



The Rich Man; The Queen
 1523-26 - Hans Holbein the Younger
 Woodcut, 64 x 48 mm
 National Gallery of Art, Washington



“Little in Common”? Law and Literature in Thomas More’s “A Dialogue on Conscience”

Dutton Kearney
 Aquinas College, Nashville

Dutton Kearney is Assistant Professor at Aquinas College in Nashville, Tennessee, where he teaches English and Theology. He received his graduate degree from the University of Dallas.

* * *

This article examines the letter from Margaret Roper to Alice Alington, which is commonly referred to as Thomas More’s “Dialogue on Conscience.” Within this dialogue, More recites two tales, one about the man named Company, and another about how a thief tricks a magistrate. While most readers of the dialogue identify More with Company, the story about Company is merely a digression, a red herring to distract readers from his surprisingly straightforward indictment of Henry VIII. More is not Company, but rather the magistrate who has been arrested under a false law, the Act of Succession.

Keywords: Margaret Roper, Dialogue on Conscience, Company, Henry VIII, Act of Succession.

Cette article analyse la lettre de Margaret Roper à Alice Alington, communément appelée Dialogue on Conscience. Dans ce dialogue, More raconte deux histoires, la première faisant figurer un homme du nom de « Compagnie », et l'autre un voleur qui trompe un magistrat. Bien que la plupart des lecteurs devinent More sous les traits de Compagnie, cette histoire est une digression destinée à brouiller les pistes pour qu'on ne s'offusque pas des accusations étonnamment directes envers le roi Henry VIII. On doit comprendre en fait que More ne se cache pas sous les traits de Compagnie mais sous ceux du magistrat, qui doit son arrestation à la mauvaise loi qu'est l'Acte de Succession.

Mots-clés: Margaret Roper, Dialogue on Conscience, Compagnie, Henry VIII, Acte de Succession.

Este artículo examina la carta de Margaret Roper a Alice Alington, comúnmente referida como "Dialogue on Conscience" de Thomas More. Dentro de este diálogo, More cuenta dos historias, la del hombre llamado Compañía y la del engaño a un magistrado. Mientras que la mayoría de los lectores del diálogo identificarán a More con Compañía, esta historia es una mera digresión para distraer a los lectores de su arresto ordenado por Enrique VIII. More no es Compañía, sino más bien el magistrado que ha sido arrestado por una falsa ley, el Acta de Sucesión.

Keywords: Margaret Roper, Dialogue on Conscience, Compañía, Enrique VIII, Acta de Sucesión

* * *

Thomas More had a lifelong interest in the relationship between the New Inn and the Lincoln Inn, that is, between humane letters and the law. As is well known, John More was somewhat alarmed to learn that his school-age son seemed to prefer literary pursuits over lawsuits. As Erasmus overstates the situation in the earliest biography of More, "he was treated almost as if disinherited because he was thought to be deserting his father's profession . . . [since] the law as a profession has little in common with literature truly so called."¹ Thomas More, of course, would disagree. A student of Plato, More knew that philosophy and literature could be closely intertwined, and in his translation of the life of Pico della Mirandola, his editorial decisions to omit or paraphrase certain passages show that he is conscious of creating a subtext that can carry his critical

¹ D. Erasmus, "Erasmus on More, 1519," in *A Thomas More Sourcebook*, Eds. Gerard Wegemer and Stephen W. Smith, Washington D.C.: CUP, 2004, p. 8.

commentary. Similarly, readers of More's *History of Richard III* soon discover substantial differences between the Latin and the English versions, noting the subtext of More's (and England's) contemporary political situation. Once again, More is using his considerable literary skills within another discipline, this time, history, whereas with his *Life of Pico*, More explores humanism as well as spirituality. Each of his works could be offered as subsequent examples, from the obvious example of *Utopia* (a work of literature that is concerned with tyranny and the proper ordering of the individual soul as well as the commonwealth) to the less obvious example of *The Sadness of Christ* (ostensibly a commentary on Scripture; it clearly parallels More's imprisonment).

