

« THOMAS MORE, 'Laicus', gent. » *

In his list of members of Doctors' Commons, Squibb notes the entry, « Thomas More, 'laicus', gent. » under the date 3rd December, 1514.¹ Doctors' Commons was a collegiate association founded late in the fifteenth century.² Most, though not all, of its members were qualified in civil and/or canon law. Perhaps most significantly, all of its known members before More were at least in minor orders.³

The purpose of this note is to draw attention once more to the appearance of the first recorded subscription of a lay member of the College of Advocates (to give Doctors' Commons its later and more formal title) and to suggest some possible explanations for it.⁴ It seems remarkable that all modern scholars appear to have overlooked the possible significance of this first record of the membership of a common lawyer, especially so distinguished a common lawyer, in an association in which civil and canon lawyers predominated.

The members of Doctors' Commons were centrally concerned with ecclesiastical law and administration, at least in the early days,⁵ though civilians were finding increasing practice in the Admiralty courts⁶ and in Royal service as ambassadors and diplomats.⁷

Thomas More's history is too well known to need more than the presentation of a few bare bones here. However unwillingly, he followed his father in training as a common lawyer, first in Furnival's Inn and then in Lincoln's Inn. He was clearly a competent lawyer and in 1510 he had been appointed Under-Sheriff of the City of London, a good step on the ladder to success as a common lawyer.⁸ In 1511 he was elected Autumn Reader in his Inn, and became one of its four governors the following year. On All Saints' Day, 1514 he was elected Lent Reader for 1515. This Readership was a signal honour and, combined with his previous election, would have guaranteed that Thomas would follow his father as a Serjeant-at-Law. Yet, less than five weeks later, there appears the entry in the Doctors' Commons record. Why?

One cannot entirely rule out simple coincidence or chance. However, more interesting hypotheses suggest themselves and it is these which I wish to pursue here. As an able lawyer, and the son of an able lawyer, More can have had no doubts about what the Lincoln's Inn election meant for him. To be the only common lawyer to join an association of canonists and civilians would have posed a threat to his career at

any time. To be that sole common lawyer immediately after his election must surely represent a conscious decision to put at risk the common law career which lay open to him. Put simply, I suggest that More must have come to a final decision in November, 1514 that he did not want a career as a common law judge.

There is, of course, evidence from More's early days of his reluctance to pursue a career in common law. He was set to that pursuit by his father rather than by his own choice. And there is the period spent in the London Charterhouse. But this early reluctance has to do with the question of whether More would follow a religious calling and that can hardly have been a major consideration in 1514, when he was married and had a family.

Nor will it do to follow the line which Schoeck takes.⁹ During his years as Under-Sheriff, he says, More moved at least partially into maritime and international law, his most famous involvement in this field being the Pope's ship case in 1517. In international law his skills would have been displayed most effectively in the missions to Flanders in 1515 and Calais in 1517. So neither his activities in maritime nor in international law can explain why he was admitted to Doctors' Commons in 1514. More did not give up his common law career in order to pursue one in the civilian sphere. To have done so would have meant giving up considerable status and income, neither of which the ambitious More was likely to relinquish lightly. Nor did he, in 1514, have any reason to suppose that he would be particularly successful in such a new venture. Such displays of expertise as he may have given in civilian areas are consequent upon his entry to Doctors' Commons rather than the other way about.

However, we have evidence of one possible reason, at least, why More was prepared to give up his common law career; he got no satisfaction from it. This is attested to by his letter to Erasmus in June, 1516:

« [I know] how much I lose every day of the little [literary] skill I used to possess. This must inevitably happen to a man who is continuously engaged in legal business which is so far removed from scholarship of every kind (for my course in life has landed me in this treadmill): I am now so much tormented by these inanities that I have no mind left for thinking or words for expressing myself with. »¹⁰

Of course, allowance must be made for the conventional rhetoric of a man complaining to his friend about the pressures of work, as also for the fact that More seems to have depreciated his everyday work to

Erasmus consistently. Nonetheless at the time of writing this, his principal legal activity was his work as Under-Sheriff in the City, essentially a common law position.¹¹ Insofar as the letter tells the truth, it points to a reason why More might want to give up his law career.

Nor, in accepting this idea that More was dissatisfied with his common law career, are we committed to finding any contradiction in the fact that he kept his Under-Sheriff's position until 1518 and even then seems to have relinquished it reluctantly. As Roper points out, the position contributed substantially to More's very comfortable income.¹² And, as More himself says, he was happy enough in that part of his City duties which might find him arguing for the City and its privileges against the Crown.¹³ Because he did not wish to be a common lawyer does not mean that he did not enjoy disputation.

