

# Thomas More Studies

Volume 3

2008

## Thomas More's 1529 *Dialogue Concerning Heresies*

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## The Reading of Scripture in Thomas More's *Dialog Concerning Heresies*

John F. Boyle

In his *Dialog Concerning Heresies*, Thomas More presumes and, in part, defends a long standing way of reading scripture which he had received from the Middle Ages. It is this inheritance that is the subject of this paper. It is not my intention to address specific instances of debated interpretation as they appear in the *Dialog*, but rather to articulate a particular vision of scripture and its interpretation that is, in fact, not More's own but that of the church he so ardently defends. I shall first discuss some elements of this vision and then turn to the *Dialog* itself.

### *The Tradition of Interpretation*

When St. Augustine, as a young pagan, first turned his attention to scripture, he rejected it for its lack of sophistication. The bishop, reflecting on this episode, speaks to the very character of sacred scripture:

So I resolved to make some study of the sacred scriptures and find what kind of books they were. But what I came upon was something not grasped by the proud, not revealed either to children, something utterly humble in the hearing but sublime in the doing, and shrouded deep in mystery. And I was not of the nature to enter into it or bend my neck to follow it. When I first read those scriptures, I did not feel in the least what I have just said; they seemed to me unworthy to be compared with the majesty of Cicero. My conceit was repelled by their simplicity, and I had not the mind to penetrate into their depths. They were indeed of a nature to grow in Your little ones. But I could not bear to be a little one; I was only swollen with pride, but to myself I seemed a very big man.<sup>1</sup>

Augustine notes a peculiar feature of scripture. At first encounter it is a humble text. Indeed, Christ's little ones can enter into it. But it is also a difficult work shrouded in mystery, a work of unimaginable depths. It is precisely this conjunction of the humble and the mysterious that makes scripture so arresting and fascinating. But it is, in its way, deceptive. One might not see the difficulty for the seeming simplicity of it. One might, like the young pagan Augustine, think that one all too easily grasps it. But such is not the case; the difficulty and mysteriousness of scripture is a theme throughout Augustine and the fathers.

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<sup>1</sup> Augustine, *Confessions*, III.5, from the translation of Frank Sheed (Indianapolis: Hackett, 1993), 39.

Concerned precisely with the difficulties in interpreting scripture, Augustine explicitly dedicated two of the four books of his *De doctrina Christiana* to the problem of obscure and ambiguous passages of scripture and their interpretation. The work does not address particular passages, but rather the principles necessary for such interpretation. Specifically, he speaks to those who find themselves troubled in the face of scripture's difficulties or who have no troubles at all and think the text is quite self-evident. A few comments on this work may prove helpful.

One might ask to begin with, why God would write a text so difficult to interpret. We have already seen an answer in the *Confessions* and Augustine addresses it here in *De doctrina* with much the same answer: to conquer pride and combat disdain in the reader.<sup>2</sup> But a divine rationale does not address the particulars of how one is to go about reading this difficult text (apart from humbly), and to that we turn.

Augustine tells us that written things are not understood for one of two reasons: the signs are either unknown or ambiguous. He deals with unknown signs in Book II and ambiguous signs in Book III. Words, for Augustine, are conventional signs. As signs they can be proper signs (*signa propria* sometimes translated "literal") or figurative signs (*signa translata*).

They are called literal [proper] when they are used to designate those things on account of which they were institute; thus we say *bos* [ox] when we mean an animal of a herd because all men using the Latin language call it by that name just as we do. Figurative signs occur when the thing which we designate by a literal sign is used to signify something else; thus we say "ox" and by that syllable understand the animal which is ordinarily designated by that word, but again by that animal we understand an evangelist, as is signified in the scripture.<sup>3</sup>

One can speak of unknown proper or figurative signs. The remedy for unknown proper signs is knowledge of the languages involved, their vocabulary, and their expressions.<sup>4</sup> Figurative signs for Augustine in *De doctrina* is a broad category. It includes any kind of signification that looks beyond simply what the word means in its proper signification to uses that engage the thing signified by the word itself. This is the world of poetry, metaphor, and literary devices; it is also the world of scriptural prefiguration. Such figurative signs may be unknown. As with unknown proper signs, this might arise from ignorance of the language and its expressions. It could also be from ignorance of things signified. Thus Augustine says the interpreter of scripture needs to have knowledge of things: of animals, stones and plants, of numbers, of history, of the arts (i.e. of how things are made), of the science of disputation, and of philosophy.<sup>5</sup>

In other cases, the problem is not that the sign is unknown, but that it is ambiguous. Here too, Augustine says one needs to be attentive to whether the words are proper or figurative. In the case of words taken properly, sometimes the ambiguity arises from questions of grammar and punctuation.<sup>6</sup> Words taken figuratively that are ambiguous are particularly knotty and get much attention.<sup>7</sup> Often times the ambiguity can arise when figurative terms are compared across scripture. Thus the Kingdom of God may be like leaven, but one should beware the leaven of the Pharisees. In both cases, leaven is used figuratively, but the import would seem to be different as

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<sup>2</sup> *De doctrina Christiana*, II.vi (7); translations will be taken from *On Christian Doctrine*, trans. D. W. Robertson (Indianapolis: Bobs-Merrill, 1958).

<sup>3</sup> *De doctrina Christiana*, II.x (15), p. 43.

<sup>4</sup> *De doctrina Christiana*, II.xi (16)-xv (22).

<sup>5</sup> *De doctrina Christiana*, II.xvi (23)-xlii (63).

<sup>6</sup> *De doctrina Christiana*, III.ii (2)-iv (8).

<sup>7</sup> *De doctrina Christiana*, III.v (9)-xxxvii (56).

one referent is good and the other evil. More famously, the lion of Judah signifies Christ but the roaring lion seeking something to devour signifies the devil.<sup>8</sup> We need not replicate the many variations on ambiguous signs in *De doctrina*; more to the point, Augustine articulates principles for determining the figurative signification and for determining when a term with a nonetheless clear proper signification nonetheless ought to be taken figuratively. One takes figuratively what does not pertain to virtuous behavior or truths of faith in its proper signification.<sup>9</sup> The principle is clear enough even if the application will necessarily be a matter of debate.

Augustine's principles in *De doctrina* do not resolve all disputes in the interpretation of scripture. An influential passage in the *Confessions* is telling. In Book XII Augustine turns his attention to the interpretation of Genesis 1. He addresses some of his critics who have charged that his interpretation is false as it is not what Moses meant. Augustine quickly disposes of the problem of authorial intention. How do his critics know what Moses meant? They have what he has: the words of scripture. When one looks at the words, Augustine's interpretation fits the text. The problem is that other different interpretations also fit the text. The words are ambiguous. There is not a way to adjudicate among these competing interpretations and Augustine goes even further: there is no reason to do so. Perhaps Moses intended all of these different interpretations; and if Moses did not, God could have. Multiple interpretations is not a fault; it is part of the very mysterious depths of scripture.

Does this mean that any interpretation, provided it fits the text, is true? This would be a source of mischief in the case of the ambiguous. Augustine affirms that some interpretations may be false, but one does not appeal either to the words themselves (the very source of the problem) or to the even more elusive intention of the author. Instead, Augustine posits negative criteria: a true interpretation cannot be contrary to reason or to the faith. Thus, many interpretations may fit a text and, to Augustine's mind, be true. They cannot be true, even if they fit the text, if they violate either reason or the faith.<sup>10</sup>

In addition to the criteria of the *Confessions*, we should note an additional criterion made explicit and insisted upon in the *De doctrina*. All of scripture is ordered to the end of love of God and love of neighbor. If this is the end of scripture, then any reading that is not ordered to that end is false.<sup>11</sup> Thus another negative rule: any interpretation that is contrary to the love of God or the love of neighbor is not a true interpretation.

The Middle Ages is heir to the interpretive work of the early church, both in its particulars and in its principles. In the case of the Latin west, Augustine is dominant, but fundamentally, there is remarkable unanimity among the fathers on the principles which is precisely why there is so little discussion of them in the Middle Ages itself. Some clarification and specification occurs and we can note some particulars.

With the Middle Ages we get the increasingly refined articulation of the senses of scripture (ultimately most commonly given as four). Most important here is the nearly universal distinction between the literal (or historical) and spiritual (or mystical) senses. The literal sense considers what the words signify. This sense scripture shares with all other written works (indeed, with anything expressed in human speech). One could ask what the word "lamb" signifies in the Passover instructions given to the Jews in Exodus, to which the answer is a woolly mammal.

<sup>8</sup> For both examples, *De doctrina Christiana*, III.xxv (35).

<sup>9</sup> *De doctrina Christiana*, III.xv (23)-xvi (24).

<sup>10</sup> *Confessiones*, XII.xiv (17), xviii (27), xxiii (32)-xxxii (43).

<sup>11</sup> E.g. *De doctrina Christiana*, I.xxxvi (40).

The spiritual or mystical sense considers not what the words signify, but what the things signified by the words signify. This signification of things themselves is unique to scripture as it is dependent upon a signification which is intrinsic to things and is only possible if the creator and Lord of history who has so invested these things with such signification is Himself also the author of scripture. Thus, while the word “lamb” in Exodus signifies the little woolly creature sacrificed at Passover; the lamb itself signifies Jesus Christ. A thing signifies another thing. The number and description of senses within the spiritual sense of scripture are many and varied, although the most common is three. In his treatment of figurative signs, Augustine had put together both literary and poetic devices and the unique spiritual signification of scripture. The Middle Ages sifts the distinction, putting the purely literary with the literal and reserving the peculiarly scriptural with the spiritual.<sup>12</sup>

With the Middle Ages arises a new important factor in the reading of scripture, which is the work of the doctors of the church. Aquinas, for example, speaks of the intrinsic role of the doctors in *sacra doctrina* and thereby the reading of scripture.<sup>13</sup> The point is not that the doctors agree in all points of interpretation; they do not and the Middle Ages is the happy heir to Augustine’s affirmation of multiple legitimate interpretations. But it is the case that the doctors on essential matters of doctrine do not differ.<sup>14</sup> Such is the foundational affirmation of the Middle Ages.

Thomas Aquinas also appeals to the same principles as Augustine for determining the truth of an interpretation. Thomas articulates a bit further the implications of multiple true interpretations of the literal sense of scripture with two negative principles: first, one ought not assert something false to be found in scripture, especially what would contradict the faith (here he follows Augustine); and second, one ought not to insist upon one’s own interpretation to the exclusion of other interpretations which in their content are true and in which “the circumstance of the letter” is preserved.<sup>15</sup> This is seen throughout the practice of interpretation in the Middle Ages in which authors happily set forth multiple interpretations culled from the saints with no adjudication between them. They are all legitimate and each contributes to the deepening understanding of sacred scripture.

### *The Dialog*

Throughout the *Dialog*, More undertakes the defense of the traditional interpretation of scripture. Little, if anything, is new. What is new is the sustained defense of it in response to the attacks of the reformers. At the same time, the tradition of reading scripture undergirds the *Dialog* from the beginning. There is no need to note each instance of dependence or defense in the *Dialog*. A few instances will be sufficient to aid the reader of the *Dialog* in seeing the traditions at work in it.

The engagement with scripture is immediate in the *Dialog*. The messenger sets forth in the first chapter his principles for reading scripture. First, no study other than that of scripture is necessary for there is no light other than that of scripture. Second, it is good to learn many passages by heart. Third, he seeks out the “sentence and understanding” of scripture as best he can by himself. Fourth, he does not use interpreters and glosses; he does not have time for them. Fifth, he resolves

<sup>12</sup> The distinction is articulated neatly in Thomas Aquinas, *Summa theologiae*, I.1.10.

<sup>13</sup> *Summa theologiae*, I.1.8.ad 2m.

<sup>14</sup> Thomas Aquinas, *Lectura romana in primum Sententiarum Petri Lombardi*, prol. 4.3.

<sup>15</sup> Thomas Aquinas, *Quaestiones disputatae de potentia*, 4.1.resp.

difficulties in passages by the “best and surest interpretation” of comparing scriptural passages one to another. He says that such passages do not fail to declare themselves in this way, which he finds “sufficient and surest.” Sixthly, and finally, with the help of God, every reader is able to do enough.<sup>16</sup>

Anyone with a grasp of the tradition of reading scripture could not help but be struck by the naïveté of the messenger as a reader of scripture. He is rather like the young Augustine who presumes a simplicity and self-evidence to scripture that is false. One sees it in his simple dismissal of all learning and sources of learning apart from scripture, as if they are not only of no use, but necessarily harmful to the right reading of scripture. He presumes that he (as apparently any capable reader) should seek out the meaning on his own—a tribute either to his own intelligence (the Messenger does not seem especially proud in this regard) or to the relative obviousness of scripture’s meaning. Commentaries and glosses are dismissed as simply a waste of time which follows readily enough from the clarity of scripture’s meaning. The meaning of difficult passages is determined by comparing Scriptural passages one to another. This is a venerable procedure of antiquity. But here too the Messenger shows his naïveté. This is apparently sufficient for resolving difficulties as he appeals to no other means of reading difficult passages; indeed, this way is “sufficient and surest.” His confidence in such comparison is so great that he says such passages do not fail to declare themselves. This is far from the world of Augustine’s *De doctrina Christiana*. A final bow to God’s grace given to readers exhausts what the Messenger has to say about sacred scripture and its interpretation.

More’s safe course in the interpretation of scripture is in clear contrast to that of the Messenger.<sup>17</sup> More is worried about the devil’s efforts such that “a good wit may abuse his labor bestowed upon the study of Holy Scripture.” To avoid this danger—a danger not found in the sunny realms described by the Messenger—More offers this “poor advice.” He first advises for those studying scripture “to have special regard for the writings and comments of old holy fathers.” He then speaks to two things the Messenger had not mentioned at all. First, the grace and help be gotten with “abstinence, prayer, and cleanness of living.” The Messenger had spoken of God’s grace in helping to see the clear meaning; More speaks differently of the grace that makes possible the virtuous life which is itself a safeguard to the right reading of scripture. This is behind the oft repeated characterization of the fathers and doctors in the *Dialog* as holy. More’s point is not simply that God speaks his meaning, but that such is part and parcel of the holy life, especially as exemplified by the holy doctors. It is precisely in this light that one should see More’s insistent refrains on the lewdness and immorality of the reformers, especially in the culminating chapters of Book IV. This is not an exercise in detraction, but an argument against their claims to authority to interpret scripture.

More’s second piece of advice is even more important. Before one undertakes the reading of either scripture or the fathers, one should be “well and surely instructed in all such points and articles of faith the church believeth.” The Messenger had said nothing of the church; More gives her first place. This is at the heart of one of the principal debates of the *Dialog*. The Messenger insists that everything the church teaches is to come from scripture (implicitly from the self-

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<sup>16</sup> Thomas More, *A Dialogue Concerning Heresies*, I.1 (33.21-34; 54-55). Citations to the *Dialogue* (or *Dialog*) will be by internal division and then, in parentheses, to the page and line number in the critical edition edited by Thomas Lawler, Germain Marc’hadour, and Richard Marius in *The Complete Works of St. Thomas More*, vol. 6, part 1 (New Haven: Yale University Press, 1981). I have modernized the orthography and punctuation. The page reference to the edition rendered in modern English by Mary Gottchalk (New York: Scepter Press, 2006) follows.

<sup>17</sup> What follows is taken from *Dialogue* I.22 (126.13-128.6; 153-55).

evidence he thinks it carries). More insists that the church comes—and came—before scripture and that her teachings must be the guide to the sound interpretation of scripture. The debate continues throughout the whole of the *Dialog*. From the vantage point of the Middle Ages, this is perhaps the most novel and unusual aspect of the *Dialog*'s treatment of scripture. It is, in some ways, a retreat to the debates of the early church and I know of nothing like it in the Middle Ages, in which the priority of the doctrine of the church was established and scripture was read in the light of it. More clearly sees that something new (or rather, very old) is afoot and thus it receives great attention throughout the *Dialog*. Certainly the church's reading of scripture stands or falls with her doctrinal authority. Thus it is that much of the *Dialog* which would seem to be about competing readings of scripture is about the church, for the Messenger, who assigned no role to the church in the interpretation of scripture, needs to be led to see its primary place, and even more, to see the need for it to have that place.

More then turns to the interpretation of "doubtful texts." He states that reason and the articles of faith are two good rules by which to "examine and expound all doubtful texts" for the reason that no text is to be interpreted as standing against both or any part of Catholic doctrine. We see here Augustine's negative criteria: the rejection of interpretations that are contrary to reason or the truths of the faith. Here More especially insists on the role of the articles of the Catholic faith.

If one has a passage of scripture that would seem contrary to the articles of the faith, what is one to do? This is, of course, precisely the circumstances of the reformation. More proposes two approaches to such texts to help the reader see how the doubtful passage is to be read truly. The first is in the light of natural reason and the collation of other texts. Here is the Messenger's "sufficient and surest" method of comparison of scriptural passages. Notable is More's linking of it with the light of natural reason. More offers no further explanation, but it is perhaps in general terms not needed. The collation of texts necessarily will require skills in reasoning if one is not, in the most extreme circumstances, to be left with scripture contradicting itself.

But the light of reason and the collation of texts are not sufficient and surest for More. He continues, "or else (which is the surest way) he shall perceive the truth in the comments of the good holy doctors of old to whom God hath given the grace of understanding." More's "surest way" is that of the holy doctors. The rationale is their holiness as a result of which God has given them the grace of understanding. More has used the Messenger's appeal to God's grace but has yoked it not to any reader, but to the holiness of the doctors of the church, as if to say, if God's grace is requisite, who better to have it for such a task as the exposition of sacred scripture than the holy doctors.

But what if after all of this, the reader finds the passage still seems contrary to the faith of the church? More quickly notes that the reader should, following Augustine, be attentive to the possibility of faulty texts, editions, or translations. In the end, More says, let him "reverently acknowledge his ignorance." He should cleave to the teachings of the church and leave the passage aside until it please God to disclose its meaning to him. This is the world of scripture in all of its mysteriousness in striking contrast to the Messenger's confidence in readily discovering scripture's meaning. The prudence of More's approach is seen in the conclusion of chapter 22 in which he so aptly summarizing the thinking of the tradition:

And in this wise shall he take a sure way by which he shall be sure of one of two things; that is, to wit, either to perceive and understand the scripture right, or else at the least wise never in such wise to take it wrong, that ever may turn his soul to peril.<sup>18</sup>

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<sup>18</sup> *Dialogue*, I.22 (128.2-6; 155).

More speaks of the “consent and common agreement”<sup>19</sup> of the fathers; the reformers, finding the fathers arrayed against them, speak to the differences of opinion among the fathers and doctors. More makes an important and tidy distinction. The issue is not with regard to passages on which the articles of faith do not hang. More notes, in accord with the tradition, that there may be ten senses of one text and all “good enough.” In such cases, he implies, the fathers disagree and without consequence for the argument of the reformers. The issue, More says, is of contrary senses of texts on necessary points of faith. It is here that More insists that the fathers and the church are of one accord against the new doctors.

As a final point, let us consider the question of plain and evident texts. Both the Messenger and More speak of such texts. The Messenger takes this to mean that they require no interpretation, no “gloss.” Careful reading is sufficient. “Me thinketh, quod he, the text is good enough and plain enough, needing no gloss if it be well considered and every part compared with other.”<sup>20</sup> More replies that he thinks it hard to find anything quite so plain. For More, plain seems to be rather more relative. He proposes a non-scriptural plain text to the Messenger of “twice two ganders always makes four geese” and teases out the difficulties and thereby the implicit glosses that attend to a correct understanding of it.

The issue reaches its crisis, however, when plain and evident texts of scripture seem to contradict other plain and evident texts of scripture. It is here that the Messenger’s use of comparison shows itself to be too simple. How to resolve two contradictory plain passages? Such battles of texts is precisely what the church faced in the reformation. The situation was similar in the early church, perhaps most famously in the Arian controversy to which More notably refers in I.26. How to overcome the impasse? Here the question of reason and comparison of multiple texts comes into play, not in theory, but in practice. We see this most fully in chapter 11 of Book IV. More is explicitly trying to demonstrate the duplicity of heretics by giving an account of the interrogation of an English Lutheran. In the course of that account, however, we are given a concrete debate precisely with regard to plain and evident texts as presented on both sides. More concedes the heretic has knowledge of both scripture and human learning. In spite of this learning, he is shown to be in error. How is this done? He is shown to be inconsistent in his position. This is, of course, an appeal to reason. The man’s own claims are not harmonious; they are contrary if not contradictory. So how does a learned man get himself in this position that he can be shown to be a heretic and his position internally dissonant? The answer is by his very use of scripture. He cannot account for multiple passages of scripture. He is presented with not just two but several passages of scripture that are plain and evident – or should be by his principles – and he is unable to offer a rational account of them. What trips him up is scripture itself. This is precisely what Athanasius and the orthodox did in the long debate with the Arians. In the end, they gave a more coherent account of the totality of scripture than the Arians could. Part of More’s point throughout is that in the essential matters of doctrine, the church has come in 1500 years to a coherent and unified reading of scripture and this is precisely what one finds in the comments and glosses of the old and holy fathers and doctors.

By the time of Thomas More, the church had achieved a remarkable integrity of her doctrine as a whole (at least in areas of ancient controversy). This rested in part upon the sophisticated interpretive tools for reading scripture – in its plain texts, in its ambiguous ones, and across the

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<sup>19</sup> *Dialogue*, See I.28 (169.30; 199).

<sup>20</sup> *Dialogue*, I.28 (168.16-18; 197).



whole of scripture. It is this achievement that More sees, rightly, to be threatened by the naïveté of the reformers in their rejection of the teachings of the Catholic church.

# Scripture versus Church in the Debate of More and Tyndale

Tibor Fabiny

*More's Position: the Primacy of Orality*

More made a distinction between God's "written word" and "unwritten word" already in his *Responsio ad Lutherum* (1523). Paul, he said, had delivered his teaching without writing. More was asking Luther: "Will you deny that both the written and the unwritten word are equally true?"<sup>1</sup> More says that Peter the uneducated fisherman also confessed Christ without Scripture, by the direct inspiration of the Spirit, and therefore this faith in Christ is the rock upon which he is to build his church. God therefore spoke interiorly to him: "Or is something heard only when it is written? Or before the gospels were written, did the Christians not hear the apostles?"<sup>2</sup>

Thomas More first criticized Tyndale's views in his *Dialogue Concerning Heresies* (1529) and proposed the distinction between the word written and unwritten in the twenty-fifth chapter of Book I.<sup>3</sup> More says here that human beings were created with the faculty of reason before any writing appeared:

For at our creacyon he gaue but two preceptys or thre / by his owne holy mouth to our fyrste parentes. And as for all that was for theym to do besyde / the reason whyche he had planted in theyr soulys / gaue them sufficient warnynge / wherof the hole some stode in effecte / in the honoure of god and goddys frendys / with loue of eche to other / and to theyr ofsprynge and lynage.<sup>4</sup>

For generations, the knowledge of God was transmitted orally:

Whiche faythe delyuered to the father / wente by the mouthe to sonne / And soo frome chylde to chylde / herde and byleued amonge theym.<sup>5</sup>

Written law was given to the people of Israel as their morals got generally corrupted and they became blind to understand the will of God, thus God gave them the Ten Commandments of his his mercy:

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<sup>1</sup> CW 5.1, 243/23-24.

<sup>2</sup> CW 5.1, 245/27-28.

<sup>3</sup> CW 6.1, 137-153.

<sup>4</sup> CW 6.1, 138, 35-139, 8.

<sup>5</sup> CW 6.1, 140, 28-30.

But soo was it after the worlde waxynge worse / right good and vertuous lygnages declyned and decayed. And by the lewde conuersacyon of euyl people / fell by disorder in suche a blyndness / that all be it some were there alwey that perceyed well theyr dutye / yet were the comen people ye children of Israell by custome of synne soo darked in theyr naturall knowledge / that they lacked in many thynges the right perceyuyng / that reason (had it not bene by euell custome corrupted ) might vereyly well haue shewed theym. For the remedy wherof God of his endlesse mercy / by the law written with his owne finger vnto Moyses in the tables of stone / by the .x. commaundemenetes / put in remembraunce agayne certayne conclusions of the law of nature / whiche thyer reason (overwhelmed with sensualite) hadde than forgotten. <sup>6</sup>

The patriarchs and the prophets foretold the coming of Jesus who also gave them a new law into their minds and into their hearts. Jesus also taught by speaking. Therefore Paul also said that “[t]he gospel of Cryst was ordened by god to be first preched vnto you” – here More quotes Acts 13,46.<sup>7</sup> Jesus’s teachings have been “inwardly infused” by the inspiration of God and thus this is also a proof for the primacy of orality. More here discusses again Peter’s confession of faith in the divinity of Christ (Mt 16:15-17) and in the second edition of 1531 adds two sentences which empasize that the church was guided by the “secrete inspyracion” of the Holy Spirit rather than by written scripture.<sup>8</sup> His summary is that “The lawe or euer it was written in the boke, was written in mens hartes.”<sup>9</sup> More calls this “the lawe of lyfe” (an allusion to Eccles.17:9) that words written on parchment are not no be compared to the words written in the living minds of men.<sup>10</sup>

And by them in lyke maner / fyrste without wrytinge by onely wordes and prechyng / so was it spredde abrode in the worlde / that his fayth was by the mouthes of his holy messengers put in to mennes eres / & by his holy hande wrytten in mennes hartes or euer any worde therof almost was wrytten in the boke. And so was it convenient for the lawe of lyfe / rather to be written in the lyuely myndes of men / than in ye dede skynnes of bestes.<sup>11</sup>

More believes that “the substaunce of this faith neuer haue fallen out of crysten folks hartes / but the same sypryte that planted it / the sholde haue watered it / the same shold haue kepte it / ye have encreased it.”<sup>12</sup>

But so hathe it lyked our lorde / after his hye wysdome to prouyde / that some of his dyscyples haue wrytten many thynges of his holy lyfe / doctryne and faythe / and yet farre frome all / whiche (as saynt Iohan sayth) the worlde coulde not haue comprehended. *These bokes are tempred by the secrete counsayle of the holy goost so playne and simple / that euery man may fynde in them that he maye perceyue.*<sup>13</sup>

More is convinced that the evangelists and the apostles were “furste enformyd by worde”<sup>14</sup>; he says that he would little doubt that the evangelists and the apostles “bothe / of many great and

<sup>6</sup> CW 6.1, 141, 9-21.

<sup>7</sup> CW 6.1, 142, 31-2.

<sup>8</sup> CW 6.1, 143/15-29, Introduction, p. 558.

<sup>9</sup> CW 6.1,143.

<sup>10</sup> CW 6.1 Part II, 647; Cf. CW 8, 45,7-15.

<sup>11</sup> CW 6.1, 143,29-144,2.

<sup>12</sup> CW 6.1,144,4-7.

<sup>13</sup> CW 6, 144, 8-15. Italics mine.

<sup>14</sup> CW 6.1, 144,28.

secrete mysteryes spake moce more openly / and moche more playnely by mouth amonge the people.”<sup>15</sup>

More believes that Scripture has much mystery still covered that will not be uncovered until the Day of Judgement when they will be fully disclosed. Until then God “temperyth his reuelacyons”<sup>16</sup> so that by the secret inspiration of the Holy Spirit the church should consent unlike the heretics who rebel and refuse to be obedient to God and his church. Such heretics will be cut off from the lively tree of the vine and the withered branches will be kept for the fire. However, if they repent they will be grafted into the stock again.<sup>17</sup> More is convinced that though the church might change, the Holy Spirit that God had promised to his church should abide in the church until the end of the world.

*William Tyndale: An Answer Vnto Sir Thomas Mores Dialoge (1531)*

William Tyndale’s polemic response to Chapter XXV of Book I of More’s *Dialogue* does not live up to the subtle artistry and the many sided, sophisticated argument of his adversary. However, Tyndale elevated the topic of the relationship of the church and the gospel into what Jared Wicks called, his “foundational essay.” The title of this section is: “Whether the church were before the gospell or the gospell before the church”:

Another doute there is / whether the church or congregacion be before the gospell or the gospell before the church. Which question is as hard to solue / as whether the father be elder then the sonne or the sonne elder then his father. For the hole scripture and all beleuinge hertes testifye that we are begotten thorow the worde. Wherefore if the worde begette the congregacion / and he that begetteth is before him that is begotten then is the gospell before the church... Christ must first be preached yet men can beleue in him. And then is foloweth / that the worde of the preacher must be before the faith of the belear. And therefore in as moch as the worde is before the faith / and faith maketh the congregacion / therefore is the word or gospell before the congregacion.<sup>18</sup>

The idea of the church begotten by the word comes from Luther. As early as 1520 in the *The Babylonian Captivity of the Church* the German reformer argued as follows:

For the church was born by the word of promise through faith, and by this same word is nourished and preserved. That is to say, it is the promises of God that make the church, and not the church that makes the promise of God. For the Word of God is incomparably superior to the church, and in this Word the church, being a creature, has nothing to decree, ordain, or make, but only to be decreed, ordained, and made. For who begets his own parent? Who first brings forth his own maker?<sup>19</sup>

Concerning the “unwritten tradition” from Adam to Moses, Tyndale has an original theory to offer: God transmitted his revelation before writing was invented. Tyndale raises the question: “How did God continue his congregation from Adam to Noe, and from Noe to Abraham, and so to

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<sup>15</sup> CW 6.1, 144,32-4.

<sup>16</sup> CW 6.1, 144,21-2.

<sup>17</sup> CW 6.1, 146,26-30.

<sup>18</sup> Tyndale, 2000a, 23/14-18, 23-26.

<sup>19</sup> Pelikan/Lehmann 1959. Volume 36, 107.

Moses, without writing, but with teaching from mouth to mouth?”<sup>20</sup> He sarcastically remarks that he will accept that there was no scripture in the age of orality “when our lady hath a new son.”<sup>21</sup> Scripture is, for Tyndale, more than writing:

God taught Adam greater thinges then to write. And that there was wrytynge in the world longe yet Abraham ye and yer Noe doo stories testifie. Notwithstandinge / though there had bene no wrytynge / the preachers were euer prophetes glorious in doynge of miracles / where with they confirmed their preachynge. And beyonde that god wrote his testament vn to them all waye / both what to doo and to beleue / even in sacramentes. For the sacrifices which god gaue Adams sonnes were no dumme popetrie or superstitious mahometric / but signes of the testament of god. And in them they red the worde of god / as we do in bokes / and as we shuld doo in oure waye from vs / as he hath robbed vs of the true sens of all the scripture.<sup>22</sup>

Tyndale’s hermeneutics, contrary to the general impression, is not exclusively based upon the written letter and thus upon the bare literal sense but upon signs which preceded written texts. This is a special “semiotical hermeneutics”: miracles, sacrifices, sacraments and signs were given by God so that they should be “read” by the people! The problem is that their old significations have been “taken away” by “the wicked pope,” and thus “the true sense of all the scripture” was “robbed off.” The rainbow and the rite of circumcision were given as testaments to the chosen people which “preached God’s word unto them.”

#### *Thomas More’s The Confutation of Tyndale’s Answer, 1532*

Let us see how More responded to Tyndale’s section: “Whether the church were before the gospell or the gospell before the church.” He begins with great vehemence, sarcasm and anger saying that Tyndale wrestles alone and mocks only himself when he misinterprets his words. Then More makes it clear that in his *Dialogue* he had only stated that the church was before the written gospel. He is again determined to emphasize the primacy of oral communication in the transmission of the Gospel:

I sayed in my dyaloge that the churche was before the gospell was wryten, and that the fayth was taught and men were baptysed, and masses sayd and the other sacraments mynystred amonge crysten people, before any parte of the newe testament was put in wrytynge / and that this was done by the word of god vnwryten.<sup>23</sup>

Faith had already been taught in the Garden of Eden to Adam when there was no writing and therefore the orally transmitted word of God enjoys the same authority as the written word:

And I sayde also there, and yet I saye here again that the ryght fayth whiche Adam had and suche as in the same fayth succeded hym, longe ere wrytynge beganne, was taught by the worde of god unwryten

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<sup>20</sup> Tyndale 1850, 30.

<sup>21</sup> Cf. Tyndale 2000a, 25, 13. Cf. also CW 8, 272.

<sup>22</sup> Tyndale 2000a, 25/12-21.

<sup>23</sup> CW 8, 225/29-33.

/ and soo went from man to man, fro the father to the sonne by mouth. And I sayed that thys worde of god vnwryten / is of as greate authoritye as is the worde of god wryten.<sup>24</sup>

For More it is ultimately God and his Holy Spirit that instructs human beings. The Spirit teaches both by the word written and unwritten even if there are people who believe only in the written word:

the churche of Cryste hath ben, is, and euer shall be, taught and instructed by god and hys holy spyryt wyth hys holy worde of eyther kynde / that is to wyt bothe wyth hys worde wryten and hys worde vnwryten / and that they whyche wyll not byleue goddes worde but yf he put it in wrytinge.<sup>25</sup>

In the *Confutation* More reaffirms this idea: such confession is the foundation of the church, and the church is united by a common confession of faith. More also reproves Tyndale for misinterpreting his words: he never said that the church was before the gospel: he only said that the church was before the written word. Tyndale implies that More said that „the chyrch had bene byfore the gospell and the worde of god vnwryten wherof hymself knoweth well that I sayed clene the contrarye.”<sup>26</sup>

The last three lines of Tyndale’s section concerning the gospel and the word<sup>27</sup> receive a thirty-four-page commentary by More. This is Tyndale:

And Cryste also sayth hym selfe Iohan .v. I receyue no wytnesse of man. For yf the multytude of mannys wytnesse myghte make ought trew: then were the doctryne of Machomet trwer then Crystes.<sup>28</sup>

Here More the philologist, the Greek and Latin scholar, launches a sweeping attack on Tyndale – and not without cause. The issue is the proper interpretation and translation of John 5:34, which is about the nature of Jesus’ testimony. In the debate with the Pharisees the question Jesus raises, is who bears witness to him. Although, he says, John the Baptist was sent by God to bear witness to him, he still has a greater witness than John, the witness of the Father. As we read it in the Authorized Version of 1611: “But I receive not testimony from man.”

Tyndale in his 1531 *Answer* wrote: “I receyve no wytnesse of man”<sup>29</sup>. More quotes both the Greek and Vulgate texts: “*u para anthropu tén martūrian lambano*” and “*non ab homine testimonium accipio.*” In the 1526 Worms New Testament Tyndale wrote: “I receave no recorde of man.”<sup>30</sup> More rightly criticizes Tyndale for not taking into consideration the definite article in the original Greek text, which has important implication for the translation. Tyndale did not do so out of ignorance, says More, but out of malevolence because thus, Tyndale could suggest that Jesus had denied that anybody could bear witness to him.

<sup>24</sup> CW 8, 225/34-226/1-4.

<sup>25</sup> CW 8, 226/5-8.

<sup>26</sup> CW 8, 227/25-26.

<sup>27</sup> Tyndale, 2000a, 24,13-16. Cf. CW 8, 230-264.

<sup>28</sup> CW 8, 229/34-36. Tyndale 2000a, 24/13-15.: And Christ also saith him selfe Ihon. v. I receaue no wittnesse of man. For if the multitude of mans wittnesse might make ought true / then were the doctrine of Mahomete truer then Christes.

<sup>29</sup> Tyndale 2000a, 24.

<sup>30</sup> Tyndale 2000b, 205.

And therefore I saye that Tyndale sholde in his englysh translacyon not haue lefte oute that article the / but sholde at the leste wyse haue translated yt thus, I receyue not the recorde of man / where as with his translated yt thus, I receyue not the recorde of man / where as with his translating no record, yt article the, wheruppon the wayght of the sentence hangeth / he hath not onely lefte oute but clene exluded also. For yf he had translated yt, I receyue not recorde of man, though he lefte oute the: yet he might take yt in there to and mende yt, makyng yt, I receyue not the recorde of man. But now that he hath translated yt, I receyue no recorde of man: he hathe exluded yt vtterly but if he take in not, and putte out his false no/ for he can not saye I receyue no the recorde of man. And thys hathe he done not of ignoraunce but of malyce, to make yt seme that Cryste vtterly refuseth and reiecteth all maner wytnesse of man, in testyfyacyon and wytnessyng of hym and his trouth. And this translacyon therefore deuyseth Tyndale / because he wold haue vs wene that Cryste wolde haue the wytnesse of all his chyrche vtterly serue of noughte.<sup>31</sup>

For More, Tyndale's improper grammatical solution is a sign of his purposeful heretical subversion of the Catholic Church:

And thus appereth it not onely that Tindale (sic!) hath mysse translated and mysse construed these wordes of Cryste, I receyue no wytnesse of man, for the furnysshyng of hys heresy, by whyche he wolde take awaye the credence of Crystes catholyke chyrche: but also ye se it proued by these wordes of saynt Iohan baptyste, that euery trew byleung man that byleueth goddes worde, is a good wytnesse of god and hys worde / whyche clerely proueth that Crystes catholyke chyrche is a very specyall wytnesse. For onely in that chyrch is the number of trewe byleuyng menne / and all that are fallen owte of that catholyke knowen chyrche are very false byleyng heretykes.<sup>32</sup>

Tyndale, however, revised his New Testament. No one, to my knowledge, has noticed so far, that unlike in the 1526 Worms New Testament, in the 1534 revision Tyndale has made this correction and rendered John 5:34 as follows: "I receive not the record of man."<sup>33</sup> This can mean two things. 1: Tyndale did change his version exactly the way More suggested. Would it be evidence that Tyndale read the *Confutation*? Scholars, including Anne O'Donnell, have usually left this question open<sup>34</sup>. 2: More was wrong that Tyndale's version was made out of malice and not out of ignorance. He was wrong to suggest that Tyndale distorts the Bible in order to suggest that the church cannot bear witness to him.

### *Conclusion*

The antagonism between Scripture and church was not to be reconciled in the early 16<sup>th</sup> century. Tyndale's "Scripture-principle," some argue, is a paradigmatic phenomenon of the new print-culture in the sense it is criticized by McLuhan's *Gutenberg-galaxy*.<sup>35</sup> For print-culture truth is written and claims certitude which the modern individual wants to cling to.<sup>36</sup> Oral-culture, oral

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<sup>31</sup> CW 8, 234/19-35.

<sup>32</sup> CW 8, 241/10-21.

<sup>33</sup> Tyndale 1989, 140. The fact that Tyndale in 1534 did revise the English translation of Jn 5:34 the way More suggested, is not mentioned in the notes of the critical edition in CW 8.3, 1552.

<sup>34</sup> Tyndale 2000a, xxviii.

<sup>35</sup> McLuhan, 1962.