If Erasmus had been able to wait fifteen years before writing his short biography — and especially if he had read "A Dialogue on Conscience" — he would have come to a different conclusion about the relationship between law and literature. In this dialogue we see More clearly outline his legal position and his reasoning for it; yet under the guise of a literary work, More is able to avoid the charge of treason. After establishing the historical and political background for More's dialogue, I plan to analyze this literary and legal dialogue as a commentary on his silence. On the one hand, its paternal gentleness aims at comforting his daughter Margaret — and by extension, Dame Alice — but on the other hand, it is a carefully worded (and consciously public) document that clearly states his position, while simultaneously avoiding all legal liability. In order for More's silence to speak, it required a literary dimension.

After resigning as Lord Chancellor in 1532, More was always very careful to avoid any conversation — whether spoken or written — about Henry's remarriage or his usurpation of the Church's autonomy. More was silent on the matter, and as is common legal

knowledge, silence from a legal standpoint means consent. For example, just before More's resignation, Henry expanded his title to include his new status as the head of the Church in England — although the pronouncement was tempered somewhat by Bishop John Fisher's addition of "so far as the law of Christ allows." When this was read at the Canterbury Convocation, there was no debate over the title. The bishops were silent. They may also have been intimidated by the substantial fine that Henry had recently levied against them for having supported Wolsey, but because there were no dissenting words from them, their silence was taken to be consent, and the measure passed.

Of course, Henry did not stop there. In 1534, he supported the passage of the Act of Succession, which established the children from Henry's second marriage as the rightful heirs to the throne. The Act required an oath of support, which More could not give. There were two tiers of punishment for violating the oath of the Act of Succession: (1) for actions and written words against the king, the offender was to be drawn and quartered, and (2) for spoken words against the king, the punishment was imprisonment, along with the confiscation of property. Silence thus became More's legal strategy: not only did silence protect him from violating the Act of Succession — and more importantly, his conscience — it also demonstrated his consent to its passage.

If only it were that simple. On April 13, 1534, More was interrogated at Lambeth Palace, illegally imprisoned for refusing to take the oath, and his property was confiscated. Although he had been silent, he was punished as if he had spoken directly against the Act. More's noble reliance upon the law and upon legal precedent was not shared by Henry's court—in November 1534, the Act of Supremacy was passed, formally establishing Henry as the head of

the English Church, and in December, the Act of Treasons was passed. Rather than continuing with distinctions between actions, written words, and spoken words, the Act of treasons outlawed any words against Henry as the head of the Church under the penalty of being drawn and quartered.

The Act of treasons was tested the following Spring. The language of the Act specified that punishable offenses were to be only those that were considered to be "malicious." In April, 1535, four priors were brought to trial, having been accused of violating the Act of treasons. They admitted to denying Henry's supremacy, but they insisted that they had not done so maliciously. As James Monti notes, "the judges insisted that any denial of the supremacy was by its very nature malicious; hence the inclusion of the word 'maliciously' in the statute meant nothing in the way of a distinction."² Soon after their trial, More was brought in for questioning; several days later, he wrote a letter to Margaret describing the interrogation. Creating public records was a tactic that More used again and again throughout his life — for example, in the controversy over Elizabeth Barton, the so-called "Nun of Kent," mentioned in the 1534 letter from Alice to Margaret, which provides the occasion for the "Dialogue on Conscience" — More was careful to create a public record of his silence regarding the oath. He was the only one who maintained his silence up until the end; even Bishop Fisher broke his silence when he was tricked into revealing his position.

Of these public records of his silence, one of the most important is "A Dialogue on Conscience." Although it was written

² James Monti, *The King's Good Servant, But God's First*, Fort Collins, Ignatius P, 1997, p. 423.

three months prior to the passage of the Act of treasons and nine months prior to Fisher's death, the dialogue anticipates the worst possible consequences of speaking out against the Act of Succession. However, for Thomas More, death was not a fate worse than that of violating one's conscience. Not only does this dialogue reveal the legal reasons for his silence — which we have already recounted — but it also subtly reveals his personal reasons for not taking the oath. Furthermore, the genius of the dialogue is that it contains an extended critique of the abuse of political power in general, and of Henry in particular.

