's an aggressor saying, you do this now, or you *die*, or you get dreadful, dreadful torture. To train for that, to train for resistance to that, is, I do not think, something that any amount of education can do. One may educate, one may train, one may wish—one may all of these things—but when the final moment comes, I do not think that any amount of education, any amount of training, can assure your willingness to do that. The Romans—I don't know—they did something, yes, and the suicide bombers are doing it now. A soldier is different. A soldier knows that he *may* die; he *doesn't* know that he's going to die right now. But when you are offered the alternative of dying *right now*—even Joan of Arc, you know, failed the first time. That's all I meant.

Karlin: Just on that point, I think that, in *Richard III*, especially focusing on

lawyers and counselors, you don't get any positive images. There are no positive examples, and I think that More does want the reader to fashion his own idea of what a good statesman should be, by taking the negative examples and looking for a positive one. And, as I was writing my draft, in the legal papers and in the regular papers, I saw a positive example of what More is trying to show, and that's going on in China right now: there's a 34-year-old, self-taught, blind lawyer named Chen Guangcheng. In August, according to state media reports, he was sentenced to four years and three months in prison on charges that he had destroyed property and disturbed traffic. The report of the *New York Times*: "The Chinese leadership has been eager to create the impression that it is building an impartial legal system, and the ruling party has encouraged the idea that people have legal rights, as a way of checking petty corruption, improving efficiency, channeling social grievances, etc." Well, Chen took these ideas seriously, and brought lawsuits to organize a class-action suit last year on behalf of residents of the city of Linyi, who had been forced to undergo abortions or sterilizations to meet population control requirements, using the new laws that China had enacted. The result was that Mr. Chen and other human rights lawyers in China were persecuted by the local communist officials, and they retaliated against them by putting them under house arrest and charging them with these property crimes. His supporters point out that these charges were actually concoctions; he was actually under arrest at the time that these things occurred. It reminded me of a lot of the kinds of things that go on in *Richard III*: he had a closed-door trial, his own lawyers were beaten up and kept from attending, and he was convicted. So this seems like another really dark example of what's going on, but a heroic example on the part of a lawyer. The interesting thing is that, when I updated my research just before coming out, on the 31st of October, the intermediate appellate court had reversed his conviction and given him a new trial. And I think that it may be a small victory, because almost certainly this is a public relations decision from on high and not a sea-change in Chinese practices, but here is someone who really is an admirable lawyer, making a stand at personal cost for the rule of law. I think there are inspiring examples, and I do think this is the kind of way one can be inspired by reading *Richard III*.

Koterski: I'd like to agree with Dr. Wegemer, and I'd like to add to it. I've recently been rereading a text from Aquinas on the virtue of courage and its subordinate parts in connection with teaching a course this semester on Aquinas and Shakespeare, on the passions and virtues. We were reading the first part of *Henry IV* this past week, and thinking about whether or not it's just a matter of courage by itself, and that the other virtue of whether or not one would seek great honor or honor for great deeds is just an unrelated virtue. For Aristotle, courage is one virtue and this quest for honor, for great deeds is a second virtue. But for Aquinas, courage is the main virtue, and the readiness to have a great soul, magnanimity and magnificence, are subordinate, constitutive parts of the virtue of courage. What he does argue, and this is going to relate to our question of education in just a minute, what he does argue is that, where Aristotle only has death in battle as the preeminent case of courage, he envisions the martyr as a second great act, and then extends it to what justices must do and physicians must do. He puts it open-endedly that there are any number of cases in which one has to be willing to physically die as on the battlefield or put one's whole reputation at issue, be willing to make

tremendous personal sacrifices, precisely because this is not just courage in an isolated sense, but because there are lots of things that are worthy of our ultimate and complete commitment of ourselves. I think that that insight—not just the text, but that insight—has been the source for generations of Christian martyrs. When one thinks about the earlier history of the Society of Jesus, but many another missionary order as well, willing to give themselves again and again and again in missions that frequently led to martyrdom—there's a willingness to do it. Not that anyone ever *sought* it; one didn't have eager martyrs in that sense. But one had to have a real willingness to do it. And it's not just within Catholic culture, but when you think of the current problem of Islam, somehow people there are being persuaded by a certain kind of education—and admittedly I would disagree with it—but they're being persuaded by a certain kind of education that there's nothing more glorious that they can do than to be willing to give their lives for their causes. Somehow they *are* being educated for that—badly so—but the fact of the matter is, they're accomplishing it.