<sup>36</sup> Hitchcock 1971, 456.

communication for this paradigm is of no truth-value. On the other hand More's insights concerning the primacy of orality may strike us as relevant in recent hermeneutics.<sup>37</sup>

In a retrospect of almost five hundred years we may conclude that Tyndale was, in his own expression, "stirred up" by the power of the divine word liberated from what he saw as the oppressive authority of the institutional church. His discovery, however, led to an unfortunate one-sidedness in underestimating the significance of the faith-community of the church and has fallen captive to the newly emerging Gutenberg-galaxy by entirely rejecting orality.<sup>38</sup> Thomas More the great humanist, man of letters and a faithful member of his church passionately defended the mystical body of Christ, the holy mother as her "valiant knight rushing with untiring ardor against the barbarians."<sup>39</sup> He has underestimated the power of the word animated by the Spirit, as the wind which could blow where it wanted, even outside the institutional church. He tragically misunderstood that movement by militantly believing that its Spirit was moving against and not for the church.

For us, however, both More and Tyndale are among the "clouds of witnesses" (Hebrews 12:1), martyrs of the common Christian faith in an age when the two sides of the same truth were seen as irreconcilable. Today this is seen differently even by theologians who speak about "the tragic necessity" of the Reformation affirming both the Scripture-principle and the church-principle. The American Lutheran theologian Carl E. Braaten writes in 1996:

Scripture principle exists only on account of the church and for the sake of the church...The Scripture principle of Reformation theology and its hermeneutical principles make sense only in and with the church...The authority of Scripture functions not in separation from the church but only in conjunction with the Spirit-generated fruits in the life of the church, its apostolic confession of faith and its life-giving sacraments of baptism, absolution and the Lord's Supper.<sup>40</sup>

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<sup>37</sup> Kelber, 1983 and Ong, 1986.

<sup>38</sup> Tyndale made a pun on More's "unwritten verities" by calling them "unwritten vanities." Quoted by Hitchcock 1971, 459.

<sup>39</sup> Marius 1973, 271.

<sup>40</sup> Braaten 1996, 61-62.



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## High Humanism and Plebeian Piety: St. Thomas More's Defense of Catholic Devotions

Michael P. Foley

In his 1529 *Dialogue Concerning Heresies*, St. Thomas More vigorously defends not only Catholic doctrine and theology but popular and even vulgar forms of Catholic devotion. More speaks out strongly against those heretics whose opposition to sacred images is driven not by “any furtherance of devotion, but manifestly for the malicious motive of diminishing and quenching people’s devotion” (69), and he likewise warns of a literally diabolical attempt to undermine visible bodily worship by destroying “all such devotion as has always, up till now, shown itself, and expressed the good affection of the soul” (65-66).<sup>1</sup> Indeed, the original title of More’s work does not mention heresies by name but “divers matters” beginning with “the veneration & worship of images & relics / praying to saints / & going on pilgrimage” (36).

To those who associate More with his good friend Erasmus and the other great humanists of the day, this keenness to protect what many intellectuals, then as now, would be inclined to dismiss as kitsch or quasi-superstitious “folk” Catholicism may come as something of a surprise. Shouldn’t Thomas More’s vast learning and erudition have distanced him from the morés of the ignorant? Shouldn’t they have led him to a more sophisticated and critical viewpoint from which to scrutinize the strange and potentially pernicious flea market of pious custom? After all, as More’s interlocutor somewhat gleefully reminds him, they are living in the age of St. Valery’s, a shrine adorned by wax models of male and female genitalia and equipped with different sized rings for the insertion of *membra viriles* (262). And if Thomas More’s intellectual orientation did not disincline him from popular devotion, to what degree can he be said to be a true humanist, at least in his *Dialogue Concerning Heresies*?

Such are the questions animating this essay. To attempt an answer, we shall analyze More’s threefold defense of the use of images, the cult of saints, and the making of pilgrimages, paying special attention to his underlying anthropological assumptions.

### *A Humble Beginning*

When More receives the Messenger on behalf of a friend vexed by the religious controversies of the day, he does not initially anticipate the task of upholding Catholic devotion. The Messenger tells More that their mutual acquaintance has heard that a well-regarded priest in London was

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<sup>1</sup> All citations are taken from St. Thomas More, *Dialogue Concerning Heresies*, ed. Mary Gottschalk (NY: Scepter, 2006).

treated poorly by the ecclesiastical authorities and forced to abjure certain heresies which he never held (47). When More meets with the Messenger to discuss the case the following day, he begins by stating the articles with which the priest was charged: “that we should do no venerating of any images or pray to any saints or go on pilgrimages” (58). More assumes that “every good Christian will agree” that these are heresies and proceeds to establish, in good lawyerly fashion, that the priest was indeed guilty of preaching such things (58). The Messenger, however, stops him, saying, “I would for my part well agree that they are heresies. However, I have before now heard some who would not do so. And therefore when we call them heresies, it would be good to [say] why” (58). With this simple request, the question shifts significantly from the trial of the priest to a trial of the practices that the priest purportedly condemned. More thus calls in his first witness: “the common faith and belief of Christ’s Church” (59). A practice is orthodox and laudable if it “has been practiced, taught, and approved, and the contrary consistently condemned, throughout the whole flock of all good Christian people,” past and present (59). And indirectly corroborating the soundness of the Church’s belief is the testimony of Sacred Scripture, which does not forbid images of the saints or Christ.

For a faithful Catholic, this should alone be sufficient for assent. As St. Thomas Aquinas notes, while argument from authority in the realm of reason is the weakest, argument from divine authority is the strongest (*Summa Theologiae* I.1.8.ad 2). And that which the Church has everywhere and at all times practiced or held to be true cannot but be thought to have at least some divine authority. Yet Aquinas also notes that an appeal to divine authority may be correct but still unsatisfying. “The listener,” he writes, “will indeed be made certain that the matter is so; but he will acquire no scientific knowledge or understanding and will go away empty” (*Quodlibeta* IV, q. 9, a. 3 [18]).

### *Sacred Images*

It is therefore not surprising that the Messenger persists in his line of questioning and that More graciously allows it. Beginning with the topic of sacred images, the Messenger cites an authority of his own, the author of *The Image of Love*, who asserts that “images are but the books for the illiterate” and that those “who are better instructed in spiritual wisdom” should consequently abandon them (61). (Ironically, the Messenger could have cited a key figure from the very tradition he was calling into question, for Pope St. Gregory the Great had also once characterized sacred images in much the same way.<sup>2</sup>) The Messenger also views the ornate liturgical precepts of the Mosaic Law in a similar light, as so many shadows of the law of Christ. “Therefore,” he continues,

the worshipping of God with gold and silver and other such corporeal things ought not be practiced among Christian people, but leaving all that shadow, we should draw ourselves to the spiritual things and give our Lord worship service only in spirit and with spiritual things. (65)

Though much of the debate here between More and the Messenger involves an exegesis of the Old Testament, it is their different hermeneutics that are the most striking. For the Messenger, advancement in the life of godliness or holiness either necessitates a withdrawal or confers a

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<sup>2</sup> “Pictures are used in churches so that those who do not know their letters may at least by looking at the walls read what they cannot read in books” (Epistle CV, translation mine). Gregory does not, however, go on to say that the spiritually perfect should therefore abandon them.

freedom from the religious use of physical objects and activities. At best, such things are training wheels for the spiritually immature; at worst, they are occasions of idolatrous downfall. For More, on the other hand, not even perfect sanctity changes the fact that man is both body and soul and that the latter is by its nature designed to arrive at higher spiritual goods (e.g., knowledge, virtue) through the ongoing agency of the former. This is clear enough for More from the foundational example of the mind's dependence on symbolic and visual images. Words are images that signify a concept in the thinker's mind, and "figures" are mental images wrought by human imagination in order to aid in recognition and knowledge. When the mind therefore understands a word or figure, it *eo ipso* grasps the reality to which this image points, thereby transcending it; yet it would not have transcended the image without its aid.<sup>3</sup> Both kinds of image are thus essential, regardless of one's stage of intellectual or spiritual development, for they are constitutive of human cognitional activity.

The same is true for sacred images, which "natural reason" does not forbid (68). Since spiritual advancement does not involve becoming less human but, in a certain sense, more—that is, more authentically and transparently an image of God animating and benefiting from a God-given body—the Christian who grows in holiness does not outgrow the utility of sacred images any more than a professor of higher mathematics outgrows the need for precise and purposive mathematical symbols. His mind still benefits from an image that draws him, vividly and effectively, to his Maker: both an illiterate person and a learned one, More points out, will be more readily moved by the sight of a crucifix than the words *Christus crucifixus* (69), and neither will be tempted into idolatry, for the very nature of an image is such that it refers its observer to that of which it is an image (68).<sup>4</sup> It is for this reason that More rejects the opinion expressed in *The Image of Love* and instead claims that images "are good books both for the illiterate and for the learned too" (68, emphasis added)<sup>5</sup>, and it is for this reason that he warns against those who, by making themselves "so spiritual," are putting themselves above Moses, David, St. John the Baptist, and even Jesus Christ, all of whom used the body as well as the soul in praying and worshipping (65-66).

### *The Cult of Saints*

More's first debate with the Messenger over the veneration of the saints (pp. 70-73) also brings to light an anthropology in which body and soul are not sundered or altered by spiritual progress. More is stunned by the "diabolical hatred" that inspires a man to hate someone he never knew, especially when that someone is well-known for his holiness and love of God; and More rejects the view that the heretics' hatred is animated by a zeal to protect God's honor from dilution. For, he explains,

well they know that the Church venerates saints not as God but as God's good servants, and that therefore the honor that is done to them redounds principally to the honor of their Master, just as by common custom we sometimes do reverence and give a very kindly reception to some individuals for

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<sup>3</sup> Though More does not elaborate further, this principle is true even when the object is present to the eyes or mind, for what More calls "figures" continue to play an intermediary role in human cognition.

<sup>4</sup> In the case of venerating the image of saints, no honor is taken from God either, for "the saint is honored in the image and God is honored in his saint" (68).

<sup>5</sup> Cf. 79: "There is no one, I think, so good or so well-educated, or so proficient in meditation, that they do not find that they are more moved to pity and compassion upon the beholding of a crucifix than they are when they lack one."

their superior's sake, whom we else would perhaps not even bid good-morning. (71)

But More saves his harshest words for the false and sophomoric intellectualism that would again disregard the subtle interplay between the physical and the spiritual in the name of religious sophistication. He marvels at the

madness of these heretics who bark against the old, ancient customs of Christ's Church, mocking the setting up of candles, making silly wisecracks, asking with blasphemous mockery whether God and his saints lack light, or whether it is night with them, they cannot see without candles. They could as justifiably ask what good that ointment [from Mary Magdalene] did to Christ's head. (71)

To More, the story of Magdalene and the precious ointment clearly indicates that bodily worship and demonstrativeness do not pertain only to the dark age before the New Covenant or to the spiritually infantile but to true piety in all places and at all times:

But from the example of that holy woman, and from these words of our Savior, let them all learn that God delights in seeing the fervent heat of the heart's devotion bubble out through the body and do him homage with all such goods of fortune as God has given one. (72)

This affirmation of the heart's "bubbling out" through the body marks on the one hand an implicit rejection of any kind of Gnostic or Cartesian dualism that would divorce the body from the spirit, the exterior life from the interior, and on the other an implicit endorsement of a more classical, "integrated" anthropology.

### *Pilgrimages*

More's "integrated" anthropology also proves crucial in his defense of pilgrimages. After a brief conversation about the likelihood of the clergy promoting pilgrimage sites for personal profit, the Messenger again uses what we are tempted to call a Gnostic attack on traditional practices by invoking the omnipresence of God and, hence, the absurdity of revering particular places that are deemed sacred to Him. Since the heart is, as St. Paul attests, the temple of Christ, are not temples of stone irrelevant?

More does not deny the veracity of St. Paul's remark but again calls into question the either/or dualism of the Messenger. Certainly the temple that is our heart is the most important, but how does that a priori rule out the importance of physical churches? Rather, More contends, the latter are crucial in building up the former: "This we know by experience: that those who are the best temples of God in their souls, they are the ones who most regularly come to the temple of stone" (81). Though More does not explicate the theoretical reasons behind this phenomenon, his objection nevertheless adumbrates a classical, non-dualistic understanding of external habit and sensory perception affecting internal disposition in the composite being known as man.

More does, however, become more explicit about the metaphysics of human nature when he is forced to defend the existence of miracles from the Messenger's claim that belief is invalid when it contradicts "reason and nature" (87)—a somewhat surprising objection from a man who considers "logic nothing but babbling" and contemporary theology, which in "building everything upon reason... rather gives blindness than any light," a disaster (54). More responds with what in many respects is a rebuttal of the yet-to-emerge mechanistic determinism of early modern science.

Reason, More reminds the Messenger, discloses not a tidy and predictable cosmic order but a world full of surprises. One must therefore be careful in asserting what is and is not impossible by nature. As for miracles, reason merely grasps the fact that these events do not occur according to that “order and course [which] people ‘call’ nature” (98), and that if they do occur, they therefore occur according to God, whom reason knows to exist (97, 99).<sup>6</sup> Later on More explains in greater detail the relationship between human reason and biblical faith. As the faculty by which man knows or believes anything, reason is necessary in being “able to tell what one should believe” (159). Faith, on the other hand, is necessary in keeping reason from “running wild” and growing “overly high-spirited and proud,” qualities which, ironically, render reason less reasonable. Therefore, reason must “not resist faith but walk with her,” and faith should never and does never “go without her” (159).

### *Conclusion*

Our survey of More’s anthropological justification for the use of sacred images, the veneration of the saints, and the utility of pilgrimage reveals, if not explicitly, a consistent and nuanced understanding of human nature. It would appear that for More, the soul, which in a mysterious union gives the body its very being, does not depart from the body in proportion to its perfection. Rather, the soul continuously receives data from the senses, forms images and assigns symbols for the attainment of insight into the truth, and uses reason both to limn what it can know by its own power and what it cannot. Similarly, by the external habits it acquires, the soul is conditioned in a particular manner and given a particular character, and thus, if it is relatively intelligent, it takes seriously external activities such as visiting or not visiting churches, pilgrimage sites, etc.

It is these assumptions, in turn, that shed light on the degree to which More can be considered a humanist in the *Dialogue Concerning Heresies*. Certainly, if by “humanist” we mean a thinker fixated on man instead of God, then More can by no means be reckoned as such. Even his generous use of reason and his ostensibly sanguine view of the compatibility of faith and reason do not detract from his theocentrism but serve to enrich it. Paraphrasing Aquinas, More makes use of human reason, not to prove faith (“for thereby the merit of faith would come to an end”), but to elucidate it (*ST* I.1.8.ad 2).

But if, on the other hand, humanism refers to a retrieval of the classical learning of Greece and Rome, especially in the realm of literature, then Thomas More’s defense of all manner of quaint, Christian, medieval custom can be said (perhaps paradoxically) to be thoroughly humanist. For More’s defense, as we have seen, rests at least in part on a particular anthropology, and that anthropology, in turn, is unmistakably classical. More’s understanding of the relationship between soul and body, for example, can be identified with the Platonic and Neoplatonic traditions of reflection on this topic, while his understanding of the impact of temples of stones upon the temple of the heart can be most clearly understood in terms of Aristotle’s *Nicomachean Ethics*. Nor can these elements be understood exclusively in terms of medieval scholasticism (which shows many of the same strains), for More has consciously retrieved not only the content of the ancients, but the form, writing his thoughts in the genre of a philosophical dialogue rich with irony and wit, character and plot, and literary polish. In all of this, More illustrates that his reputation as a

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<sup>6</sup> Tellingly, More’s rational proof for the existence of God is taken—though he does not tell the reader this—from Cicero’s *On the Nature of the Gods*.

Renaissance humanist of the first order is not undeserved, even when defending those who might have preferred bad Latin to good Greek.<sup>7</sup>

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<sup>7</sup> I am thinking primarily of Chesterton's remark that the transition from the Middle Ages to the Renaissance is "the passage from bad Latin to good Greek." The line occurs in a passage from the essay, "A Short History of England," in which Chesterton hails More as "above all things a Humanist, and a very human one."



## Why is More So Merry In A Dialogue Concerning Heresies?

Mary Gottschalk

If a contest were held for all-time most amazingly humorous author, surely his *Dialogue Concerning Heresies* could by itself cinch the win for Sir Thomas More. For it is one thing to make jokes about things that do not affect one deeply, or as a way to block pain associated with things that do, but who other than the merry More has ever been so funny *while* being maximally serious and feeling the deepest pain?<sup>1</sup> What More sees as the worst poison imaginable has been unleashed on the world. He is waging a pitch battle to stop its spread and to save, by means of inoculations and antidotes, countless endangered lives. The stakes are those he considers the highest possible: God's reputation and people's ultimate, everlasting state.<sup>2</sup> So why, in such a context, would he make the effort to be funny? And by what means does he so clearly succeed?

The reasons and the means are many. In fact, the rich variety of the expressions and functions of his humor is itself one of the elements that give More the winning edge. But the key element—the one underlying and informing all the others—is his moral and therefore also psychological integrity: his phenomenal determination and ability to keep all realities within conscious and clear view, not blocking or blurring some in favor of others. He does not repress a thing. And one result is the superb humor that in one form or another permeates the entire book.

What came first for More was moral integrity—the consistency of professed belief with actual belief, attitude, and behavior. His thirst for this integrity was boundless. It was not a matter of drawing the line at perjury; he considered despicable any “false” thing or person.<sup>3</sup> To him it was unthinkable to not want respectability, and axiomatic that to have it you must live true to your word. Which to him meant, above all, that you do not mentally or verbally profess that Jesus is Lord and not assiduously apply yourself to fulfilling Jesus' every command. More did truly take Jesus as his Lord as well as Savior. And so if Jesus said the greatest commandment is to love God “...with all your mind” (see Mt 22:37), then More would do that. He would love God with *all* (not just the loftier cogitations) of his mind.

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<sup>1</sup> At one point in the *Dialogue* the messenger says he has heard that “you are in the habit...of looking so serious when you mean something in jest that many times people think you might be joking when you are dead serious” (p. 92 of the modern-English edition published by Scepter in 2006). He seems to be thinking that at any given time More is in fact *either* joking *or* dead serious, and that it's just hard at times to tell which mode he is in at that moment. But what we find in this book is an even more perplexing reality: that More *is* joking when he is dead serious.

<sup>2</sup> These concerns surface throughout the book, but see especially pp. 181, 254, 281, 427–28, 453, 456, 462, 483, and 485. (All references to the *Dialogue Concerning Heresies* [DH] will be to the above-mentioned edition.)

<sup>3</sup> By “false” he generally meant hypocritical and treacherous as well as untruthful or inaccurate. See DH, p. 399 (“it actually being as false as he that said it”), p. 452 (“false sheepdog”), p. 453 (“falsehood of their cloaked collusion”), and p. 476 (“false heretic”). But with the exception of “harmless lies devised for the sake of doing good” (see *Dialogue of Comfort against Tribulation*, pp. 135–36), he was adamantly opposed to all falsehoods. (All references to the *Dialogue of Comfort* [DC] will be to the modern-English edition published by Scepter in 1998.)

Now, it so happened that his mind came with a bent for humor. He was naturally fun-loving, as he acknowledged in another maximally serious book.<sup>4</sup> But that is not the (or even an) immediate reason for the laughs he gives us in these most serious of works. The root reason is the psychological integrity that his moral integrity produced, and all the immediate reasons spring from that psychological integrity. More recognized that the Christian faith if held only mentally is a liability;<sup>5</sup> and thus he devoted all his energies to keeping things real. All the choices he made—including his decision not to become a priest—he made with a view to keeping faithfully God’s commandments, and especially that greatest one.<sup>6</sup> In constantly exerting himself to love God with his entire self, he gained, as a natural consequence, psychological integrity—a condition that generates interestingness, one of the essential elements of successful humor.<sup>7</sup> People find interesting an idea that is in some way new to them. One’s ideas depending largely on one’s set of perceived realities, and no two individuals having identical sets of those, the chances of being interesting are high for someone who keeps in active play his or her whole set. Also, if few others are behaving in this way, then such a person will stand out as extraordinarily interesting. On both counts More scores.

He is a riveting juggler, keeping in constant and coordinated play all kinds of realities, from the most elevated (the Blessed Trinity<sup>8</sup>) to the least (a dog’s turd<sup>9</sup>). And it is primarily that refusal to lose sight of any of them that gets him his laughs. Take, for instance, this little comment in his relating of the miracle of the “beautiful boy”: that the conceiving of the boy probably took place on or soon after the parents’ wedding night, “unless it happened a little before.”<sup>10</sup> It might be a bit funny coming from just anyone, but coming from him it is hilarious, because this is a *saint* talking.<sup>11</sup> Consciousness of that fact is also one major reason the whole account of the bizarre goings-on at St. Valery’s shrine is such a riot. For someone so utterly devoted to God to write so frankly and good-naturedly about the silly but perennial obsession with the size of men’s “things”—the apparent incongruity does tickle the funny bone.<sup>12</sup>

True, not everyone sees as merely apparent the incongruity between saintliness and earthiness. One biographer complains of an “odd touch about Sir Thomas’s wit: a preference for the rather crude in the ‘merry tales.’”<sup>13</sup> Another includes earthiness in his list of More’s faults, saying, “His

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<sup>4</sup> See *DC*, p. 91.

<sup>5</sup> “If both good works and final repentance of the lack of good works do fail us (we having had the time and intelligence for them), we are likely to fare much the worse for our faith” (*DH*, p. 445).

<sup>6</sup> See Gerard R. Wegemer, *Thomas More: A Portrait of Courage* (Princeton, NJ: Scepter Publishers, 1995), pp. 10–15 and 21–24. See the Appendix to this essay for further discussion of More, priesthood, humor, and heresy.

<sup>7</sup> The first of humor expert Max Eastman’s ten “laws” or commandments of the comic arts is “Be interesting”: see Eastman, *Enjoyment of Laughter* (New York: Halcyon House, 1936), p. 290.

<sup>8</sup> More was keenly aware that the Catholic faith cannot logically be held partially or tentatively, and that to truly believe in its tenets is to regard them as facts. His conviction that “the conclusions themselves are such certain truths that they are not debatable” (*DH*, p. 46) is in strong evidence throughout the book.

<sup>9</sup> See *DH*, p. 157.

<sup>10</sup> *DH*, p. 103.

<sup>11</sup> Not that he knew when writing this that he would end up with “Saint” in front of his name; but it is quite clear, from his whole train of thought, that he already was a saint. (And he may have had some inkling. It is interesting, in light of his famous last words, that he calls saints “God’s good servants”: see *DH*, p. 71.)

<sup>12</sup> See *DH*, 262–63. Another major reason that story is so funny is pointed out by Walter M. Gordon in his article “In Defense of More’s Merry Tales”: “The sheer zaniness of the scene is heightened by the straight-faced account given by the narrator as well as by the intensely serious attitude of almost every character in the tale.... The contrast between the absurd rites and the serious devotees turns potentially tasteless material into a hilarious scene of Rabelaisian mirth” (*Moreana*, no. 38 [Jun 1973]: 9). Also, in “The Argument of Comedy in Thomas More’s *Dialogue Concerning Heresies*” (*Renaissance and Reformation* 4 [1980], 17), Gordon makes this intriguing observation: “The words of the good wife...are indicative of the many distinctive voices that rise out of the merry tales. A humorous disparity exists between her tone of authority and the empty, superstitious content of her words.”

<sup>13</sup> G. R. Elton, “Thomas More, Councillor,” *St. Thomas More: Action and Contemplation*, ed. Richard S. Sylvester (New Haven: Yale University Press, 1972), p. 114. Gordon well refutes this claim, in the first place by showing that “there is certainly no preoccupation with the sexual in More’s merry tales taken as a whole” (“In Defense,” p. 8), but also by

sharp-sighted realism gave rise to a Chaucerian earthiness that frequently shocked, then as now. But the fault that worried him the most was pride.<sup>14</sup> Still another, referring to one of More's Latin poems, says, "It might not be the refined humour of sainthood; but by staying closer to a grossly secular level we may come nearer to More himself."<sup>15</sup> However, I see as unwarranted these implied assumptions that one cannot be saintly while or by being earthy. More did not dash off this book. He wrote it very carefully, and had it carefully checked over by upstanding people.<sup>16</sup> Clearly neither he nor they regarded his use of earthy humor as any fault, or lapse from saintliness.<sup>17</sup>

Thomas More, to the contrary, saw as spiritually perilous any ignoring of the corporeal side of human nature.<sup>18</sup> It is no accident that a comic-relief interlude in a cerebral argument about faith and reason begins with the mention of a dog's turd. Nor is it an oversight that the story of a most preposterous and sacrilegious fake miracle has a hilariously high-flown peak—"Now lay the prior with holy maiden Elizabeth nightly in the loft"—followed immediately by "till she was...tested in confinement.... And by the longing for food, with the voiding of what she had eaten (which had no saintly smell), she was perceived for no saint...."<sup>19</sup> Throughout this book, whether with humor or not, More is trying to immunize his readers to every kind of dangerous hoax—heresy especially, but not exclusively—by getting them in the habit of running reality checks. In this instance just a little reflection could have spared anyone the pain of being duped, since "people might well think" it inappropriate that a young female saint should be "enshrined alive in a monastery, amongst a congregation of monks."<sup>20</sup> Likewise, More would have us ask ourselves if this or that tenet of heretics (or in today's parlance, "dissenters") is consistent with the faith that they themselves claim to have in Christ or in Scripture, and with the earthly knowledge that we all have, and realize that if the answer is no, then that tenet is clearly bogus.<sup>21</sup>

It is no character flaw that accounts for More's use of earthy humor in this book. It is, rather, his awareness that being "overly fearful and scrupulous" can end up catapulting people into heresy, by tempting them to idolize liberty.<sup>22</sup> This wise spiritual counselor will not have any reality stashed away in denial and thus able to come back later to bite us. We are not, on his watch, going to forget certain body parts or functions, or pretend not to see anything funny about them. *Any* amnesia, well-intentioned or not, is a potential breeding ground for heresy; the basic defense is unflinching contact with reality at all levels.

The rare extent to which he himself maintains that contact also sparks heavenly humor that has shock value. Being three *Persons*, God gets actually treated as such—not only by way of some bent syntax,<sup>23</sup> but also by way of some humorous turns of phrase that most people would avoid when speaking of him. Take, for instance, these lines: "[Christ] says also that his Father and he will send the Holy Spirit, and also that he himself will come.... To what end, all this, if he meant nothing

calling to mind More's objective of refuting Tyndale, who emphasized the spiritual side of life to the detriment of the physical, and who preached a "true church 'that sinneth not'" (see "Argument of Comedy," pp. 20–22).

<sup>14</sup> Wegemer, p. 3.

<sup>15</sup> Peter Ackroyd, *The Life of Thomas More* (New York: Doubleday, 1998), p. 93.

<sup>16</sup> See *DH*, pp. 42–43.

<sup>17</sup> He says (on p. 42), "Although I saw no harm in [certain stories and jesting comments], I nevertheless was somewhat worried that to dignified people they might seem too light and frivolous, given the weight and gravity of any such serious matter"; apparently he was not at all worried that to some they might seem dirty. (Though written within a context of fiction, this statement of his is surely factual.)

<sup>18</sup> That is, for 99.99 percent of the population; see *DH*, pp. 61–73 and 81. A major theme throughout the book is that image veneration can foster our spiritual well-being because we are material as well as spiritual beings.

<sup>19</sup> *DH*, p. 112. Again, what really gets the laughs is that mix of highbrow and lowbrow sensibilities.

<sup>20</sup> *DH*, p. 113.

<sup>21</sup> See, e.g., pp. 140–43 and all of Part Four, chapter 11.

<sup>22</sup> See pp. 295–98; and also *DC*, pp. 117–19. More apparently did not know about Luther's early problems with scrupulosity (he mentions only Bilney's), and he died before Jansenism came in. So his awareness of what disastrous situations scrupulosity can lead to is truly remarkable.

<sup>23</sup> The most striking instance is the sentence which begins, "For there is no doubt that God and his Holy Spirit *has* so judiciously tempered *their* speech through the whole corpus of Scripture" (*DH*, p. 387; emphasis added). See also pp. 164 and 482.

more than that they would leave the books behind them and go their way?”<sup>24</sup> What a casual image—three guys providing books and then taking off. And look at the lines about Christ being “served” in or with silver or gold.<sup>25</sup> Humor being a natural facet of his relations with any person he really loved, More was not about to leave it out of his relations with the Persons of the Trinity. Evidently he took to heart Jesus’ statement that the second great commandment (“Love your neighbor as yourself”) is *like* the first, and felt that on account of the Incarnation the divine Persons are entitled to neighborly as well as more exalted love.

In fulfillment of that second commandment, More includes in the *Dialogue* a variety of forms of humor—as well as other things. He wants to heresy-proof us his earthly neighbors, and he knows he cannot do this if he puts us to sleep. Having educated with spectacular success his own four kids (plus a few extras), he has learned a thing or two about how to hold people’s interest. Such as, there’s a natural ebb and flow that you’d better allow for if you hope to sustain it for 450 pages. Well he knows how likely we would be to skip out early if he was all the time doing just one of these things: (1) being overtly pious, (2) flashing his sword of sharpest lawyerly argument, or (3) cracking jokes. He knows he has to vary his modes of exposition as well as his modes of humor. And this he certainly does.

To begin with, surely a more alliteration-loving man never lived. “A holy whoreson hypocritically halting”; “the paltry pleasure of the vain praise puffed out of poor mortals’ mouths with a whiff of wind”<sup>26</sup>—this kind of fun will be had all the time, regardless of the topic; and sometimes to scathing effect.<sup>27</sup> Then we have, of course, the “merry tales”—at a conservative count, twenty-four of them.<sup>28</sup> But we also find (within or apart from those tales) repetition-produced humor,<sup>29</sup> battle-of-the-sexes quips,<sup>30</sup> double entendres,<sup>31</sup> gallows humor,<sup>32</sup> and fun with accents.<sup>33</sup> This Brit does poke a little fun at the French<sup>34</sup>—and also at such biases and stereotyping!<sup>35</sup>

<sup>24</sup> *DH*, p. 142.

<sup>25</sup> See *DH*, pp. 62–63. Another case in point: “Your friend asked me what reason there was that God would assign more value to one place than to another.... To which I answered that as to *why* God would do it, I could give him no answer, any more than Saint Augustine says he could. I was never that much taken into his confidence, nor would I dare be so bold as to ask him” (pp. 82–83).

More has a similarly striking view of the Church as a both singular and plural reality, a true union of persons. See pp. 190–91, where the image slides from that of one man to that of a “company of men and women together,” and then back to that of the singular “person that you must needs go to.” The referent pronoun for the Church is usually “it,” and can be an eloquent “she” or “her” (see p. 238), but occasionally it is “they” or “them” (see pp. 143 and 209).

<sup>26</sup> *DH*, pp. 117 and 451.

<sup>27</sup> One example: “Among all these things Luther could catch sight of no gold that grievously glittered in his bleared eyes, but only around the cross of Christ” (*DH*, p. 73). There can also be something akin to onomatopoeia, as in the “paltry pleasure” line and the phrase “but a butterfly” (p. 316).

<sup>28</sup> The gigantic bird and egg (*DH*, p. 91); “Mouth, mouth, you lie!” (pp. 92–93); the supposedly blind beggar (pp. 110–11); “holy maiden Elizabeth” (pp. 111–12); the halting horse (pp. 116–17); “If she was a Jew...” (p. 117); “What would you have done...in Joseph’s place?” (pp. 185–86); “Saint Disencumber” (pp. 261 and 270); poor Saint Martin (p. 261); the strange goings-on at St. Valery’s shrine (pp. 262–63); the first Lombard (pp. 268–69); the second Lombard (p. 269); Caius and the little smart-aleck (p. 287); the bear-baiting (p. 296); the badly baked bread (pp. 296–97); Wilkins and Simkins (pp. 315–17); Saint Francis witnessing a kiss (p. 329); *Sic luceat* (p. 340); the man who wanted a woman but not a wife (p. 354); the one and only shrewish wife in the world (p. 358); the person who could take by the sleeve the one who killed Hunne (pp. 365–67); the expert in hangings (pp. 367–69); “Drink before you go” (pp. 369–70); Sandwich Harbor (pp. 466–67).

<sup>29</sup> See *DH*, p. 262 (“two round rings...but the one was larger than the other”) and p. 366 (“Actually...”).

<sup>30</sup> See *DH*, p. 108 (“they are but women, ...two mere women”), p. 132 (“One of that ware...some pain”), p. 217 (“If I were...for the longing to know”), p. 262 (“a married man and yet a merry fellow”), p. 272 (“a few dotty dames”), p. 358 (the line about the one shrewish wife), and p. 400 (“a woman can keep a confidence...”).

<sup>31</sup> See *DH*, p. 398 (“they would...in their own breast”) and p. 401 (“a beautiful woman...open his mind to”).

<sup>32</sup> See *DH*, p. 49 (“for which...burned up”), p. 58 (“they would speak...lips burned”), p. 109 (“I would rather shiver...midst of winter”), and p. 243 (“their displeasure and anger at which sets them on fire...”).

<sup>33</sup> See *DH*, p. 126 (“Ye men of London...”) and p. 467 (“Y’all gentlemen...”).

He uses repartee,<sup>36</sup> *reductio ad absurdum*,<sup>37</sup> incongruity,<sup>38</sup> sudden shift in level of language,<sup>39</sup> fun with numbers,<sup>40</sup> pulling of the other person's leg,<sup>41</sup> visual humor,<sup>42</sup> outright ridicule,<sup>43</sup> the occasional shameless pun,<sup>44</sup> rhyme (at least one),<sup>45</sup> and the laugh track.<sup>46</sup> And, too, some subtler devices: litotes<sup>47</sup> and other forms of understatement;<sup>48</sup> irony,<sup>49</sup> the pulling of a fast one,<sup>50</sup> nonphysical-facts-of-life humor,<sup>51</sup> the Parthian shot,<sup>52</sup> amphibology,<sup>53</sup> and the authorial cameo.<sup>54</sup>

<sup>34</sup> See *DH*, p. 269 (“Crederet...in Dio”), p. 328 (“And this word ‘senior’...”), and p. 332 (“...when we speak French in sport...”). For background to the stories about Lombards, see Germain Marc’hadour, “The Devil and the Lombards: Two Merry Tales by Thomas More” (*Cithara* 19 [1980]).

<sup>35</sup> See *DH*, p. 108 (“...that a friar will be a womanizer...” / “see now what a good way...”) and pp. 262–63 (“...her privates were somewhat short”).

<sup>36</sup> See *DH*, pp. 90–91, 296–97, and 318.

<sup>37</sup> See *DH*, pp. 236–37 (“For if a person...who could tell?”), p. 266 (“The thing itself...statue that is at Walsingham”), pp. 350–51 (“If we shall...two husbands at once”), and p. 458 (“If free will...excused right back”).

<sup>38</sup> Between, e.g., “took such spiritual pleasure and inward solace” and “immediately started laughing” (*DH*, p. 340), or the “sober woman” and what she says (see p. 263).

<sup>39</sup> See *DH*, p. 252 (“tell them all to take a hike”), p. 335 (“he yet finally said whoa”), p. 369 (“he was told to take a hike”), and p. 370 (“as bare as a bird’s ass”).

<sup>40</sup> See *DH*, p. 298 (“unless a greater number...”), p. 303 (“not by the words of one or two...”), pp. 327–28 (“But I will show you...reiterated in the book”), p. 349 (“to have twenty at one time—or two, if he wants...”), p. 369 (“Have you seen ninety?...but one in all his life”), and p. 405 (“and too much, too, without more”). (A couple of these examples are riddles.)

<sup>41</sup> See *DH*, p. 90 (“Now, I will not deny...he was being facetious”) and p. 318 (“I do not perceive...construing it to the contrary”).

<sup>42</sup> See *DH*, p. 265 (“grovel on the ground” / “poor priests...Blessed Sacrament”), p. 315 (“whether one has...like a sheep”), p. 339 (“and this one he picks up...cast an eye into it now and then”), and pp. 367–68 (“But I wish...keep from laughing”).

<sup>43</sup> See *DH*, p. 151 (“As though these men...to the Jews”), p. 347 (“Is it not now a wonder...these two magnificent creatures...”), p. 402 (“it was courteous...such provision”), and p. 466 (“And when it should...under the name of wives”). In the *Dialogue*, sarcasm or satire is almost always aimed at the main poisoners and used for one of the oldest purposes of humor: service as a social corrective (see Appendix to this essay).

<sup>44</sup> I found only two: “just as the hand...some feats” (*DH*, p. 159) and “souls...soles” (p. 259). (I wouldn’t classify the pun on p. 370—“tale [tail]”—as a shameless one.) Compared to our TV news anchors and meteorologists, More shows admirable restraint!

<sup>45</sup> “Hogs and dogs”: *DH*, p. 172.

<sup>46</sup> See *DH*, pp. 89, 112, 263, 340, 368, and 369.

<sup>47</sup> See *DH*, p. 164 (“Origen...as not to say the contrary”) and p. 434 (“...that seems not always true”). See also *DC*, p. 159 (“...a not very clean place”).

<sup>48</sup> See *DH*, p. 60 (“another kind of attitude”), p. 64 (“...he would not have had so many manual laborers”), p. 208 (“...for they did not dwell here that long”), p. 266 (“she will tell you a difference...”), p. 329 (“in the way of good company”), and p. 351 (“If he should mean...more than so few”).

<sup>49</sup> E.g., “And therefore I think...’ / ‘so think all of us too, I trust...” (*DH*, p. 367).

<sup>50</sup> E.g., “And actually I think that what he says is true—the chalices were made of wood when the priests were made of gold” (*DH*, p. 63). See also pp. 147–48 (the whole conversation about the blind-mate).

<sup>51</sup> E.g., “Her father and mother, being quite respectable and rich, were extremely embarrassed” (*DH*, p. 119)), “...I don’t know that we wouldn’t all agree to be winged” (p. 166), and “...not that sorely distressed...” (p. 395).

<sup>52</sup> E.g., “that the really good people...regarded as evil” (*DH*, p. 230), “And commonly...under no law at all” (p. 381), and “by any good works but faith alone” (p. 442).

<sup>53</sup> E.g., “ergo, they are not the church” (*DH*, p. 236), “...whereof much harm grows in the country” (pp. 353–54, “those who put their trust as these Lutherans teach us in their faith alone” (p. 440), and “but will be saved no matter how they live for their faith alone” (p. 446). Amphibology (what I think of as the shooting comet, or the what-was-that?) differs from the Parthian shot, or slid-in zinger, in that it can be read more than one way. Both devices were used to make a point that More didn’t want to take the time to go into, but wanted to call to his readers’ attention.

<sup>54</sup> E.g., “...and too much, too, without more” (*DH*, p. 405), “That phrase ‘at all’...you more add in yourself than find in the book” (p. 406), and “never be found to be venerated more” (p. 409).

Finally, there is humor that springs simply from charity. One case in point: “He thinks himself safer in his argument than he thinks you in yours.”<sup>55</sup> More is out not to demolish heresy-bitten readers, but to rescue them. And the unusual wording resulting from that concern elicits smiles and chuckles.