So, then, we have perhaps found a good reason why More did not wish to continue in the common law. What can we find which might point towards explaining the positive decisions he must have made? Why did he join Doctors' Commons?

At one level this might be seen as an act of self-indulgence. His spiritual mentors, John Colet and William Grocyn, were members of the College.¹⁴ In the uncertainty of his Charterhouse days he had leaned on these two.¹⁵ It would not be surprising if a tendency towards the same relationship appeared in this later period of dissatisfaction. Cuthbert Tunstall, too, was a member,¹⁶ and More is likely to have been at least acquainted with him. A little later, writing of the things he greatly enjoyed on his first embassy More says:

First of all, the prolonged and unbroken association with Tunstall, for not only is he a good scholar in the humanities and as upright in character and life as anyone we have, but no one's company anywhere is more enjoyable.¹⁷

Additionally, the College was closely associated with Lord Mountjoy,¹⁸ a significant patron of learning.¹⁹ With so many close friends and fellow-humanists already members, it can only have been a matter of great pleasure for More to join their company. Yet this is not sufficient to explain More's enrolment. What else moved him?

Elton has pointed out that « the king's good servant »²⁰ fits into none of the conventional patterns of royal service. He sees two types of activity filling much of More's court service. One is diplomacy, an activity which suited More well. He would have welcomed the opportunity to argue a case, to pit his wits against representatives for the other side, and enjoyed the successful outcome of a mission. All of this is much of

a piece with his legal background. Something of it is reflected in More's letter to Erasmus after his first embassy. ²¹ « My mission ... went pretty well, » he writes. Further, « the long delay issued at last in a fairly satisfactory result. » His objections to the diplomatic life have to do with the upsets to family life and the financial rewards of such activity, rather than the business which was involved in such work. ²²

We may also conjecture that More's satisfaction with his first essay as an envoy was reflected in his subsequent behaviour. As Ammonio reported to Erasmus early in 1516,

More has completed his mission among those Dutchmen of yours with distinction, and is now home again ; he haunts those smoky palace fires in my company. None bids my Lord of York good morrow earlier than he. ²³

Clearly, whatever drawbacks his new career might have, More was not disposed to miss a chance of pursuing it.

Guy, following Elton's line, has said that More « steadily worked towards the goal of royal service. Over a period of years [More] had made it his business to do various jobs for the government. »²⁴ He suggests that this practice may have started as early as 1509, but since these earliest commissions were carried out jointly with his father they may well not reflect any personal decision of More's. Elton focusses on More's entry into Council and, though he mentions the embassy of 1515 in support of his argument for the date of More's establishment as a councillor, ²⁵ he does not otherwise consider it. Both in this argument and later, when discussing More's work as a diplomat, ²⁶ Elton concentrates on the period from August 1517 onwards. Thus Guy, by concentrating too early, and Elton, by focussing too late, seem to have missed the crucial significance of More's decision to join Doctors' Commons.

If we accept Elton's thesis that More pursued a definite policy of attempting to progress in the royal service, ²⁷ we should also reasonably accept that diplomatic service may have seemed a possible alternative to a career as a common lawyer. This need not imply that More ever saw himself as a career diplomat, but only that diplomacy offered a not unattractive stepping-stone towards more significant royal service. In my opinion, the evidence leads to the conclusion that More made a conscious decision to this effect some time during November 1514.

I have already mentioned the increasing practice of employing civilians on royal embassies. If More had made the decision I am suggesting it is likely that he would have joined the civilians' College sooner or later. However, we know that he joined it very shortly after his election

to the Lent readership. Why such seeming haste ? There is, perhaps, a clue to be found in More's correspondence. In a letter to the Council dated 9th July, 1515, ²⁸ the envoys at Bruges ask the Council for further funds. Part of their justification is that « we had soo short warnyng of this journey, that our tyme was very lityll and skarse to prepayr our self and our company forward. » They mention that they started their journey on 12th May ; the commission for their embassy is dated 7th May. ²⁹ Similar haste is evident in More's second embassy ; the commission is issued at the end of August, 1517 ³⁰ and by the beginning of October More is writing to Peter Gilles from Calais. ³¹ Clearly, if one wished to be selected for an embassy one had to be on hand in the right place at the right time.

The right place, generally speaking, was likely to be the College in Paternoster Row. But I think one may be even more specific than that. Tunstall, as More indicates, is one of the king's most regular ambassadors. ³² Throckmorton, the prothonotary of Chancery, who signed the commissions for both embassies which More went on, was also a member of Doctors' Commons. ³³ If there was to be any indication of a forthcoming embassy, however short the notice, it is likely to have been found in conversations between men such as these.