Wegemer: I wonder if there might be three positive examples of courage in *Richard III*. One would be Chief Justice Markham, who resigns his office rather than submit to royal interference with justice. Then would be those London commoners—some of whom weep—who are so strong and shrewd that they don't say anything; these are Londoners who have been educated for generations in the difficulties of self-rule. And finally you the narrator himself, very witty, speaking the voice of tradition, of proverbs, able to rise above what is occurring and even to bring good-humored perspective to a dismal situation.

Logan: Maybe we should take a question or two from the audience.

Mary Gottschalk: I want to go back to this subject of the Queen, and it possibly being her fault. (Laughter.) Well, an aspect of it—I don't know if I was daydreaming when it came up, but I didn't hear it mentioned—was the possibility that she finagled the death of the other brother, George. Not that that would justify all that Richard did—it wouldn't—but it would be a good reason for him to be her enemy. In the beginning it is not clear exactly what happened with George, whether he actually committed treason. Then the narrator actually says that it may have been that the Queen set him up to get killed, because women are enemies to people that their husbands love.

Logan: That's not said in connection with George. That's said in connection with Hastings. I can't remember whether More raises the possibility that the Queen was involved in George's misfortune. Of course, he really lingers on the possibility that Richard himself may have been involved, so, on the basis of what's said in *the History*, at least, there's no reason to think that Richard's heart would have been further hardened toward the Queen because he thought she was involved in his brother's death. *Au contraire*, he might have said, well, the Queen ain't all bad, since she could help clear this obstacle out.

Koterski: This part's on page nine, and you've got it just the opposite: "George duke of Clarence was a goodly, noble prince and at all points fortunate, if either his

own ambition had not set him against his brother, or the envy of his enemies his brother against him. For were it by the queen and the lords of her blood, which 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 himself, intending to be king..." and the sentence goes on for quite a while, but it's page nine there in the middle.

Gottschalk: So, if she did set him up to be killed, couldn't Richard have thought, well, I might be the next one?

Logan: Whether or not he thought she did that, he certainly thought that he might well be the next one to be killed. More's treatment of the Queen is relatively sympathetic. He makes it clear, I think, that she's a pretty tough broad. He plays her like the other enemies of Richard, basically as foils to Richard. That is to say, just as he makes Hastings, especially at the hour of his death, look a little better than he was in real life so that his whiteness will make Richard's blackness all the more black. And he does the same with Lord Rivers, who comes across in the *History* as a very attractive philosophical guy who faces death bravely, and so on. That was true of Lord Rivers, but only half the truth. Lord Rivers was a rough character—he was tough as hell, you know, and not necessarily attractive. Lord Rivers was, in fact, a sort of amateur humanist: he wrote and published books. And he's one of those disturbing cases where we see that a humanist is not necessarily a nice guy, which is absurd to us because *we're* humanists, and *we're* all nice guys, aren't we? (Laughter.) And the Queen gets some of the same kind of treatment. She comes off a lot better, especially, for everybody except Gerry, in that sanctuary scene, at the end. If there's one passage in the *History* that may bring tears to your eyes, it is that parting of the Queen and her child at the end. So the portrayal of her is really fairly attractive. In truth, she *wasn't* very attractive. Her press has been extremely bad over the centuries from the time of her queenship until the present. There's a biography trying to rehabilitate Elizabeth, but not, I think, with entire success. And in truth, Richard, quite apart from what either he or she might have thought about George's death, the third brother's death, Richard had every reason in the world not to like her, and to fear her. As I said a few minutes ago (sitting down there), when Edward fairly suddenly died, it was absolutely clear that it was going to be a struggle, and probably to the death, between those two people, because they were the two people in positions of greatest power: he was the King's only surviving brother; she was the King's widow. And she seemed to hold both the aces, because she had both male children in her power at that point.

As for George, again, I don't think More tells many deliberate lies in the *History*, contrary to the position of the Ricardians, who think that the whole thing is a malicious pack of lies blackening the record of noble Richard. But he certainly does leave some things out—there are certain sins of omission in *the History*. Lots of sins of omission. And one of them is any real treatment of George—that would have been going fairly far afield—George was a *jerk*. And he was a *scoundrelly* jerk, too. There's absolutely no question that George committed treason on *more* than one occasion against his older brother, and he was let off because of brotherly sentimentality, I guess, on Edward's part. And finally Edward had enough of it, and George was killed basically because he was a jerk.

Audience: I agree because, if you're going to look for positive examples, why not just take the one that More actually gives you? Because he says that she's virtuous, and although, in looking in hindsight, we might second-guess what he says there, you also have to remember that the winners write the history books. And so maybe the virtue that we're talking about is more of a Machiavellian-skill- definition of virtue, or something like that. But I think you should just go ahead and take what More said at face value.