If his integrity is the key to his humor’s success, his charity is the key to its functions.<sup>56</sup> In fact, all its other functions are offshoots of this primary one of doing what he praises Saint Paul for having done: literally *show* the essentialness of charity.<sup>57</sup> Look at the very format of the book: it is that of a dialogue between More and an unnamed friend of a friend. The reader gets to listen in as an undetectable observer, never subject to direct refutation or correction. This is already charitable of More, to put us in this safe position. But to get the vaccinal benefits of what More says, the reader also needs to see the messenger as having been dealt with fairly; and to get the curative benefits, the reader has to be able to identify with him, peacefully. This peaceful identification would not be possible if More made him a straw man, talked down to him, or gave himself all the funny lines.

The messenger gets many of them. He, in fact, gets over half of the merry tales. For him, they are usually a way to avoid revealing his true mind, a way of claiming some support, or a way to make himself liked and respected by the famously funny More. For More, they are mainly ways to give the messenger (and, through him, the reader) a break and to challenge, refute, or correct tactfully.<sup>58</sup> Another notable difference between the two speakers is that in telling a wild but purportedly true story, More does give a source, whereas the messenger does not—though he tries to sound as if he does.<sup>59</sup> But something else is also going on: More meets the messenger and the reader on a lower level of reality, quite honestly and naturally, to gain their willingness to go along with him to a higher level.

Take, for instance, the *Sic luceat* story and what follows it.<sup>60</sup> The messenger tells the story, which has to do with a disgraced member of the clergy, and then More says it is regrettable “that we take such a wretched pleasure in the hearing of their sins, and in the sight of their shame.” He does not say the story is not funny. He knows and acknowledges that it is. As author, he has had it told in such a way that it is hilarious, and as interlocutor, he is implicitly admitting that he does take

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<sup>55</sup> *DH*, p. 88.

<sup>56</sup> His charity is, of course, also a reason for his humor’s success. We wouldn’t find his humor nearly as funny if he did come at us going for the jugular, either directly or in what he says to the messenger.

<sup>57</sup> See *DH*, pp. 436–37.

<sup>58</sup> Not just heretical notions, but also abuses perpetrated by nonheretics: see *DH*, pp. 261–63.

I disagree with Gordon’s allegation of “a tendency, found in all the tales, to lead away from the point at issue” (“Argument of Comedy” . . . , p. 30), and especially with these assertions regarding the account of the Hunne inquest: “In none of the [three merry] tales from the court proceedings does the author offer any concrete proof that Hunne did commit suicide; he only derides certain idle, vacuous suggestions that the man did not. Besides luring the reader away from a sober consideration of the facts, these tales tend to make a trifling matter of the whole mystery. The stories, thereby, divert the audience not only from the point of contention but also from the importance of this very grave matter as well” (p. 28). In the first place, More (both here and elsewhere) seems to me not to be trying to lead away from the point at issue, but to be challenging the prevalent assumptions of what that point is or should be. Secondly, More could not offer any concrete proof that Hunne committed suicide, because, as he himself acknowledges, there wasn’t any (see, on p. 373, his statement that God “knows the truth about everything”). But he does give (also on p. 373) his serious reasons for thinking it “much more likely” that Hunne killed himself than that the chancellor of the diocese murdered him. And in his statement of belief that the jurors’ verdict of “not guilty” was correct, this man who would not commit perjury to save his life does go so far as to say “so help me God.”

<sup>59</sup> See, e.g., *DH*, p. 110 (“I remember . . .”) and p. 111 (“I now recall . . .”); see also p. 362 (“But this that I shall now tell you . . .”) and p. 363 (“so well do I know it . . .”). It is also noteworthy that More often, and the messenger never, forthrightly makes up a what-if scenario (see, e.g., pp. 87, 104, 107, 117, 251, and 343).

<sup>60</sup> See *DH*, pp. 340–42.

pleasure in certain features of it and similar stories.<sup>61</sup> And by so doing, he increases our openness to other realities.

By the reference to Peter's "crowings," More *shows* us that a model Catholic does not worship saints, or make that point in a heavy-handed way when a pleasant way would be at least as effective.<sup>62</sup> He knows that he can argue with impeccable logic till kingdom come, but if he does it without love he will gain nothing. In other passages, by laughing at himself, he shows by example the importance of humility;<sup>63</sup> and this, too, is for the charitable purpose of being the best leader of souls he can possibly be.

Never does he lose sight of his objective of saving his readers—out of strong and tender love for God and for them—from the lethal poison of heresy. He has Saint Paul's drive to become "all things to all, to save at least some" (1 Cor 9:22). That is what ultimately accounts for his choosing and managing to be so funny in such a serious book.

## Appendix:

### More, Priesthood, Humor, and Heresy

Thomas More's decision to embrace the married state rather than the priesthood is nearly twenty-five years old when he writes the *Dialogue Concerning Heresies*, and the pain of it is still palpable. He can be derisive when talking about other ways in which Luther and company insult God (see *DH*, pp. 72–73, 176–77, 234–37, 427–28, and 455–56), but on the subject of their trashing of the priestly vow of celibacy he sounds bitterly hostile and at times even a little shrill (see pp. 194, 347, 394, 416, 418, 426–27, 429, 481–82, and 490). We can gauge from that change of tone how truly and intensely he loved God: enough to have caused him (a) to deeply want priesthood, (b) to renounce that desire, and (c) to be left with a raw nerve. *He* had loved and respected God too much to take a vow he was not sure he could keep. That Luther could take it and so blithely break it, and encourage other priests to break it, was something More was incapable of discussing dispassionately. The intense loathing he shows here is not a deviation or lapse from the love he normally shows, but rather the flip side of that same coin, of wholehearted and passionate love for God.

Some do take a different view. Walter M. Gordon, for example, in "The Argument of Comedy" (*Renaissance...*, pp. 24–25), claims that "whatever effect mockery has, it can always be counted on to be divisive," although the comic spirit evinced in the merry tales "adheres to the author's belief in and hope for a reunited Christendom in a way that the aggressive satire does not":

The comedy of belligerence singles out, isolates, and divorces its object from the rest of humanity; the comedy of congeniality assimilates the individuals who are the object of its humour into the human family since it understands folly as part of man's fallen condition. The scoffing jest, because of its divisiveness resists baptism, but the laughter which implies the awareness and acceptance of fallen humanity spontaneously contributes to mankind's communion by reconciling the individual to both the beam in his own eye and the mote in his brother's.... The author's empathy with the characters dedicated to folly who parade through the *Dialogue Concerning Heresies* recalls the mind and heart of the pilgrim Geoffrey as he sat at the Tabard observing the people who were to be his companions on the

<sup>61</sup> Including even the humorous application of Scripture verses, although he does not directly engage in it. See also *DH*, p. 112; and Anne Lake Prescott, "The Ambivalent Heart: Thomas More's Merry Tales," *Criticism* 45, no. 4 (Fall 2003): 421.

<sup>62</sup> See *DH*, p. 325; and note 11 above. (There is also the line implying that there have never been priests who were "made of gold": see note 50 above.) More will, however, shoot it straight when no other way will work. See, e.g., p. 199 ("...whereas God would have the Church be your judge...") and p. 394 ("as I see it, it is necessary to tell how wicked [Luther] is").

<sup>63</sup> See, e.g., *DH*, p. 42 ("Although I saw..."), p. 92 ("But you are in the habit..."), p. 203 ("Oh, ...that I had forgotten again"), and p. 315 ("our brilliant scenario").

road to Canterbury. We find in this work of More's something of the Chaucerian power to bring together a heterogeneous group of people who, despite their outlandish conduct, are never definitively banished from either the author's or the reader's sympathy. (See *Renaissance and Reformation* 4 [1980], 24–25.)

Probably many share that view; but I believe it is, in the first place, anachronistic. No one in More's day was capable of seeing as mere "folly" or "outlandish conduct," or as a miniscule speck in the eye of a brother, any of Luther's aberrant practices or teachings. Such language is reflective of a culture in which they are regarded as mere alternate lifestyles and opinions, whereas everyone in More's England saw them as being of earthshaking consequence.

Furthermore, there has continued into our own day the traditional view that, as Jon E. Roecklin puts it, "[one] feature of humor is its 'social corrective' aspect and its value in maintaining group standards, norms, and mores" (*The Psychology of Humor* [London: Greenwood Press, 2002], pp. 182–83). Roecklin also includes (on p. 58) this quote, dated 1962, from G. Highet: "The purpose of satire is, through laughter and invective, to cure folly and punish evil." More was not wrong in thinking that his use of mockery could have such salutary effects; it did in the instance of *The Supplication of Souls*, which he wrote less than a year after the *Dialogue*. About a year after *Supplication* was published, Simon Fish, the target of the mockery in it, died, reconciled to the Church.

More cannot reasonably be expected to have seen invective as necessarily divisive, or dividedness as something to be avoided at all costs, since his Lord, who was constantly out to save people (see Jn 4:4–42, 8:2–11, and 18:33–37), took no such view (see Lk 11:37–54 and 12:49–53, and Mt 23:13–37). But the decision to use invective was not one he made lightly. Well aware that his readers might "think that I am being too harsh in calling [Luther] by such odious names," he gives this response: "I neither do it nor would want to were it not that the matter itself does by reason require it. As I see it, it is necessary to tell how wicked he is, because the worse the man is, the more mad it is for sensible people to give his false fables a hearing against God's undoubtable truth..." (*DH*, p. 394).

For an in-depth discussion of the Chaucer connection, see Alistair Fox, "Thomas More's *Dialogue* and the *Book of the Tales of Caunterbury*: 'Good Mother Wit' and Creative Imitation," in *Familiar Colloquy: Essays Presented to Arthur Edward Barker* (Ottawa: Oberon Press, 1978).



## More's Dialogue Concerning Heresies And the Idea of the Church

Louis Karlin

*In Overview*

A central theme in the first and second parts of Thomas More's *Dialogue Concerning Heresies*<sup>1</sup> is the idea of the visible Catholic Church as the guardian of the true Christian faith. By attending to the way in which More uses the dialogue form to develop this idea—that without a single, living, authoritative Church, there would be no reliable means of living the faith, much less any standard for disproving heretical doctrine—we gain invaluable insights into More's substantive teachings as well as the rhetorical strategies he uses to impart them. More's own persona in the *Dialogue* does not lecture on ecclesiology; the idea of the Church is revealed through friendly discussion and dispute. This was the Humanist ideal that More and Erasmus championed: Good faith criticism of Catholicism's failings, conducted in a spirit of humility, with the aim of true reformation in light of the careful linguistic scholarship and accepted doctrine, as developed by the Church fathers—in contrast to the prideful, egoistic revolution that those great friends saw in Luther and Tyndale's Reformation.

Ultimately, the Church revealed in More's *Dialogue* is a mystical person. Through humanist dialogue, true learning comes to be seen as a personal, not a solitary, pursuit. Rhetorical form thereby parallels substantive development, as the gracious give and take between More's persona and the Messenger is seen as a remedy to the error-prone methodology of *sola scriptura*. Indeed, it is that methodology with which More's persona will have to contend repeatedly throughout the *Dialogue*. As John Henry Newman would point out centuries later in his great work of ecclesiology: When critics of the Church disavow historical inquiry into doctrine, “they are forced whether they will or not, to fall back upon the Bible as the sole source of Revelation, and upon their own personal private judgment as the sole expounder of its doctrine” (Newman, *An Essay on the Development of Christian Doctrine*, Introduction § 4 [Univ. Notre Dame 1989, Ker, ed.]).

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<sup>1</sup> References to the *Dialogue* shall be to Saint Thomas More, *A Dialogue Concerning Heresies*, rendered in modern English by M. Gottschalk (Scepter 2006).

Against *sola scriptura*, More posits the Church's necessary role as teacher. Because every text—sacred scripture not excepted—requires interpretation, there must be consistent standards of interpretation if there is to be a single, Christian faith. Books do not teach themselves; learning requires a teacher. As opposed to Luther's ideal of the believer alone with his Bible, More posits the believer reading and discussing the Bible in the company of—in communion with—the company of faithful Christians, with the Church as teacher, listening to the wisdom of the ages expressed through the Church Fathers. As such, the *Dialogue* demonstrates how the questing Christian, even one of a relatively skeptical nature, can enter into discussion with a patient teacher and find his way to truth—through persuasion, not force.

In historical context, the *Dialogue* sounds a poignant counterpoint to the violence of the Reformation. Indeed, More's depiction of the sack of Rome in the final part of the work serves as the frightening alternative to the civilized path More advocates.

### *Development of "The Church"*

A chronological survey of the references to the Church in the *Dialogue* shows how More develops the idea of an identifiable, authoritative church on earth. This development is central to the first two parts of the *Dialogue* in which the idea takes shape. Once in place and accepted by the Messenger, it provides a foundation for the argument in parts III and IV.

### *Introduction and Friend's Letter*

In order to prepare his reader for the dialogue itself, More's persona addresses the reader to explain the work's genesis and purpose. Apparently in passing, More reflects on the general purpose of writing itself—as an aid to memory and close reflection on complex issues. This understanding will anticipate the recurring *sola scriptura* debate. For More, the written word is not the source of knowledge or the end of thinking, but rather a means to understanding.

More's persona is also depicted as embodying the humble manner the *Dialogue* will advocate as being proper to a Christian believer and humanist scholar. More admits his need of advice and counselors more knowledgeable than he on matters of faith—this presumes the existence of settled dogma and experts thereon. He also explains the editorial process he used in preparing the *Dialogue* for publication: The draft was circulated to three wise readers; More would abide by editorial suggestions proposed by majority of them. Therefore, from the start, More's persona adopts a humble attitude. His work does not claim to set out his own novel teachings, but to give voice to teachings that rest on authority and consensus. As T.M.C. Lawler points out (in his interpretive essay, "General View of the *Dialogue*: An Anatomy of Heresy" in *The Yale Edition of the Complete Works of Thomas More*, Vol. 6, pt. II, p. 448), "The Bible, like the *Dialogue*, is the imperfect record of an oral tradition. This, basically, is the orthodox argument against *sola scriptura* that More painstakingly explains to the Messenger."

In the letter of introduction from the author's friend on behalf of his close personal friend, the Messenger, the friend identifies "free and easy conversation" as a remedy for religious error. The friend, reflecting on the time he had recently spent in More's company, remarks that free speech and good humor are necessary for a fruitful conversation (44-45). Of course, More emphasized the critical importance of those two attributes in humanist works like *Utopia* as well as in his political address, the Petition for Freedom of Speech" in 1523.

*Book I, Part 2*

More's first reference to the Church occurs in the context of the Messenger's assertion that he and his student friends desire to understand why certain persons and doctrines had recently been condemned as being heretical. More refers to his natural and practical adherence, as a layperson, on the "common faith and belief of Christ's church" as the source of belief as to true religious doctrine and the standard for determining heterodoxy (59). The substance of faith, More asserts, is the collection of practices and teachings received by the apostles from Christ and passed on to us through the mediation of "the saintly Fathers." In this transmission of doctrine, the essential supposition is the active working of the Holy Spirit as guide.

This long chapter is especially important because it draws deeply on the humanist tradition. In response to contemporary iconoclastic arguments voiced by the Messenger, More explains that contemporary church practices have been maintained over time because they respond to a felt, psychological need in diverse believers of all times. The iconoclastic arguments rest, in contrast, on overly logical scriptural interpretations that ignore biblical context and human nature. For instance, More concedes that it would be error to worship saints, images, or relics as if they were God—but the Church has never endorsed such worship and the common people understand that religious images point beyond themselves to the mystical reality that the Church intends them to worship.

In a brilliant rhetorical twist, More takes aim at the doctrine of *sola scriptura* by pointing out that all words and names, whether spoken or written, "are but images" (69). A believer who reverences the image of a saint or a crucifix is much like a person who loves another and takes delight in an image of his beloved. The lover no more believes the image to be his beloved than the believer confuses the saint, relic, or crucifix for God himself (69). In a Humanistic appeal to the Gospel against iconoclasm, More draws on St. Mary Magdalene's celebrated anointing of Jesus. If one adopts the iconoclastic rationale against "the old, ancient customs of Christ's church, mocking the setting up of candles, making silly wisecracks, asking with blasphemous mockery whether God and his saints lack light, or whether it is night with them, that they cannot see without candles," Mary's act of love would deserve the same kind of mockery. Hers too was a ritualistic act of devotion with no apparent practical benefit (71-72).<sup>2</sup> It follows that the adherent to *sola scriptura* is simultaneously giving scripture an unwonted primacy and debasing true and scripturally derived methods of reverence.

In the following chapter, in opposition to the Messenger's assertion that pilgrimages, veneration of saints, etc., are deviations from the true faith, More speaks of the devout rites and ceremonies of the Church being passed down from hand to hand from the time of the Apostles. Pilgrimages to places where God was especially present fits nicely with the idea that God acted in history with particular persons in identifiable places, which in turn is consistent with the belief in a living, active Church. Here, we see another recurring theme: the distinction between an acceptable teaching or ritual that promotes Church teaching and its corruption by individual lay persons or clergy who lack understanding or who intentionally abuse the practice or doctrine for personal gain.

In chapter 3, More elaborates on these points. To this day, reverent members of the clergy and laity are so committed to pilgrimages that he believes "this devotion to be in such a way planted by God's own hand in the hearts of the whole Church—that is to say, not the clergy alone, but the

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<sup>2</sup> In part 1, chapter 18, More explains the Gospel foundation for another ritual, one that also places the veneration of Mary on Gospel foundation—keeping a candle burning in her honor during the Tenebrae lessons, when the ones symbolizing the apostles and disciples are extinguished one by one, to memorialize that the latter fled or faltered in faith, while she alone remained faithful (134).

whole congregation of all Christian people...” (77). Here, the definition of the Church broadly encompasses all those who reverence the

devout rites and ceremonies of the Church, both those in the liturgy (such as incensing, the hallowing of the fire, of the font, of the Paschal Lamb candle) and, moreover, the exorcisms, benedictions, and holy, esoteric gestures used in the Consecration or in the administration of the consecrated hosts. All of those holy things—many a one of which was from hand to hand passed down in the Church from the time of Christ’s apostles, and by them left to us as it was by God taught to them.... (78)

In part 1, chapter 5, More appeals to “the faith of Christ’s church, by the common accord of which these matters are settled” with “custom as a bona fide Christian and meritorious virtue” (85). Once again, the idea of the Church and membership therein consist in active adherence to the recognized teachings and practices that have developed over time.

#### *Book I, Part 18*

More defines the Church as “the whole congregation of Christian people professing his name and his faith and abiding in the body of the same, not being excommunicated and cut off” (133).<sup>3</sup> This definition is made in the context of addressing the Church’s interpretation of the Gospel. The argument is grounded on Gospel accounts of the early church and in Christ’s recorded statements as being intended for all, not only for the Apostles to whom they were directly addressed. This implies the active, continuous reliance on Christ and the Holy Spirit as inspiring and guiding the Church.

It should also be noted that More defines “articles of faith” (136) as those doctrines or strictures that are necessary to believe. This defined term will be used as More develops his understanding of the Church. The “church of Christ” is referred to as the source of knowledge of those articles of faith—the normative standard upon which we can judge if we have fallen away. The Church must have an understanding of those articles of faith, otherwise there would be no unifying force or standard—this is a practical, rational inference based on Gospel accounts: that Christ intended to establish his church on earth as a guide to the faithful throughout the ages.

#### *Book I, Part 19*

A decisive turning point occurs in the *Dialogue* when the Messenger concedes that if Christ meant his church to last, it must have a single, unifying, and unerring faith (137). The Messenger affirms “that the Church cannot err in the right faith that it is necessary to believe, which is given and always kept in the Church by God” (138). This not only places primacy on the church with regard to faith, but implies that its members must believe in the truths the Church obliges them to believe. For purposes of the specific points of contention—whether it is Christian to believe in the propriety of praying to saints, venerating images and relics, making pilgrimages to shrines—it follows that the resolution turns on whether the Church endorses them.

More will re-emphasize these postulates in Book 1, Part 21 with special regard to scriptural interpretation, when he explains that their discussion has established two points as “true and intelligible to a Christian as any axiom of Euclid’s geometry.... Christ’s church cannot err in any

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<sup>3</sup> Later, in responding to Tyndale’s New Testament translation, More will criticize Tyndale for translating “ecclesia” as “congregation,” instead of “church” because it departs from traditional usage in order to conceal a doctrinal revolution.

article that God wills that it is necessary to believe” and, therefore, scripture cannot contradict those essential points of doctrine (148).

*Book I, Part 20*

Almost immediately, however, the Messenger has doubts and questions whether Christ’s continuing presence and guidance could be found in sacred scripture instead. *Contra sola scriptura*, More posits that the Bible itself shows that Christ taught by “mouth and inspiration” (142). If that is the model on which Christians are to learn their faith, then it requires a personal, living teacher—the church, not the Bible. Moreover, his presence in the sacraments administered by the Church testifies against the Messenger’s position.

*Book I, Part 22*

More responds to the Messenger’s running attack on humanist learning and reason as an impediment to the pure study of scripture. More explains how humanist learning, rightly undertaken, is an aid to theology. The root problem in misguided learning as to philosophy or theology is pride (and the solution to that problem is, therefore, humility). That is, there is nothing inherently wrong with humanist science and its application to religious matters. Scripture speaks through the church and particularly through the Fathers. As humanists do with the ancient thinkers, contemporary theologians should listen with humility to the Fathers—in communion with them. The danger of the version of scholarship the Messenger endorses—purged of any reliance on the Fathers—is that reason will be used egoistically, cut off from the persons who formed the ideas and doctrines we have inherited. There seems to be an implicit analogy to theologians of Dorp’s ilk, who reason from a set of abstract principles—as contrasted with the Erasmian approach of Gospel-based interpretation, guided by the Fathers and supported by careful translation.

*Book I, Part 25*

More, returning to the question of whether sacred scripture needs authoritative interpretation, points out that scripture itself demonstrates God has primarily taught his people through means other than the written word. After explaining that God imparted the knowledge of moral law to men before providing them with scripture, he discusses Moses and the written law of the commandments, pointing out that the written word was not sufficient:

And for the perceiving and good understanding of the written law, he sent always some good men whose words, right living, and sometimes also manifest miracles performed therewith, never left destitute of sufficient knowledge those who longed to learn the Law. (169-170)

Scripture itself—for example, the conversion of St. Paul—shows that teaching the faith comes through secret inspiration and “Christ’s holy mouth”—not primarily by writing, “only by conversation and preaching.” (1:25:171). At this point in the *Dialogue*, More provides a key metaphor: “And so fitting this was, for the law of life to be written in the living minds of human beings rather than in the dead skins of animals.” (Ibid.) Again, More grounds this understanding on the evidence of Gospel itself: “And no evangelist was there, or any apostle, who by writing ever

sent the faith to any nation unless there were first instructed by spoken word and God had begun his church in that place” (172).

Here we also find More’s first reference to the “Catholic Church” (175). More has shown that the source of faith is the words spoken by Christ to the Apostles and relayed to us, which are preserved and imparted by the church (not by scripture). In history, with the establishment of the church, the truth of Christ’s teachings is preserved by the working of the Holy Spirit. More refers to the “common faith of the Catholic Church,” meaning the core beliefs and practices from Christ to the Apostles to the Fathers—a development often in response to the challenge of preserving the faith and refining doctrine in face of challenges by heretical beliefs. As this is an encounter between persons—ultimately between Christ and the believer—it makes sense that the church be named.

More concludes that without a source of true beliefs, the Church—meaning an identifiable congregation of Christians—could not survive. Because people by nature will fall into error, there must be a constant, identifiable source of true doctrine if the faith is to survive.

### *Book I, Part 26*

In response to the argument that scripture is the final authority as to God’s word, More equates the faith of the Church with the word of God spoken to the Church (180)—the Church is the collective person who is the final authority on questions of faith (190). As such, it makes perfect sense for the believer to place his trust in the scriptural interpretations of this mystical person/teacher—even when they seem to conflict with a particular reading of the Bible.

### *Book I, Part 28*

More defines the church as the people who “have always the knowledge of how to serve and please our Lord” (204). This requires knowledge of specific doctrines understood as being true. *Sola scriptura* cannot work, logically or practically, because words and texts must be interpreted to be understood. This requires a teacher who can apply settled principles of interpretation. The church fills that role. As scriptural support for his argument, More invokes Pentecost, with God as creator of the church. As the eternal teacher of the church on earth throughout history, the Holy Spirit “shall always again teach the Church of new the old lessons of Christ” (208). This sentence with its blending of past, present, and the eternal conveys the timelessness of church teaching and beautifully portrays the notion of the mystical personhood of the church as a living source of communion with the living God.

### *Book II*

The central point concerning the church in Book I was that the church cannot err on central points of faith, but rather is the teacher who sets the standards for interpreting scripture. The Messenger objects, asking what if the Catholic Church is not the true church? How do we identify the Church on earth?

When More proposes the answer that the *Dialogue’s* argument has repeatedly identified—the Church consists of the persons who are in communion with the Catholic Church—the Messenger offers two alternatives. Asserting that the true church must be comprised of those who will enter the kingdom of heaven, he first argues that membership must be limited to the predestinate. More,

however, points out that from a human perspective such persons do not form an identifiable group. Moreover, since a person destined for heaven might well live most of his life in sin, the Messenger's first alternative does not succeed the Messenger's purpose of identifying a church that excludes sinners from membership.

The second alternative, debated in Part 4, has a very modern sensibility. The Messenger proposes that the Church consists of good persons—those who “believe aright and live well,” without regard to formal church affiliation. That is, the true church has no worldly identity. As More counters, however, such an unknown, secret church does not correspond to the visible church of Christ's teachings as founded by the Apostles. Nor would it serve its intended purposes of converting non-believers to a single faith or helping believers to persevere in that faith—how would those persons who search for the faith hope to find it? How could they identify authoritative doctrines or practices?

In a masterful maneuver, More brings the Messenger back to the essential point he had previously admitted, by asking whether the hypothetical unknown Church would have the same single faith as the Church. If so, the secret church would have the same position on relics, saints, etc... as the Catholic Church (231). Having to concede the point, the Messenger argues the secret true church might nevertheless take the opposing position—that such practices are erroneous and idolatrous. But, counters More, if that were true, how would a person know how to choose which of the various churches had the authoritative doctrine. At that point, the Messenger again falls back on scripture: “‘They might,’ said he, ‘come upon Scripture’” (232).

More's comeback to this by now almost comic response is quick and decisive—and scripture-based. “‘They would,’ said I, ‘there be like the eunuch who could not understand without a teacher [see Acts 8:27-39]. And then if they came upon a wrong teacher of a wrong church, everything would be distorted’” (232). The *Dialogue* does not recapitulate the story of the Ethiopian's inability to understand a passage from Isaiah and his request for a teacher. Nor does More point out that it was the Holy Spirit who sent the Apostle Phillip to serve as teacher. But the Messenger and the reader would know the story well.

In his *Essay on the Development of Christian Doctrine*, Newman makes the same point from a post-Reformation perspective. The notion that the Bible provides an infallible guide to the faith that rivals and supplants the supremacy of the church fails because scripture was “not adapted or intended to subserve that purpose.” (*Essay on The Development of Christian Doctrine*, ch. II, sect.II (12), at 88.) “We are told,” he continues,

that God has spoken. Where? In a book? We have tried it and it disappoints; it disappoints us, that most holy and blessed gift, not from fault of its own, but because it is used for a purpose for which it was not given. The Ethiopian's reply, when St. Philip asked him if he understood what he was reading, is the voice of nature: ‘How can I, unless some man shall guide me?’ The Church undertakes that office; she does what none else can do, and this is the secret of her power.”<sup>4</sup> (*Ibid.*)

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<sup>4</sup> This essential understanding is most recently found in an issuance of July 2007 by the Congregation for the Doctrine of the Faith to clarify the Second Vatican Council's teaching that the Church founded by Christ “subsists in the Catholic Church.” The commentary began by explaining that the Magisterium had not changed over time, but that through development, doctrine had “deepened” and been “articulated it in a more organic way.” On the critical question, the commentary explained first why the Church established by Christ could not have more than one subsistence on earth. If that were the case, we would have to imagine the Church of Christ as the sum total of the existent Churches or the ecclesial Communities, or to think that the Church of Christ no longer exists today concretely—but existent “only in some ideal form emerging either through some future convergence or through the reunification of the diverse sister Churches, to be hoped for and achieved through dialogue.” Protection of the Church's “unity and unicity” therefore required subsistence in a single entity.

More follows up with other scriptural examples showing how Christ and the apostles intended the church to be identifiable and active in guiding and correcting God's people. In that context, More offers a definition of the church that includes his first reference to the Pope—"all Christian people whom we call the Church, under obedience to the pope" (236).

At this point in the argument, More adds a final component to the *Dialogue's* understanding of the church. He explains why the church must include sinners in its membership. To be an existent church—rather than a mere ideal or a fancy—it must consist of persons, good and bad. As a real, visible presence, the church "must necessarily be the common, known multitude of Christian people, good and bad together, as long as the Church is here on earth" (237). This means on the one hand that, as an institution made up of fallen persons, the church will contain sinners and be liable to corruption. But, on the other, under guidance of the Holy Spirit, it cannot err on the essentials of faith.

In another metaphor that emphasizes the mystical personhood of the church, More describes the church as a sick, erring person for whom Christ is the loyal spouse, teacher and physician. Of course, that metaphor is consistent with the teachings of St. Augustine and the Fathers. It also finds current expression by the faithful in the liturgy of the Eucharist—the invocations to "Strengthen in faith and love your pilgrim Church on earth" and, at the Sign of Peace, to "Look not on our sins, but on the faith of your Church, and grant us the peace and unity of your kingdom where you live for ever and ever."

### *Book III*

The Messenger returns to the theme that percolated thorough the first two Books: is scripture or the church the ultimate authority on faith? Now the question is raised directly in terms of the question, why believe the church, rather than scripture? More expands on a point raised in Book II: the church is antecedent to scripture, just as knowledge of God's word and will preceded scripture. Even before Moses, there existed a "number of good and right-believing folk, from whose mouths and tradition they heard the true belief" (290). The spirit of God inspires belief and knowledge, which is a precondition to faith in scripture's truth (292). Indeed, the precedence of the church over scripture is seen as a practical matter in the fact that, as More had pointed out before, it was the church that determined the canon of texts included in the Bible.

The key point More makes is that for readers of any text, as for Christians reading the Bible, it is the person's mindset—his openness to the truth and his humility and goodwill—that is the necessary starting point in journey to truth. The inherent danger of *sola scriptura* is that it dispenses with the authorities and guides that have been given to check our ignorance and arrogance.

### *Final Considerations*

Where does More place the locus of authority in the church? From his argument, we know that ultimately, it resides in Christ himself—but can it be identified on earth? While More gives no direct answer, I do not think he is being evasive. A clearly identifiable magisterium and hierarchy was largely a product of the Counter-Reformation. But, to More, the answer was "very simple" in



practice. In Part 1, chapter 27, the Messenger picks up on the idea that the church on earth consists of all Christians in communion with the church, good and bad together, and asks: Which party within that church should one believe? His question, practically speaking, means: If a group of Christians, who consider themselves members of the Catholic Church and who are not excommunicate, condemn an ongoing practice or advocate a new practice, how, then, do we know whether to follow that group?

In that context, building upon what has been proved so far, the answer can legitimately be viewed as simple. Church doctrine and practices originated with Christ, who taught them to the Apostles. Those teachings and practices developed from the early church and the Fathers—often in reaction to heretical movements—under the Holy Spirit’s guidance. So, at any time in history, if a new group advocates a correction or innovation to existing doctrines or practices, the burden is on that group to prove the Catholic Church had made a wrong turn at some point. It may be that the new position is a true one—a correction or addition to the true faith, rather than a deviation. But, for that, the Christian must wait to see if it finds “unanimous accord . . . either by joint determination at a general council or by a perfect persuasion and belief so received throughout Christendom . . .” (1:27:193). Remember, the question of development or correction in the *Dialogue* concerns “articles of faith” (136), meaning those doctrines that are necessary to believe. Thus, More’s repeated invocation of consensus as an essential mark of the true church finds its practical expression.

This is precisely the hermeneutic Newman employed in his ecclesiological *Essay*:

Till positive reasons grounded on facts are adduced to the contrary, the most natural hypotheses, the most agreeable to our mode of proceeding in parallel cases, and that which takes precedence over all others, is to consider that the society of Christians, which the Apostles left on earth, were of that religion to which the Apostles had converted them; that the external continuity of name, profession, and communion, argues a real continuity of doctrine; that, as Christianity began by manifesting itself as of a certain shape and bearing to all mankind, therefore it went on so to manifest itself; and that the more, considering that prophecy had already determined that it was to be a power visible in the world and sovereign over it, characters which are accurately fulfilled in that historical Christianity to which we commonly give the name. (*Essay on The Development of Christian Doctrine*, Introduction, at 5)

## Free Choice of the Will in Part IV Of A Dialogue Concerning Heresies

Joseph W. Koterski, S.J.

The impressive stream of works by Thomas More in certain areas of doctrinal controversy from the mid-1520s until the end of his life testify to his courageous but prudent readiness to meet the challenges presented by Luther and Lutheranism. From his vantage point as the holder of various positions of authority there were certain issues that stirred his conscience to compose firm but thoughtful responses. One should not overlook the direct challenge to him issued by Cuthbert Tunstall in March 1528:

Because you, dearest brother, can excell [sic] Demosthenes himself in our vernacular as well as in Latin, and are accustomed to being a most keen defender of the Catholic truth on all occasions of conflict, you could not spend your leisure hours more profitably, if you can snatch any away from your official duties, than by publishing something in our language that may expose to simple and unlearned men the cunning malice of heretics, and so make them better prepared against these impious subverters of the church.<sup>1</sup>

A rapid succession of works of a controversial nature thereafter flow from More's pen, including *A Dialogue Concerning Heresies* and *Supplication of Souls* in 1529, *Confutation of Tyndale's Answer* (in three books, 1532), *A Letter Impugning the Erroneous Writings of John Frith* (1533), five more books of the *Confutation* (also in 1533), *The Apology of Sir Thomas More, Knight* (1533), the *Debellation of Salem and Bizance* (1533), and *The Answer to a Poisoned Book which a Nameless Heretic Hath Called the Supper of the Lord* (1533). In addition, there are works of a spiritual nature from this period, written, I suspect, not only for others but as a way to sustain More's own devotion in a time often marred by great desolation.

This paper will consider some of More's comments in Part IV of the *Dialogue* on the issue of freedom of the will. To appreciate the remarks found there it is helpful to consider the context of More's effort to contest the Lutheran position. Doing so requires some consideration of his views on the position of Luther as well as his reliance on the accounts of free choice of the will offered by Augustine and other medieval authors that were regarded as sound and orthodox Christian views. This paper aims to examine the content and style of More's reliance on the doctrine of free choice of the will as part of his larger project in the *Dialogue*.

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<sup>1</sup> Quoted in Alistair Fox, *Thomas More: History and Providence* (New Haven and London: Yale University Press, 1983), p. 144, from *The Correspondence of Sir Thomas More*, ed. Elizabeth Frances Rogers (Princeton NJ: Princeton Univ. Press, 1947), no. 160, p. 387/19-26: "Et quia tu, frater charissime, in lingua nostra vernacula, sicut etiam in Latina, Demosthenem quendam praestare potes, et Catholice veritatis assertor acerrimus in omni congressu esse soles, melius subsiciuas horas, si quas tuis occupationibus suffurari potes, collocare nunquam poteris, quam in nostrate lingua aliqua edas, que simplicibus et ideotis hominibus subdolum hereticorum malignitatem aperiant, ac contra tam impios Ecclesie supplantatores reddant eos instructiores."

In the *Dialogue*<sup>2</sup> we find catalogued all sorts of errors, mistakes, and even malice that More found among those inclined to a Protestant stance. In addition to sounding warnings about various imminent dangers in these matters, he also reflected on various theoretical questions at the intersection between morality and religion, between doctrine and spirituality. It is clearly his conviction that human failure and human imperfection are no reason for despair, for there always remain the efficacious assistance of divine grace and the genuine possibility of real freedom in the human will. More presses this point throughout the *Dialogue*, for he is mindful that the Lutheran position has its own stands on these questions and thus that he needs in some way to address those stands. In many passages of the *Dialogue* the point is made by the steady diet of encouragement that More gives to the young messenger who is his dialogic partner in this volume. In some passages, such as IV.10, there is explicit discussion of the theme of freedom of will that shows how much More wants to bring to bear in his arguments from the Catholic tradition of Augustine and Aquinas. He never shies away from a point that he may well have carried with him from the time of his lectures on Augustine's *City of God*, namely, that the Church contains both saints and sinners. Nor does he miss an opportunity to correct the contradictions that he finds in the relatively pessimistic Lutheran understanding of the depravity of the human will. He labors to recapitulate a typically Catholic stance about the possibilities of our nature to receive the corrections and the counsels of the Holy Spirit, about the need to be responsive to the invitations of grace, and about the distinctive contributions of grace and free choice in personal reform of life.

In More's most explicit discussion on free choice of the will within the *Dialogue*, namely, the passage at IV.10, he makes the point that there is a curious contradiction at the heart of the Lutheran position on the depravity of the will—a contradiction that renders this position completely untenable. There he notes that an excessive stress on divine predestination paradoxically entails the denial of freedom, which would in turn entail the denial of responsibility for the very acts that manifest the depravity of which Luther complains. What one ought to maintain instead, according to More, is that God's providential plan to bring human beings to salvation includes a genuine role for freedom of choice without denying the efficacy of divine grace. But holding this position implies a need to correct the Lutheran notion of the servility of the human will. A proper explanation must, More explains, preserve a respect for the necessity of assistance by divine grace and simultaneously leave a place for genuine freedom of choice in order to preserve human accountability for salvation or damnation.

More's actual words are as strong and vigorous here as at any place else in the *Dialogue*. They are no less perceptive for being so forceful. It will be helpful to work our way carefully through the lines of this short chapter:

“Surely, as I say, this world is either, as Saint John puts it, *totus positus in maligno*, ‘all set in malice’ [1 Jn 5:19], that we are so prone to take knowingly so wrong a way, or else it is in an amazing blindness, if we neither can tell from the wicked behavior of the persons that their sect is wicked nor can tell from their doctrine that their sect must make their persons wicked, their heresies being such as you have heard. (427)

The opening gambit that More uses here involves a dichotomy: either complete moral depravity as the human condition or incredible ignorance about the consequences of heresy in religion. This sentence thus acknowledges the logical possibility that there could perhaps be complete depravity

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<sup>2</sup> Quotations from Thomas More's *Dialogue concerning Heresies* will be taken from the following edition: Saint Thomas More, *Dialogue concerning Heresies*, rendered in Modern English by Mary Gottschalk (New York NY: Scepter, 2006).