One of the many benefits of a liberal education is the ability to draw stories from many different sources that can then be used to illustrate certain points, and as Erasmus, drawing More's portrait in his letter to Dorp, reminds us, "a liberal education he had imbibed from his earliest years."³ More uses examples and stories throughout "A Dialogue on Conscience." The dramatic occasion for the dialogue between Margaret and More is a response to Lord Chancellor Audley's criticism of More's "scrupulous" silence. More's stepdaughter Alice has had a conversation with Audley, which was then communicated in a letter to Margaret, who then gives the letter from Alice to her father. The letter contains two fables about More which Audley recites to Alice.

Both fables are attributed to Aesop. The first fable — versions of which are found also in *Utopia* and in Plato's *Republic* — describes the fate of wise men who discover that rain makes fools of everyone it touches. During a rainstorm, they hide, and when they return, they are angry that they cannot rule over the fools because the fools will not listen to reason. The wise men are full of regret that they,

³ D. Erasmus, "Erasmus on More, 1519," *op. cit.*, p. 8.

too, did not remain in the rain and become as foolish as everyone else. In the second fable, we hear of a lion, an ass, and a wolf; all go to a priest to confess the sin of gluttony. The lion confesses that "he had devoured all the beasts he could come by."⁴ The priest absolves him because as a lion — and as a king — he cannot help himself. The ass confesses to having eaten a single piece of straw from his master's shoe, which then led to his master catching cold — the priest, unable to absolve such a grave sin, sends the ass to the bishop. After the wolf's confession, he is told to limit himself to sixpence's worth of food at every meal. The diet is inadequate, so the wolf devalues everything he consumes so that he can eat his fill, while at the same time, keeping well under budget.

Margaret exhorts her father to choose a solution that will satisfy both the king and God. Such a solution does not exist for More, and he explains the reasons why through his interpretations of Audley's fables, as well as through the recitation of a fable of his own. More begins by explaining to his daughter that Cardinal Wolsey is the actual source of the fable, not Audley. Stephen Foley states that "More thus empties Audley's recital of any moral authority — it is not even his story, but that of his powerful, calculating, and miscalculating predecessor."⁵ However, I would suggest that the opposite is occurring: More is actually charging Audley's fable with moral authority. The central question of this dialogue is Margaret's question: can one serve both a king and God, and in particular, this king?

⁴ Alvaro de Silva, ed., *The Last Letters of Thomas More*, Letter 11, Grand Rapids, Eerdmans Publishing Co., hereafter referred to as "*Last Letters*", p. 70.

⁵ Stephen Foley, "Scenes of Speaking and Technologies of Writing in More's *Tower Letters*," in *Moreana* 35:135-136, Dec. 1998, p. 22.

More shifts the ground of the fable to a comparison between ruling others and self-rule. In pointing out that the fable was originally told by Wolsey, More is inviting us to examine Wolsey's difficult challenge of serving Henry as Lord Chancellor and of serving God as a cardinal. More asserts that it is always better to begin with self-rule so that one can serve God first, then the king. Wolsey died regretting that he had not served God with the same degree of care that he had served the king. More died, "the king's good servant, and God's first." Both met their respective ends through Henry.

If the first fable serves as a backdrop of the dialogue, the second fable serves as the conversation piece. Is conscience merely a scruple? More carefully avoids discussing the lion (Henry) or the wolf (Wolsey) because he does not want to have the appearance of criticizing the king, nor of criticizing anyone who has already taken the oath. If we surmise that the ass represents himself, then More says that he can accept the consequences of following his own conscience because that is the surest way of getting into Heaven, his ultimate goal. He famously says, "I never intend — God being my good lord — to pin my soul to another man's back, not even if he's the best man I know who is alive today; for I do not know where he might happen to carry it."⁶ This interpretation, too, is related to self-rule.

From a legal point of view, silence is More's only option. He will not even tell his own family: "But Margaret, for what reasons I refuse the oath, that — as I have often said to you — is something I will never tell you, neither you nor anybody else, except if the King's

⁶ "Last Letters", p. 79.

Highness should choose to command me."⁷ Just as he will not pin his soul to the back of another man, neither will he judge anyone else because it would violate the terms of the Act of Succession and be considered treason. Within the dialogue, he places extensive documentation of his express avoidance of treason:

I do not take it upon myself either to define or to dispute in these matters, nor do I rebuke or impugn any other man's deed, nor have I written, nor so much as spoken to anyone, any word of criticism about anything that Parliament has passed, nor have I meddled with the conscience of many man who either thinks or says he thinks contrary to mine.⁸

However, just because he has not overtly committed treason, it does not mean that we did not know his position before his trial.