Miller: There was *another* wooed person who wouldn't marry *another* king, or wouldn't let him into bed, until he married her. Who was that, do you know? *Anne Boleyn*. (Laughter.)

Lehman: I've got another question for the panel, and this relates to the end of what we've got for the English version. Is More advocating the Machiavellian tactics used by Morton at the end of that English edition? And how are Morton's deceptive and manipulative practices any different than Richard's?

Miller: We really don't have very much; we have the beginning of Morton's approach to Buckingham. We don't really know quite how to go from there to wherever. Can we say that he's Machiavellian? It did happen, I suppose, but can we say as a matter of fact that he is devious and dishonorable and self-serving—all that from what he did there?

Logan: I don't know if we can say he was *self-serving*, but I guess, by that time, he probably already had a candidate. He probably wasn't thinking that the Duke of Buckingham would be a good replacement for Richard, as he was pretending to the Duke of Buckingham. He already probably thinking that Henry Richmond would be a good candidate. So I don't think we can say he was self-serving; I think he thought he was serving the greater good, serving the just tyrannical end to this usurper's illegitimate reign. Was he being Machiavellian? Yeah, sure he was. Tactically, for good ends, he was. But I think the key phrase is—and I don't want to get this wrong, the way I got the last thing wrong. (Thanks forever to you, Joe, for pointing that out. (Laughter.)) Genuinely, thank you. I want to say in my defense, I figure I've read this book more than most of you—probably more than *all* of you together. But you read it more *recently*.) But here, I think, the key phrase is in that little character sketch of Morton that the passage opens with, at the bottom of page 105...well, here's close enough: he was a man of great natural wit, very well learned and honorable in behavior, lacking no wise ways to win favor. To me, that's a kind of euphemism for the kind of Machiavellian "wise ways", exactly what we're going to see demonstrated in what follows

Curtright: Speaking of those "wise ways to win favor": Morton is not a Machiavellian in the conventional sense of the word, because Morton has a good cause, and Morton didn't view these means as in any way illicit.

Oakley: There might be a place in the text which is illustrative of the point, and that's at Buckingham's speech: when all the commoners are walking away, apparently in offense at this dissimulation, More throws in, maybe it's like when

you consecrate a bishop, and you ask him, do you want this? And he says no. And you ask, do you want it? No. And then the third time again, everyone knows he's going to get it. Now, it's not that this message is a harmless dissimulation, but it probably does advance a genuine good. So he puts it right there in your face—the complexity of dissimulation, or even what you would call rhetoric by one name, but by another dissimulation. That has some genuine, important uses—it's *dangerous*, but it has some important uses.

McCutcheon: Morton is a survivor in a very tough world. He is not a hero. We've been asking if there are heroes, and he is not a hero. One thing that More does say, or the narrator says, is that, "This man, therefore, as I was about to tell you, by the long and often alternate proof as well of prosperity as adverse fortune, had gotten by great experience (the very mother & mistress of wisdom) a deep insight in politic worldly drifts" (106). Now, the politic worldly drifts that Morton is a master of: he has survived a great many changes, and I don't want to say he's the Vicar of Bray, but he has survived a great many changes, and this is how you survive in this world of dissimulation. It leaves me with a great feeling of ambiguity. I'm left with the feeling that this is a very dark world.

Logan: The passage that Elizabeth just read is the one that I was trying to find a few minutes ago, and found while other people were talking. All these passages that have been cited, I think, are very apt here. Yes: "politic worldly drifts," and, of course, what follows in the remainder of the episode is an illustration of what "politic worldly drifts" means—lies, whatever particular species of lie. And one of the speculations that's often been raised about why More broke the *History* off at the point where he did break it off is that maybe he found himself feeling a little bit uncomfortable. Certainly More, at some parts of his life, and maybe throughout his life, regarded Morton as a hero. I don't think there's anybody—any other individual—that More admired more. Maybe various saints, huh, but of people he knew, of people in his line of work, as it were, Morton was certainly the one that he admired most. And one can't help but think that he must have felt a little twinge about showing Morton here as a consummate dissimulator, after stressing that the single worst and most dangerous characteristic in Richard was his constant dissimulation. And we've got to remember that this expert in "politic worldly drifts" is a man of the cloth—a bishop at this point, the Bishop of Ely, who went on to become Archbishop of Canterbury and a cardinal.