(*totus positus in maligno*). The Latin words are a reference to 1 John 5:19, which was taken by Lutherans to suggest that the human is so corrupt that human beings are simply unable ever to choose aright by their own power. Luther's translation of that verse emphasizes the bondage of the will<sup>3</sup> where it renders this verse as follows: *Wir wissen, daß wir von Gott sind, und die ganze Welt liegt im Argen* ("We know that we belong to God, and [that] the whole world lies in chains"). But assessing the merits of this interpretation of scripture much depends on whether we take the previous verses in that epistle that are the context of this phrase to be a factual description of our ontological condition or, rather, an exhortation to Christian virtue that actually presumes the reality of freedom of the will. The scriptural passage in question reads:

"We know that anyone who has been begotten by God does not sin because the begotten Son of God protects him, and the Evil One does not touch him. We know that we belong to God, but the whole world lies in the power of the Evil One [*et mundus totus maligno positus est*]. We know, too, that the Son of God has come, and has given us the power to know the true God. We are in the true God, as we are in his Son, Jesus Christ. This is the true God, this is eternal life. Children, be on your guard against false gods." (1 John 5:18-21, Jerusalem Bible translation)

The issue is not just the proper translation of verse 19, which the Jerusalem Bible here renders as "the whole world lies in the power of the Evil One," but the interpretation of the whole passage, taken in context. For Luther's interpretation to be correct, this entire passage would need to be descriptive of some astounding change that takes place within the human constitution with the communication of the gift of faith and the reception of baptism, a change of the sort that we could expect that Christians as the children of God would never again sin despite being depraved. That does not seem to be the case, for Christians do unfortunately succumb to sin after their baptism, despite the graces of the sacrament of penance. Hence it does not seem wise to interpret either the whole passage or that portion of it that More uses to represent the Lutheran position as a description of an ontological change in Christians that makes them unable to sin. Rather, it seems more likely that the passage needs to be regarded as exhortatory for those who do have the power of free choice within their wills—an encouragement to take their faith seriously, to make use of the genuinely efficacious protections that are provided by God's grace against the Evil One, and to remain within Christ's fold by living and choosing rightly. If there were any doubt, the final directive ("be on your guard...") makes clear the passage's exhortatory character.

In the passage under discussion here from the *Dialogue*, More proposes to his conversation partner another alternative. Rather than interpreting the Latin words *totus positus in maligno* as if they implied a total depravity, such that all human beings are completely prone to take a wrong course of action knowingly, we can take them as a description of a world in which the effects of the Fall are enormous but something short of complete depravity. This scenario is implied in the second half of the dichotomy: there is a general ignorance that prevails about the pernicious effect of Lutheran teaching and practice. It has been More's intention to convince the messenger of this possibility throughout the *Dialogue*. More considers this possibility when he writes: "or else it [the world] is in an amazing blindness, if we neither can tell from the wicked behavior of the persons that their sect is wicked nor can tell from their doctrine that their sect must make their persons

<sup>3</sup> Especially important for assessing Luther's views on this topic is his book *The Bondage of the Will*. See *Martin Luther on the Bondage of the Will: A New Translation of De Servo Arbitrio (1525): Martin Luther's Reply to Erasmus of Rotterdam* by J.I. Packer and O.R. Johnston (London: J. Clarke, 1957). For some of the political implications of his views on this subject, see *Luther: Selected Political Writings*, edited and with an introduction by J.M. Porter (Philadelphia PA: Fortress, 1974), esp. pp. 4-21.

wicked, their heresies being such as you have heard.” In the preceding portion of Book IV, More had in fact been considering the incongruity between Martin Luther’s reputation and his behavior when commenting on Luther’s marriage to Katherina Bora:

[I]s it not...an astonishing things to see...a lewd friar be so bold and so shameless as to marry a nun and stick by this, and still be taken for a Christian man, and, moreover, for a man fit to be the beginner of a sect, whom any honorable man should deign to follow? (426-27)

Admittedly, neither of the choices in this dichotomy is attractive, for (1) utter depravity would remove responsibility by reason of our irresistible proneness to wrongdoing, and yet (2) it is astounding that we cannot recognize blatant wickedness when we see it. A realistic assessment of the situation, however, requires that we accept the second option and reject the first. Doing so, More thinks, requires that we expose the error in the Lutheran denial of free choice of the will and that we admit the possibility of such moral blindness that some people would risk denying free choice of the will rather than recognizing the truth about moral culpability. More feels confident in urging a very boldly stated claim:

Whereby anyone who has any faith and any kind of knowledge of Christian belief can quite certainly tell that Luther and all his offspring, with all those who promote and propagate his sect, are very agents of the devil and open enemies to the faith of Christ. And not only to the faith and humanity of Christ our Savior, but also against the Holy Spirit and the Father himself, and utterly against all goodness of the Godhead, in that they wretchedly lay all the weight and blame of our sin to the necessity and constraint of God’s ordinance, affirming that we do no sin of ourselves, by any power of our own will, but do it by the compulsion and handiwork of God. And that we do not do the sin ourselves, but that God does the sin in us himself. (427-28)

Such forthright expression of opinion is bracing, but at the very least More cannot be accused of speaking so subtly that his interlocutor might miss the conclusion.

For the purposes of this paper, it is the latter portion of this passage that is of special interest. More is asserting not just that there is need to be critical of the Lutheran position as deleterious to morals but also that the Lutheran position on this subject is philosophically repugnant, for the doctrine of predestination in this form involves a denial that free choice is within the power of the human will and, thus in effect, puts all the responsibility for sin upon God. The position that More himself champions is not that the will is utterly independent of divine causality, but that free choice of the will is compatible with the possibility of real influence upon the will by divine grace. This position, of course, is a long-standing thesis of Catholic authors. Defending the view is not without its theoretical difficulties, and in fact the question has been the source of a perennially busy cottage industry for philosophers and theologians.

Interestingly, More does not try to offer any metaphysical explanation of just how the interplay of will and grace works. The mystery of that interaction is one that even the likes of Augustine and Aquinas never entirely resolved. It is, rather, the fact that there is some kind of interplay that More wants to defend. He is content in the remainder of the passage to accuse the proponents of the Lutheran position of a “blasphemous heresy” by the way in which they cast a “scurrilous aspersion on the great mastery of God.” In his view, holding this position would give people leave “to follow their foul inclinations, as things, according to their opinion, more truly wrought in them by God than the best dispositions are in good people.” Further, he notes, “it would therefore be in vain for them to resist their sinful desires.” This Lutheran position eviscerates any reason for moral struggle.

In the final portion of IV.10, More displays a similar pattern of argument when he focuses on the implications for Judgment Day. In passing, he notes Luther's repudiation of the idea of Purgatory when he observes that Luther had claimed that the souls of the dead experience a sleep without feeling until the day of final reckoning. But, More observes, this only defers the problem, for the same difficulties of explanation will recur for those who deny free choice of the will:

“And then [on Judgment Day] they that shall be damned shall be damned, he says, for no deserving by their own deeds, but for such evil deeds as God alone forced and coerced them into and wrought in them himself, using them, in all those evil deeds, only as a passive instrument, as a man hews with a hatchet. And that God shall damn all that shall be damned for his own deed only, which he himself shall have done in them; and ultimately only for his pleasure, because it was not his pleasure to choose them as he did his chosen people. Whom they say he chose in such a way, before the beginning of the world, that they can never sin.” (428)

As More sees it, the problem is that an excessively robust doctrine of predestination coupled with a sense of the utter depravity of the human will leads ineluctably to the view that responsibility for sin and even for damnation rests not with human beings but with God. Modern theologians have been at pains to defend Luther from this charge,<sup>4</sup> but in attempting their defenses, which are beyond the scope of this paper, they do not shy from quoting some of the most difficult passages from Luther, such as the following:

Now you may well be disturbed by the thought that it is difficult to defend the mercy and justice of God when he condemns the undeserving, that is to say, the ungodly who are what they are because they were born in ungodliness and can in no way help being and remaining ungodly and worthy of condemnation but are compelled by a necessity of nature to sin and perish (as Paul says: “We were all children of wrath like the rest” [Eph. 2:3] since they are created so by God himself from seed corrupted by the sin of the one man Adam). But the point really is, in fact, God must be honored and revered as supremely merciful toward those whom he justifies and saves, supremely unworthy as they are, and there must be at least some acknowledgment of his divine wisdom so that he may be believed to be righteous where he seems to us to be unjust. For if his righteousness were such that it could be judged to be righteous by human standards, it would clearly not be divine and would in no way differ from human righteousness. But since he is the one true God and is wholly incomprehensible and inaccessible to human reason, it is proper and indeed necessary that his righteousness also should be incomprehensible, as Paul also says where he exclaims, “O the depths of the riches of the wisdom and knowledge of God! How incomprehensible are his judgments and how unsearchable his ways!” [Rom. 11:33].<sup>5</sup>

Whatever the specific passages that More had in mind,<sup>6</sup> it is a position such as this that is the source of More's concerns. More himself does not offer a positive metaphysical argument for just how grace and will are to be reconciled. He simply argues the negative case, namely, that it cannot possibly be true that what is our fault should be chalked up to God's decision to make us the way

<sup>4</sup> See, for instance, Robert Kolb, *Bound Choice, Election, and Wittenberg Theological Method: From Martin Luther to the Formula of Concord* (Grand Rapids MI: William B. Eerdmans, 2005), esp. pp. 62-66 on the theme “God is not responsible for evil.”

<sup>5</sup> This is taken from Kolb, pp. 64-65.

<sup>6</sup> For the study of More's knowledge of Luther's works and his response to Luther, see his *Responsio ad Lutherum* in volume 5 of *The Complete Works of St. Thomas More*, ed. John M. Headley, with English Translation by Sister Scholastica Mandeville (New Haven and London: Yale Univ. Press, 1969), esp. “More Against Luther: The Substance of the Diatribe” in Vol. 5, Part 2, pp. 732-74, which emphasizes their ecclesiological differences.

that we do find that He has made us. In IV.11, the messenger who is More's interlocutor then moves the discussion on to a distinction: whatever the German Lutherans may hold, surely the English sympathizers for Luther could not be so mad as to believe that everything hangs on a destiny to which we make no contribution by our free choices. More then undertakes a lengthy effort to show that various English Lutherans have in fact taken this position.

But to stay with the subject at hand, we might note the similarity of More's reasoning here to the reflections of Augustine at the development of some of his own seminal ideas on free choice of the will, as formulated in the course of his dabbling with Manicheanism. The proponents of that religion had attempted a position that was as attractive as it was inconsistent, namely, that they might claim the credit for the good they did when they identified themselves with the forces of Light, but then attribute the wickedness of yielding to fleshly desires to the malevolence of the forces of Darkness. To say "the devil made me do it" and to mean not that we are pointing to the source of temptation to which we freely yielded, but that we bear no responsibility for that wickedness is a convenient rationalization, but not a very successful theoretical explanation.

Augustine's hard-won clarity on these matters—matters on which there is admittedly more clarity in what we cannot hold without making a mockery of moral life and of divine goodness than in what we can positively provide by way of philosophical explanation—has long provided Christianity with a consistent and helpful picture of the situation. If his early work *De libero arbitrio* (begun in the year 387 or 388, finished between 391 and 395<sup>7</sup>) risks erring on the side of what subsequently came to be known as Pelagianism, his mature work of a similar name, *De gratia et libero arbitrio* (written from 426 to 427) states clearly the paradoxical pair of assertions that we need to hold and then do as well as we can to reconcile. "There is always," Augustine asserts, "within us free choice, but it is not always good."<sup>8</sup> Whether he is thinking politically and socially, as in the *City of God*, where he repeatedly argues that we are all born in the earthly city and that only some become members of the heavenly city during their earthly pilgrimage, or whether he is writing theologically and pastorally, as in the *Enchiridion* (from 421/422), where he notes: "He who is the servant of sin is free to sin. And hence he will not be free to do right, until, being freed from sin, he shall begin to be the servant of righteousness. And this is true liberty, for he has pleasure in the righteous deed; and it is at the same time a holy bondage, for he is obedient to the will of God."<sup>9</sup>

The standard position that Augustine takes in his mature years is that we are slaves of sin from our birth (in part, the source of the Lutheran use of the term "bondage"), but that life on this earth still involves making free choices (for we are "free to sin"). Choosing to the right thing means using the freedom of the will to submit to God's will and to become instead the servant of justice. Augustine's position is thus a curious kind of inversion of the Manichean inconsistency, namely, that our power of free choice is sufficient for choosing wickedness but of insufficient help to us in choosing goodness. The most true or authentic freedom requires that we be freed by the grace of

<sup>7</sup> For the dating of the works of Augustine, see *Augustine through the Ages: An Encyclopedia*, ed. Allan D. Fitzgerald, O.S.A. (Grand Rapids MI: William B. Eerdmans, 1999), pp. xliii-ii.

<sup>8</sup> *De gratia et libero arbitrio*, ch. 31; translated as "On Grace and Free Will" by P. Holmes in *Basic Writings of Saint Augustine*, ed. Whitney J. Oates, vol. 1 (New York NY: Random House, 1948), p. 758. I have emended the translation here slightly by replacing the words "free will" with "free choice" so as better to reflect Augustine's word choice, which here and throughout is *liberum arbitrium [voluntatis]*, not *libera voluntas*. The terminology is quite important here, and to speak about "free will" rather than "free choice of the will" risks missing the many ways in which the will is quite determined, such as in the way in which the will is necessarily attracted to what appears as good; freedom resides in choice, not in desire.

<sup>9</sup> Augustine, *Enchiridion*, ch. 9 §30, translated as *The Enchiridion on Faith, Hope, and Love*, edited by Henri Bapollucci (Chicago IL: Henry Regnery, 1961), p. 37.

Christ. This position, difficult as it is in certain respects, permits the follower of Augustine to hold the doctrine that the power of free choice given to us by God is not removed from human nature by the corruption of the Fall but that it is made nearly useless by sin for the good works that would merit salvation. Positively considered, this power does continue to permit us to choose this or that. Soteriologically considered, so long as the human being remains in slavery to sin, that person cannot make a good choice in the sense of a choice that is truly moved by the love of God and thus rightly ordered. To assert the point in the paradoxical manner that Augustine so often employed, one has the freedom to will as one chooses but not the well-ordered habits of freedom that would enable us always to will as one should. What God's grace brings is not so much the ontological power of choice but the strength to order one's choices correctly, that is, in such a way that they are genuinely motivated by the love of God so that all the rest of our order of loves will be appropriately disposed. Even while adding the considerable sophistication of a faculty psychology, Aquinas maintains the basic outlines of this Augustinian position when he says, for instance:

Without grace, free choice is incapable of the kind of good which is above human nature; and—because it is by this kind of good that man merits eternal life—it is apparent that man cannot merit without grace. The kind of good which is proportioned to human nature, however, man can accomplish by his free choice. Augustine accordingly says that man can cultivate fields, build houses, and do a number of other things by his free choice without actual grace. Although man can perform good actions of this kind without ingratiatory grace, he cannot perform them without God, since nothing can enter upon its natural operation except by the divine power, because a secondary cause acts only by the power of the first cause.<sup>10</sup>

This view would remain the predominant Catholic position, and it is taken up by Erasmus, for instance, in an approach that More would also echo, as when Erasmus criticizes Luther for an excessively nugatory position on freedom: “They singularly exaggerate original sin who maintain that the best powers of human nature are so corrupt that it can accomplish nothing of itself except to hate God and be ignorant of him.”<sup>11</sup> In the same context, Erasmus offers a version of the argument that we saw in More, namely that there is something intrinsically contradictory about the Lutheran stance. The Bible urges us constantly to strive, since we are going to be judged by God. But it would be impossible to strive, Erasmus notes, if our will could do nothing of itself. Interestingly, Melancthon takes Erasmus's side on this question,<sup>12</sup> against Luther, who reiterated in many ways his basic position, such as in the following statement from *Table Talk*: “[Free choice] is not within our strength, for we are not able to do anything that is good in divine matters.”

The eventual retrenchment of subsequent Lutherans from the position of Luther himself is no surprise, given the contradiction within that position. But to drive a young adherent away from a position that seems part and parcel of the larger view to which he had been giving considerable credence may well require meeting that position head on. It seems to me that it is this need that explains the virulence of More's expressions here. More's general patience with the young

<sup>10</sup> Aquinas, *De veritate*, q. 24, a. 14, c., translated by Robert W. Schmidt, S.J., as *Truth*, vol. 3 (Albany NY: Preserving Christian Publications, 1993; orig., Chicago IL: Henry Regnery, 1952), p. 205.

<sup>11</sup> Erasmus, *De libero arbitrio Diatribe*, from the text printed in *Luther and Erasmus: Free Will and Salvation*, ed. and trans. E. Gordon Rupp and Philip S. Watson (Philadelphia PA: Westminster Press, 1969). This volume contains Erasmus's *De libero arbitrio diatribe* (1524), translated as “On the Freedom of the Will” and Luther's reply *De servo arbitrio* (1525), translated as “On the Bondage of the Will.”

<sup>12</sup> See Kolb, pp. 81-95 for an account of the development of Melancthon's views between 1530 and 1559. See also Timothy J. Wengert, *Human Freedom, Christian Righteousness: Philip Melancthon's Exegetical Dispute with Erasmus of Rotterdam* (New York NY: Oxford Univ. Press, 1998), esp. pp. 67-79.



messenger in the course of their lengthy discussion does much to win his good will. But when the course of an argument demands a sharper repudiation of a pernicious doctrine, More does not hesitate to summon the appropriate energy, as here. Mindful of the balance that Christian philosophers and theologians have counseled in affirming both grace and free choice of the will, More puts the contradiction in Luther's position sharply, and thereby adds in this section of the text an important component of his refutation of the heresy that is tempting his guest.

# Thomas More on Conscience And the Authority of the Church

Jennie D. Latta<sup>1</sup>

With the promulgation of the *Pastoral Constitution on the Church in the Modern World, Gaudium et Spes*, and the *Declaration on Religious Freedom, Dignitatis Humanae*, in 1965, and the subsequent publication of Pope Paul VI's *Encyclical on the Regulation of Human Births, Humanae Vitae*, in 1968, in many quarters of the Church an appeal to conscience has come to be heard as a justification for dissent. Thomas More is universally acknowledged either as a fool, or as a martyr, to conscience. How is it then that More understood the relation between a person's conscience and authority? In its first part, this paper draws upon More's *A Dialogue Concerning Heresies* to explore his understanding of the foundations of authority, both ecclesial and secular. In its second part, the paper turns to More's teachings on conscience, drawn from his letter on the education of his children, his account of the first interrogation after his imprisonment, and his *Dialogue Concerning Conscience*. In a third and final section, the paper considers the implications of More's teachings for certain tendencies that have arisen in the Church today.

## I. The Authority of the Catholic Church

*A Dialogue Concerning Heresies* (1529) was written by More at the request of Bishop Cuthbert Tunstall of London. At Bishop Tunstall's pleading, Sir Thomas undertook a defense of certain doctrines of the Catholic Church, such as the veneration of images, prayers to saints, and pilgrimages, in the face of challenges to these practices put forth by certain dissenters.<sup>2</sup> One of the matters in dispute was the dissenters' reliance upon scripture alone (*sola scriptura*) in derogation of the authority of the Church. Thus, to meet these persons on their own ground, More presents an

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<sup>2</sup> See Gerard B. Wegemer and Stephen Smith, Introduction to Thomas More, *Dialogue Concerning Heresies* (New York: Scepter Publishers, Inc., 2006), p. 18.

extended proof of the authority of the Church from Scripture.<sup>3</sup> It is instructive to attend carefully to the development of his argument.

First, More establishes the method he will use. As More's dialogue is between himself and a young man whom he calls the Messenger, who puts to him questions raised by various dissenting Christians, he assumes that he will be able to rely for his argument upon reason and the whole corpus of Scripture, both the Old and the New Testaments. In these, both Catholics and the dissenters are agreed. Their differences lie in the interpretation of Scripture. If his dispute had been with a pagan or a Jew, More acknowledges that he would have had to take a different approach, because their areas of agreement would have been narrower: that between the Christian and the pagan being restricted to reason alone, and that between the Christian and the Jew, to reason and the Hebrew Scriptures.

#### *A. Argument for the Faithfulness of the Church*

More next obtains agreement to the following points. First, the things mentioned in the Gospel as having been spoken by the Lord to Peter and the other apostles were intended not only for them but in some instances for them and their successors, and in other instances for them and for all Christian people.

Next, More asks how the Messenger understands the Lord's statement, "Do such things as they command you to do, but do not do as you see them do."<sup>4</sup> The Messenger asserts that this means that persons are to do as their bishops and prelates command, but only insofar as it is commanded by God in the law. More asserts that more is required. He gives as examples the Samaritan's instruction to the inn keeper to do whatever is required for the welfare of the traveler,<sup>5</sup> and Christ's own order to the people to do whatever the Scribes and Pharisees required, even when they themselves would never do what they demanded.<sup>6</sup> The people are to do what their prelates demand, no matter how difficult, but not what they see them do. The Messenger protests that this interpretation would lay on Christians greater burdens than those of the Pharisees, in direct contrast to the law of liberty proclaimed by Christ.

More responds that the laws of the Church are not so difficult as either the laws of the Pharisees or the laws of Christ himself. For it is harder not to swear at all, as Christ commands in the Sermon on the Mount, than not to swear falsely; it is harder to forbear every angry word, as Jesus enjoins, than not to kill; and it is harder to pray continually, as the Lord directs, than to pray at set times. As further examples of the difficulty of what Christ commands, More cites the Lord's injunction against every idle word;<sup>7</sup> his teaching forbidding divorce;<sup>8</sup> his teaching forbidding polygamy; and his requirement that we suffer every affliction and even death for the sake of our faith. This is the Lord's yoke, which the Lord himself calls "easy." Because these words were spoken as much to the apostles as to those who came after them, and because the apostles suffered in every way possible for the sake of the Gospel, it must be that the ease of Christ's yoke does not consist in bodily ease or the easing of bodily pain. Rather, More asserts, it consists in the sweetness of hope. Even in our pain, we experience the sweetness of heaven. We are not delivered from the laws of Christ or from

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<sup>3</sup> See Thomas More, *Dialogue Concerning Heresies* (New York: Scepter Publishers, Inc., 2006), Pt. I, ch.18 (hereinafter *DCH*).

<sup>4</sup> Mt. 23:3.

<sup>5</sup> Lk. 10:33-35.

<sup>6</sup> Mt. 23:3.

<sup>7</sup> Mt. 12:36-37.

<sup>8</sup> Mt. 19:3-9.

good civil laws to a life of indolence. That would be a complete “pulling of the head out of the yoke.”<sup>9</sup> Rather, both Saint Paul and Saint Peter command obedience to our superiors and rulers in things not forbidden by God.<sup>10</sup>

More then returns to the question whether Christ’s words were meant for the apostles only, for their time, or for all who would come after them; whether some part of Christ’s teachings were meant for the priests and bishops, and another for the whole flock. Specifically, More asks whether, when the Lord said to Peter, “Satan has desired to sift you like wheat, but I have prayed for you that your faith will not fail,”<sup>11</sup> he intended this as a promise of faith only for Peter or for the whole Church.

More answers that it cannot be that the Lord meant these words for Peter only, for Peter’s faith later failed. But from Peter’s first profession of faith, that Christ is God’s son, the Lord made him his universal vicar and, under himself, head of the Church. It is this faith, first professed by Peter, that will never fail in the Church. It never has, even though Peter’s own faith did, because it has always been maintained by Mary, the Mother of the Lord, Our Lady. Everyone else who followed the Lord deserted him or doubted the resurrection, except his Mother. In remembrance of this, More recalls that in the Tenebrae service each year, the Church keeps her candle burning while all others are put out. The promise of the perpetual faith of the Church, thus, was not meant for Peter individually, but as head of the Church.<sup>12</sup>

The Messenger poses still another question: If God does not place a higher value on faith than on charity, how is it that we see that charity, good works, and virtuous living have cooled and declined in the Church to the point of being almost non-existent? More answers that, although it is true that many people are bad, many are good, and these will always be few in relation to the multitude. And it is not entirely the same with faith as it is with charity (contrasting knowledge with action). Always there will be more who believe than who live the Christian faith. Even the most virtuous are sinners and “much more of the multitude will always have the faith...than will have the goodness in way of living.”<sup>13</sup> This is true for two reasons: (1) the perversity of people, who would sooner believe what is right than do it; and (2) the goodness of God, who, no matter how far the people fall from the *practice* of virtue will not allow them to fall from the *knowledge* of virtue, and this not only for the manifestation of his justice (that their own consciences may condemn them), but also as the result of his mercy (that they may always have occasion for amendment). If the faith were gone, and the Church fell into the error of believing vice to be virtue, and idolatry to be right worship, then there would be no norm whatsoever to guide them to anything better. So long as persons are not in error of understanding and faith, they can always, by grace, return to God’s mercy. If faith is gone, however, all is lost, because without faith that Jesus is God’s Son, there would be no Church at all.

### *B. Argument for the Authority of the Church to Interpret Scripture*

More quickly refutes the argument that Christ is perpetually present to the Church only in the Scripture,<sup>14</sup> before turning to the question of the right interpretation of Scripture.<sup>15</sup> First, he

<sup>9</sup> *DCH*, p. 132.

<sup>10</sup> Eph. 6:5, Titus 2:9-3:1, Heb 13:17, 1 Pt. 2:13-21.

<sup>11</sup> Lk. 22:31-32.

<sup>12</sup> *DCH*, p. 134.

<sup>13</sup> *DCH*, p. 136.

<sup>14</sup> *DCH*, Pt. 1, Ch. 20.

<sup>15</sup> *DCH*, Pt. 1, Ch. 21.

asserts that if the Church has not been given the right understanding of Scripture, it is as useless to the Church as a pair of spectacles is to a blind man, because, if there can be no assurance that the Scriptures are being understood correctly, then they can provide no guidance concerning the means of salvation. Next, he asserts, and the Messenger agrees, that if all the faith is contained in Scripture and nowhere else, it would be necessary that the faith be able to be learned altogether in the Scriptures, and that there be no error in understanding it in any of the essential points of faith.<sup>16</sup> This may be assured only by good luck, natural reason, or supernatural grace, because there is no other means of assurance. More recalls that the Church must be in the world continually or else Christ could not be with it continually as he promised. Further, the Church without faith is impossible, for the Church is precisely the congregation of people gathered into the faith of Christ. Faith that Jesus is the Son of God is that which distinguishes Christians from heathens, just as reason distinguishes human beings from other animals. If the Church is always and continual, and if it cannot be without faith, and if faith is only gotten in Scripture and without error, which must be understood rightly either by luck or by reason or by grace, it follows that, by one or other of these means, the Church of Christ always has and never misses the right understanding of Scripture in those things that are essential for salvation.<sup>17</sup>

So then, by which of the three ways does the Church have the right understanding of Scripture in what is essential to the faith? More says that it cannot be by luck, for then it would be as possible to have it as not, and this is impossible, if, as we have seen, the faith of the Church is continual and without interruption. More then reserves the question of whether reason provides an assurance of the right understanding of Scripture, and turns to consider whether supernatural grace provides this assurance. He recalls that the Lord said that the Holy Spirit would lead the apostles into all truth.<sup>18</sup> This is so not because the Holy Spirit would write all truth, or tell all truth, but because the Holy Spirit would, by secret inspiration, lead them into all truth. It follows, therefore, that there is another authority in the Church besides Scripture, the Holy Spirit.<sup>19</sup>

More and the Messenger are agreed that the Lord has given his Church the right understanding of Scripture insofar as it pertains to what is essential for salvation.<sup>20</sup> Earlier the Messenger had attempted to demonstrate from Scripture that the veneration of images and prayers to saints are condemned by Scripture, and More had responded that we must accept the interpretation placed upon Scripture by the Church and holy theologians of the Church. Now the Messenger has proved this point for himself, to his own astonishment. If the Church teaches that Scripture supports the veneration of images and invocation of Saints, then the Church's interpretation is to be believed. It is the Church that judges Scripture, not Scripture that judges the Church. More asserts, then, that two points are true and intelligible to any Christian, as true as any axioms of Euclid's geometry:

First, that Christ's church cannot err in any such article as God wills that we, upon pain of loss of heaven, believe; and second, there is no text of Scripture, rightly understood, by which Christian people are commanded to do something which the Church believes they can legitimately leave not done; nor any text whereby we are forbidden anything which the Church believes that one can legitimately do.<sup>21</sup>

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<sup>16</sup> *DCH*, p. 144.

<sup>17</sup> *DCH*, p. 145.

<sup>18</sup> Jn. 16:13.

<sup>19</sup> *DCH*, p. 146.

<sup>20</sup> *DCH*, p. 147.

<sup>21</sup> *DCH*, p. 148.

In summary, More asserts that we may rely upon the Church to tell us that which we must believe and that which we must do; that is to say, the Church cannot err in essential matters of faith and morals. To be sure, More's argument is a theological argument. It is an argument from Scripture in response to one who accepts the authority of Scripture. It is not intended to persuade those persons who do not start from this point.

Having established that supernatural grace provides one of the assurances of the authority of the Church to interpret Scripture rightly, More returns to the question set aside earlier, the question of whether reason, too, plays a role in the interpretation of Scripture. The Messenger denies that the interpretations of the Fathers or any of the liberal arts except grammar can be relied upon in the understanding of Scripture, because either the commentators agree with Scripture, in which case they are to be believed on the authority of the text, or they disagree with Scripture, in which case they are to be believed not at all. Reason, the Messenger asserts, is the enemy of faith and contradicts it on every point.<sup>22</sup>

More responds that the old commentators tell the same tale as the Scripture, but they tell it more plainly. As for reason, it cannot contradict the truths of faith because it would be unreasonable for it to do so. Reason looks upon the drawing of iron to a magnet with pleasure, even though reason cannot understand the cause of it. It is as plainly against the rule of reason that iron move in any direction other than downward or that physical things be drawn to another without touching it, as is any article of faith. To say that the reason lies in some hidden property of the magnet is the same as saying, "I do not know why it happens." Yet, reason believes that it will happen each time, in the same way, and will not fight against this conclusion, even though all rules of reason say that it cannot be.<sup>23</sup>

The Messenger asserts that this is because it is seen with the eyes, and More asks if the eyes are more readily to be believed than the mind. Surely, he says, many instances can be given in which the eyes are deceived. More then gives the following demonstration of the reliability of reason:

*More:* How do you know that the Lord was born of a virgin?

*Messenger:* By Scripture.

*More:* How do you know that you should believe Scripture?

*Messenger:* By faith.

*More:* What does faith tell you on this?

*Messenger:* That Holy Scripture is true things written by the secret teaching of God.

*More:* How do you know that you can believe God?

*Messenger:* That is absurd! Every person knows that.

*More:* That is true, but does any horse or ass know it? If no brute animal can know that God can be believed, and every person can know it, what is it that accounts for this difference?

*Messenger:* Reason.<sup>24</sup>

While grace may be the primary means in assuring the authority of the Church's interpretation of Scripture, it is nevertheless the case that reason, too, is an instrument for that purpose. As More says, "God helps us to eat, too, but not without a mouth."<sup>25</sup> The Lutherans are mad, he declares, in taking away all branches of learning save Scripture alone. The other branches of learning are to be

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<sup>22</sup> DCH, p. 156.

<sup>23</sup> DCH, p. 157.

<sup>24</sup> DCH, pp. 158-59, dramatic paraphrase mine.

<sup>25</sup> DCH, p. 159.

brought to the study of Scripture, and thus, to the service of theology. It is pride, not reason, that is the enemy of faith.

## *II. The Authority of the State*

*A Dialogue Concerning Heresies* deals only in passing with civil authority. Specifically, More supports the competency of the civil authority to punish heretics by any method, including death, and to defend its people against “the Turks and infidels.”<sup>26</sup> More supports the right to punish heretics and infidels as a defensive response to the violence of Lutherans and Muslims. He claims that so long as they refrained from violence, there was little violence done to them.<sup>27</sup> Nevertheless, More acknowledges that if violence and coercion were renounced by both Christians and Muslims, the resulting religious liberty would invariably produce an increase in the Christian faith.<sup>28</sup> As Muslims do not permit the teaching of the Christian faith, however, those in Christian countries who would not “punish and destroy” the infidels among the Christian people, are plainly enemies of Christ.<sup>29</sup> More distinguishes the case of heretics from that of infidels. Heretics, he claims, are not to be tolerated, and may be suppressed by the civil authority because they have first resorted to violence.<sup>30</sup> He recites that in England, it was Henry V and his nobles who responded to the heretical activities of Lord Cobham and his followers by passing laws providing for the execution of heretics. More points out that it is not the clergy who condemn heretics to death. Rather, Church law provides for the return of the heretic after a first offense through a process of recantation, repudiation, and penance. After a second offense, Church law provides for excommunication, and the giving of notice to the secular authorities. More claims that the ecclesial authority does not hand the heretic over to the civil authority, but merely leaves him to that authority, as one separated from the Christian flock, and thus no longer entitled to its protection.<sup>31</sup> Further, he notes, that while the Church will not embrace him in his lifetime, yet at his death, the Church still permits the heretic to be absolved and taken back. It is, rather, the civil authority, says More, that executes heretics, for its own purpose: the protection of its citizens from the corruption of error.<sup>32</sup>

## *III. Conscience*

Let us turn now to a consideration of Thomas More’s teachings on conscience. As Professors Wegemer and Smith have now made widely known through their *Thomas More Source Book*,<sup>33</sup> Thomas More is the first writer known to use the English word “integrity.”<sup>34</sup> He is famous for the

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<sup>26</sup> *DCH*, p. 459.

<sup>27</sup> *DCH*, p. 461.

<sup>28</sup> *DCH*, p. 462.

<sup>29</sup> *DCH*, p. 465.

<sup>30</sup> *DCH*, p. 461.

<sup>31</sup> *DCH*, p. 464.

<sup>32</sup> *DCH*, p. 465. More goes on to refute those who reject all use of police or military power, “out of either a lofty pretended pity or a feigned regard for the counsels of Christ.” *DCH*, p. 465. Space does not permit the further consideration of this challenging assertion, or the correction that this recent edition of More’s writings brings to a widely popular understanding of the relationship between the Church and the State concerning the burning of heretics.

<sup>33</sup> Gerard B. Wegemer and Stephen W. Smith, eds., *A Thomas More Source Book* (Washington, D.C.: Catholic University of America Press, 2004) (hereinafter *TMSB*).

<sup>34</sup> *TMSB*, p. xv, note 13; p. 212.

example of integrity he gave at the end of his life. What is perhaps not as well known is that More's response to King Henry's demands was not an accident. More wrote often and intentionally about the need to cultivate the conscience and develop integrity. For example, More insisted that his children's teachers focus on the development of the consciences of their young charges. More writes:

The whole fruit of their [educational] endeavors should consist in the testimony of God and a good conscience. Thus they will be inwardly calm and at peace and neither stirred by praise of flatterers nor stung by the follies of unlearned mockers of learning.<sup>35</sup>

More thus names right conscience as one of two objectives of education, the other being the understanding of Scripture. More understood conscience as an exercise of practical reason, wherein the object of the intellect is to conform one's will and behavior to established principles and laws recognized as true and just.<sup>36</sup>

After his imprisonment, More wrote an account of his first interrogation at the Archbishop of Canterbury's palace at Lambeth. Two things were required of him: to swear the oath required by the Act of Supremacy of 1534, by which Henry was declared "the only supreme head on earth of the Church in England," and to swear a second oath required by the Act of Succession of 1533, by which Elizabeth, daughter of Anne Boleyn, was declared the true successor to the Crown and Mary, daughter of Catherine of Aragon, was declared a bastard. After asking first to be shown the required oaths, More refused to swear the oath of supremacy. He stated that his purpose was not to condemn the conscience of any other man, but that his conscience prevented him from swearing the oath upon pain of damnation. He offered to swear to the succession and to swear that his conscience prevented his taking the oath of supremacy, but his offer was refused.

More's interrogators tried to persuade him by telling him that he was the first ever to refuse the oath, which would offend the King. They took him out to parade before him the remaining priests in London, all of whom had sworn the oath. Then they brought him in again and asked him to swear. More again refused and refused to give his reasons, for fear he would offend the King, offering instead to suffer whatever consequences would come. The interrogators took this for obstinacy and stubbornness, to which More responded by offering, if commanded by his King, to give his reasons in writing. Further he said that if anyone were able to persuade him such that his conscience was satisfied, he would swear the oath. What More sought was immunity from prosecution, but this was refused.

The Archbishop of Canterbury, Thomas Cranmer countered that if More did not condemn anyone who took the oath, then his mind must not be firm. "My Lord Canterbury," More writes,

taking hold upon that that I said, that I condemned not the conscience of them that sware, said unto me that it appeared well that I did not take it for a very sure thing and a certain that I might not lawfully swear it, but rather as a thing uncertain and doubtful. But then (said my Lord) you know for a certainty and a thing certain without doubt that you be bounden to obey your sovereign lord your King. And therefore are ye bounden to leave off the doubt of your unsure conscience in refusing the oath, and take the sure way of obeying your prince, and swear it.<sup>37</sup>

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<sup>35</sup> *Selected Letters*, p. 105, quoted in *TMSB*, p. 212.

<sup>36</sup> See Wegemer, Introduction to *DCH*, p. xxiii.

<sup>37</sup> *TMSB*, p. 314.



Cranmer hoped in this way to interpose the authority of the King over More's conscience. More answered nothing, but thought to himself that although in the case this was something he could not do, a simple appeal to authority would answer many perplexing problems. In this matter, however, More believed that he was bound not to obey his King.

To this, the Abbot of Westminster, William Benson, responded that More should be concerned that his mind was in error given all the other persons who had freely sworn the oath. More should simply change his conscience. More replied that if it were only him against all of Parliament, he would be afraid to rely only upon himself. As things stood, however, More was not alone; he had the support of the general counsel of Christendom. More offered again to swear to the succession if he could first see the oath required of him in writing, so that he might "neither be forsworn or swear against [his] conscience."<sup>38</sup> This was refused and the interrogation ended.

Yet another attempt was made to persuade More to be reasonable and swear the oath to prevent his death. This attempt was made through his daughter, Margaret, at the behest of his friend, Lord Chancellor Thomas Audley. As a result, we have the work known as *The Dialogue on Conscience*, in which More gives additional instructions on the role and workings of the conscience. He responds to two fables offered for his consideration by Lord Audley through a letter written by his step-daughter, Alice Alington, to his eldest daughter, Margaret. The first concerns a country full of fools, who prove themselves wiser than the wise who think themselves able to avoid trouble by going underground, and the second is a tale about a lion, an ass, and a wolf, in which the soul of the ass is lost as the result of his scrupulosity, while the sins of the lion and the wolf are forgiven as the result of the lion's sovereign nature and the wolf's elastic conscience.<sup>39</sup> More claims not to be able to fully understand Lord Audley's intent in telling either of the stories, but is clear enough that he meant by the scrupulous ass More himself.

