

Washington University Law Review

Volume 4 | Issue 4

1919

Thomas More

Isaac H. Lionberger
Esq.

Follow this and additional works at: https://openscholarship.wustl.edu/law_lawreview



Part of the [Legal Biography Commons](#)

Recommended Citation

Isaac H. Lionberger, *Thomas More*, 4 ST. LOUIS L. REV. 184 (1919).

Available at: https://openscholarship.wustl.edu/law_lawreview/vol4/iss4/3

This Article is brought to you for free and open access by the Law School at Washington University Open Scholarship. It has been accepted for inclusion in Washington University Law Review by an authorized administrator of Washington University Open Scholarship. For more information, please contact digital@wumail.wustl.edu.

THOMAS MORE

Among the great lawyers of the past, none excites a livelier curiosity than Thomas More. He is interesting not merely because he was a successful lawyer, but because he was a man of singular charm and most precious and playful wit. Wise, kind and strong, brilliant but modest, he excites at the same time admiration and affection. No lawyer should be unacquainted with him. Fortunately we have a biography written by one who knew him intimately and was sensible of his charm. We have also many glimpses of him in the history of his time, for More was a statesman and stood in that fierce light which beats upon a throne. His life runs like a silver thread through the patterned fabric of an interesting era, and ends abruptly in a blotch of blood. A merry boy, a good scholar, an earnest student, a lover of the new learning, the pupil of Colet, the friend of Erasmus, a successful lawyer, a member of parliament, an author, a courtier and ambassador, lord high chancellor, the associate of archbishops, cardinals and kings, and then a martyr; at every stage of his career he excites an eager and unflagging interest.

The story may be briefly told. He was born in London, February 7, 1478, the son of a judge, Sir John More. His father married "three or four" times and was a man of strange humor. "Matrimony," he said, "is like a bag full of snakes having one eel among them. Now if a man put his hand into the bag he may by chance light on the eel, but it is a hundred to one he will be stung by a snake." We know nothing of More's mother, but suspect nevertheless that she could not have been what his father suggested. The boy was sent to St. Anthony's School and then to Oxford. While at Oxford he became the intimate friend of Erasmus and a favorite pupil of Colet, professor of Greek. After leaving college he devoted himself for a time to the allurements of literature, but in 1496, at the earnest entreaty of his father, became a student at Lincoln's Inn. During his apprenticeship he hesitated between the bar and the church, and in order to apply himself to devotional exercises established himself near Charter House, where he practiced "penitential austerities." He seems to have been cured of these propensities, as we are informed, by the charms of female society, of which he had somehow become sensible, and was in due time admitted to the bar as an utter barrister.

Of the events of his life, none is so remarkable as the manner of

his marriages. While on a visit to one "Maister Colte that had three daughters whose honest conversation and virtuous education provoked him there to specially set his affection, and albeit his mind most served him to the second, for that he thought her the fairest and best favored, yet when he considered that it would be both grief and some shame to the eldest to see her younger sister preferred before her in marriage, he then of a certain pity forced his fancy toward her and married her." The happy result of this remarkable union was Margaret More, the incomparable daughter of the incomparable father. A few months after the death of his first wife he contracted a second marriage with one Mrs. Middleton, a widow, to whom he addressed a proposal of marriage on behalf of a friend. She replied that if he pleaded for himself he might be more successful, and "upon this hint he spake" and married her himself.

Of his first wife, Erasmus said, "She was a very young lady, well connected but wholly uneducated, who had been brought up in the country with her parents. Thus he was able to shape her character after his own pattern. He taught her books and music and formed her into a companion for his life. After her death he married a widow to take care of his children. This lady, he often said with a laugh, was neither young nor pretty, but she was a good manager and he lived as pleasantly with her as if she had been the loveliest of maidens. He rules her with jokes and caresses better than most husbands do with sternness and authority, and though she has a sharp tongue and is a thrifty housekeeper, he has made her learn the harp, zithern and guitar and practice before him every day. Both marriages were happy. He controlled his family with an easy hand; no tragedies, no quarrels."

His success at the bar was instant. After a little while he was engaged in every significant case pending and earned an income of not less than four hundred pounds a year, a very princely income at that date. Foss says of him that his legal reputation was so high that there was scarcely any controversy in the courts in which he was not employed as counsel for one of the parties, and that his practice won for him "a splendid income." While still a young man he was elected to parliament and as a member of that body became instantly influential. He used such arguments and reasons against the King's demand of an aid of three-fifteenths for the recent marriage of his daughter, that such demand "was thereby clean overthrown." The King, offended that "a beardless youth had disappointed all his purpose, and conceiving a great indignation against

him," was revenged upon his father, whom he confined in the Tower and afterwards compelled to pay £100; but upon the accession of Henry VIII More was received into highest favor and his society was so pleasant to the King that he found it necessary to dissemble his wit in order that he might have an opportunity to see his family. He was by the influence of Wolsey made Speaker of the House, but notwithstanding the affection of the King for him he continued to resist the exactions of the Crown. Wolsey, irritated by the refusal of parliament to do what the King desired, appeared before it and demanded an explanation of their stubborn resistance; but by More's advice no man answered anything. Wolsey then turned to the Speaker and asked of him to use his office and declare what had been demanded. More replied that although he was speaker he could speak only the will of the House and until that had been declared he could not say anything. The Chancellor thereupon withdrew in hot indignation; but More engaged him in pleasant conversation about building, and so turned aside his wrath.