The place, of course, to cite the other passage that's relevant here, where More really lays this dilemma out is in that argument between More and Hythloday, at the climax of Book 1 of *Utopia*, where More advocates the "indirect approach" to political problems, which is "politic worldly drifts," which is the same thing that he shows Morton exemplifying here. And Hythloday says, with his cold contempt, you may think it's the business of a philosopher to tell lies, but I don't think that, and on top of that, you are so full of it: you think that will do you some good, but it won't do you any good; you'll end up, in effect, in Colin Powell's position. That's the best you can hope for: they'll see through you immediately, and they'll kick you right out of the council room, or you'll be seduced by them, or if not seduced you'll become a screen, and they'll use you as a front man to retail their various ideas. How important, how fundamental this problem was to More is surely

illustrated by how brilliantly he develops both sides in that argument. Obviously this was a matter of crucial ongoing importance and difficulty for More—as it naturally would be for a devout Catholic who was also very interested in politics and trying to rise in politics, and had as his main role model Cardinal Morton, whom he's known as the Lord Chancellor. And one wonders how much, and in what frame of mind, More reflected on this text later in his life, at the very end of his political career, where Hythloday's predictions proved in More's own case, of course, absolutely true and on the money.

Wegemer: I'd like to quote the conclusion of that passage where we're told about "worldly drifts." The narrator seems to actually come in and give his own opinion. This is on page 106, eight lines from the bottom: "Thus, living many days in as much honor as one man might well wish, ended them so godly that his death, with God's mercy, well changed his life." Now, that implies a judgment against some things that Morton did. It seems quite revealing that Morton decided to eliminate that whole scene from the Latin edition, which I would argue is the most polished or completed version of this story.

Smith: I do want to say, and this is related to your point, Gerry, on the question of heroes in the book, I was fascinated by Shaa's friend. He only appears for one sentence in the book, and that to a man at the point of despair. It's fascinating to me that the narrator says, "His conscience had well showed him the truth of his actions." Then Shaa goes to his friend and says, "Cheer me up: I've really just destroyed my entire professional reputation." His friend: "Yes, you did." The end. He dies. Now, that's either the *wrong* thing to say (Laughter.), or rather noteworthy in the world of *Richard III*. The fact that sticks out to me is that his conscience "*well shows* the truth" to Shaa, and then he seeks counsel or friendship that will perhaps show him a way out of truth. But he's told the truth and dies. That moment seems relevant to the reflection on truth and lies of this sort.

McCutcheon: I want to go beyond the question of lying to what I think is behind this, which is trust. The difficulty with *Richard III* is that almost no one can trust anyone else, and we said earlier that More really believed in community—we're seeing a dysfunctional community, to put it mildly, here—or he hoped for a community. And the basis for community—one basis—has got to be trust. Now, in certain kinds of rhetoric, it's clearly not a lie because you and I are operating on the same set of assumptions. But this is what makes irony so difficult. I taught "The Lottery" once, a Shirley Jackson story, and I had a very young student who said that he didn't see the problem: after all, it was a lottery, so somebody got stoned. And that was OK—they all got an equal chance. So if you don't get irony, then you have a problem, but if you do, then you're on the same wavelength that's at work. But in this case, Buckingham and Morton do not trust each other. Really, there's a little negotiation going on: Each one is probing. And Morton gives that wonderful story, which is very Morean—that wonderful beast-fable, about whether the animal wears horns or not—and that just nails the situation, where rhetoric is protective, because you *can't* trust the other person. Morton gives an answer that Buckingham could *not* go to the king and repeat, so he saves himself. It's this lack of trust.

If we turn it around, it's one of the things that More really hopes for, or dreams

of: a world where you can really trust someone else. And that's what we don't have in *Richard III*, really. And it's really sad, and funny.

Barbara Panza (lawyer): I have more of an observation, and I'd certainly welcome comments on it. Throughout *The History*, we see Richard's rise to power through deception, and at the end of the English version, we're seeing the beginning of Henry VII's rise to power through deception. Could this be an understated comment on Henry VII?

Oakley: I was thinking the same thing along the lines of Professor McCutcheon: Maybe this is a perfect ending, rhetorically, for this story. This discussion reminded me of an article that's on the website, a delightful article by Anne Prescott: "Postmodern More." She talks about this story at the end, about renaming and the fluidity of names and meaning. In a crucial sense, she says, referring to this fable, if the Lion calls a bump a horn, and if the Lion effectively makes the rules, then a bump effectively becomes a horn. So he's telling this *History*, and things are getting really dangerous at this point, and, just as with the conversation between people who really can't quite trust each other, the way it gets recorded can become anything when you have a despotism, when you have a tyranny, when you have the same person make the rules and say what's what. So at that point, anything he writes, he's saying, can be twisted in any direction. So at this point, maybe we are starting out all over again with Morton egging Buckingham on, but at the same time, there's this basic lesson that we've gotten: that to some degree you can figure out what people mean, but at the same time, in the political world, meaning and language can be twisted to support almost any position.