More refuses either to change his conscience in order to join the company of those who have taken the oath, or to take the oath in order to please his daughter. Instead, he throws himself upon the mercy of the Lord, who has never failed him, hoping that the Lord will either maintain the King's leniency, which up to that point had required nothing more than the loss of his liberty (which More counts as a spiritual gain), or else strengthen him to endure the loss of goods, lands, and life rather than swear against his conscience.<sup>40</sup>

The following principles concerning the conscience may be gleaned from More's teachings. First, the conscience must be well-informed. More recounts several times that his conscience had only become settled after he had given the matter extended thought and study. Second, the civil laws may be unlawful, and if they are, they must not be obeyed. Third, in matters of faith and morals that have not been settled by the highest authority of the Church, Christians in good standing may differ without damage to their souls. The example he gives is the question of the Immaculate Conception, about which Sts. Bernard and Anselm took opposing views. Fourth, once a matter of faith or morals has been settled by the Catholic Church in General Council, it may not be treated as an open question. This is so precisely because of the Lord's promise that He would remain continually with His Church to preserve it from error.<sup>41</sup> Fifth, particular laws made in any part of the Christian world do not bind the consciences of Christians who believe them to be

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<sup>38</sup> *TMSB*, p. 314.

<sup>39</sup> *TMSB*, pp. 317-18.

<sup>40</sup> *TMSB*, p. 334.

<sup>41</sup> *TMSB*, p. 329.

unlawful unless they are announced by a General Council of the Church or by “a general faith grown by a universal working of God throughout all of Christian nations.”<sup>42</sup>

Before going further, let us summarize what has been determined thus far. Two comments are in order, one about More’s understanding of authority and the second about More’s understanding of conscience. First, there can be no doubt about More’s understanding and respect for civil authority. Not only did More devote the better part of his life to public service, but even in the face of his arrest, he preferred suffering and loss to his own family and person to making any public statement that would bring opprobrium upon his King. To the very last, he sought to avoid any direct conflict with the King and refused to publish his reasons for not taking the oath requested of him. Further, he respected a distinction between the competencies of the civil and ecclesial authorities. He acknowledged the superior competence of the ecclesial authority in matters of faith and morals, while at the same time defending the unique competence of the civil authority in matters extending to corporal and capital punishment.

Second, concerning conscience, it is clear that More did not privilege conscience as a final and unassailable arbiter. He allows that his conscience might be changed upon its being persuaded by further study or by the teaching of the appropriate authority. In the case of the requested oath of supremacy, however, the dictate of his conscience was confirmed by the teaching of the Church, an authority he recognized as superior to the civil authority in this question of the faith.

#### *IV. Implications for the Church Today*

Two teachings of Vatican Council II specially draw our attention to the role of conscience. The first is *The Pastoral Constitution on the Church in the Modern World, Gaudium et Spes*. Note that this document was intended to present the Church’s beliefs and practices to the world, not primarily to Catholics or other Christians. In other words, its teachings on conscience are directed specifically to those not bound by the promises of baptism. The Church teaches:

Deep within his conscience man discovers a law which he has not laid upon himself but which he must obey. Its voice, ever calling him to love and to do what is good and to avoid evil, tells him inwardly at the right moment: do this, shun that. For man has in his heart a law inscribed by God. His dignity lies in observing this law, and by it he will be judged. His conscience is man’s most secret core, and his sanctuary. There he is alone with God whose voice echoes in his depths. By conscience, in a wonderful way, that law is made known which is fulfilled in the love of God and of one’s neighbor. Through loyalty to conscience Christians are joined to other men in the search for truth and for the right solution to so many moral problems which arise both in the life of individuals and from social relationships. Hence, the more a correct conscience prevails, the more do persons and groups turn aside from blind choice and try to be guided by the objective standards of moral conduct. Yet it often happens that conscience goes astray through ignorance which it is unable to avoid, without thereby losing its dignity. This cannot be said of the man who takes little trouble to find out what is true and good, or when conscience is by degrees almost blinded by the habit of committing sin.<sup>43</sup>

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<sup>42</sup> *TMSB*, p. 329.

<sup>43</sup> Vatican Council II, *The Church in the Modern World (Gaudium et Spes)* (December 7, 1965), § 16 (citations omitted), available in *Vatican Council II: The Conciliar and Post-Conciliar Documents*, Austin Flannery, ed. (Northport, New York: Costello Publishing Company, 1987) (hereafter Flannery), pp. 916-17. Portions of this passage were incorporated into the universal Catechism of the Catholic Church at § 1776.

Of special note is the claim that it is in fidelity to conscience that Christians are joined with the rest of humankind in the search for truth, and further, that even for those not bound by the promises of baptism, “the more a correct conscience prevails, the more do persons and groups turn aside from blind choice and try to be guided by the objective standards of moral conduct.” The Constitution makes the same distinction Thomas More did between arguments that are intended to persuade those who are not Christian, and those statements that are binding upon the consciences of Christians, being precisely those persons who acknowledge Jesus as Lord, and thereby submit to the authority of the Church. Christians, unlike other persons, are bound to accept the authoritative teachings of the Church and to conform their consciences to them.<sup>44</sup> Even so, the consciences of all persons may err through invincible ignorance, or as the result of indifference to the true and the good, or through habitual sin.

The second document from the Second Vatican Council that draws our attention to the role of conscience is the *Declaration on Religious Liberty, Dignitatis Humanae*. This document was issued together with *Gaudium et Spes* at the end of the Council and was the one that occasioned the most discussion and debate. In it, the Church recognizes the right of all persons to be free from the coercion of civil authority in matters of conscience and religious practice. Recall that More himself was ready to grant this liberty provided that the Christian dissenters and Muslims refrained from the use of violence to draw Catholic Christians to their cause.<sup>45</sup> *Dignitatis Humanae* affirms both the fundamental liberal tenant of the freedom of the person, and, at the same time, the fundamental natural law tenant that all persons seek the truth.<sup>46</sup> It announces the right of all persons to be free from the compulsion of the civil authorities in matters touching on religious faith while at the same time leaving intact “the traditional catholic teaching on moral obligation of individuals and societies toward true religion and the one church of Christ.”<sup>47</sup>

This, at last, brings us to the teaching, *Humanae Vitae*,<sup>48</sup> the encyclical letter on the regulation of human births of Pope Paul VI, which hit many of those in the Catholic Church, and more of those outside it, as hopelessly out of touch with the modern world. The ensuing public dissent among Catholic theologians of good standing was unprecedented, and the subsequent private disregard among the North Atlantic Catholic laity remains almost unmitigated to the present day. It has become commonplace for Catholic pastors to avoid this teaching altogether or to announce a pastoral “solution” based upon an erroneous teaching concerning conscience, which privileges the subjective experience of the person at the expense of the authority of the Church to announce objective moral norms.

It is not the case that the human conscience is the final arbiter in matters of faith and morals. This has never been the teaching of the Catholic Church. Rather, as was made explicit by the early

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<sup>44</sup> See John Paul II’s *The Splendor of Truth (Veritatis Splendor)* (St. Paul Books and Media, 1993), § 64 (“[F]reedom of conscience is never freedom ‘from’ the truth but always and only freedom ‘in’ the truth . . . [T]he Magisterium does not bring to the Christian conscience truths which are extraneous to it; rather it brings to light the truths which it ought already to possess.”).

<sup>45</sup> See *DCH*, p. 465, and text accompanying footnote 32.

<sup>46</sup> See Vatican Council II, *Declaration on Religious Liberty (Dignitatis Humanae)* (December 7, 1965), § 2, Flannery, p. 801 (“It is in accordance with their dignity that all men, because they are persons, that is, beings endowed with reason and free will and therefore bearing personal responsibility, are impelled by their nature and bound by moral obligation to seek the truth, especially religious truth.”).

<sup>47</sup> Hermínio Rico, *John Paul II and the Legacy of Dignitatis Humanae* (Washington, D.C. Georgetown University Press, 2002), p. 77.

<sup>48</sup> Paul VI, *On the Regulation of Human Births (Humanae Vitae)* (July 25, 1968) available at [http://www.vatican.va/holy\\_father/paul\\_vi/encyclicals/documents/hf\\_p-vi\\_enc\\_25071968\\_humanae-vitae\\_en.html](http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae_en.html).

twentieth century phenomenologist, Max Scheler, conscience, which may err, must be distinguished from moral insight, which may not.<sup>49</sup> Indeed, he says, “If ‘conscience’ becomes an apparent substitute for moral insight, the principle of ‘freedom of conscience’ must become the principle of ‘anarchy in all moral questions.’”<sup>50</sup> Conscience, says Scheler, is but one of many subjective sources of moral insight, which include principles of authority and the contents of tradition, all of which are, or should be, mutually correcting. Each of them is subordinate, however, to the moment of insight itself.<sup>51</sup> How else are we to explain the phenomenon of which we are all familiar, of discovering that we have been sincere, but nonetheless, sincerely wrong?

Scheler, of course, speaks as a philosopher, not as a theologian. For Christians, bound by the promises of baptism, certain matters declared by the authority of the Church must be believed and lived. While there is no specific list, in addition to matters of faith, certain matters of morals constitute what Pope Benedict XVI calls “non-negotiable” values such as “respect for human life, its defense from conception to natural death, the family built upon marriage between a man and a woman, the freedom to educate one’s children, and the promotion of the common good in all its forms.”<sup>52</sup> The American bishops, in their three recent and related statements—Happy Are Those Called to His Supper, Ministry to Persons with a Homosexual Inclination, and Married Love and the Gift of Life—reiterate certain teachings of the Catholic Church concerning the moral lives of Christians. Specifically, they reiterate the teaching, based upon the Sixth Commandment, that engaging in sexual activity outside the bonds of a valid marriage is a serious violation of the law of love of God and of neighbor. And further, they reiterate the teaching, based upon the Fourth Commandment, that serious disobedience to proper authority likewise involves grave matter. These teachings of the American bishops, unlike the teachings of *Gaudium et Spes*, are directed to American Catholic Christians, but reiterate teachings of the universal Church, by which Catholic Christians, but not all persons, should reasonably expect to be bound as the result of their baptismal promises.

Does this mean that the teachings of the Church are merely cultic - not worthy of the notice or consideration of persons who are not Catholic? No. The teachings of the Catholic Church are grounded in reason, for they are based on the revelation of the God who is the author of reason. As Pope Benedict XVI recently proclaimed, “[N]ot to act in accordance with reason is contrary to God’s nature.”<sup>53</sup> The Church believes that the teachings revealed to it are not the result of the mere whim of a celestial despot, but are the loving regulations of a beneficent Creator, whose desire is for the happiness and ultimate salvation of all persons.<sup>54</sup>

How then and when is it ever appropriate to dissent from a teaching of the Church? Sir Thomas More tells us. It is appropriate and prudent to dissent from a particular teaching, promulgated in

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<sup>49</sup> Max Scheler, *Formalism in Ethics and Non-Formal Ethics of Values* (Evanston: Northwestern University Press, 1973), p. 321 (hereinafter *FENEV*). Although Scheler eventually abandoned his Catholic faith, here he presents an authentic teaching of the Catholic Church. See CCC, §§ 1780 and 1790.

<sup>50</sup> *FENEV*, p. 323.

<sup>51</sup> *FENEV*, p. 322-23.

<sup>52</sup> Benedict XVI, On the Eucharist as the Source and Summit of the Church’s Life and Mission (*Sacramentum Caritatis*) 83, available at [http://www.vatican.va/holy\\_father/benedict\\_xvi/apost\\_exhortations/documents/hf\\_ben-xvi\\_exh\\_20070222\\_sacramentum-caritatis\\_en.html](http://www.vatican.va/holy_father/benedict_xvi/apost_exhortations/documents/hf_ben-xvi_exh_20070222_sacramentum-caritatis_en.html), accessed on September 28, 2007.

<sup>53</sup> Emperor Manuel II Paleologus (1391), quoted with approval by Benedict XVI, Lecture, “Faith, Reason and the University: Memories and Reflections,” given at Magna Aula University of Regensburg (September 12, 2006), [http://www.vatican.va/holy\\_father/benedict\\_xvi/speeches/2006/september/documents/hf\\_ben-xvi\\_spe\\_20060912\\_university-regensburg\\_en.html](http://www.vatican.va/holy_father/benedict_xvi/speeches/2006/september/documents/hf_ben-xvi_spe_20060912_university-regensburg_en.html), accessed on September 29, 2007.

<sup>54</sup> Christians worship the God “who wills not the death of the sinner, but rather that he be converted and live.” Serran Prayer for Vocations.

some part of Christendom, when conscience dictates that result. Just as the teaching on the Immaculate Conception prior to its formal dogmatic declaration was open to two opposing views so any other teaching not proposed for the consent of the faithful by the universal Church may be refused, and indeed must be refused if that is what one's conscience instructs after careful study and formation. Teachings that have been solemnly, i.e., extraordinarily, proclaimed by the Church in General Council or by a Pope when speaking *ex cathedra*, or any definitive teaching of the ordinary and universal Magisterium, however, must be held by Catholic Christians in proper submission to the authority of the Church, which is the authority of Christ.<sup>55</sup> One of the errors of some teachers of morality today, however well-intentioned, is to draw upon certain phrases in the teachings concerning conscience found in *Gaudium et Spes* and *Dignitatis Humanae* as if they were intended for the Christian faithful, and not for the wider world. The Christian faithful are, by definition, those who in the exercise of their own free will have accepted the sovereignty of Christ and thus the authority of the Church in matters of faith and morals. This is not mere blind obedience, but a recognition of the competence of the Church to legislate for the good of all Christians.

#### V. Conclusion

So then was Sir Thomas More merely the fool that he was fond of recalling that his name implied?<sup>56</sup> Earlier, I mentioned the work of the philosopher, Max Scheler. In addition to his work on the phenomenology of conscience, Scheler is probably best known for reintroducing the concept of value into ethical dialogue as a correction to Immanuel Kant's merely formal, deontological ethics. Scheler asserts that there is an objective hierarchy of values, and that moral choices are best understood as the realization of these values. According to Scheler, values are irreducible, basic phenomena of emotive intuition.<sup>57</sup> In Scheler's hierarchy, life is not the highest value. If it were, then it would not be possible to explain Thomas More's stubbornness in the face of the entreaties of his friends and family, and the command of his King. More would instead be remembered as the consummate fool, deserving of our pity but not our respect. Rather than life being the ultimate value, however, it is the sacred that Scheler puts in highest place.<sup>58</sup> It is in our reverence for the divine that we realize the highest value because the human person is not merely a human being, i.e., an earth creature. Instead, the human person is the place of convergence of the immanent and the transcendent. In theological terms, the human person is made of the dust of the earth, but in the image and likeness of God. His dignity and integrity demand the recognition of this fact. For this reason, Thomas More, who introduced the concept of integrity into the English language, has been recognized and declared a saint of the universal Church, worthy of our veneration and emulation. As he claimed, he died the King's good servant, and God's first.

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<sup>55</sup> Vatican II, Constitution on the Church (*Lumen Gentium*) (November 21, 1964), § 25, Flannery, pp. 379-80. [http://www.vatican.va/holy\\_father/benedict\\_xvi/apost\\_exhortations/documents/hf\\_ben-xvi\\_exh\\_20070222\\_sacramentum-caritatis\\_en.html](http://www.vatican.va/holy_father/benedict_xvi/apost_exhortations/documents/hf_ben-xvi_exh_20070222_sacramentum-caritatis_en.html) (accessed on September 29, 2007).

<sup>56</sup> See *Dialogue on Conscience*, in *TMSB*, p. 323.

<sup>57</sup> *FENEV*, p. 265.

<sup>58</sup> See, e.g., *FENEV*, p. 107.

## Judgment in Thomas More's *Dialogue Concerning Heresies*

Jeffrey S. Lehman

The occasion for Thomas More's *Dialogue Concerning Heresies* is a crisis of judgment. A distinguished friend has sent a messenger to ask More about "matters that are actually very certain and beyond doubt, but that have, nevertheless, recently been called into question by wicked people" (39).<sup>1</sup> In essence, More's friend wants to know More's own judgment on these matters, matters of great importance throughout Christendom. As is evident from the citation above, More has a definite position on the matters in question; but the fact that his friend has sent a messenger to convey More's response introduces further complications. "[O]ne business begets and brings forth another" (39). The first business of receiving the messenger and engaging him in dialogue is only a beginning. Upon reflection, More becomes convinced that he must take on the second business of writing a faithful account of his conversation with the messenger to send along to his friend. Finally, this second business gives rise to the third, namely, publishing the book himself.

The exact reasons that led from one business to the next need not concern us at present. It is enough to make two observations. First, the ultimate reason for the messenger's visit is to determine More's judgment on important matters affecting all Christendom. As the dialogue unfolds, we see that there has come to be a crisis of judgment throughout the Christian world on such practices as praying to saints, venerating images, and going on pilgrimages. According to More, these practices are "actually very certain and beyond doubt"; but disagreement on these and other matters threatens to destroy the unity of Christendom. Second, the original request from More's friend leads naturally to the string of judgments More outlines in the opening pages of the dialogue. Indeed, as More relates the situation, the very fact that we have a published dialogue to read is closely connected to the original request of his friend, one business of naturally begetting another.

As the dialogue unfolds, we find that judgment is foundational to the questions at issue. Should one trust one's own judgment when it is at variance with the judgment of the Church? How does anyone judge anything correctly? Can judgment be educated or trained? Throughout the dialogue More the author puts the character and judgments of the interlocutors on display. By comparing the character and judgments of these interlocutors, we are challenged to sharpen our own judgment.

To see what I mean, let's begin by considering the character More. Of course, we as readers start off inclined to trust More's judgment since the messenger has come seeking that very thing. Beyond this, though, the dialogue provides other reasons to trust More's judgment. Upon hearing the initial remarks of the messenger and considering how "numerous" and "weighty" they were, More kindly dismisses the messenger and asks him to return the following day. In the meantime,

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<sup>1</sup> All citations are taken from St. Thomas More, *Dialogue Concerning Heresies*, ed. Mary Gottschalk (NY: Scepter, 2006).

More prepares for their exchange:

I began to put together in my mind the whole purport, as my memory would serve me, of all that he had presented. And because I wanted it easier to look at, so that I could the more fully and effectively respond to it, leaving no part unanswered, I briefly committed it to writing, in the order in which he presented it... (55).

The care with which More approaches his upcoming dialogue with the messenger is some indication of how concerned he is with making sound judgments.

A similar sort of care is reflected in the remarks made by the author More in his introduction to the dialogue, where he speaks of submitting his written work to the judgment of others: “I yet would not presume to print and publish any book, about anything having to do with our faith, unless men more learned than myself should consider it either profitable or, at least, harmless” (42). Here More introduces a principle regarding judgment, one that will be central to his understanding of right judgment throughout the dialogue. For More, one ought to submit one’s own judgment to that of other “virtuous and intelligent men” (42). But what is one to do where such men disagree? In these cases, “since it would not have become me to be judge over the judgment of those whom I had chosen and taken for my judges, ... I had no choice but to go along with the majority” (42–43). This principle of judgment, established by the author in his introduction, is dramatized in the character More throughout the dialogue. In fact, establishing the authority of the Church as fully trustworthy on all essential points of the Christian faith is arguably the foundation for More’s entire case on behalf of praying to saints, venerating images, and going on pilgrimages (see, e.g., I.18).

Alongside the authority of the Church, though, More makes room for other guides to private judgment as well. When responding to the messenger’s insistence on studying Scripture alone, More contends that the safest course is “to use, with virtue and prayer, first the judgment of natural reason, for which secular literature is very helpful; secondly, the commentaries of holy theologians of the Church; and thirdly, above all else, the articles of the Catholic faith received and believed throughout the church of Christ” (149). Though the ultimate authority in matters of faith is always the teachings of the Church, the diligent student of Scripture will also avail himself of the writings of great theologians as well as the greatest secular authors throughout the ages. For More, then, faith and reason are not at odds. “And therefore let reason be well guided, for assuredly,” More says, “faith never goes without her” (159). Consider the following passage, wherein More elaborates the point showing how philosophy, poetry, and all the liberal arts have a critical part to play—not only in the study of Scripture, but also in the formation of judgment:

Now, in the study of Scripture ... albeit I do not deny that grace and God’s special help are the big thing here, God does nevertheless use an instrument for that purpose our reason.... And just as the hand becomes more nimble by the practicing of some feats, and the legs and feet the more swift and sure by habitual walking and running, and the whole body the more wieldy and healthy by some kind of exercise, so too there is no doubt that by study, effort, and exercise in logic, philosophy, and the other liberal arts, reason is strengthened and invigorated, and judgment—both in them and also in orators, laws, and historical writings—much matured. And although poetry is by many people taken for nothing but flowery words, it yet much helps the judgment and, among other things, makes one well equipped with one particular thing without which all learning is half lame... a good mother wit. (159–60)

According to More, philosophy, poetry, logic, and the other liberal arts in various ways contribute to the growth and maturation of judgment. So in addition to the accountability one has by submitting one's private judgment to the teachings of the Church, More also advocates the study, effort, and exercise in philosophy, poetry, and the liberal arts as means of strengthening and sharpening one's judgment. And just as it is evident throughout the dialogue that More submits his own judgment to the authority of the Church, so also it is clear that his judgment has been strengthened and sharpened by the kind of study, effort, and exercise he advocates.

By way of contrast<sup>2</sup>, the messenger seems all too ready to do away with the aids to judgment More advocates. He declares that philosophy is the "mother of heresies" (153) and reason itself is a "great enemy of faith" (156). Furthermore, in his defense of Scripture the messenger disregards the authority of the Church. In criticizing the messenger's position, More argues, "whereas God would have the Church be your judge, you would now be judge over the Church" (199). Apart from the safeguard of the Church's authority and the strengthening and sharpening influence of philosophy, poetry, and the liberal arts, the messenger's judgment is very ill-equipped to handle the complexity and gravity of the questions under discussion. Regrettably, his judgment (at least initially) bears striking similarities to that of Luther, who proudly trusts his own interpretations over those of the Church (410 ff.).

The dramatic action of the dialogue is, among other things, the development of the messenger's judgment. He comes to see, as More pointed out at the beginning, that these matters are "actually very certain and beyond doubt." As the messenger is exposed to the dialectical exchange with More, his judgment is sharpened and strengthened. The development is gradual, and there are certainly new obstacles along the way (for instance, in Part Three when the messenger returns from university after having lost a debate); but overall the messenger comes to see the wisdom of More's decision in submitting his judgment to that of the Church as well as More's use of logic and the liberal arts to strengthen his judgment and defend his positions.

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<sup>2</sup> In what follows, I am drawing attention to the central flaw More intends to display in the character of the messenger. Apart from his judgment, the messenger appears to be a rather likeable fellow. He is a lively interlocutor—bright, humorous, at times very convincing.



## Thomas More's Veneration of Images, Praying to Saints and Going on Pilgrimages

Frank Mitjans

In the modern English edition of Thomas More's 1529 dialogue, in the front matter the "NOTE ON THE TITLE" begins, "A dialogue of Sir Thomas More, knight:.... Wherein be treated divers matters / as of the veneration & worship of images & relics / praying to saints & going on pilgrimage" (36).<sup>1</sup> While the original and lengthy title outlines other topics of the Dialogue, this essay will examine the "veneration & worship of images" and the "praying to saints & going on pilgrimage."

Reading the Dialogue one gets the impression that Thomas More was quite detached from his subject. He seems much more engaged with other topics discussed in the *Dialogue*; for instance, he is much more forceful in speaking against Tyndale's translation of the New Testament because Tyndale rejected the words coined by Tradition such as "Church," "priests," and "charity." Of course, "congregation," "elders," and "love" are accurate translations of the Greek words but More pointed out that they do not convey the meaning given by the Church from the beginning (328-33). In contrast, he seems aloof in speaking of saints, images, and pilgrimages. He defends the practice simply saying that it is the practice of the Catholic Church since time immemorial, and that, according to the words of Our Lord, the Church cannot err. In fact, in the *Dialogue* the messenger reports a number of abuses, and More grants that perhaps there are abuses but argues that there are relatively few and that they do not invalidate the practice of the Church.

We could even think that he defended the practice because he had been asked to do so by the bishop of London, for he did not show personal commitment to it.

When considering whether there are miracles that support the advantages of going on pilgrimages or venerating images, he, in his usual good humor, describes the miracle of the couple from his own previous parish, St Stephen's Wallbrook, who had a child after living together.

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<sup>1</sup> All citations are taken from St. Thomas More, *Dialogue Concerning Heresies*, ed. Mary Gottschalk (NY: Scepter, 2006).

Indeed, marveling at the everyday miracle of conceiving a new life may show a stronger, more mature and enlightened faith, but it does not show especial devotion or attraction towards images, saints, and pilgrimages.

In his letters as well, More does not show such devotion. We have for instance the letter of 1517 or 1518 to John Fisher in which he describes his arrival to the Court of Henry VIII. In the letter, Thomas More sounds quite flippant if not disrespectful of images and of devotion to Our Lady, he wrote of “the London wives who, as they pray before the image of the Virgin Mother of God which stands near the Tower, gaze upon it so fixedly that they imagine it smiles upon them.” And, though he extend the simile to signs of favor from the King, he declares that he is not “so despondent as to imagining” such smiles.<sup>2</sup>

Another example of showing lack of devotion is the transformation of the Family Portrait.<sup>3</sup> Among the instructions in brown ink on the composition sketch is the mark suppressing the candle at the right hand side of the drawing. The instructions would have been given before Holbein travelled to Basel in 1528, the date of the composition of the *Dialogue*. That is, we have from the same period an unemotional written defense and a personal rejection for his Family Portrait.

### *Veneration of Images*

Faced with such a detached approach and examples which could be construed as criticisms of looking for miracles, using candles, veneration of images, and their like, my interest is to find out More’s real personal practice. Let us look first to the veneration of images.

We have a letter, dated 1522, from Thomas More to his friend Francis Cranevelt, Counselor to the city of Bruges, in which More thanks him for looking after a painting of the Virgin, which More had commissioned. The letter was found in 1989 and it was published in *Moreana* in March 1994.<sup>4</sup> In it Thomas More wrote: “I thank you for taking care of my painting. The Virgin herself will thank you, since at your insistence she was finished with greater care”. He ends, “Regards from my wife and my whole family.” Clarence Miller, editor of the letter, suggests that the painter could be Jan Gossaert (1475/8-1532) who belonged to Cranevelt’s circle and was contemporaneous with More. Gossaert executed at least eight paintings of the *Virgin and Child*. It would be interesting to trace the history of these eight paintings, and try to ascertain whether any of them might be the one commissioned by More. Two of the paintings of the *Virgin and Child* by Jan Gossaert are kept at the National Gallery in London and one of them—of unknown provenance—fits the dating of the letter to Cranevelt.<sup>5</sup>

Interestingly Jan Gossaert also produced a painting of *Saint Luke Painting the Virgin* in 1515. In the same year, Thomas More travelled to Bruges for the first time, and he could probably have known of this painting, for later he mentioned the theme of Saint Luke painting the Virgin in the *Dialogue*. This is another clue pointing to Jan Gossaert being the author of the painting for More, who would probably have commissioned the work during his second embassy to Bruges in 1521.

<sup>2</sup> *St Thomas More: Selected Letters*, edited by E. F. Rogers (New Haven, 1961), Letter no.17.

<sup>3</sup> The transformation of the Family Portrait is the topic of my article, “*Non sum Oedipus sed Morus*”, published in *Moreana*, vol.43-44, nos.168-170 (June 2007), pages 12-67.

<sup>4</sup> Clarence H. Miller, ‘Morus Craneveldio’, *Moreana*, No.117, 1994, pages 3-66.

<sup>5</sup> See p. 66 for the painting by Jan Gossart which I suggest might have been commissioned by More. There are specific aspects of six other paintings by Jan Gossaert at the National Gallery in London which make me think that this is the one he produced for Thomas More.



*Virgin and Child* (circa 1520), by Jan Gossaert, oil on oak, 38.9 x 26.5 cm, National Gallery, London, Catalogue L650, © Private Collection 2000, reproduced by courtesy of the owner.

*Going on Pilgrimage*

With regard to going on pilgrimage, the *Dialogue* mentions the shrines of Our Lady of Walsingham, Ipswich, and Willesden. The three of them were destroyed in 1538 and the statues of Our Lady are supposed to have been burned in London. The same year the shrine of Saint Thomas a Becket in Canterbury was destroyed.

Of the three, the Shrine of Our Lady of Willesden was the closest to the City of London. Once again in the *Dialogue* we find criticism of the practice of going to Willesden: “You men of London, gang on yourselves with your wives to Willesden, in the devil’s name, or else keep them at home with you! Else you’ll be sorry!” (p.127). We do not read a specific reply from More to defend the case of Willesden but just the general defense of the practice of going on pilgrimages because the Church says so.

And yet we see that Thomas More made the point of going to Willesden and even having two of his daughters, Elizabeth and Cecily get married there at the chapel in the house of Sir Giles Alington, husband of Thomas More’s stepdaughter. Richard Marius considers that the arranging of the marriage outside their own parish would have required permission from More’s friend, the Bishop of London, and sees it as an abuse of his position and an example of his vainglory. I would have thought just the opposite. Then as now to marry outside one’s parish is not infrequent, even though permission is required. If they had married at Saint Stephen’s Wallbrook and had celebrated the wedding in his house at Bucklersbury Street, or the Hall of the Mercers or at the Guildhall, More would have been the centre of attention. By marrying at the chapel of Sir Giles Alington, Alington became the host, and, even though they were in Willesden, they choose not to use the shrine for the marriage ceremony. This choice allowed both the possibility of going to the shrine privately and of not making a show at the shrine.

Thomas More must have gone to the shrine other times. Thomas Stapleton, in his biography of Thomas More, tells us that More pilgrimaged on foot, sometimes to shrines as far as seven miles from his home;<sup>6</sup> seven miles is the distance from Bucklersbury Street to Willesden and approximately the distance from Chelsea as well. And he choose to make there what he foresaw was going to be his last pilgrimage before he lost his freedom. In the first week of April 1534 he went there on pilgrimage. A few days later, on Low Sunday, April 12, after listening to a sermon at St. Paul’s, he was summoned to appear in front of the King’s Commissioners in Lambeth to take the Oath of Succession. That same night he returned to his house in Chelsea, and the following day—after going to confession and attending Mass—he went to Lambeth, where he was detained and taken to Westminster Abbey. After four days, on April 17, he was sent by river from Westminster to the Tower of London, where he remained until his execution on July 6 of the following year, 1535.

During this last pilgrimage to Our Lady of Willesden,

He stayed at the house of Sir Giles Alington, husband to his stepdaughter, and from there wrote to his secretary concerning changes to *A Treatise on the Passion*.<sup>7</sup> He was concerned at this time to put his

<sup>6</sup> *The Life and Illustrious Martyrdom of Sir Thomas More* (1588), trans. P. E. Hallett (London: Burns Oates & Washbourne, 1928), p. 69.

<sup>7</sup> The letter to John Harris, Letters, no. 48, is dated “From Willesden this present Sunday.” The footnote on p. 188 suggests that More was there as a pilgrim. Marc’Hadour dates it *circa* March. In Yale, vol. 6, part II, 486, line 7, it is dated “in the last week of his freedom.” As he went to St. Paul’s Cathedral on Low Sunday, 12 April, that would mean that the letter was written on Easter Sunday, 5 April. It may seem a bit surprising that he did not write “this Easter Sunday.” However, the letter deals with the date of the Last Supper which he had wrongly fixed previously on



The theme of *Noli me tangere* was common for painters of the Middle Ages and the Renaissance. The main previous paintings are those by Giotto (1267-1337), Fra Angelico (1440-41), Botticelli (c.1491) and Titian (1511-12); there are also engravings by Albert Dürer (1510) and Lucas van Leyden (1519); and yet the painting by Holbein is quite different from all the others. In the paintings by Italians, Jesus appears as the risen Christ—in white robes in the case of Giotto and Fra Angelico, and in his glorified uncovered body in the case of Titian—and Mary Magdalene appears kneeling in the attitude of worshipping; she also appears kneeling on the engravings of the Northern European artists. In the painting by Holbein, there is greater approximation to the account of the Gospel of St John and to the description of Thomas More: he “appeared to Mary Magdalene in the form of a gardener” (not as the risen Christ) and she stands as can be understood from the Gospel: after speaking to the angels who were inside the tomb, “she turned round and saw Jesus standing, but she did not know that it was Jesus.” (John 20:14). Thus, it shows greater realism than previous paintings of the *Noli me tangere*. The other two scenes shown on the painting: Peter and John returning from the tomb (John 20:10) and two angels, one at the head and one at the feet where the body had lain (John 20:12), imply greater knowledge of the Gospel narrative than just following the popular theme of the *Noli me tangere* as portrayed by previous painters.

However, in the *Dialogue* Thomas More identifies Mary Magdalene and Mary of Bethany without mentioning the controversy that involved his friend Bishop John Fisher.<sup>13</sup>

### Conclusion

We are asked to consider whether, in the *Dialogue*, Thomas More shows himself to be a real humanist. Considering the few themes that we have dealt with here, I would say that his attitude of listening to the messenger, of holding a real dispassionate dialogue with him, of not showing a heated personal interest with regard to veneration of images, devotion to saints and going on pilgrimage, but on the other hand practicing these devotions personally in an unassuming way and commissioning religious paintings for a domestic setting—all of these are signs of his being a real humanist.

With reference to Mary Magdalene and the painting *Noli me tangere* by Holbein, we can say that Thomas More shows great familiarity with the Gospel account and with the Fathers of the Church. However, the identification of Mary Magdalene with Mary of Bethany, the sister of Martha and Lazarus, in this *Dialogue* and also in the *Dialogue of Comfort against Tribulation* and in the *Treatise on the Passion*, shows that he had either not studied the controversy or that he avoided it. He did not identify them in a later work, the *Treatise on receiving the Blessed Body* (1534).

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France. However, Dr. Foister dates it from Holbein’s first visit to England because it was painted on English oak: cf. Susan Foister, *Holbein and England* (London, 2004) and *Holbein in England* (2006).

<sup>13</sup> Cf. Richard Rex, ‘The Magdalene controversy’, in *The Theology of John Fisher*, Cambridge University Press, 1991.

# English Heresy Procedures in Thomas More's *Dialogue Concerning Heresies*

David R. Oakley

*HE SO CONDUCTED HIMSELF ALL THROUGH THIS SERIES OF HIGH OFFICES OR HONORS THAT HIS EXCELLENT SOVEREIGN FOUND NO FAULT WITH HIS SERVICE, NEITHER DID HE MAKE HIMSELF ODIOUS TO THE NOBLES NOR UNPLEASANT TO THE POPULACE, BUT HE WAS A SOURCE OF TROUBLE TO THIEVES, MURDERERS AND HERETICS.*<sup>1</sup>

## *Introduction*

The aim of this paper is to supply some background for a better understanding of Thomas More's defense of heresy proceedings, as discussed in Part Three, chapters 2-7, of his *Dialogue Concerning Heresies*.<sup>2</sup> In the context of the case of Thomas Bilney, these chapters take up three issues: (1) reliability of witnesses, (2) limitations on the number of defense witnesses, and (3) self-incrimination and perjury. This paper deals with them in turn after a brief overview of heresy proceedings in general and the case of Thomas Bilney.

## *Inquisition in England and Elsewhere*

"Inquisition" is not as ominous as it sounds. It would be inaccurate to refer to "The Inquisition," especially in the case of England. No centralized prosecution of heresy ever existed for all Christendom; and it certainly never existed for all England. Rather, as discussed below, inquisition or "*inquisitio ex officio*" was a general legal procedure in ecclesiastical courts since the Thirteenth Century for all sorts of cases, not just heresy. During More's time it had obviously come under attack by proto-Protestants. And, presumably, More's interlocutor, the student-tutor, in the *Dialogue* is advancing the prevalent, popular criticisms; More is setting out to refute them.

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<sup>1</sup> Inscription on the Tomb of Thomas More, in *A Thomas More Source Book*, ed. Gerard B. Wegemer and Stephen W. Smith (Washington, D.C. 2004), 308, emphasis mine. On the restored tombstone in Chelsea Old Church, the word "heretics" has been left out.

<sup>2</sup> Thomas More, *Dialogue Concerning Heresies* (rendered in Modern English by Mary Gottschalk) (New York 2006). All citations are from this edition in the following format: book.chapter.page.

Heresy proceedings belong to ecclesiastical courts and law. In the late 12<sup>th</sup> and early 13<sup>th</sup> Century the Church first codified and standardized heresy proceedings, granting to ordinaries (the bishops of dioceses) and papal legates the power to detect and condemn heretics.<sup>3</sup> Remarkably, in England at least, there was no actual definition of heresy.<sup>4</sup> “Heretic” means one convicted of heresy who is obstinate, impenitent, that is, refuses to abjure or is a repeat-offender. Famously, they were handed over to the state, “secular arm,” for execution, usually by burning. In England, this arrangement was codified by Parliament in 1401 in response to Lollardy.<sup>5</sup>

The process granted to the accused was the *inquisitio ex officio*, instituted and formalized under Pope Innocent III, in the decretal, *Qualiter et quando*, at Fourth Lateran Council in 1215). As H. A. Kelly demonstrates, the inquisition was “not originally designed as a procedure against heresy or *only* against heresy.”<sup>6</sup>

[It] became the universal method of trial procedure in all ecclesiastical courts, except “civil” actions or instance cases, where plaintiffs brought suits against defendants. The *inquisitio* was used at all levels, from the courts of archdeacons and rural archpriests or deans charging rustics with fornication or adultery to papally commissioned trials presided over by cardinals on charges brought against kings and queens. For instance, all of Henry VIII’s annulment trials were inquisitions.<sup>7</sup>

This procedure constituted progress in fairness for the accused. “Inquisition was devised as a more comprehensive and satisfactory alternative to ‘accusation.’”<sup>8</sup> Under the procedure known as accusation or *accusatio*, a private party would accuse someone of a crime and attempt to prove it. Thus, the judge did not take sides but simply decided the contest between two independent parties. In contrast, inquisition required *publica fama*, that is, reputable opinion that a certain person is guilty of a given crime. Here one finds the advance in procedural fairness. *Fama* takes the place of the accuser; and the judge himself levels the charge and prosecutes the case.<sup>9</sup>

In the *Debellation of Salem and Byzance*, More discusses this procedure in his refutation of Christopher St. German. According to Prof. Kelly, he sets out an accurate description “of how a proper process should run.”<sup>10</sup> (1) An informant alerts the bishop to a malefactor, and ideally, supplies the names of likely witnesses. (2) The bishop interviews them in a preliminary investigation to see if there is a plausible case. There must be at least two witnesses to justify the inquisition. (3) If he concludes that there is a case, he cites the suspect and charges him with the crime. (4) If, at this point, upon hearing the charges, a suspect confesses, the judge or bishop imposes punishment.<sup>11</sup> On the other hand, if he denies the charge, the bishop calls witnesses, including his original informant, binds them under oath in the presence of the defendant, requiring them to answer truthfully questions concerning the charged crime. (5) In the next phase, the

<sup>3</sup> John Guy, “Legal Context of the Controversy: the Law of Heresy,” xlvii, Thomas More, *The Debellation of Salem and Byzance*, ed. John Guy et al., *Complete Works*, vol. 10 (New Haven: 1987)

<sup>4</sup> The relevant secular statutes in England date from the Lollard controversy in the 14<sup>th</sup> Century and merely refer to “heresies and notorious errors,” and to “divers new doctrines” (*Ibid.*, lii).