We may conclude, then, that during November, 1514 More made a decision about the future direction he wished his career to take. Perhaps he discussed the matter with friends such as Colet and Tunstall before coming to a decision, perhaps he raised it with them only after he had made his mind up. Either way, their advice to his will have been clear ; if this is the path you wish to follow you will do your cause the most good by joining the civilians. And that is what More did in December, 1514. He did not have long to wait. By May of the following year he was embarked on a career in the king's service. ³⁴

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1. G.D. Squibb, *Doctors' Commons*. Clarendon, Oxford, 1977, p. 133. Squibb takes his entry from the society's early subscription book, now in the Lambeth Palace Library. Andrew Ducarel seems to have used the same source for his eighteenth century history of the society. Pearl Hogrefe, in her « Sir Thomas More and Doctors' Commons, » *Moreana*, 14/15, 1967 acknowledges that she has not seen the original book but accepts Ducarel's version of the entry which has the latinised name followed by the words « *laicus generosus* », added, Hogrefe suggests, by Ducarel himself. However, Squibb's version seems to accord with the original and I have used it here and in the title.

2. Squibb, *Doctors' Commons*, pp. 5-7.

3. *Ibid.*, p. 1.

4. The appearance of the subscription was certainly noted by Ducarel, though he was uncertain whether this was the Thomas More who was Under-Sheriff of the City of London at this time. It was also noted by E.W. Brabrook in « On an Unrecorded Event in the Life of Sir Thomas More », *Transactions of the Royal Society of Literature of the United Kingdom*, XII, second series, London, 1882, but Brabrook mistakenly used it to try and show, amongst other things, that More joined the society *after* his first diplomatic mission. Hogrefe has also commented on the subscription but only to conclude that More was a member of Doctors' Commons without considering possible reasons for his membership.

5. Squibb, *Doctors' Commons*, p. 1.

6. W. Senior, « The First Admiralty Judges, » *Law Quarterly Review*, 35, 1919.

7. W. Senior, « The Rise of the College of Advocates, » *Law Quarterly Review*, 36, 1920.

8. Although Schoeck is right to point out that family connections will have helped More to gain office in the City, there can be no doubting More's ability as a lawyer. R.J. Schoeck, « Common Law and Canon Law, » in R.S. Sylvester (ed), *St Thomas More : Action and Contemplation*, Yale U.P., New Haven, 1972, p. 18.

9. Schoeck, « Common Law and Canon Law, » pp. 18-20.

10. *Collected Works of Erasmus*, U. of Toronto P., (hereafter « Toronto »), Vol 3. *The Correspondence of Erasmus : Letters 298-445, 1514-1516*, (R.A.B. Mynors and D.F.S. Thomson, trans., annotated by James K. McConica), 1976, No. 424.

11. One should note, though, that as Under-Sheriff he will have been less bound by strict common law procedures and will have « ministered mingled law and equity. » T.F.T. Plucknett, *A Concise History of the Common Law*, London, 1956, p. 697.

12. W. Roper, *The Lyffe of Sir Thomas More, Knighte*, (E.V. Hitchcock, ed) London, 1935, pp. 8-9. See also J.A. Guy, *The Public Career of Sir Thomas More*, Harvester, Brighton, 1980, p. 6.

13. Toronto, Vol 3, No. 388.

14. Squibb, *Doctors' Commons*, pp. 124 and 127.

15. See E.F. Rogers (ed), *The Correspondence of Sir Thomas More*, Princeton UP, Princeton, 1947 (Hereafter E.F. Rogers), No. 3.

16. Squibb, *Doctors' Commons*, p. 125.

17. Toronto, Vol 3, No 388.

18. The College eventually moved to Mountjoy House, Knight rider Street, in 1568, Squibb, *Doctors' Commons*, p. 57.

19. R.W. Chambers, *Thomas More*, Jonathan Cape, London, 1935, p. 70.

20. G.R. Elton, « Thomas More, Councillor, » in Sylvester, *St. Thomas More : Action and Contemplation*.

21. Toronto, vol 3, No. 388.

22. It should be pointed out, though, that in October, 1517, he is complaining about the sheer detail of the business itself.

23. Toronto, vol 3, No. 389.

24. Guy, *The Public Career*, p. 7.

25. Elton, « Thomas More, Councillor, » pp. 88-89.

26. *Ibid.*, p. 100ff.

27. See also Richard Marius, *Thomas More*, Dent, London, 1985, p. 54.

28. Rogers, No. 11.

29. Rogers, No. 10

30. Rogers, No. 42.

31. Rogers, No. 47.

32. See e.g. Toronto, Vol 3, No. 388.

33. Squibb, *Doctors' Commons*, p. 123.

34. I am aware that much more work needs to be done on the activities of Doctors' Commons before the hypothesis put forward here can be tested. I have made a start on such work and hope to be able to report progress.