More responds to Audley's fables with a fable of his own, which contains a very significant and deliberately selected rhetorical figure; More would have called it a digression, but today we would recognize this logical fallacy by its modern name, a red herring. He describes a magistrate who arrests a thief. Through a turn of events, the thief is able to have the magistrate arrested and tried on false charges. After the jury has deliberated, eleven reach a guilty verdict, but one juror, Company, notes that the evidence is insufficient for a conviction. He will not vote to convict because he is concerned for his soul. The allegory is fairly clear, and it picks up on Wolsey's second fable about the ass: Company (More) will not go along with the jury (everyone who has taken the oath) because his conscience will not allow him to do so. Every reading of this dialogue has stopped with assuming that More is Company, and in fact, More would like most (but not all) of his readers to stop there and to focus

⁷ *Ibid.*, p. 84.

⁸ *Ibid.*, p. 86.

upon the question of why More continues to refuse to take the oath. However, the device is rhetorical digression that provides him with an alibi as he begins a scathing critique of Henry's recent actions.

More has inserted himself into the fable, not as one character, but as two characters. The magistrate (Thomas More) has been arrested by an outlaw (Henry) on false charges stemming from a false law (Act of Succession), and convicted by a willing jury (Parliament). Ingeniously, More has criticized the king, yet done so in a way that does not violate the Act of Succession. Since he is in the fable twice, he can claim that he is Company, not the magistrate, and in fact, most readers recognize More as Company simply because the character parallels his current situation. And indeed, More is Company, that is, a man who will not violate his conscience because his primary concern is Heaven. As Henri Meulon has suggested, Heaven is the metaphysical ground for More's thought in this entire dialogue.⁹

Thus, while he comforts Meg by asserting that he is strictly following his conscience, his use of stories demonstrates not only his innocence under the law, but also his condemnation of Henry. The ending sections of the dialogue are intended to bring comfort to his family members, and to have them understand that the best course is the path that takes one to Heaven. Excluding Christ's example before Pilate, there has never been a silence that spoke as much as More's did.

Dutton Kearney

kearneyd@aquinascollege.edu

⁹ Henri Meulon, "La Pensée du Ciel Chez Thomas More," in *Moreana*, 27-28, Dec. 1970, p. 5-12.

Comedy, Tragedy, and Saint Thomas More

Michael P. Foley
Baylor University

Michael P. Foley holds a degree in systematic theology from Boston College and is an Associate Professor of Patristics in the Great Texts Program at Baylor University in Waco, Texas. Dr. Foley is the editor of Saint Augustine: Confessions, trans. F.J. Sheed, 2nd ed. (Indianapolis, Indiana: Hackett Publishing, 2006) and the author of several articles on Thomas More, including "Variations on a Utopian Diversion: Student Game Projects in the University Classroom" (Thomas Mores Studies 1, 2006, p. 188-196) and "High Humanism and Plebeian Piety: St. Thomas More's Defense of Catholic Devotions" (Thomas Mores Studies 3, 2006, forthcoming).

* * *

The twentieth-century political philosopher Leo Strauss uses a quotation from Thomas More to suggest that Christianity is akin to tragedy while philosophy is closer to comedy. This article responds to Strauss's contention by examining the implications of characterizing philosophy or biblical religion as either comic or tragic; it then analyzes Thomas More's understanding of Christianity in order to see whether More shares Strauss's opinion. The paper concludes that he does not: Thomas More sees Christian life and thought as essentially "comic" in both structure and orientation.

Keywords: comedy, tragedy, Christianity, philosophy, Thomas More, Leo Strauss.

Le philosophe politique Leo Strauss se sert d'une citation empruntée à Thomas More pour suggérer que le christianisme s'apparente à la tragédie alors que la philosophie est plus proche de la comédie. Cet article répond à l'affirmation de Strauss en examinant les implications inhérentes au fait de qualifier la philosophie ou la religion de comique ou de tragique; en analysant la conception que More a du christianisme, on se demandera