<sup>5</sup> *Ibid.*, xlix & lii.

<sup>6</sup> H. A. Kelly, “Inquisitions and Prosecution of Heresy: Misconceptions and Abuses,” *Church History* 58 (1989), 440, Kelly’s italics.

<sup>7</sup> *Ibid.*, 441.

<sup>8</sup> H. A. Kelly, “Thomas More on Inquisitorial Due Process,” *English Historical Review* 123 (2008), unpublished manuscript, 10.

<sup>9</sup> *Ibid.*

<sup>10</sup> Kelly, “Thomas More on Inquisitorial Due Process,” 10.

<sup>11</sup> Note that, as discussed below, an accused may incriminate himself. Once the charges issue, he can be summoned and questioned—but only concerning the offenses with which he is charged (*Ibid.*, 42).



witnesses' depositions are taken in private, by notary, who ask them to state their belief about the defendant's guilt—this is *publica fama*—and /or their knowledge of his actual guilt. (6) The informant becomes a witness and swears to the truth of the deposition in the defendant's presence. (7) The bishop declares that the testimony proves the defendant's *fama*—that reputable people believe him to be guilty of the heresies charged. (8) The Bishop orders purgation: the defendant must swear to his innocence, and find a number of compurgators, that is, reputable persons who will swear to his good reputation. (9) If the defendant fails purgation, the bishop orders him to perform a penance.<sup>12</sup> (10) On the other hand, if the witnesses' testimony proves defendant guilty of the crime of heresy, the bishop does not order purgation but abjuration and penance; or if the defendant refuses to abjure, the bishop declares him to be a convicted and unrepentant heretic and delivers him to the "secular arm."<sup>13</sup>

One significant difference between *ex officio* heresy cases and other *ex officio* proceedings is the use of anonymous witnesses. Names could be suppressed where revealing them would put the witnesses in real danger. "Other alleged privileges of heresy judges or restrictions on heresy defendants turn out to be nonexistent, either misinterpretations by historians or violations or distortions of the law by the judges themselves."<sup>14</sup> Of course, heresy defendants labored under the same, considerable procedural disadvantages as other defendants. In particular, torture was permissible. Furthermore, the testimony of convicted criminals was admissible. However, "the admission of tainted or criminous witnesses in heresy inquisitions was not peculiar to heresy cases but applied to other 'exempt' crimes, namely treason, that is *lesa majestas*, and simony."<sup>15</sup>

Finally, there was no right against self-incrimination, as was the case for accusatorial processes and secular criminal procedure, at least on the Continent.<sup>16</sup> Inquisition was not a particularly deft instrument for prosecuting heresy, mainly a private crime.<sup>17</sup> *Fama*, or public opinion, was needed. "Thus only public crimes publicly connected to a specific person were eligible for prosecution; the judge could inquire (that is, start an inquisition) *ex officio* only against someone who was 'infamous' by reputation."<sup>18</sup> At the same time, mere belief in heresy was a crime in ecclesiastical law. According to Prof. Kelly, this circumstance led to the establishment of a second "exemption" for the prosecution of heresy. By the mid-Thirteenth Century, in the investigative phase of a proceeding, the judge could compel a suspect to answer the charges and, thus, incriminate himself.<sup>19</sup> At the same time, it is important to recall that the question was strictly limited to the

<sup>12</sup> *Ibid.*, 64. Thus, the bishop, where witnesses cannot actually prove one guilty of heresy but deep-seated suspicion remains, the bishop can order purgation. If the suspect fails to produce the stipulated number of character witnesses, the bishop may impose a penance (*Ibid.*).

<sup>13</sup> *Ibid.*, 19-20; 39-40; 48-49.

<sup>14</sup> Kelly, "Inquisitions and Prosecution of Heresy: Misconceptions and Abuses," 443-44. Prof. Kelly goes on to mention that heresy defendants were not presumed to be guilty and that no one could be legally convicted without adequate proof. Furthermore, persons accused of heresy had a right to appeal from the judge to the pope and to be represented by legal counsel. Kelly writes, "If one wants to find a legal system in which persons who were only charged with a felony were denied a trial lawyer, one can look to the English common law. This infringement of the defendant's rights was eliminated in 1836" *Ibid.*, 444-45.

<sup>15</sup> *Ibid.*, 446.

<sup>16</sup> H. A. Kelly, "The Right to Remain Silent: Before and After Joan of Arc," *Inquisitions and Other Trial Procedures in the Medieval West*, (Suffolk 2001), 996. See also R. H. Helmoltz, "Origins of of the Privilege against Self-Incrimination," *New York Univ. L. Rev.* 65 (1990), 985.

<sup>17</sup> H.A. Kelly, "Inquisitorial Due Process and Secret Crimes," *Inquisitions and Other Trial Procedures in the Medieval West*, (Suffolk 2001), 414. It "is obvious that the occult nature of heresy would make it particularly unsuitable for a trial procedure that depends essentially on *publica fama*."

<sup>18</sup> Kelly, "Inquisitions and Prosecution of Heresy: Misconceptions and Abuses," 446-47.

<sup>19</sup> Kelly writes, "In the English common-law tradition, in contrast, charges were not answered under oath, and it was recognized that a plea of 'Not Guilty' could be made by a guilty person without perjury" (Kelly, "The Right to Remain

charge, as established by the *fama* and that the suspect was informed of the charges. There were in principle no “fishing expeditions.” And More, in the *Debellation*, argues (convincingly to Prof. Kelly) that this limitation was respected in England where “[no] convictions for heresy had been obtained on the basis of deceptive questioning or ambiguous charges.”<sup>20</sup> The fact remains that “a restriction on unlimited inquiry was a fundamental principle of the new inquisitorial system set up by Innocent III.” It honored the ancient principle that “*Ecclesia de occultis non iudicat*” (“the Church does not judge secret matters”).<sup>21</sup>

### *The Case of Thomas Bilney*

It is no surprise that the *Dialogue* takes up the heresy proceeding against Thomas Bilney. A 1958 article by Elizabeth Gow<sup>22</sup> makes clear that this was a “high-profile” case and for good reasons. A priest and doctor of laws at Cambridge University, Bilney was much-esteemed for his preaching, piety, charitable works, and austerity of life. Furthermore, he evidently commanded, if not the admiration, certainly the sympathy, of many high-ranking ecclesiastical and secular authorities.

Bilney was a true believer, if ever there was one, in the doctrine of *sola fide*, faith without works. More’s portrayal of Bilney as unbalanced, suffering from extreme scrupulosity (3.2.295), seems fair and accurate.<sup>23</sup> Even John Foxe, in a predictably sympathetic portrait of “poor Bilney” in his *Acts and Monuments*, does not omit the extreme measures which his troubled conscience led him to employ. And Bilney himself, in a letter to his judge, Bishop Tunstall, relates how his sense of sin had made him try many “physicians” but all in vain; “... for they appointed me fastings, watching, buying of pardons and masses; in all which things ... they sought rather their own gain, than the salvation of my sick and languishing soul.”<sup>24</sup> Undoubtedly, Bilney’s conflicted condition was compounded by his adherence to the doctrine of unity of the Church in the teeth of the Church’s unambiguous condemnation of Luther’s teachings. In any event, the sincerity of Bilney’s beliefs was beyond reproach. For good reason then, More in the *Dialogue* keeps the focus on his preaching, not his conscience:

“By my word,” said your friend, “that [More’s suspicion that Bilney and his fellow-travellers were not above lying under oath] really surprises me. For he was called a good man, and a very devout one.”  
“I will not,” said I, “as I told you in the beginning, attempt to impugn his conduct, since the question stands not but in his teaching.” (3.2.295)

A list of his closest friends and “converts” reads like a “Who’s Who” of the English Reformation: Edward Foxe, Stephen Gardiner, Dr. Barnes, Thomas Arthur, John Lambert, Matthew Parker, William Warner, Nicholas Shaxton, William Warner and, most famously, Hugh Latimer.<sup>25</sup>

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Silent: Before and After Joan of Arc,” 996). By subsequent Church legislation, a defendant who confessed could not be heard to complain that the judge failed to first establish the *fama* or present the charges before placing him under oath. At the same time, the deliberate omission or postponing of formal charges would invalidate the confession. Nevertheless, the potential for abuse by unscrupulous judges if obvious (Ibid., 996-98).

<sup>20</sup> Ibid., 1025 (citing More, *Debellation*, 86).

<sup>21</sup> Kelly, “The Right to Remain Silent,” 995. Thus, as discussed *infra*, More in his own case could maintain his adherence to the ancient principle by insisting that he had said nothing to anyone concerning his views on the King’s marriage or new title.

<sup>22</sup> Elizabeth Gow, “Thomas Bilney and His Relations with Sir Thomas More,” *Norfolk Archeology* 32 part 4 (1961).

<sup>23</sup> Ibid., 293-94.

<sup>24</sup> Ibid., 294

<sup>25</sup> Gow, “Thomas Bilney and His Relations with Sir Thomas More,” 294-96

Undoubtedly he was on the radar of More and like-minded secular and ecclesiastical officials for a long time before his trial in 1527. Following his conversion to Luther's doctrine of *sola fide* in 1516,<sup>26</sup> he joined a group of like-minded Cambridge university men who met at the White Horse Inn to discuss events in and ideas from Germany; indeed the inn, for this reason became known as "Little Germany."<sup>27</sup>

Ordained in 1519, and made a fellow in canon and civil law by the mid-1520's, he also took up the study of theology and Scripture. His zeal for souls led him to undertake preaching tours which, in turn, led to his prosecution. In 1527, after some initial reluctance on account of sympathy for Cambridge men, Cardinal Wolsey initiated proceedings. The main points testified against him by twenty witnesses of his preaching mirror the doctrinal points addressed in *Dialogue*: that saints are ineffectual as mediators between God and man; that man can in no wise merit by his own deeds; that it is great folly to go on pilgrimage; that the miracles at Walsingham and other shrines were performed by the Devil; that the Pope has not the keys which Peter had; that Christians should not light candles before images of saints and that kings and princes ought to destroy such images.<sup>28</sup>

At his trial, Bilney never admitted to preaching heresy. Evidently, the evidence was overwhelming and actual guilt of heresy—not just *fama*—was proven to the satisfaction of Bishop Tunstall and the other judges, without any confession by the accused. When commanded to abjure, as More reports in the *Dialogue*, Bilney received special treatment, or "exceptional kindness," at the hands of his judges. Not only was the judgment delayed for several days to allow him to consult with friends and advisors but—to More's consternation—Bilney was permitted to both abjure the heresies and to maintain at the same time that he had never uttered them (3.5.311-318).

The case of Thomas Bilney does not end with his unorthodox abjuration, but continues to a startling conclusion on a date after the writing (and revision) of the *Dialogue*. Following a year in jail, he returned to Cambridge, but with a tortured conscience. In 1531, after two years of internal turmoil brought on by deep regret over his abjuration, he arranged his own arrest and prosecution for heresy. With a copy in hand of Tyndale's New Testament and the same author's Obedience of a Christian Gentleman, he turned himself in to the Bishop of Norwich.<sup>29</sup> The resulting proceeding ended with Bilney's death by burning. To the end he was conflicted, attempting to unite obedience to pope and ecclesial unity with justification by faith alone. By Foxe's account, he died the first Protestant martyr in England.<sup>30</sup>

### *Reliability of Witnesses to Prove a Heinous Crime*

More's interlocutor, the student and tutor, has just returned from a visit to his university. He reports that many of his colleagues "concerning the abjuration of that man [Thomas Bilney] are extremely convinced that he was done very wrong" (293). Interestingly, the inquiry assumes that heretics ought to be punished. Apparently, there is little doubt that his opinions were heretical. Rather, the "wrong" pertained to the way "those charges were proved" (3.2.293).

For the law does, as I [the student-tutor] hear it said, require but two, and moreover, in a heresy case does not much care how bad they are; they could even be heretics themselves. And this not an

<sup>26</sup> Indeed he attributed his conversion to Erasmus' Greek New Testament, especially, 1Timothy 1 ("...Jesus came into the world to save sinners, of whom I am the chief and principal"). *Ibid.*, 294.

<sup>27</sup> *Ibid.*, 294.

<sup>28</sup> *Ibid.*, 299.

<sup>29</sup> *Ibid.*, 303.

<sup>30</sup> *Ibid.*, 308.

astounding situation, that whereas in a matter of little money no law allows the admitting of any witness who is not honest and credible, the law made by the Church should in so great a matter ... allow the admitting of a convicted felon, and give faith and credence to an infidel, someone they have time and again proved false to God in his faith. (299)

He goes on to argue that, given the stakes, the evidentiary bar ought to be raised, not lowered: “the more heinous, odious, and abominable the crime is, the more slow we should be to believe it, and the more certain and complete the proof should we have before we judge anyone to have been so evil as to commit it” (3.3.300).

More’s three-part response demonstrates his faith in judges and law and zeal for public order. First, the judges have adequate discretion to sift through the statements of witnesses. They are to be “astutely and separately examined” (3.3.300). Second, the impartiality of judges is assured in part because “laws always are made only for punishment of things that are yet to come, and who it is that will fall into peril, the makers cannot tell” (301). Third, and most important, lowering the evidentiary bar is necessary for the public safety:

For the chief reason why in heinous criminal cases, such as theft, murder, treason, and heresy, the law admits as witnesses people that it will not accept in a case about some financial or other kind of contract made between two parties, is that otherwise all such heinous crimes would go unpunished, and as a result the world would swarm full of such injurious people, for lack of evidence and examination in the matter. For those who go about such heinous deeds as, once coming to knowledge would bring them to a shameful death—these people do not ordinarily take along with them a notary or an honest witness to make an instrument thereof. (3.3.301-302)

More, of course, is on firm ground arguing that heresy does not come in for special treatment. All felonies in the secular courts, and treason and simony in ecclesiastical courts allowed the use of tainted witnesses. Indeed, submitting heresy to the same procedural disadvantages as treason, More could point to more than traditional practice. “Given [his] conviction that heresy was inherently violent and seditious (at least Lutheran heresies), the spread of Lutheranism into England could only mean one thing: that England would slide relentlessly towards chaos unless heresy were exterminated.”<sup>31</sup>

That judges bring the action after hearing the testimony of at least two witnesses constitutes a procedural advantage for a suspect. Recall that the alternative in ecclesiastical law to the inquisition was the accusation. In the latter process, a defendant is at the mercy of his accuser. The judge merely decides the case between the parties; he has no power to sift the evidence before initiating an inquest, or summoning a suspect. Needless to say, the fairness of the system depends on the integrity of judges. And More, once a judge himself, like his father before him, had a high opinion of judges. To conclude from how he and perhaps his father acquitted their judicial duties, that estimation is justified. As for others’ performance, he defended English ecclesiastical judges who—unlike certain of their counterparts on the Continent, especially France—adhered to the rules of procedural fairness so consistently that St. German could not cite an instance in England where a judge’s trickery secured a heresy conviction.<sup>32</sup>

To be fair, however, More’s defense of the admissibility of tainted witnesses is also driven by his concern for the commonwealth. Under a system of accusation, heresy would scarcely be prosecuted. As Prof. Kelly observes, “one can readily understand the awkwardness of having to

<sup>31</sup> Alistaire Fox, *Thomas More: History and Providence* (New Haven 1983), 139.

<sup>32</sup> Kelly, “The Right to Remain Silent: Before and After Joan of Arc,” (citing More, *The Debellation*, 86).

depend on the volunteering of good citizens willing to risk their own livelihood or even lives in order to have criminals brought to justice. For the vulnerable accuser Pope Innocent substituted trustworthy informants who could testify to the belief that a certain person had committed a crime.”<sup>33</sup> Furthermore, heresy—certainly of the sort not announced from a pulpit—would go uncorrected without tainted witnesses. More makes the point—urged by many a prosecutor today in summations today to a jury—that the only evidence may be testimony of “the parties themselves,” that is, accomplices who are as unsavory as the accused (3.3.302).

### *Limitation on the Number of Defense Witnesses*

In 3.4, the exchange focuses on a peculiar occurrence in the proceedings against Bilney. After the decision of the judges, as many as 30 witnesses appeared ready to contradict the 20 or so witnesses who testified that Bilney had preached sundry heresies. The judges after some deliberation refused to hear the witnesses (3.4.303). More’s interlocutor maintains that a search for the truth should consider all the evidence available: “it always seems to me that it ought to be heard, all that anyone wants to say, and that it should all be taken in the best way for the once accused, and especially in regard to heresy purportedly being preached where so many are present” (3.4.305). Where the student-tutor perceives a defect of justice, More sees adherence to the rule of law and, most important (and once again), the need for vigorous prosecution of heresy.

More is certain that the witnesses were properly turned away by Bishop Tunstall. As in the case of the admissibility of tainted witnesses, he is on firm ground. More notes that Bilney “himself was well-versed in the law, and never could say that he was denied any favor that the law would grant” (3.4.303-04). Prof. Kelly and Elizabeth Gow conclude that the decision not to hear from the thirty witnesses proffered by Bilney after the close of the proceedings was in keeping with due process and would have been a highly unusual departure from procedure.<sup>34</sup> Besides, More, the prudent jurist, recognizes that permitting testimony of more witnesses after the testimony of witnesses previously sworn in was read in court is an invitation to perjury, or “the threat of subornation and dishonest instruction of witnesses” (3.4.305). (For this same reason, prudent judges and alert prosecutors and defense counsel request the sequestration of witnesses.)

Prescinding from the poor timing of Bilney’s witnesses, More refuses to grant his interlocutor that more witnesses is better even where proffered witnesses would have contradicted the “slated witnesses” (3.4.304). More presses the point:

The whole world, virtually, is in agreement in understanding that with regard to all such heinous crimes, reason dictates the complete opposite and goes quite against your way of thinking. And . . . it certainly seems to me that of all crimes, heresy is the one in regard to which it could least be allowed. For well you know that heresies are false beliefs and factious ways full of feverish activity. And such as give themselves thereto are staunch and studious about the furtherance of their seditious act. And

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<sup>33</sup> H. A. Kelly, “The Right to Remain Silent: Before and After Joan of Arc,” 995. St. German advocated a return to accusation. More in the *Apology* replies, in words strikingly similar to the *Dialogue*, (3.3.301), that if available procedures were restricted to “the means of accusation” the result would be a “swarm of heretics.” Kelly, “Thomas More on Inquisitorial Due Process,” 22 (citing *The Apology of Sir Thomas More, Knight*, ed. J.B. Trapp, *The Complete Works of St. Thomas More*, vol. 9 [New Haven 1979], ch. 24, 88-89).

<sup>34</sup>Kelly writes, “The reasons given by the Bishops for not admitting defense witnesses (they were not allowed after the testimony of witnesses previously sworn in was read in court) are reported by Foxe, and More thinks that this was probably the reason” (Kelly, “Thomas More on Inquisitorial Due Process,” 69). See also Gow, “Thomas Bilney and His Relations with Sir Thomas More,” 299.

since they have fallen from God and his true faith, they have no great care about truth, nor have too many scruples about lending an oath till they have need in a like case to be paid back. So ... the false preacher can be brazen enough to say whatever he pleases. For he will never fail to have his witnesses. (3.4.305-06)

More's point is not difficult to appreciate, especially where the case does not include any tangible evidence, typically illegal books or incriminating marginalia. Where the only evidence is the defendant's preaching and where confederates or sympathizers are ready to violate the oath, the search for truth could easily be undermined. What is more, there is some evidence that Bilney himself on principle flouted his oath in maintaining his innocence in the face of twenty witnesses to his sermons. Among marginalia written by him in his copy of the Vulgate "there are two notes or 'adversia' which imply that Bilney thought that some lies were justified:" 1. I Kings 9, David's wife, Mychal, practices deceit blamelessly; and 2. Jeremiah 24, Jeremiah's pious lie.<sup>35</sup> Perhaps More's suspicion of Bilney and his witnesses and, certainly, his exasperation with the controversy surrounding the Bilney case are illustrated by the instructive tale of Wilkins' and Simkins' wager (3.4.315ff).<sup>36</sup> The lesson he draws (with a sneer, perhaps) is obvious: "when there were so many such clear and obvious testimonies against the man of whom we have been speaking all this time, although it is possible that all of them could be false, yet no impartial judge could think this was the case unless it was proved to be, and by other means than the mere oath of the accused party, who is swearing alone against them all" (3.4.317).<sup>37</sup>

#### *Discussion Concerning Perjury*

The last issues raised in these chapters of the *Dialogue* addressing heresy proceedings is perjury and, by extension, self-incrimination. More takes, by modern lights, a broad view of perjury and a constricted view of a right against self-incrimination. Judges have wide-ranging but not unlimited powers of inquiry. Thus, More maintains an inviolable personal—albeit cramped—precinct.

According to the student-tutor, "some very learned men say that if someone is accused of a crime that he is in fact guilty of, but this is not known and cannot be proved, then under oath administered to him he may and ought to swear not guilty, because about secret and unknown things no man can be his judge" (3.6.322). More responds with surprising solemnity: "For I hold this once and for all, as a sure and infallible conclusion: that a person can never legitimately commit perjury" (3.6.323).

If he has been denounced to or found out by him, by way of either common knowledge or other information giving rise to such conjectures and likelihoods that the law gives the judge authority to administer to the party an oath for the further investigation of the matter, there he is plainly bound

<sup>35</sup> Gow, "Thomas Bilney and His Relations with Sir Thomas More," 300-01.

<sup>36</sup> Wilkins lays a wager with Simkins that along a path known to both of them a "there has recently walked a horse or two and that he will prove it so clearly that the contrary cannot be true." Although Wilkins shows the path with prints of or horseshoes, Simkins claims victory because "it could be that they were geldings or mares." (3.4.315) Simkins goes on to show how a person could fabricate the prints using "long steel poles with horseshoes fastened to them." (3.4.316) Of course, the student will not declare Simkins the winner (316). More raises the stakes and asks if it would change the outcome if Simkins "swears[s] on a Bible that he himself saw when the people made those prints on the ground with horseshoes held in their hands" (3.4.316). Of course, it does not.

<sup>37</sup> There seems to be no accounting for the conclusion of G. R. Elton that the "bishops ... extorted a recantation from poor Thomas Bilney, convicted of heresy on very slender grounds" (G. R. Elton, *Reform & Reformation: England, 1509-1558* [Cambridge 1977], 96).

upon pain of eternal damnation, to tell and disclose the plain truth, without any covering up for craftiness, and to have more regard to his soul than to his shame. (3.6.324)

This position, however, is nuanced. One who maintained his own counsel, who did not share his views with others, could not be compelled to incriminate himself. Thus, More holds firm to the axiom, “*Ecclesia de occultis non iudicat*” (“the Church does not judge secret matters”).<sup>38</sup>

First of all, More insists, or certainly assumes, that, before summoning a suspect, a judge has found a plausible case or *publica fama*—noting that a defendant “has been denounced.” Second, any inquiry, or the judge’s “jurisdiction,” is limited by the *fama* and resulting charge. Third, and most interesting, More opens a way for the defendant to resist a judge who has exceeded his competence. If a judge after placing the accused under oath were to ask “questions about matters belonging not at all to his jurisdiction, I would not by my oath be bound to answer him.” More allows silence under such circumstances (3.6.323); or one may refuse to swear (3.6.324). This approach accords with Aquinas who held that a judge has no right to prosecute a crime unless there is an accuser or public infamy. Where there is, the accused, when charged, is bound to reply and even though the response will convict him. On the other hand, if the question is against the rule of law, he is not required to answer at all (or appeal or avoid answering in some licit way), although he still may not lie.<sup>39</sup>

Limiting judicial discretion and opportunities for self-incrimination, More displays perhaps a will to check abuses to which *ex officio* proceedings were particularly vulnerable. As Prof. Kelly uncovers, ecclesiastic judges on the Continent, especially in France, from time to time, customarily summoned suspects without evidence and subjected them to protracted interrogations on doctrinal questions of all sorts. (The heresy trial Joan of Arc is such an instance.) “[Inquisition] is a reasonable proceeding; it becomes unreasonable when the oath is administered before charges are levied or the requisite ill-fame is established.”<sup>40</sup> Yet more intriguing, More anticipates his own prosecution for treason. It is little wonder that he insists that he has spoken his mind concerning the king’s marriage and new title to no man. Indeed, his thoughts while in the Tower of London (April 1534 to July 1535) revisited his understanding of perjury: “I have treated this subject in the fourth [sic] book of my Dialogue, not thoroughly enough, I think, but I don’t remember.”<sup>41</sup> “Perjury is a violation of a lawful oath. Otherwise, he who swears to kill someone, would sin if he did not kill.” The context is someone placed under oath with information damaging to another, but the point applies equally well to self-incrimination.

No one has the power to tender an oath to any one else binding him to reveal such a secret as can and should be kept hidden. If a general oath is tendered, it is always understood that it applies to misdeeds the knowledge of which was acquired by the swearer in such a way that he can lawfully reveal them. If the particular kind of oath is tendered, even with the express clause saying: “whether you can lawfully or cannot lawfully, you will swear that you will reveal,” he ought to refuse this oath as unlawful, no less unlawful than if he were constrained to swear to kill a man.<sup>42</sup>

No one can deny More’s integrity in applying the same standard to himself *in extremis* as to others when he possessed the upper hand.

<sup>38</sup> Kelly, “The Right to Remain Silent,” 995.

<sup>39</sup> *Ibid.* 1002 (citing Thomas Aquinas, *Summa theologie* 2-2.67.3 ad 2).

<sup>40</sup> Kelly, *Inquisitions and Other Trial Procedures in the Medieval West*, xii.

<sup>41</sup> Thomas More, “More’s Discussion of Perjury,” *Complete Works*, ed. John Guy et al., vol. 6 (New Haven 1987), 767.

<sup>42</sup> *Ibid.* 765.

### Conclusion

In light of the *Dialogue*, there emerges More's approach to heresy proceedings: fairness and vigor. Concern for fairness is evident in his adherence to inquisition procedures, *fama publica* as well as the role of disinterested, thorough and discerning judges. *Fama* constitutes a genuine procedural safeguard, especially in the prosecution of the often-occult crime of heresy. Insistence on this requirement also placed reasonable limits on self-incrimination. His fairness is evidenced in his own case, where he held that silence, taking care not to share his disfavored views with any man, was the mainstay of his defense against prosecution.<sup>43</sup> Thus, More in his own case could maintain his adherence to the ancient principle by insisting that he had said nothing to anyone concerning his views on the King's marriage or new title. More was prepared to leave a subject secure in his beliefs. However, to share them with one's neighbor or to preach them *in flagrante* and with the authority of the universal Church, invited prosecution. In the view of one editor of the *Dialogue*, W. E. Campbell:

More accepted the stern theory, then held by every civil lawyer in Christendom, that in a Catholic State obstinate heresy should be punishable by death—and that death by burning. For the civil law in those days held heresy to be the worst kind of sedition against the State, since, as was known by experience, it was the most disturbing.<sup>44</sup>

To be sure, More is impatient with and suspicious of the critics of heresy proceedings. Besides condemning rashness to believe criticisms of the Church, including Bilney's judges (3.2.294; 3.3.298-299), the motives of such critics are suspect: "they persuade with false representations to conceive a bad opinion of the judges, in order to incline their hearts first, for pity, to a favoring of the man, and afterward to a favoring of the things he was forced to abjure" (3.2.294). Still, there is no getting around the seriousness and deliberateness which characterize his responses in these chapters of the *Dialogue*. Even a scholar of Tudor England hardly sympathetic toward More opines that "true to his convictions More reserved the actual execution of the [heresy] laws to the ecclesiastical court."<sup>45</sup> Campbell, more sympathetic and a scholar of More himself, concludes that "there is not a shred of evidence to prove that More himself ever exercised cruelty in his treatment of heretics."<sup>46</sup>

A final note of fairness in the prosecution of heretics is More's understanding of such proceedings as, ultimately, not penal, but medicinal. His consternation over Bilney's unusual abjuration is not some disappointing lack of noblesse oblige. Rather, in More's words, "I ... can never conceive a good hope of his amendment as long as I see still abiding in his heart that pride that cannot, for fear of shame, allow him to admit his guilt" (3.5.320). Assimilating ecclesiastical courts to the mission of Christ's Church, More can say with undiluted sincerity: "Trust me: really and

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<sup>43</sup> I recognize that the force of this argument rests on a premise unexamined in this paper, namely, whether the principle, "*Ecclesia de occultis non iudicat*," extends to the secular realm. I suspect it does, however, recalling Prof. Kelly's understanding that this axiom is derived from Roman law and formed part of the *ius commune*.

<sup>44</sup> "Toleration was in the sixteenth century no more part of the orthodox Protestant creed than it was of Roman Catholicism. Protestants as well as Catholics thought that only one form of truth could be true, and that that form must be preserved at all costs" (W. E. Campbell, "The Spirit and Doctrine of the *Dialogue*," in *English Works of St. Thomas More*, ed. Id. and A. W. Reed, vol. 2, [London: Eyre & Spottiswoode; New York: Lincoln MacVeagh], 78). Id., 107. Recall also that portion of More's proposed tombstone inscription quoted at the beginning of this paper: "he was a source of trouble to thieves, murderers and heretics" (see above, p.71).

<sup>45</sup> G. R. Elton, *Reform & Reformation: England, 1509-1558* (Cambridge 1977), 127.

<sup>46</sup> Campbell, "The Spirit and Doctrine of the *Dialogue*," 78.



truly, when someone has done evil, if he is duly sworn, it is an honorable shame and a joyful sorrow for him to confess the truth. And good folk, though they abhor the sin, yet love and commend the person as one who was bad and is good" (3.7.325).

As for the vigor which characterizes More's approach to the prosecution of heresy, the *Dialogue* speaks for itself—for the most part. The choice of Thomas Bilney, however, may be a less obvious indicator of the utter seriousness which he attached to the prosecution of heresy. (Even if only the exigencies of controversy forced him to discuss Bilney's cause, one is left to ponder the manner with which he approaches the subject.) Bilney represents ground zero for the Protestant revolution in England. In the view of John Foxe, he was to become England's first Protestant martyr. He is the first Lutheran, not a Lollard throwback; or at least he died for that mainstay of Luther's teaching, *sola fide*. Further, Bilney's spiritual biography tracks Luther's (3.2.295). Both men escaped insufferable emotional turmoil and found peace in the same, peculiar reading of St. Paul. This invitation to consider Luther summons up the full horror of heresy. "More's horror of civil violence was as real as his belief in its connection with heresy was genuine. As early as 1523 he had discerned a potential threat to social and political order on the Continent, and prophesied direly in the *Responsio [ad Lutherum]* that heretical subversion of the clergy would lead to anarchy."<sup>47</sup>

Finally, Bilney was a sympathetic and admirable character who enjoyed the esteem and the protection of powerful personages. Nevertheless, More bucks elite opinion, decrying the "exceptional kindness" shown him. Thus, More's choice anticipates his later, more courageous confrontation with St. German whose efforts were probably backed by Henry VIII. Undoubtedly, Bilney's stature was one of many indications to More that Catholic England was in crisis: Luther's revolt could cross the Channel or Christendom could continue to reign. Lutheran ecclesiology held an attraction for Henry VIII; and Lutheran theology had gained adherents among the intellectual and commercial elites, and probably at Court, as seen in the ascendancy of Thomas Cromwell in 1531 and the protection afforded Tyndale (for a time) and Dr. Barnes.<sup>48</sup> Bilney himself may have justified his half-baked abjuration by the hope that the revolution was just around the corner. "If nearly every Protestant heretic recanted at least once before holding firm, the reason was not only for fear of the fire. Each was feeling his way against the great army of authority, hoping that the Church would follow him in the reformation of abuses, surprised and disappointed when she threatened to cast him out of her midst."<sup>49</sup> More, for his part, while he formed part of the "great army of authority," was determined to eradicate the "pestilence" of heresy from England by *inquisitio ex officio*.

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<sup>47</sup> Fox, *History and Providence*, 138.

<sup>48</sup> Campbell, "The Spirit and Doctrine of the Dialogue," 77.

<sup>49</sup> Gow, "Thomas Bilney and His Relations with Sir Thomas More," 301-02.

## More's "Appeal" in *A Dialogue Concerning Heresies*

By Barbara J. Panza<sup>1</sup>

More's *Dialogue Concerning Heresies* appears to be more than an appeal to those influenced by the views of Martin Luther and William Tyndale. It also appears to employ the framework of a legal appeal. Was More trying to convey more than his doctrinal opposition to Luther and Tyndale? An analysis of modern-day, American, and Medieval and Renaissance ecclesiastical and civil law, common law, and Chancery court procedures for reviewing court judgments signals paths for exploring the legal undertones of More's *Dialogue*. A comparison of More's argument with these appellate processes, reveals a similarity in function, use of a hierarchical authority, issue identification and argument development, limitations of review, and publication of arguments.

### Introduction

Thomas More's *Dialogue Concerning Heresies* is probably not the first place one would look for the presence of legal procedure or a commentary on the law.<sup>2</sup> On the surface, More's *Dialogue* is an appeal to those influenced by the views of Martin Luther and William Tyndale. However, below the surface, there appears to be another type of appeal taking place, a legal appeal. Was More trying to convey more than his doctrinal opposition to Luther and Tyndale? Was More's choice to present his argument in the style of a legal appeal compatible with his humanist principles?<sup>3</sup>

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<sup>2</sup> See Thomas More, *A Dialogue Concerning Heresies* (trans. Mary Gottschalk, Scepter Publishers, Inc., 2006).

<sup>3</sup> In his book on the life and writings of Thomas More, James Monti discusses Christian humanism. James Monti, *The King's Good Servant but God's First: The Life and Writings of St. Thomas More* (Ignatius Press 1997). Monti described the humanist movement, stating: "So much of what Christian humanism stood for stemmed from its vision of human nature, truly damaged by original sin, yet nonetheless capable of serving as the handmaid of grace, endowed with a free will that in More's words, 'doth . . . in such as have age and reason, work and walk on with God.'" *Id.* at 180. Christian humanists emphasized "the active pursuit of perfection in one's own life through the imitation of Christ." *Id.* at 180. Monti attributes the Christian humanist movement with engendering in More a heightened sense of "the fundamental goodness of the human person, created in the image of God." *Id.* at 179–80. Monti also comments on the humanists' quest for truth, stating: "Christian humanism promoted a renewed interest in the classic works of ancient Rome and Greece, but it more specifically sought to revitalize Christianity through a more intensive study of the original texts of the Scriptures and of the Fathers of the Church. The insights of theology were to be brought to bear in a more practical, immediate manner upon everyday life in order that souls might more closely imitate and follow

Christian theology includes a number of metaphors for the role of the advocate, including references to Christ as an advocate for humanity, the Holy Spirit as the divine advocate, and advocacy on behalf of the poor.<sup>4</sup> Canon Nine of the Second Lateran Council, convened by Pope Innocent II in 1139, commented that lawyers “neglect the psalmody and hymns, placing their trust in the power of fine rhetoric . . . they confuse what is right and what is wrong, justice and iniquity, by reason of the variety of their arguments.”<sup>5</sup> The twelfth-century monk, Bernard of Clairvaux, also critiqued advocates. However, his critique has been described as less of a condemnation of the intrinsic nature of the legal profession and more of a call for advocates to heed the ways in which pride, ambition, and greed may distort true knowledge which aims to serve one’s neighbor.<sup>6</sup> However, as Bernard of Clairvaux also pointed out, “If cases are not tried and litigants heard, how can judgment be passed?”<sup>7</sup> Given More’s training in theology and law, it is not surprising that he may have used the framework of a legal appeal to advocate against what he believed to be Luther and Tyndale’s heresy and distortion of true knowledge.

In my view, More uses the framework of a legal appeal in the *Dialogue*: (1) to give his argument an inherent authority; (2) to reinforce that conscience and reason must be applied to the issues concerning the Church; (3) to suggest other non-religious risks posed by Luther and Tyndale’s views; and (4) to support the humanist argument in favor of legal publishing. By examining the framework of modern-day, American appeals, and Medieval and Renaissance procedures for reviewing court decisions, it is possible to see how More used this legal concept to shape the religious dispute. The first part of this paper is largely concerned with a brief description of appeals or the procedures for reviewing court decisions. The second part of this paper explores More’s *Dialogue* for evidence of an appellate framework.

### *Appeals or Review of Court Decisions*

This section will attempt to provide a basic overview of the modern-day, American appeal and the procedures for reviewing court decisions in the Medieval and Renaissance ecclesiastical and civil law, common law, and Chancery courts. This analysis does not purport to be comprehensive, but rather hopes to signal paths for further exploration into the legal undertones of More’s *Dialogue*.

### *Modern-day, American Appeals*

A party aggrieved by the judgment or order of a trial court can appeal to a higher court, where a group of judges will determine whether the trial court’s judgment or order was correct or

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Christ.” *Id.* at 80. He remarks that the humanists revived historical studies and More was a leading exponent of this revival in his country. *Id.* at 87. Further, Monti argues that: “More’s attitude toward miracles and other preternatural occurrences provides a superb example of Catholic humanism, a humanism that both knew how to engage in careful, rigorous scholarly inquiry that was willing to discard superfluities in the quest for truth yet could remain open to the reality that God can and does on occasion overrule the laws of nature to manifest His power, His wisdom, and His continuous involvement in the affairs of mankind.” *Id.* at 239.

<sup>4</sup> Amelia J. Uelmen, *A View of the Legal Profession from a Mid-Twelfth Century Monastery*, 71 *Fordham L. Rev.* 1517, 1536–37 (2003).

<sup>5</sup> Uelmen, *supra* n. 4 at 1525 (quoting Canon Nine of Second Lateran Council which focused on concern about professional studies for temporal gain).

<sup>6</sup> Uelmen, *supra* n. 4 at 1536.

<sup>7</sup> Uelmen, *supra* n. 4 at 1533, quoting 13 *The Works of Bernard of Clairvaux, Five Books on Consideration, Book 1:13* (John D. Anderson & Elizabeth T. Keenan trans., Cistercian Pub. 1976).

erroneous.<sup>8</sup> The modern-day, American appeal performs three functions: (1) the correction of errors made by the trial courts; (2) the uniform application of the law throughout the jurisdiction; and (3) the clarification of law through precedent.<sup>9</sup> With some exceptions, the dissatisfied or appealing party has a right to seek review by the appellate court immediately above the trial court.<sup>10</sup> An appeal to an even higher court is often discretionary, which means the court is empowered to choose the appeals it will hear and to turn others aside.<sup>11</sup>

In modern-day America, an appeal is not an open-ended reconsideration of what happened in the trial court.<sup>12</sup> Appellate courts review the orders or judgments of lower courts for mistakes the law categorizes as error.<sup>13</sup> An appellate court will not substitute its judgment for that of the court below unless there is error, even if the result of the lower court's judgment seems unfortunate.<sup>14</sup> Also, reversal of the judgment of the trial court below will occur only if the error caused the order or judgment being appealed.<sup>15</sup> Further, in some cases, it is not enough to show error as an intellectual matter, it is necessary to show the error resulted in injustice or harm.<sup>16</sup>

The appellate process operates as a check on judicial discretion by subjecting trial courts to review by a higher court.<sup>17</sup> The standard of review by which an appellate court examines a trial judge's ruling operates to limit judicial discretion.<sup>18</sup> The law presumes the trial court's judgment to be correct unless an appellant demonstrates the appropriate standard of review was violated.<sup>19</sup> Often a higher court will not reverse a lower court's decision unless the lower court abused its discretion.<sup>20</sup> A less deferential standard of review occurs when the appellate court reviews a trial court's ruling *de novo*.<sup>21</sup> Under *de novo* review, an appellate court will look at the issue anew.<sup>22</sup>

Appellate review is mostly limited to issues of law, rather than factual determinations which fall within the province of the jury or the trial court in cases tried before the bench.<sup>23</sup> Also, appellate review is limited to issues that were preserved in the lower court.<sup>24</sup> An issue is preserved if the appellant raised the issue and the lower court ruled on it.<sup>25</sup> Further, appellate review is limited to the issues raised on appeal.<sup>26</sup> In an adversary system, it is the job of the appellant's attorney to point the error out to the higher court; an appellate court will not survey the record looking for error.<sup>27</sup> In modern-day appeals, an appellate theory should be solidly built on the record and the law, explain unfavorable facts, be framed in terms of basic fairness to the parties, and apply logic

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<sup>8</sup> Richard K. Neumann, Jr., *Legal Reasoning and Legal Writing: Structure, Strategy, and Style*, 345 (3d ed. 1998).

<sup>9</sup> Neumann, *supra* n. 8 at 345–46.

<sup>10</sup> Neumann, *supra* n. 8 at 346.

<sup>11</sup> Neumann, *supra* n. 8 at 346.

<sup>12</sup> Neumann, *supra* n. 8 at 352.

<sup>13</sup> Neumann, *supra* n. 8 at 352.

<sup>14</sup> Neumann, *supra* n. 8 at 352.

<sup>15</sup> Neumann, *supra* n. 8 at 352.

<sup>16</sup> See Neumann, *supra* n. 8 at 365.

<sup>17</sup> Eric G. Barber, *Judicial Discretion, Sentencing Guidelines, and Lessons from Medieval England*, 27 W. New. Eng. L. Rev. 1, 9 (2005).

<sup>18</sup> Barber, *supra* n. 17 at 9.

<sup>19</sup> Neumann, *supra* n. 8 at 355.

<sup>20</sup> Neumann, *supra* n. 8 at 368–73.

<sup>21</sup> Barber, *supra* n. 17 at 9; NEUMANN, *supra* n. 7 at 369.

<sup>22</sup> Barber, *supra* n. 17 at 9.

<sup>23</sup> Neumann, *supra* n. 8 at 353.

<sup>24</sup> Neumann, *supra* n. 8 at 353.

<sup>25</sup> Neumann, *supra* n. 8 at 353.

<sup>26</sup> Neumann, *supra* n. 8 at 353.

<sup>27</sup> Neumann, *supra* n. 8 at 353.

and common sense.<sup>28</sup> A persuasive appellate theory also: (1) is grounded on the procedural posture of the higher court, e.g., for the attorney urging reversal the theory is one of error, while for the attorney defending the result below the theory is one of absence of error; (2) does not ignore the limitations on the appellate court; (3) addresses the judges' concerns relating to a fair and just result; (4) is soundly grounded in public policy, i.e., how will the court's decision affect other cases in the future; (5) asks the judges to decide only that which is necessary to the appeal; and (6) directs the appellate court's attention only to the most compelling reasons for reversal.<sup>29</sup>

Oral argument in an appeal can be the most scholarly type of conversation known to the practice of law.<sup>30</sup> It is argued that the most effective way to present oral argument in an appeal is in a tone of "respectful intellectual equality."<sup>31</sup> After oral argument, the judges confer and discuss the merits of the appeal.<sup>32</sup> In complex and troubling cases, the judges may confer for longer periods of time and may change their views as they discuss the parties' arguments, and examine the authority relied on and the record of the case.<sup>33</sup> Once the judges have reached a decision, they will issue a written opinion explaining their reasoning.<sup>34</sup> These opinions are published in both printed volumes and through electronic media. If the losing party can appeal further, the whole process may begin again.<sup>35</sup>

### *Medieval and Renaissance Review of Court Decisions*

The modern-day, American appeal is based on two separate English systems, the appeal and the writ of error. Although it is more closely related to the narrow theory of redress represented by the English writ of error in common law courts, some part of the original substantive theory of an appeal in the ecclesiastical and civil law courts seems to remain.<sup>36</sup> In addition, the English Chancery courts offered another example of a system to seek redress from court decisions. Further, the decisions of modern-day, appellate courts are published, an idea born of the early sixteenth-century humanist movement.

### *Ecclesiastical and Civil Law Courts*

A few hundred years ago, "appeal" referred to a legal procedure in a separate system in the English courts governed by canon and civil law.<sup>37</sup> The core elements and institutions of canon law constituted a working, international legal system that transcended ethnic, linguistic, and political boundaries throughout Western Christendom.<sup>38</sup> Although practices varied, depending on local needs, customs, and habits, the basic elements of the system were uniform.<sup>39</sup> An appeal did not

<sup>28</sup> See Neumann, *supra* n. 8 at 365.

<sup>29</sup> Neumann, *supra* n. 8 at 365–66.

<sup>30</sup> Neumann, *supra* n. 8 at 350.

<sup>31</sup> Neumann, *supra* n. 8 at 383.

<sup>32</sup> Neumann, *supra* n. 8 at 350.

<sup>33</sup> Neumann, *supra* n. 8 at 350.

<sup>34</sup> Neumann, *supra* n. 8 at 350.

<sup>35</sup> Neumann, *supra* n. 8 at 350.

<sup>36</sup> Mary Sarah Bilder, *The Origin of the Appeal in America*, *Hastings L.J.* 913, 915 (1997). *But see id.* at 916–17 (discussing Roscoe Pound's belief that American appeal resulted from "confusion and a laxity or liberality" about English common law procedures and Julius Goebel's argument that the appeal was the result of colonial adaptation of English justice-of-the-peace practice).

<sup>37</sup> Bilder, *supra* n. 36 at 914.

<sup>38</sup> James A. Brundage, *The Learned Judge: The Development of an Ideal*, 1 *U. St. Thomas L.J.* 434, 445–46 (2004).

<sup>39</sup> Brundage, *supra* n. 38 at 446.

refer to correction by a higher court, but a procedure by which a higher tribunal could completely rehear and redecide the law and facts of a case.<sup>40</sup> These appeals represented a particular attitude towards the hierarchy of authority and a substantive theory of justice that emphasized the importance of equity.<sup>41</sup>

An appeal removed a cause from an inferior judge to a superior judge, e.g., an appeal to Rome.<sup>42</sup> The removal of a cause to a superior judge hints that the legitimacy of the appeal rested ultimately on a supreme authority, the authority of God.<sup>43</sup> The appeal was first a symbol of Rome's authority and later, became a symbol of the King's authority.<sup>44</sup> In England, the appeal moved from the local courts in the diocese to the courts of the archbishops and then, to the courts of the Pope.<sup>45</sup>

The association of the appeal with papal power made it far more than merely a procedural device.<sup>46</sup> In English history, the appeal was at the center of two significant political struggles between the English crown and Rome: (1) when Archbishop Thomas Becket disagreed with and protested Henry II's attempt to end the Pope's appellate jurisdiction through the Constitutions of Clarendon, the eighth chapter of which substituted the King for the Pope as the place of appeal; and (2) when Henry VIII attempted to prevent an appeal to the Pope by Catherine of Aragon through an act, For the Restraint of Appeals, passed in 1533, which ended all appeals to the Pope.<sup>47</sup>

An appeal was an equitable theory of justice arising from medieval, Roman canon law.<sup>48</sup> Judgments in ecclesiastical and civil law courts were to be based on equity and conscience.<sup>49</sup> Equity arose from conscience, which was more than the distinction between right and wrong.<sup>50</sup> Conscience was "a form of 'applied knowledge,' an 'art of translating' the distinction into 'specific rules of conduct to be followed in particular situations.'"<sup>51</sup>

#### *Common Law Courts*

In Medieval and Renaissance common law courts, it was possible to obtain redress from a trial court's judgment through the writ if error.<sup>52</sup> A writ of error was a claim that an error had been made in the various writs and pleas of the case.<sup>53</sup> However, unlike the courts governed by canon and civil law, the common law courts did not operate in a strictly hierarchical fashion.<sup>54</sup> The reviewing authorities for the writ of error operated under a horizontal system of "mutual review."<sup>55</sup> These proceedings had a narrow scope of review and were limited to the record, i.e., there was no new evidence.<sup>56</sup> Review was limited to errors of law and had nothing to do with whether an

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<sup>40</sup> Bilder, *supra* n. 36 at 914, 922.

<sup>41</sup> Bilder, *supra* n. 36 at 914.

<sup>42</sup> Bilder, *supra* n. 36 at 928.

<sup>43</sup> Bilder, *supra* n. 36 at 928.

<sup>44</sup> Bilder, *supra* n. 36 at 928.

<sup>45</sup> Bilder, *supra* n. 36 at 929.

<sup>46</sup> Bilder, *supra* n. 36 at 929.

<sup>47</sup> Bilder, *supra* n. 36 at 929–30. Later, by the beginning of the seventeenth century, the term "appeal" began to appear in conjunction with the Chancery courts. *Id.* at 934.

<sup>48</sup> Bilder, *supra* n. 36 at 931.

<sup>49</sup> Bilder, *supra* n. 36 at 933.

<sup>50</sup> Bilder, *supra* n. 36 at 933.

<sup>51</sup> Bilder, *supra* n. 36 at 933 (discussing Christopher St. German's *Doctor and Student*).

<sup>52</sup> Bilder, *supra* n. 36 at 926.

<sup>53</sup> Bilder, *supra* n. 36 at 926.

<sup>54</sup> Bilder, *supra* n. 36 at 927.

<sup>55</sup> Bilder, *supra* n. 36 at 927.

<sup>56</sup> Bilder, *supra* n. 36 at 926.

injustice had occurred.<sup>57</sup> Also, review of a case by writ of error did not involve a rehearing and cases were remanded to the original court for further proceedings or new trials.<sup>58</sup>

Another mechanism for limiting the discretion of Medieval judges was appellate review.<sup>59</sup> However, appellate review of Medieval judges was different from our modern-day conception of an appeal.<sup>60</sup> Judges were servants of the king and, as a result, had limited discretion.<sup>61</sup> In Medieval England, this type of “appeal” was a charge against the judge, personally, for his decision in a case.<sup>62</sup> It was a means of accusing the jury or judge of giving a false verdict.<sup>63</sup> Only under certain circumstances did an appeal act as a mechanism for correcting the miscarriage of justice.<sup>64</sup> Parties did not have a right to appeal. However, in difficult cases, some county courts sought the advice of the royal court in Westminster.<sup>65</sup> Also, there was no formalized appellate structure and it has been argued these appeals are better thought of as an ad hoc limit on, rather than a structural limit to, a judge’s discretion.<sup>66</sup>

### *Chancery Court*

Although Chancery was not originally a court, signs of judicial activity appeared in several of its activities.<sup>67</sup> There were two sides to the Chancery, the Latin side and the English side.<sup>68</sup> On the Latin side, the Chancery controlled questions regarding royal grants, inquisitions concerning the property rights of the crown, and common law jurisdiction regarding personal actions involving its clerks, servants, and officials.<sup>69</sup> On the English side, the Chancery was an extraordinary court for common pleas.<sup>70</sup>

The King’s duty to dispense justice meant he was to ensure the law was enforced and to provide redress in cases where the law itself was defective.<sup>71</sup> English chancellors relieved these defects through auxiliary, corrective, and exclusive jurisdiction.<sup>72</sup> It has been argued that the chancellor did not interfere with the course of common law, but intervened to ensure the law was applied according to its true effect and intention.<sup>73</sup> The Chancery did not interfere with the common law courts because each case turned on its own facts, decrees were not judgments of record, and only the parties of the case were bound.<sup>74</sup>

Two of the most vital elements of the Court of Chancery were its flexibility to deal with difficult cases and the impact of several different ideas of law and jurisprudence in formulating

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<sup>57</sup> Bilder, *supra* n. 36 at 927.

<sup>58</sup> Bilder, *supra* n. 36 at 927.

<sup>59</sup> Barber, *supra* n. 17 at 30 (discussing four main structures for limiting judicial discretion in medieval England).

<sup>60</sup> Barber, *supra* n. 17 at 35.

<sup>61</sup> Barber, *supra* n. 17 at 38–39.

<sup>62</sup> Barber, *supra* n. 17 at 35.

<sup>63</sup> Bilder, *supra* n. 36 at 926.

<sup>64</sup> Barber, *supra* n. 17 at 35. Bilder does not specify under what circumstances an appeal in the common law courts acted as a mechanism for correcting the miscarriage of justice.

<sup>65</sup> Barber, *supra* n. 17 at 35.

<sup>66</sup> Barber, *supra* n. 17 at 35.

<sup>67</sup> Timothy S. Haskett, *The Medieval English Court of Chancery*, 14 *Law & Hist. Rev.* 245, 248 (1996).

<sup>68</sup> Haskett, *supra* n. 67 at 248.

<sup>69</sup> Haskett, *supra* n. 67 at 248.

<sup>70</sup> Haskett, *supra* n. 67 at 248.

<sup>71</sup> Haskett, *supra* n. 67 at 265.

<sup>72</sup> Haskett, *supra* n. 67 at 265.

<sup>73</sup> Haskett, *supra* n. 67 at 272 (discussing St. German).

<sup>74</sup> Haskett, *supra* n. 67 at 252–53.

responses to new needs.<sup>75</sup> Although the Chancery was not a court of canon law, there are signs of its influence.<sup>76</sup> Each chancellor decided causes according to his own notions of right and wrong, probably using common law and ecclesiastical jurisprudence as guides.<sup>77</sup> By the Tudor period, it was said the Chancery was a court of conscience, not a court of law.<sup>78</sup>

### *Legal Publishing*

In the early sixteenth century, legal print was unusual.<sup>79</sup> John Rastell, More's brother-in-law,<sup>80</sup> pioneered the argument in support of publishing the law.<sup>81</sup> Rastell's argument for publishing the law was constructed from the humanist topoi about popular law:

Well-made laws, not riches, power, or honors, were the foundation of the commonwealth, tutoring subjects in good manners, respect for God, and the art of peaceful living among neighbors. Wholesome law could only do its good work if conscientiously taught to subjects who must know what they are to obey and must have before them the models towards which to orient their character.<sup>82</sup>

Generally, humanists encouraged legal publishing.<sup>83</sup> "Through legal publishing, 'universally the people of the realm might soon have the knowledge of the said statutes . . . the better to live in tranquility and peace.'<sup>84</sup> The humanist support of legal print was part of a larger commitment to legal accessibility.<sup>85</sup> The humanist commitment to legal accessibility had three interrelated parts: (1) an unspoken approval of print; (2) a preference for Latin or English over French in the hope of making the law accessible to the literate; and (3) the direction of books to a broad audience, rather than a narrow professional one.<sup>86</sup> Rastell argued legal publication furthered professional and lay education, loyalty to God's word, obedience to the prince, neighborliness, social peace, and political unity.<sup>87</sup>

Although law books posed less danger than religious printing because the lawyers faced no foreign, underground press or dissident translations, legal print also made dissent more formidable by enabling rivals of royal justice to present more sophisticated legal challenges.<sup>88</sup> Rastell addressed the concerns that legal publishing would reduce lawyers' income and heighten strife by pointing out that law books were an introductory tutor, but when uncertainties or lawsuits arose, a man should

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<sup>75</sup> Haskett, *supra* n. 67 at 257.

<sup>76</sup> Haskett, *supra* n. 67 at 272.

<sup>77</sup> Haskett, *supra* n. 67 at 256.

<sup>78</sup> Haskett, *supra* n. 67 at 267.

<sup>79</sup> Richard J. Ross, *The Commoning of the Common Law: The Renaissance Debate Over Printing English Law*, 146 U. Pa. L. Rev. 323, 329 (1998).

<sup>80</sup> It is interesting to note that William Rastell, John Rastell's son and More's nephew, edited the 1557 edition of the book and gave it the short title *Dialogue of Heresies*. More, *supra* n. 2 at 36.

<sup>81</sup> Ross, *supra* n. 79 at 329–30.

<sup>82</sup> Ross, *supra* n. 79 at 330.

<sup>83</sup> Ross, *supra* n. 79 at 331.

<sup>84</sup> Ross, *supra* n. 79 at 330–31.

<sup>85</sup> Ross, *supra* n. 79 at 332. It is interesting to note that some of the most distinguished figures responsible for legal publishing were Catholic, while most of the early critics were Protestants. Ross, *supra* n. 79 at 348.

<sup>86</sup> Ross, *supra* n. 79 at 331–32.

<sup>87</sup> Ross, *supra* n. 79 at 340.

<sup>88</sup> Ross, *supra* n. 79 at 338–39.



seek counsel from men learned in the law of the realm that he may better do his duty to his prince and live in peace with his neighbor, in accordance with the pleasure and commandment of God.<sup>89</sup>

In the Tudor period, Chancery became a court where every item of procedure was recorded.<sup>90</sup> In the early sixteenth century, the public began using newly circulated collections of case notes to support arguments in Chancery.<sup>91</sup>

### *Presence of an Appellate Framework in the Dialogue*

More's argument in the *Dialogue* appears to be analogous to a legal appeal. The author's comment in his letter of introduction that he knows More is "a ready and sure *defender* in such challenges" hints at the use of a legal framework.<sup>92</sup> A comparison of More's argument with the appellate process, reveals a similarity in: (A) function; (B) use of a hierarchical authority; (C) issue identification and argument development; (D) limitations of review; and (E) publication of arguments.

### *Dialogue Functions as an Appeal*

Throughout history the different methods of reviewing court decisions have performed different functions. Modern-day legal appeals perform the functions of correcting errors, uniformly applying the law, and clarification of the law.<sup>93</sup> Appeals in Medieval and Renaissance ecclesiastical and civil law courts functioned as a procedure for completely rehearing a case under a substantive theory of justice<sup>94</sup> and may also have served as a means of ensuring the uniform application of the law.<sup>95</sup> In Medieval and Renaissance common law courts, writs of error functioned as a means for correcting errors of law on the face of the record and "appeals" functioned as a means of accusing the judge of abusing his discretion or giving a false verdict.<sup>96</sup> In Medieval Chancery, chancellors performed the function of ensuring the law was applied according to its true meaning and intent.<sup>97</sup> Did More present his argument in the style of a legal appeal to signal to his readers the function of the *Dialogue* was: (1) to correct the error of those who judged Luther and Tyndale's theology true?; (2) to clarify the doctrine and position of the Roman Catholic Church, and to ensure the true meaning of that doctrine was given effect?; (3) to encourage a uniform doctrine or faith in England?; or (4) to accuse Luther and Tyndale of abusing their discretion or promoting a false verdict?

First, the *Dialogue* appears to argue that errors of judgment have been made and seeks to correct those errors. In the letter of introduction the author states his desire to "spread the real truth," and laments that "[t]he rituals of formal debate distort much of the content . . . when one focuses more on how to conduct oneself than on what one will say."<sup>98</sup> The Messenger also mentions the author's

<sup>89</sup> Ross, *supra* n. 79 at 340.

<sup>90</sup> Haskett, *supra* n. 67 at 279.

<sup>91</sup> Haskett, *supra* n. 67 at 279.

<sup>92</sup> More, *supra* n. 2 at 45 (emphasis added)

<sup>93</sup> Neumann, *supra* n. 8 at 345–46.

<sup>94</sup> See Bilder, *supra* n. 36 at 914.

<sup>95</sup> See Brundage, *supra* n. 38 at 445–46 (canon law constituted working international legal system and basic elements of system were uniform).

<sup>96</sup> See Bilder, *supra* n. 36 at 926–27.

<sup>97</sup> See Haskett, *supra* n. 67 at 265, 272.

<sup>98</sup> More, *supra* n. 2 at 44–45.

perception that some folk have been persuaded to the contrary and his desire to answer them with the truth.<sup>99</sup> In More's letter responding to the author of the letter of introduction, he also suggests the *Dialogue* will perform the function of error correction when he comments that many things imputed to Luther and another could not be proved, and he stated that he showed the Messenger "the books of the one and the actual court records concerning the other" so they could guarantee him of the truth.<sup>100</sup> Further, in the opening of the *Dialogue*, More tells his readers he has consulted with "men more learned than [him]self" and he would not print anything concerning his faith unless those men considered it profitable or, at least, harmless.<sup>101</sup> Also, More expresses his concern regarding the appropriateness of repeating the Messenger's allegations because they were disrespectful and incorrect.<sup>102</sup>

Second, the *Dialogue* appears to perform the appellate function of clarifying the position of the Church and ensuring the intended meaning of that position was given effect. The need for clarification is suggested by references to confusion and doubt regarding what one should believe. The Messenger related that the author of the letter of introduction was concerned about "the doubt [he] has perceived in others" and that "some things were being talked about in such a way that [he] did not really know [himself] which side [he] should believe."<sup>103</sup> In More's letter responding to his friend, More appears to express his attempt at clarifying matters when he stated that the conclusions reached in his discussions with the Messenger are certain, but he leaves to his friend's judgment whether his arguments are effective or sufficient.<sup>104</sup> Also, as Gerard Wegemer and Stephen Smith note in their introduction to the *Dialogue*, "More discovers the roots of the youth's confusion by asking probing questions and by artfully addressing his concerns in classic Platonic fashion."<sup>105</sup> More expressly identified the need for clarification when he and the Messenger agreed that the dispute between Christians arose from differing interpretations of the Bible.<sup>106</sup>

An example of More's attempt to clarify the Church's position and to give effect to its intended meaning can be observed in More's response to the Messenger's belief that the Church will not allow the Bible to be translated into English. More clarified the Church's position when he stated:

Finally, it seems to me that the synodal decree of which we were speaking just now has settled this question already. For when the clergy therein agreed that the English Bibles should remain which were translated before Wycliffe's day, they consequently did agree that there was nothing wrong with having the Bible in English.<sup>[107]</sup>

Also, he attempted to give effect to the intent of the Church's position when he commented, "But never did they intend, as I see it, the forbidding of the Bible's being read in any vernacular tongue."<sup>108</sup>

Another example of More's attempt to clarify and to give effect to the intent of the Church's position occurs when the Messenger related that an individual, versed in the law, showed him a

<sup>99</sup> More, *supra* n. 2 at 47.

<sup>100</sup> More, *supra* n. 2 at 46.

<sup>101</sup> More, *supra* n. 2 at 42.

<sup>102</sup> More, *supra* n. 2 at 42.

<sup>103</sup> More, *supra* n. 2 at 47.

<sup>104</sup> More, *supra* n. 2 at 46.

<sup>105</sup> Gerard B. Wegemer & Stephen Smith, *Introduction to Thomas More's A Dialogue Concerning Heresies*, (trans. Mary Gottschalk, Scepter Publishers, Inc., 2006) 17–35, 18.

<sup>106</sup> More, *supra* n. 2 at 128.

<sup>107</sup> More, *supra* n. 2 at 388.

<sup>108</sup> More, *supra* n. 2 at 384.

bona fide law in which Pope Gregory III prohibited the veneration of images.<sup>109</sup> More responded by asking the Messenger, “Did he . . . or you either, read the next law following in the book?” and explaining “But if you had read either the next law following or the gloss upon the self-same law that you read, you would then have seen that the law which he showed you lends little support to his argument.”<sup>110</sup>

Third, the *Dialogue* appears to perform the appellate function of encouraging a uniform doctrine and faith. More accomplished this by discussing the uniformity of the Church’s doctrine, pointing out Luther’s inconsistency, and conceding that reform was needed within the Church. When discussing whether the interpretations of the Church theologians should be believed, More pointed to the uniform doctrine of the Church, stating “we are speaking not about the doctrine of one man or two in the Church, but about the common accord of the Church.”<sup>111</sup> More criticized Luther’s doctrine as inconsistent and lacking in the uniformity present in the Church’s doctrine, when he commented “Now as for [Luther’s] consistency . . . it shows up in what I have related before in his continual changing in his heresies from day to day, from worse to worse, which course he kept regarding not only the matters mentioned above, but also almost all the rest.”<sup>112</sup> Also, More encouraged a uniform doctrine by charging the Lutherans with “sowing schisms and seditions among Christian people.”<sup>113</sup> Further, More admitted that reform was needed, but encouraged a uniform doctrine and faith by arguing such reform should be accomplished within the Church. An appellate theory should explain unfavorable facts and be framed in terms of basic fairness to the parties.<sup>114</sup> As Wegemer and Smith note in their introduction to the *Dialogue*,

More does not deny that much reform is needed, but he does argue that the Church, as Christ’s bride on earth, deserves due respect and indeed faith, especially on account of Christ’s clear promises that he would never abandon the Church and that the Holy Spirit would be present and active in the Church until the end of time. An important part of giving that respect and of exercising genuine faith is to use legitimate means to bring about the Church’s reform—not to recklessly champion revolutionary ideas that reject “the unanimous accord and agreement of all Christian people these fifteen hundred years.”<sup>115]</sup>

Fourth, the *Dialogue* appears to perform the appellate function of accusing Luther and Tyndale of abusing their discretion by promoting a false verdict. More accused Luther and Tyndale of acting without reference to guiding rules and principles, i.e., reason, truth, custom, and virtue, thereby, promoting wrong opinions and propagating heresy. More argued Luther failed to adhere to guiding rules and principles when he stated:

[L]uther says that because it is not commanded by Scripture, we may therefore choose whether we will do it or not do it . . . that one is not bound to believe anything unless it can be proved conclusively by Scripture. And from there he goes so far that no scripture can be conclusive proof of anything that he wants to deny. For he will not acknowledge it as conclusive no matter how obviously it is. And he will call conclusively for him that text that is conclusively against him. And

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<sup>109</sup> More, *supra* n. 2 at 405.

<sup>110</sup> More, *supra* n. 2 at 405.

<sup>111</sup> More, *supra* n. 2 at 199.

<sup>112</sup> More, *supra* n. 2 at 415.

<sup>113</sup> More, *supra* n. 2 at 467.

<sup>114</sup> See Neumann, *supra* n. 8 at 365.

<sup>115</sup> Wegemer & Smith, *supra* n. 105 at 29, quoting More, *supra* n. 2 at 394–95.

sometimes, if it is too plainly against him, then he will say it is not Scripture, as is his ploy with the Epistle of Saint James.<sup>[116]</sup>

With regard to Luther, More also asserted that when Luther was unable to defend his beliefs, he resorted to “ranting.” More stated, “But soon after, when [Luther] was in such a way answered, by good and knowledgeable men, that he perceived himself unable to defend what he had affirmed, then he fell from reasoning into ranting, and utterly denied what he had before affirmed.”<sup>117</sup> Similarly, with regard to Tyndale’s failure to act in accordance with guiding rules and principles, More commented that “Tyndale does not in his book give any answer to that point [i.e., priests must have wives], but rants and raves on and on without discussion, simply saying that Scripture is clearly on his side there.”<sup>118</sup>

In addition, More claimed Luther promoted wrong opinions and propagated heresy when he stated:

No, the real reason why the reading of [Luther’s] books is not allowed is that his heresies are so many, and so abominable, and the ‘proofs’ wherewith he professes to make them worthy of acceptance are so far from reason and truth, and so far against the right understanding of holy Scripture—of which, under pretext of a great zeal and love for it, he labors to destroy the credibility and good use—and, finally, he takes so far everything against good custom and virtue, inciting the world to wrong opinions about God and to boldness in sin and wretchedness, that from the reading can come no good, but much harm.<sup>[119]</sup>

More made a similar accusation with regard to Tyndale when he stated:

[T]hat you may perceive that [Tyndale] has thus conducted himself in his translating with the intention of thereby propagating Luther’s heresies and his own. For first he would make the people believe that we should believe nothing but plain Scripture, in which point he teaches a plain pestilent heresy. And then he would with his false translation make the people believe further that such articles of our faith as he is striving to destroy, and which are well proved by holy Scripture, are in holy Scripture not at all spoken of; and that the preachers have for all these fifteen hundred years been purposefully misquoting the Gospel and englishing the Bible wrongly to lead the people out of the right way.<sup>[120]</sup>

### *Use of Hierarchical Authority*

Intrinsic to an appeal is the notion of review by a higher authority. The modern-day, American appeal operates through an established system of vertical judicial review. Similarly, the Medieval and Renaissance ecclesiastical and civil law courts also operated in a hierarchical system.<sup>121</sup> Conversely, the Medieval and Renaissance common law courts operated under a horizontal system of review.<sup>122</sup> Did More use the style of a legal appeal to emphasize the importance of the Church’s authority? Was More attempting to show Luther’s and Tyndale’s beliefs also threatened the structure of the English legal system as it existed at that time?

<sup>116</sup> More, *supra* n. 2 at 176–77.

<sup>117</sup> More, *supra* n. 2 at 411.

<sup>118</sup> More, *supra* n. 2 at 347.

<sup>119</sup> More, *supra* n. 2 at 395.

<sup>120</sup> More, *supra* n. 2 at 333.

<sup>121</sup> See Bilder, *supra* n. 36 at 928.

<sup>122</sup> See Bilder, *supra* n. 36 at 927.

First, the *Dialogue* appears to seek review of the acceptance of Luther's and Tyndale's beliefs by a higher authority. A legal appeal provides an aggrieved party the opportunity to have a judgment reviewed by a higher judicial body to determine whether the judgment was correct or erroneous.<sup>123</sup> An indication that the *Dialogue* serves as an appeal to the judgment of a higher authority appears in the letter of introduction when the author indicated he was aggrieved by an acceptance of the views promulgated by Luther and Tyndale, and was seeking further review or discussion regarding the matter.<sup>124</sup> The author of the letter of introduction conveyed he was seeking review of certain matters when he commented that the matter of Luther and Tyndale's arguments against the Church have been previously discussed, additional things have occurred since that discussion, and others may be able to judge the matter better than he.<sup>125</sup> Also, in his letter, the author expressed that he was aggrieved by these matters when he assured More that "some folk here are talking very strangely about the things that [the Messenger] will bring up to you"<sup>126</sup> and his concern is "[n]ot just on account of the spoken statements they relate that come from there, but also, most especially through the occasion of some letters vilely written and sent here from London by a priest or two whom they take here for honorable."<sup>127</sup> The author's desire for review of these matters is also evident when the Messenger explained that the author of the letter of introduction "sent [the Messenger] to [More] not because of any doubt [he] had concerning many of those things that he would have [the Messenger] mention to [More], but because of the doubt that [he] perceived in many others, and in some folk plain persuasion to the contrary, whom [he] would be eager to answer with the truth."<sup>128</sup>

Second, the *Dialogue* hints at the need for the hierarchical authority present in ecclesiastical and civil law appeals. The legitimacy of the ecclesiastical and civil law courts rested on a supreme authority, the authority of God, and was associated with papal power.<sup>129</sup> More asserted that some matters, such as miracles, should not be left to the judgment of man, but should be left to the discretion of the highest authority, God, when he stated, "So as for the times, places, and occasions, reason dictates that we leave them to [H]is discretion."<sup>130</sup> Also, More pointed to the Church's supreme authority when he stated, "Christ is the man who you are sent to and commanded by God to believe and obey, but also that the church is the person whom you are by Christ commanded to listen to and obey." He conveyed that the Church's authority extended beyond matters of faith when he stated, "that we are commanded by Christ to listen to, believe, and obey the Church in matters of faith as well as of morals." In addition, he expressed that Luther and Tyndale's beliefs threatened the existing hierarchical system of authority when More pointed out to the Messenger "Whereas God would have the Church be your judge, you would now be judge over the Church."<sup>131</sup> Further, More showed Luther's disdain for a system of hierarchical authority when he revealed:

[Luther] did once promise to abide by the judgment of the University of Paris, and thereupon were held public debates, and the exact words recorded by notaries sworn for both parties. But when his

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<sup>123</sup> Neumann, *supra* n. 8 at 345.

<sup>124</sup> More, *supra* n. 2 at 43–45.

<sup>125</sup> More, *supra* n. 2 at 43–44.

<sup>126</sup> More, *supra* n. 2 at 44.

<sup>127</sup> More, *supra* n. 2 at 44.

<sup>128</sup> More, *supra* n. 2 at 47.

<sup>129</sup> See Bilder, *supra* n. 36 at 928.

<sup>130</sup> More, *supra* n. 2 at 106.

<sup>131</sup> More, *supra* n. 2 at 199.

opinions were afterward, in Paris, by the university, condemned, then he refused to abide by their judgment, and reverted to his old expedient of ranting.<sup>[132]</sup>

Third, the *Dialogue* warned that Luther's and Tyndale's disregard for a hierarchical system of authority threatened justice. The ecclesiastical and civil law courts represented a substantive theory of justice. As the mid-twelfth century canonist Gratian observed in the *Decretum*, justice is a gift from God.<sup>133</sup> Unlike the ecclesiastical and civil law courts, the secular Medieval and Renaissance common law courts were limited to errors of law and had nothing to do with justice.<sup>134</sup> More pointed to the just and compassionate nature of the ecclesiastical courts and the harshness of the secular courts when he discussed their handling of heretics. With respect to Church law, he explained:

But certainly what the Church law on this calls for is good, reasonable, compassionate, and charitable, and in no way desirous of the death of anyone. For after a first offense the culprit can recant, repudiate by oath all heresies, do such penance for his offense as the bishop assigns him, and in that way be graciously taken back into the favor and graces of Christ's church. But if afterward he is caught committing the same crime again, then he is put out of the Christian flock by excommunication. And because, his being such, his mingling with Christians would be dangerous, the Church shuns him and the clergy give notice to the secular authorities—not exhorting the king, or anyone else either, to kill him or punish him, but in the presence of the civil representative, the ecclesiastical official not delivers him but leaves him to the secular authorities, and forsakes him as one excommunicated and removed from the Christian flock.<sup>[135]</sup>

In contrast, with respect to the secular law's treatment of heretics, More commented:

No, all the severe punishment of heretics, with which such folk as favor them want so much to render the clergy infamous, is and has been—on account of the great outrages and temporal harms that such heretics have always been wont to do, and the seditious commotions that they are wont to make, besides the far surpassing spiritual hurts that they do to people's souls—devised and executed against them of necessity by good Christian princes and prudent rulers of the secular sphere, because in their wisdom they well perceived that the people would not fail to fall into many grievous and intolerable troubles if such seditious sects of heretics were not by severe punishment repressed in the beginning, and the spark well extinguished before it was allowed to grow to too great a fire.<sup>[136]</sup>

Also, More cautioned against Luther's and Tyndale's disregard for a hierarchical authority when he stated:

And who for the defense of their disobedience have amended the matter with a heresy, boldly and stubbornly maintaining that since they had the ability to preach, therefore they were by God bound to preach; and that no man, or law that was made or could be made, has any authority to forbid them.<sup>[137]</sup>

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<sup>132</sup> More, *supra* n. 2 at 412.

<sup>133</sup> Uelmen, *supra* n. 4 at 1535.

<sup>134</sup> See Bilder, *supra* n. 36 at 927.

<sup>135</sup> More, *supra* n. 2 at 464.

<sup>136</sup> More, *supra* n. 2 at 485.

<sup>137</sup> More, *supra* n. 2 at 151.

When discussing Luther's belief in destiny, he warned of its legal consequences stating, "And therefore all laws they set at naught. And they hold that no one is obliged to obey any, but would be at liberty to believe what they please, and do what they please, just as they say that God does to us not what we deserve, but what he himself pleases."<sup>138</sup> Further, More forewarned that "For the laws and orders among people, with fear of punishment, once taken away, there is no man so strong that he could keep his pleasure long, who would not find a stronger one taking it from him."<sup>139</sup>

### *Issue Identification and Argument Development*

Appellate review is limited to issues that point out the error in the lower court's judgment and define the decision that the higher court is asked to make.<sup>140</sup> In modern-day, American appeals, the written argument explains in persuasive detail the authorities and evidence on which a favorable decision should be based.<sup>141</sup> Oral argument, on the other hand, is an advocate's tool for focusing the court on the most important aspects of the case and an opportunity to discover the judge's doubts and concerns so he can explain why those doubts should not prevent a favorable decision.<sup>142</sup> Did More use an appellate framework to explain how a decision regarding Luther's and Tyndale's ideas should be reached and provide justification for the rejection of those ideas? Did More rely on authority to support his argument in a manner similar to a legal appeal? Did he use an appellate framework to focus his readers on the most important issues, convince them of his intellectual leadership on these issues, and dispel any doubts they may have had about the Church?

First, the *Dialogue* appears to use an appellate framework by identifying the issues for review. In a modern-day, American appeal, it is the responsibility of the appellant's attorney to point out the issues or errors to the higher court.<sup>143</sup> A persuasive appellate theory directs the appellate court's attention only to the most compelling reasons for reversal and usually raises no more than four issues because a theory is damaged, not strengthened, by adding additional weaker grounds that are unlikely to persuade the judges.<sup>144</sup> Similar to a legal appeal, More clearly delineated four issues for review that struck at the heart of the debate when he stated:

First, I would begin where [the Messenger] began—with the abjuration of the man he had spoken of. Secondly, I would address the condemnation and burning of Tyndale's translation of the New Testament. Thirdly, I would say something about Luther and his sect in general. Fourthly and finally, the thing he mentioned last: that is, the warring and fighting against infidels, along with the condemning of heretics to death; which two points he himself had combined and tied together.<sup>[145]</sup>

Second, the *Dialogue* appears to use and rely on authority in support of its arguments in a manner similar to a legal appeal. In modern-day, American appeals, appellate review and argument is mostly focused on the law.<sup>146</sup> However, persuasive appellate arguments also rely on common sense and logic, are grounded in public policy, and are cognizant of how the case at hand will affect

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<sup>138</sup> More, *supra* n. 2 at 457.

<sup>139</sup> More, *supra* n. 2 at 459.

<sup>140</sup> See Neumann, *supra* n. 8 at 333, 353.

<sup>141</sup> See Neumann, *supra* n. 8 at 351.

<sup>142</sup> See Neumann, *supra* n. 8 at 351.

<sup>143</sup> See Neumann, *supra* n. 8 at 353.

<sup>144</sup> See Neumann, *supra* n. 8 at 365–66.

<sup>145</sup> More, *supra* n. 2 at 56.

<sup>146</sup> See Neumann, *supra* n. 8 at 353.

future cases.<sup>147</sup> Medieval and Renaissance appeals in the ecclesiastical and civil law courts were based on equity and conscience, while the common law courts were limited to the law.<sup>148</sup> But the Chancery courts relied on different ideas of law and jurisprudence, probably using common law and ecclesiastical jurisprudence as guides.<sup>149</sup> Similar to the ecclesiastical and civil courts, judgments in the Chancery courts were based on notions of right and wrong or conscience. More appears to use the flexible approach of the Chancery court, relying on several different types of authority in support of his argument, i.e., Biblical examples,<sup>150</sup> temporal law,<sup>151</sup> common sense,<sup>152</sup> public policy,<sup>153</sup> and hypothetical situations that address the impact of the Luther's and Tyndale's reasoning on other situations.<sup>154</sup>

Third, the *Dialogue* appears to use an appellate framework through its use of conversation. Oral argument in appeals is a scholarly type of conversation that is most effective when conducted in a tone of "respectful intellectual equality."<sup>155</sup> It is not a speech, but a conversation in which the attorneys talk with the judges.<sup>156</sup> It is also an opportunity for the attorney to encourage the judges to look to him for intellectual leadership on the issues before the court.<sup>157</sup> More appears to apply this type of legal conversation in the *Dialogue*, which is a series of six conversations between More and the Messenger.<sup>158</sup> Although serious, these conversations are intellectual, lively, and courteous.<sup>159</sup> More even complemented the Messenger for enthusiastically defending his side, when he stated, "I, for my part, very sincerely thank you for your not having defended your side halfheartedly, like a corrupt attorney who would by collusion handle his client's case feebly for the pleasure of his adversary."<sup>160</sup> Throughout the *Dialogue*, More attempted to use these conversations to convince the readers of his intellectual leadership on the matters discussed through his knowledgeable, patient, and courteous conversations with the Messenger. More also attempts to keep the argument focused on the most important issues when he refused to allow the Messenger to inject additional issues or discuss them in an erratic manner.

### *Limitations of Review*

Different degrees of deference serve to limit appellate review of lower court judgments.<sup>161</sup> In Modern-day, American appeals, often a lower court's decision is reviewed for an abuse of discretion, but some issues are reviewed de novo or anew.<sup>162</sup> Also, in some cases, it must not only be shown that there was error, but that the error resulted in harm.<sup>163</sup> Appeals in Medieval and Renaissance ecclesiastical and civil law courts offered a procedure for completely rehearing a

<sup>147</sup> See Neumann, *supra* n. 8 at 365–66.

<sup>148</sup> See Bilder, *supra* n. 36 at 927, 933.

<sup>149</sup> See Haskett, *supra* n. 67 at 256–57.

<sup>150</sup> E.g., More, *supra* n. 2 at 79–81, 106, 113,

<sup>151</sup> E.g., More, *supra* n. 2 at 381.

<sup>152</sup> E.g., More, *supra* n. 2 at 76, 87–89, 113, 350.

<sup>153</sup> E.g., More, *supra* n. 2 at 81, 419, 460, 485.

<sup>154</sup> E.g., More, *supra* n. 2 at 81.

<sup>155</sup> See Neumann, *supra* n. 8 at 350, 383.

<sup>156</sup> See Neumann, *supra* n. 8 at 384.

<sup>157</sup> See Neumann, *supra* n. 8 at 384.

<sup>158</sup> Wegemer & Smith, *supra* n. 105 at 18.

<sup>159</sup> See Wegemer & Smith, *supra* n. 105 at 18.

<sup>160</sup> More, *supra* n. 2 at 127.

<sup>161</sup> See Neumann, *supra* n. 8 at 355.

<sup>162</sup> See Neumann, *supra* n. 8 at 368–73.

<sup>163</sup> See Neumann, *supra* n. 8 at 365.



case.<sup>164</sup> However, review of a writ of error in the Medieval and Renaissance common law courts had a narrow scope of review limited to the record of the case.<sup>165</sup>

In the *Dialogue*, More and the Messenger appear to disagree on the limitations that should be placed on the review of the issues. It appears the Messenger wanted a narrow scope of review that focused on whether there had been an abuse of discretion and was limited to current events. He indicated his preference for a restrictive scope of review when he stated, “And that sometimes perchance, some judges would out of ignorance condemn as heresies such beliefs as the wiser and better-educated would in point of judgment accept as good and Catholic; and that the latter would discern and judge the contrary of that other judgment.”<sup>166</sup> The Messenger also indicated he wanted to limit the facts or evidence to be reviewed when he stated, “for I do not mean any skepticism regarding the miracles done in days of old by God for his apostles or holy martyrs, in corroboration and propagation of the faith. I mean only those miracles that people tell and talk of nowadays as being done at those images, where these shrines are, and where we ourselves see some of them proved plainly false.”<sup>167</sup> However, More appears to have wanted a much broader and less deferential scope of review that did not limit the facts and evidence in support of or against the issues identified. Nevertheless, More established restrictions, indicating that only the issues delineated should be determined, when he stated, “But yet whether [Tyndale] had in the translating of them any malicious intention or not, there I will, till I see further, play Saint Francis’ part and judge the man no worse than the matter requires.”<sup>168</sup> Further, More appears to have recognized that more than intellectual error was required to successfully convince his readers that Luther’s and Tyndale’s beliefs should not be accepted. For example, he not only argued that it was error to look to only Scripture, but maintained that harm has befallen those whom he has known to devote their study only to Scripture.<sup>169</sup>

### *Publication of Arguments*

The publication of legal opinions is fundamental to the modern-day, American appeal. However, the argument in favor of publishing legal opinions was just beginning in the early sixteenth century. More’s arguments for the publication of the *Dialogue* and those relating to the publication of an English translation of a Bible are similar to the arguments relating to legal publication. Was More’s possible use of a legal framework also an attempt to further the humanist argument in favor of the publication of law or legal accessibility?

Unlike the humanists, legal publication, as advocated by the Rastellians, lacked a reformist temper.<sup>170</sup> However, they saw legal publication as an unveiling that unlocked a hidden law and drove back the boundaries of ignorance, which was a familiar humanist image.<sup>171</sup> Rastell wrote that law, “kept secretly in the knowledge of a few persons and from the knowledge of the great multitude may rather be called a trap and net to bring the people to vexation and trouble than a

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<sup>164</sup> See Bilder, *supra* n. 36 at 914, 922.

<sup>165</sup> See Bilder, *supra* n. 36 at 926.

<sup>166</sup> More, *supra* n. 2 at 53.

<sup>167</sup> More, *supra* n. 2 at 114.

<sup>168</sup> More, *supra* n. 2 at 329.

<sup>169</sup> More, *supra* n. 2 at 149–55.

<sup>170</sup> Ross, *supra* n. 79 at 337–38.

<sup>171</sup> Ross, *supra* n. 79 at 337.

good order to bring them to peace and quietness.”<sup>172</sup> More expressed a concern for just such a trap from both friend and foe in the opening of the *Dialogue* when he discussed his decision to write and publish the book. More explained that he put his conversations with the Messenger in writing, not only because the subject needs to be “attentively read and reflected upon,” but because their conversations were so diversified and intricate he did not want to entrust it to the Messenger’s memory alone.<sup>173</sup> Although More states he does not mistrust the Messenger, he noted the advantage of placing their conversation in writing “for the more security”<sup>174</sup> and expressed the concern that:

[I]f it did happen that the messenger, out of furtive favor borne toward the wrong side, purposely distorted what was said, his employer could not only know the truth but also have occasion to be more wary of his messenger, who otherwise might happen to do harm, as long as he was mistaken for good.<sup>175</sup>

Further, More advised his readers that he decided to publish the book because copies had gone overseas and come into the possession of those with whom he disagreed.<sup>176</sup> He was concerned those men might maliciously change his words and print his book.<sup>177</sup> If this were to happen, he realized he would be caught in a net because “if [he] should afterward point out and criticize the differences, [he] might perhaps seem to be trying to make [his] case look better by amending [it].”<sup>178</sup>

Rastell argued the law should be published so men know what they are bound to obey however, should uncertainties or lawsuits arise, men should seek learned counsel.<sup>179</sup> In the *Dialogue*, More indicates his support for an English translation of the Bible.<sup>180</sup> However, he is concerned that men will not curtail their efforts to reading the Bible in a good and devout manner, exerting themselves to follow what is clear and obvious.<sup>181</sup> Instead, there is a fear that “people will much concern themselves with such parts of it as they are least qualified to” and such uneducated people will begin scrutinizing and discussing the Bible without the guidance of a teacher and take it upon themselves to teach others.<sup>182</sup> It is interesting that, in support of his argument, More refers to both Mosaic and temporal law.<sup>183</sup> First, More points to Saint Gregory Nazianzen’s criticism of such “bold, officious dabblers in Scripture” when he explained that Moses received the law from God when he ascended the mountain and then, delivered it to the people who remained below.<sup>184</sup> The people are to keep and fulfill the laws, not debate them.<sup>185</sup> Second, More points to Plato’s express prohibition of “those not admitted to this office, or qualified for it, to much involve and busy themselves in discussions and debates about the temporal laws of the city.”<sup>186</sup>

<sup>172</sup> Ross, *supra* n. 79 at 331, quoting John Rastell’s *Prohemium*, in *Expoitione Terminorum Legum Anglorum* (c. 1525), reprinted in *The Thought and Culture of the English Renaissance: An Anthology of Tudor Prose 1481–1555*, 176–77 (Elizabeth M. Nugent ed., 1956).

<sup>173</sup> More, *supra* n. 2 at 39–40.

<sup>174</sup> More, *supra* n. 2 at 40.

<sup>175</sup> More, *supra* n. 2 at 40.

<sup>176</sup> More, *supra* n. 2 at 40.

<sup>177</sup> More, *supra* n. 2 at 40.

<sup>178</sup> More, *supra* n. 2 at 40–41.

<sup>179</sup> See Ross, *supra* n. 79 at 340.

<sup>180</sup> More, *supra* n. 2 at 41.

<sup>181</sup> More, *supra* n. 2 at 383.

<sup>182</sup> More, *supra* n. 2 at 380–81.

<sup>183</sup> More, *supra* n. 2 at 380–81.

<sup>184</sup> More, *supra* n. 2 at 380.

<sup>185</sup> See More, *supra* n. 2 at 380.

<sup>186</sup> More, *supra* n. 2 at 381.

### *Conclusion*

In the *Dialogue*, More appears to have used the framework of a legal appeal to correct misbelief, clarify the Church's doctrine, ensure the intent of that doctrine was given effect, encourage a uniform doctrine, and accuse Luther and Tyndale of promoting false beliefs. His use of this type of legal framework emphasized the importance of the Church's authority and its importance in the English legal system, since Medieval and Renaissance legal appeals were conducted in the ecclesiastical and civil law courts. Similar to legal appeals, More articulated the issues to be decided and developed his argument by relying on accepted authorities with adherence to certain limitations to the review of those issues. In accordance with modern-day practice and the early sixteenth-century humanist argument in favor of publishing legal opinions as well as the growing practice in the early sixteenth century Chancery courts of recording every item of procedure, More chose to publish the *Dialogue*.

If the *Dialogue* used the framework of a legal appeal, then it is necessary to determine who More intended to serve as the judges. The *Dialogue* presents a complex and troubling case that demands its judges to discuss the arguments and examine the authority relied on. When discussing his decision to publish the *Dialogue*, More stated that he submitted his work to the examination and judgment of men more learned than himself and that

[S]ince it would not have become me to be judge over the judgment of those whom I had chosen and taken for my judges, they personally being such that it would be hard for anyone to say which of them had any edge in terms of erudition, intelligence, or prudence, I had no choice but to go along with the majority.<sup>[187]</sup>

However, More's decision to publish the *Dialogue* suggests he also wanted his readers to discuss and examine his arguments. In appeals, once the judges have reached a decision, they issue a written opinion explaining their reasoning. Perhaps More's apparent use of the framework of a legal appeal in the *Dialogue* was simply to encourage discussion of the beliefs of Luther and Tyndale and to promote the publication of reasoned opinions on the matter.

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<sup>187</sup> More, *supra* n. 2 at 43.

# More's Merry Tales in Re-Formation<sup>1</sup>

## The operation of a minor epic form in Thomas More's Dialogue Concerning Heresies

Benedek Péter Tóta

### *I. Invention: Identifying the Target*

In 1528, a layman, Thomas More, was commissioned by the Bishop of London, Cuthbert Tunstal, to compose some books for the laypeople (*simplicibus et ideotis hominibus*)<sup>2</sup> that would help them face the questions of reformation. The members of the target group were described as simple and ignorant, lacking qualification and professional training in theology but having practical good sense and judgement gained from experience. To reach these common people of common sense, neither writing simply in the vernacular of the day would have been enough, nor the ancient sophisticated dialogue form imitating a live situation would have been satisfactory in itself—not even in the case of one of the most celebrated orators at that time.<sup>3</sup> The fortifying of these common people would not have been achieved even given the fact that the “most illustrious layman of the realm” had already proved to be “a frequent and brilliant advocate of the Catholic position” having “set the example for future defenders of the Church.”<sup>4</sup> The strategic frequency and the tactical

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<sup>1</sup> Acknowledgement: This paper has been completed within the second year of the research supported by the Hungarian Scientific Research Fund Programme K 62008 (2006-2009).

<sup>2</sup> Elizabeth F. Rogers, ed., *The Correspondence of Sir Thomas More*, Princeton: Princeton UP, 1947, 387/24. Cited hereafter as “Rogers page/line.”

<sup>3</sup> In Tunstal’s words, More “can rival Demosthenes” both in the vernacular and in Latin (*tu ... in lingua nostra vernacula, sicut etiam in Latina, Demosthenem quendam praestare potes*). (Rogers 387/19-20; quoted in Louis A. Schuster, Richard C. Marius, James P. Lusardi and Richard J. Schoeck, eds., *The Complete Works of St. Thomas More*, Vol. 8, Parts I-III, New Haven: Yale UP, 1973, 1139. Cited hereafter as “CW8 page.”)

<sup>4</sup> Rogers 387/21: *Catholice veritatis assertor acerrimus in omni congressu esse soles*; and Rogers 387/26-30: *habes ad id exemplum quod imiteris preclarissimum, illustrissimi Domini nostri Regis Henrici octavi, qui Sacramenta Ecclesie contra Lutherum totis viribus ea subuertentem asserere aggressus, immortalem nomen Defensoris Ecclesie in omne eum promeruit*. Cf., CW8 1139. See also: John M. Headley, ed., *The Complete Works of St. Thomas More*, Vol. 5, *Responsio ad Lutherum* (1523), New Haven: Yale UP, 1969; and Frank Manley, Germain Marc’hadour, Richard Marius and Clarence H. Miller, eds., *The Complete Works of St. Thomas More*, Vol. 7, *Letter to Bugenhagen* (1526, first published in 1568), New Haven: Yale UP, 1990, 1-105.

arrangement of the popular minor epic form of merry tales in More's *Dialogue Concerning Heresies* (1529; 1531)<sup>5</sup> seem to be the preferred device to achieve the desired result, that is, to let these laypeople *clearly see* "the cunning malice of heretics" and have these common people *better instructed* "against the traitorous subverters of the Church."<sup>6</sup> Common people are stimulated by merry tales to activate their common sense. The discussion of the contextual and compositional operation of these merry tales is expected to clarify the instructive utility of this minor epic form.

## II. Antecedents: Preparatory Examples

The genre of merry tales occurred in More's oeuvre as early as 1515. Defending Erasmus's achievement against the theologians in Louvain, More wrote his *Letter to Martin Dorp*.<sup>7</sup> Discussing the *artes sermonicales*, More includes a merry tale reporting a dramatised merry dialogue between a learned Italian merchant and a theologian from the continent. (CW15 L 50/1-54/13; E 51-55) The theologian wanted to dispute (L 50/3, 5, 9, 18) some premeditated questions (L 50/4-5) to test the English and enhance his own fame (L 50/5-8). After boasting about his own competence in discussing anything even beyond his profession (L 50/11-18), questions of practical theology were raised (L 50/19-52/7). However, it turned out that he was not so well-versed in Scripture (L 52/10), therefore texts "arbitrarily contrived ... out of thin air" (*nusquam*; L 52/14 and L 54/1) were presented for him (L 52/11-19; E 53) and he boldly interpreted them (L 54/4, 9). This adventure produced "more than twenty of these drunken texts and as many drunken glosses" (L 54/10-11; E 55). More's merry tale in a letter that is meant to be a treatise on Erasmian humanism, illustrates the problem of being ignorant concerning philological issues (L 49/22) that can excruciate an interpretation (L 49/24) which can, in turn, violate one's credence.

The first merry tale of this illustrative adventure—taking place in the form of a table-talk (*cenaui*, L 50/1; *cena*, L 50/11 and 54/10) and turning out to be an amusing (*festium*, L 50/11) incident as if coming from nowhere (*nusquam*, L 52/14 and L 54/1)—seems to introduce its own more dramatised version in the first book of *Utopia*<sup>8</sup>—or *Nusquama*<sup>9</sup>—labelled by the marginal gloss as "A Merry Dialogue between a Friar and a Hanger-On" (CW4 81), that is, a "*Festius dialogus fratris & morionis*" (CW4 80). This merry dialogue is also shaped as a table-talk related by Raphael Hythlodæus. Once he took part in a conversation at Cardinal Morton's table (*in eius mensa essem*, CW4 L 60/6 E 61/7) discussing public matters concerning the veterans, thieves, beggars and vagrants. The merry dialogue as the coda of the table-talk serves as dessert. Its additional quality is revealed by the speaker's attitude articulated in his words—"I am at loss as to whether it were better to suppress what followed next, for it was quite absurd (*ridicula*, L 80/21)." (E 81/23-24)

<sup>5</sup> Thomas M. C. Lawler. Germain Marc'hadour and Richard C. Marius, eds., *The Complete Works of St. Thomas More*, Vol. 6, Parts I-II, *A Dialogue Concerning Heresies*, New Haven: Yale UP, 1981. Cited hereafter as "CW6 page/line."

<sup>6</sup> Rogers 387/24-26 (emphasis added): *subdolum hereticorum malignitatem aperiant, ac contra tam impios Ecclesie supplantiores reddant eos instructiores*. (Cf., CW8 1139)

<sup>7</sup> Daniel Kinney, ed., *The Complete Works of St. Thomas More*, Vol. 15, *In Defense of Humanism: Letter to Martin Dorp* (1515, first published in 1563), New Haven: Yale UP, 1986, 1-127. Cited hereafter as "CW15 L(atin) or E(nglish) page/line."

<sup>8</sup> Edward Surtz and J. H. Hexter, eds., *The Complete Works of St. Thomas More*, Vol. 4, *Utopia*, New Haven: Yale UP, 1965. Cited hereafter as "CW4 L(atin) or E(nglish) page/line."

<sup>9</sup> See the note to CW4 112/1-2: "In early pertinent correspondence, the island is referred to as *Nusquama* (*nusquam*, "nowhere," Erasmus, *Ep.*, 2, 339, 346, 354, 359, 372)." (CW4 385) It could also be noted that *nusquama* can be a merry compound of Greek *nous* "mind, brain, thought, intellect" and Latin *squama* "(bot., zool.) scale, scalelike feather or part of bone; splinter; fragment; (of speech, style:) roughness, inelegancy," thus it might merrily mean "fragments of thoughts due to brainstorm," as well.

However, the speaker's next sentence emphasises its relevance—"But I shall relate it since it was not evil in itself and had some bearing on the matter in question" (E 81/24-25).<sup>10</sup> The dual quality of being additional and essential, accidental and substantial is revealed in the designation of the marginal "Hanger-On" or "*morionis*" within the main text: *parasitus* (L 80/23 and its note, 345)—someone or something that *is beside* food. This special dessert-like closure, on the one hand and in its own way, summarises the main part of the table-talk as for the thieves and the vagrants (L 80/30; E 81/35-36), however, on the other hand, imitating the main talk as for the sick and the old (L 80/32; E 81/37-38), and in a shared quality of the beggars (L 82/9, 17; E 83/11, 19), it becomes a parody of the discussion of public matters. In this way, the coda becomes a table-talk about the table-talk, thus claiming its own right as a kind of main course. Besides the previously marginalised Hanger-On that is now a centralised *parasitus*, the previously additional coda turns into an essential form, the previously accidental tale appears as the substantial body of the text as if it were a sophisticated parable to be deciphered. The speaker does his best in it coming to the conclusion that this conversation exhibits the joint attitudes of rejection and approval existing side by side. (L 84/20-30; E 85/27-37) In this sense the coded coda is decoded—reversed at least, if not subverted. The act of decoding is underlined by the second part of this merry dialogue when it turns upon the application of Biblical interpretation that results in philological ignorance or rather abuse according to the marginal gloss (E 85; L 84). As an overall outcome, neither mundane, nor sacred, neither temporal, nor spiritual, neither public, nor private interests are respected. Irrespective of the topics touched upon, the vocabulary of this merry dialogue reflects a consistent philological character: *ridicula*—absurd (L 80/21; E 81/24), *imitari morionem*—imitating a jester (L 80/24; E 81/28), *simulabat*—imitation (L 80/25; E 81/29), *captans risum*—raise a laugh (L 80/26; E 81/30), *rideretur*—object of laughter (L 80/26; E 81/30-31), *non absurda*—to the point (L 80/27; E 81/32), *subrisit*—smiled (L 82/13; E 83/14), *ioco*—jest (L 82/13; E 83/14), *coeperit ludere*—began to make merry (L 82/15; E 83/17), *scurra ... scurrari coepit*—the scoffer began to scoff (L 82/28; E 83/33; and in the Latin line, note the clash of *sacra* and *scurra* together with the hissing alliteration of the sibilants in *citans e scriptura sacra ... scurra serio scurrari* [82/27-28] starting to attack integrity), *homine stulto & ridiculo ridiculum*—a silly fellow...a foolish duel with a fool (L 84/9-10; E 85/13-14), *per iocum*—in jest (L 84/27-28; E 85/36).<sup>11</sup> The character of this merry dialogue is that of a ridiculous joke or that of an absurd play. Actually, the texts of More's letters to Peter Giles and the utterances of the speakers in *Utopia* agree on men's "*absurda iudicia*" (L 42/28; cf., L 58/13), that is, "wrongheaded...judgements" and "ridiculous...prejudices" (E 43/33; 59/14), and that there are things—extensively and exhaustively enumerated (E 245/18-26; L 244/15-21)—that "seemed very absurdly established" (E 245/17), "*perquam absurde uidebatur instituta*" (L 244/15). However, when More's epilogue-like letter to Peter Giles also turns to the possibility of the absurd aspect (L 248/5, 21, 24, 26; E 249/6, 25, 29, 32) raising the question of the nature of truth and fiction, no definite answer is given but an open space is provided that represents an ever challenging want or requirement not to be contended (L 248/6; E 249/7). The

<sup>10</sup> The coexisting features of being refrained or restrained and being willing and expressing readiness—though in a rudimentary form—have already been present in More's *Letter to Martin Dorp*; in the merry tale: "Though it would take a while, I would certainly not hesitate to tell you ..." (CW15 L 50/9-10; E 51); and in its own introduction: "Having run across many of this kind, I will not hesitate to describe at least one ..." (CW15 48/24-26; E 49) In *Utopia*, More's prefatory letter to Peter Giles also displays these aspects: "I myself have not yet made up my mind whether I shall publish it at all" (CW4 L 42/25-26; E 43/30-31) and "in the matter of publishing which remains I shall follow my friends' advice ..." (CW4 L 44/25; E 45/30-31)

<sup>11</sup> In More's *Letter to Martin Dorp* the merchant also assumed the role of the *ludimagister* when "he started to play with the fellow" (*coepit hominem ludere*). (CW15 E 53; L 52/11)

second merry tale is a parable that generates a series of parallel responses to the question concerning the credibility of a speaker, an utterance, and a text.

### *III. A Generation of Merry Tales*

As for More's *Dialogue Concerning Heresies*, merry tales do not only become frequent, but at points they form sequences. Beyond their anecdotal and entertainment purposes and their role of homiletic expansion, the clustered arrangement or these series in the composition and in connection with a given topic can make a given issue rather puzzling, presenting one with the pattern of a problem which challenges one's response.

#### *A. Parallels*

The first tale questions whether one's origin can be accepted as genuine, and on what basis if the possibility of being changed in the cradle cannot be excluded (CW6 63/28-64/6). The second tale is about a man from India thinking that it is against the nature of man to be white (65/3-10). The third tale introduces the refiners and goldsmiths of London and their art of producing wire out of blocks of silver and iron (66/27-67/18). The fourth tale tells about a bird whose wings covered the whole churchyard of St. Paul's in London (68/4-15). In the fifth tale we get to know a poor man who found a priest in a too familiar situation with his wife. The poor man made it public but because he could not prove it he was ordered to give penance by proclaiming at high mass on Sunday, "mouth thou lyeest." He did so, and what is more, after that he also announced that "eyen ... by the masse ye lye not a whytte." (69/19-32)

Through the shifts of these tales it is shown that neither reason, nor nature can adequately and completely explain some phenomena. The parallel arrangement of these merry tales serves as a series of grades towards the question of credence concerning those phenomena (e.g. miracles) that can be neither fully understood nor fully explained.

#### *B. Framing Parallels*

The first tale states that a dead child was restored to life (71/22-23). The second tale is about making a beam that was cut short longer in order to suit its purpose (71/24-27). The third tale tells us that a man was taken a mile off from one place to another while a *Pater noster* was prayed (71/29-30). When these units return, the first one is changed for another tale about a boy who was born a foot tall but who is now an inch taller than the speaker. It took place about 21 years earlier when the speaker belonged to the parish of St. Stephen's in Walbroke in London before he went to Chelsea (78/35-79/32). The second tale is opposed to another one about a stone of more than a man's weight carried for more than a mile by a skilful contrivance (80/21-28). The third tale is also opposed to the tale of the refiners and goldsmiths, mentioned above (80/32-81/7).

The framing parallels and the changes resulting in a significant contrast create a space in which it can be discussed that neither nature nor reason denies miracles, and that miracles have to be admitted including those ones that occur as everyday phenomena even if they are the most incredible.

#### *C. Paratactic Accumulation*

Either the preceding cases of the merry tales were discussed in an alternating way (tale, discussion, tale, discussion, and so on), or they themselves embraced their own interpretation. In the following case, however, the accumulated sequence of the merry tales itself interprets the merry tales.

In the first one an accident disturbs a Chaucerian pilgrimage. Someone's "horse so fell in haltynge" and it "was so lene and so pore and halted so sore" that "coulede scant kepe fote" with the company. However, when the horse "spyed a mare...forth he lympted on thre legges so lustely that his maysters horse wyth foure fete / coulede scant ouertake hym. But whan he caught hym and cam agayne / he sware in great anger...that he wolde trust haltynge syr Thomas the worse whyle he lyuyd." It turns out that "syr Thomas" is "theyr paryshe preste" who is

as lene & as pore and as haltynge as his horse / and as holy to. But syns he wolde whyle he lyued mystrust the haltynge preste for his haltynge horse / If I fynde and holy *horeson* halte in ypcrysye / I shall not fayle whyle I lyue / to truste all his fellowes the worse.<sup>12</sup>

The typified problem of personal integrity is objectified in the second merry tale about the counterfeited "safyre or byrall" whose deceptive appearance cannot question the existence of "ryght dyamountes" (92/7-12). The objectified problem of personal integrity takes another turn with a remark in the third tale that one "wyll not mystrust saynt Peter for Iudas." (92/8) The theme of the first tale's popular joke is turned into a religious and theological issue represented by these model figures.

In the fourth and at the same time last tale in this accumulation, the problem of interpersonal prejudice is raised that does not violate the integrity of the person of the prejudged but reveals the lack of judiciousness in the person prejudging. In addition, since "our lady" is in the centre of the last merry tale, that is, the Blessed Virgin, whose role is ancillary—marginal—in the history of salvation, therefore indirectly but inevitably the seemingly marginal but ever more central fact of Christ's redemptive act is blasphemed. This is how the pilgrimage to Walsingham (91/23), "a famos shrine in Norfolk dedicated to the Virgin Mary" (see the note, CW6 628) comes to its end. However, it is also a pilgrimage of these paratactically accumulated tales, in which the beastly homophone, the immoral *whoreson* (92/5) can be converted by the embracing references to the implied virginity—as an added value of compositional skill—because the initial attitude of passing judgement on others is finally replaced by the invitation to acquire judicious self-knowledge that can grant personal integrity as a token of credence through which the *whoreson* can become wholesome.

#### *D. Merry Tales as Dramatic Acts*

The purifying effect of these paratactically accumulated merry tales is a dramatic experience. However, nothing can be more dramatic than More's recounting the burning of heretical editions of the Bible, the burning of heretical people, and, finally, burning of the corpse, "the dede body of the man hym selfe" (cf., 317/24-26 and 32). This exposition unambiguously refers to the so called Hunne affair:

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<sup>12</sup> Pages 91/21-92/6; emphasis mine; see also the notes, CW6, 629.



In 1514, Richard Hunne, who had refused to pay the mortuary fee demanded by a priest for the burial of his infant child, was found hanging by his belt on a spike in the wall of the bishop's prison ... Heretical books with suspect marginal notes were found in his house...His body was tried, and burned. The Messenger is evidently repeating *popular gossip* that had been *circulating* in London for more than a decade, demonstrating that the Hunne case was very much *alive*.... (CW6 692; emphasis mine)

This lively circulating popular gossip serves a pretext (or pre-text) to phrase the opening question: "Who tolde...this tale ...?" (317/32). This question does not only seek a piece of information concerning the person who tells a tale, but it also implies that the nature of the tale and the act of telling a tale has to be put to the test as well. Both the actor and the act have to be tried. The trial is performed in three acts in the form of three merry tales. One of a man "that sayd he cowlde goo take the sleue that kylled Rycharde Hunne" (319/10-11). Another of another man who said that he "hadde sene many men that had hanged theym selfe" and who "by suche experyence as he hadde" together with "good and playne tokens" proved that "Hunne dyd neuer hange hym selfe" (319/17-26). And the third of "a spyrytall man" who "could not deny" that "he hadde tolde a temporall man" that "Hunne hadde neuer bene accused of heresy yf he had neuer sued the premunyre" (319/26-30).

At the start, after revealing that the testimony of these three figures "proued very tryfles" (320/1), the narrator seems to repeat a familiar pattern to start the three acts or merry tales:

I beseche you quod [the Messenger] lette me here howe they proued. I am lothe quod [the narrator] to lette [i.e., hinder] you / and lese your tyme in suche tryfles. Howe be it syth ye longe so sore therefore / rather than ye sholde lese youre chylde for theym / ye shall haue theym all thre.... (320/4-7)

The preparation of this narrator resembles the attitude of the narrators in More's *Letter to Martin Dorp* and *Utopia*. The qualification of these incidents as trifle might etymologically evoke the possibility of a jest that is not necessarily serious, that can be dealt with carelessly fooling away time as with some *squama*, therefore one can even laugh at them (cf., 320/2).<sup>13</sup>

The first merry tale or act performs the use of words that lead to an inconclusive series of hearings through which "a grete post well thwyted to a puddynge prycke" (320/8-321/30). The second merry tale or act stages the caricature of a seer who "loked as though his eyen wolde haue fallen out of his hed into the lordys lappys" (321/30-323/34). In the third merry tale or act it turns out that both the "temporall man" and the "spyrytuall man"—though they are of great credit—"make an vntrue reporte / or vntruely denye the trouthe" (323/34-324/30). This merry tale series, or play of three acts, does not explain the Hunne affair. That would be morbid. This merry play of three acts rather display the fact that honesty, credibility and integrity (cf., 318/19, 319/8, 324/2) can easily be lost by the uncontrolled use of words, even without being aware of the possibility that one can sin in one's words, in one's thoughts, in what one has done or in what one has failed to do. Due to the lack of self-knowledge, self-control or self-awareness, these absurd figures cannot be absolved but laughed at.<sup>14</sup>

Although these figures seem to be innocent by themselves, the acts attached to them qualify the lively circulating gossip, that is, "mysse vnderstandynge maketh mysse reportynge. And a tale that

<sup>13</sup> Cf., "A Mery Gest" by More in Anthony S. G. Edwards, Katherine Gardiner Rodgers and Clarence H. Miller, eds., *The Complete Works of St. Thomas More*, Vol. 1, *English Poems*, New Haven: Yale UP, 1997, 15-29.

<sup>14</sup> See also 320/2, 321/24, 322/22, 324/27.

fleeth thorowe many mouthes / catcheth many newe fethers / whyche whan they be pulled away agayne / leue hym as pyllled as a cote and sometyme as bare as a byrdys ars” (324/33-325/1). As in a merry tale, the beginning and the end of the digestive track are connected.

### E. An All-Inclusive Merry Tale

According to the composition of the *Dialogue*, the instruction by means of merry tales takes the form of a table-talk in the narrator’s “study” (35/21) *sitting* “at a lytell table” (35/24). The questions and problems have to be analysed and synthesised, decomposed and assimilated with the help of merry tales:

*More.* May a man...better trust his eyes...then his wyt?

*Messenger.* Ye mary...what may he better truste then his eyen?

*More.* His eyen may...be decyuyd and wene they se that they se not yf reason gyue ouer his hold / excepte ye thynke y<sup>e</sup> iugler blow his galles through the goblettes bottom / or cut your gerdell afore your face in .xx. pecys & make it hole agayne / and put a knyfe into his eye and se neuer the worse / And tourne a plum into a doggys *torde* in a boyes *mouthe*. / Nowe happenyd yt madly that euyng with this worde came one of my folke & asked whyther they sholde make redy for *dyner*. / Abyde...let vs haue better *meate* fyrst. And therwith your frende and I began to *laugh*. (130/12-23; emphasis mine)

At about noon they have dinner. The exchange of utterances, however, insinuates the possible connection, even mutual substitution of intellectual and physical nourishment (185/33-186/5) as the narrator articulates it: “I should *muse* more theron nowe and *ete* no *mete* for *longynge to knowe*.”<sup>15</sup> The minor epic form of table-talks as merry tales has grown into a major epic form of a table-talk as a merry tale. This major form and the clusters of minor forms within it operate as the complex stomach of ruminants.

Rumination as such has its proper importance in zoological physiology and human nutrition. The digestive process of rumination provides special advantages for ruminants in contrast to non ruminants. Ruminants can digest (decompose, and synthesize) vegetable components that cannot be digested by non-ruminants. Ruminants can even assimilate those resources of protein, which non ruminants cannot, and the protein thus produced is of higher biological value and contains greater energy than the ones produced by non ruminants. These advantages are partly due to the complex stomach and partly to the fact that micro-organisms exist in the fore-stomachs of the ruminants. It is a regular symbiosis. The protein synthesized by the bacteria and protozoa is also assimilated by the host organism, which doubles the protein supply of the host organism and increases its biological value.<sup>16</sup> As the symbiosis of the micro-organisms and the host organism increases the value of the host body, so do minor merry tales contextualized in the ruminative macro-organism of the host-text, the major merry tale.

<sup>15</sup> Emphasis mine. See also 187/12-13, 344/32-35, 345/7-9, 435/28-29.

<sup>16</sup> The information on the physiology and digestive process of ruminants has been provided by László Bozzay, DVM, whose generous help I gratefully acknowledge. The following works of veterinary medicine have been also consulted: Potsabay János—Szép Iván, *Háziállatok anatómiája és élettana* (The anatomy and physiology of domestic animals), Budapest: Mezőgazdasági, 1968. 249-250.; Kemény Armand, *Élettan állatorvostan-hallgatók és állatorvosok számára* (Physiology for students and surgeons of veterinary medicine), Budapest: Mezőgazdasági, 1974. 432-441.; Karsai Ferenc, ed., *Állatorvosi kórélettan* (Patho-physiology of veterinary medicine), Budapest: Mezőgazdasági, 1982. 200-242.; Szajkó László, ed., *Szakosított tejtermelés* (Specialised milk production), Budapest: Mezőgazdasági, 1984. 132-136. Clarence M. Fraser, et al., eds., *The Merck Veterinary Manual*, Rahway, NJ, Merck, 1986. 1486-1487.

*IV. Merry Tales in Re-Formation*

The clusters of merry tales test and taste human credibility and integrity. The sequences of merry tales attempt in various ways to prepare and better instruct the listener and reader in attaining credibility and integrity. This attempt is More's elementary pattern of compositional principle both in form and content: testing and tasting one's own personal integrity and the integrity of one's own work keeps one's Morean and moral awareness ever active. This *Dialogue*, then, is not a dialogue between two interlocutors any more, but a merry dialogue between many tales in the process of re-formation.

Such a delicate approach does not only make the problem in question memorable, but keeps one's mind active. Due to this activity, the motion of the mind alert to the point, the quality of the emotion attached to the action, and the way of presenting one's response can display and reflect a discretion that is the better part of valour.

## **Structure of More's *Dialogue Concerning Heresies* Section 4.11 on Luther's *Sola Fide***

### **Arguments Led by Interrogated Man, Objecting to the Interrogation Outline by Dr. Christopher Malloy**

[Page numbers from *A Dialogue Concerning Heresies*, ed. Mary Gottschalk (NY: Scepter, 2006)]

- A. (p. 431f) *Sola fide* means something quite basic and tried: One should trust in God and do good.
  - B. (p. 432f) *Sola fide* applies only to those who die immediately after Baptism, for these have no time to do good works.
  - C. (p. 433f) Since the person precedes the work, justification precedes works, which necessarily follow but which do not make one more just.
  - D. (pp. 434–39): Faith cannot exist without good hope, charity, and good works.
    - 1. (pp. 434f) One may say “faith alone” since “faith always has good hope and charity with it and cannot but work well” (p. 434). (Arguments 5–7 maintain this theme and are thus indented.)
    - 2. (pp. 435f) [Messenger steps in]: In 1 Cor 13, Paul could be said to be using a literary device, not asserting the possibility of a faith without charity.
    - 3. (p. 438) “A dead faith is no faith, just as a dead man is no man”.
    - 4. (p. 438f) In James, “faith” is said of demons by equivocation, since “The real faith is indeed a faith in the promises of God,” a trust no demon can have.
  - E. (p. 441) When we say “faith alone” we *mean* “faith with charity” and works.
  - F. (pp. 441–45): God rewards solely faith
    - 1. (pp. 441f) Although true faith cannot be without works, yet, God rewards solely the faith.
    - 2. (p. 442f) The question is put to the interrogated: On what basis do you deny he rewards works? He answers: “Scripture”, adducing many texts.
    - 3. (p. 445) None of these texts deny that the reward is given solely for faith.
- Return to D. (pp. 446): Objection: Faith cannot be without good works.
- Return to C. (p. 446f) Objection: (Rhetorical question): Who would sin if he truly believed?
- G. (pp. 447–451): All our deeds are worthless (Although one might group this with ‘F’, yet the argument strikes radically new ground)
    - 1. (p. 447f) “God rewards solely faith” is proved by Isaiah – all our righteous deeds are sins.
    - 2. (pp. 449ff) Here, the interrogated attempts to appeal to something basic, always held by the Church. This is somewhat of a revisiting of the first argument (A): “All our sufficiency is from God” (p. 449).
  - H. (p. 451) The interrogated finally confesses the core principle: All is destiny.