Although More tried harder to keep out of court than others to get in, the King was bent upon his employment and sent him on several embassies in which he succeeded so well that on the fall of Wolsey More was made Lord High Chancellor. As chancellor his modesty, contrasted with the arrogance of his predecessor, won him universal esteem, and so diligent was he in the performance of his duties that on one occasion at least, when he rose there was no cause depending before him. He encouraged those who had differences to resort to him informally at his own house, and in many instances brought about a friendly reconciliation without litigation. On the bench, sitting as a court of conscience, he many times intervened to prevent injustice, and the common law courts began to complain of his injunctions. Thereupon he sent for the justices, entertained them at dinner and discussed with them the grounds of his constant interference, and they, being compelled to acknowledge what he urged, he sent them away requesting them to qualify the rigor of the law by like considerations.

More was not only an able chancellor but an honest one at a time when honesty had rather a loose meaning, for it had long been the custom of litigants to make gifts to the judges either on New Year's Day or on some similar occasion. A rich widow in whose favor More had rendered a decree, presented him with a pair of gloves filled with angels. He said to her, "It is against good manners to forsake a gentlewoman's New Year's gift and he would therefore

accept the gloves, but not the lining." When the Convocation of Bishops presented him with a great sum of money in recognition of his splendid performance, he set it aside although at the time he was a poor man. After two and a half years of service, he resigned his high office because he could not approve of Cromwell's interferences in matters ecclesiastical.

More lost his life because he refused to acknowledge the validity of King Henry's marriage to Anna Boleyn. The King tried to induce him to concur, first by flatteries and promises and then by threats, and was at last so irritated by his obstinacy that he determined to force More to do his will, and so caused an act to be passed requiring all subjects of the King to acknowledge the validity of the marriage. When More refused to take the oath, he was attainted for misprision of treason, deprived of his property and confined in the Tower. By another act, forced through parliament, the King was declared the only supreme head on earth of the Church of England and the penalties of high treason were denounced against anyone who refused to allow his title and style. Under this act More was condemned and executed, on the sixth day of July, 1535.

I have not undertaken this sketch merely to lay before the reader things so familiar as those which I have mentioned. They may be found in Foss or Roper, or in any biographical dictionary. More's life presents to the intelligence of all thoughtful men a problem and a mystery. He was the most merry and humane man of his time and also the most cruel, bloody and vindictive. Wolsey, the son of a butcher, priest and cardinal and therefore jealous of the doctrines of the church, "chastened the heretics with whips, More with scorpions." More seemed even to delight in cruelty. When he was chancellor he had a man chained and whipped in his own house for two nights and then burned, because he affirmed that a trusting Turk might be saved from damnation. Another, called "Little Bilney," was burned because he affirmed that things offered in pilgrimage had been given by the priest to abandoned women; another, for denying the corporal presence. These and similar atrocities, practiced by one who was so generous and amiable in his character, who was so learned and wise, who was so liberal in all his opinions, who wrote a book in order to denounce bigotry, and affirmed that no man can think otherwise than he doth, excite a bewildered astonishment; and I propose to address myself to this frailty of an otherwise perfect nature.

It should be difficult for any man to resolve so hard a riddle who is not familiar with the currents and countercurrents which agitated

the Church of Rome during the sixteenth century. It was confronting a great crisis. Huss had already prepared a way for the Reformation. The dissolute lives of the monks and wandering friars had excited the hate and fears of the nations. The exactions of the Church pressed more and more heavily upon the poor: annates, pensions, censures, Peter's pence, procurations, fruits, suits for provision, delegacies and receipts in causes of contention and appeal, jurisdictions legatine, dispensations, licenses, faculties, grants, relaxations, rehabilitations, oblations, and indulgencies, were used to replenish the privy purse of the Bishop of Rome; and besides these burdens, the poor were required to pay for marriages, christenings, masses and other petty ceremonies. To these pecuniary burdens the church had managed to add one of altogether greater weight: private opinion was suppressed by authority; the slightest deviation from orthodoxy was punishable by death; accusers were everywhere and the jurisdiction of the ecclesiastical courts imposed a multitude of vexatious penalties.

At such a time, to such a people, there came a new and wonderful light from the East. The literature of Greece was translated to Italy by refugees from Constantinople and gave to learning an impulse which the discovery of the art of printing helped to diffuse. The termination of the Wars of the Roses had restored peace to England; the Hundred Years' War was over; Caxton had set up his printing press and was busy translating into the vernacular the masterpieces of antiquity; Colet, having studied Greek in Italy, returned to teach it at Oxford, and the marvelous sweetness and simplicity of Christ's life and doctrine were for the first time proclaimed to an oppressed and unhappy people. King Henry, pestered by the refusal of Rome to divorce him from Catherine, inclined to innovation and gave open encouragement to the new learning and the new doctrine. Julius, Pope, was succeeded by Leo X., a benign and liberal man. Erasmus and More were pupils of Colet, and delighted in Greek. Excited by the new learning and thereby emancipated from the old superstition, each wrote a book. More's *Utopia* is his ideal of a commonwealth; in it he declares that persecution is ungenerous, for that a man cannot think otherwise than he doth, and that liberty in matters of faith is a natural right. Erasmus at the instance of More wrote *The Praise of Folly*, in which with fine irony he puts into the mouths of fools instruction for the wise. Later he translated the New Testament into Latin and so brought it within the reach of all students. His version contained more than a fair rendering of the text; he showed by notes the base and unwarranted use made of the words of Scripture by

churchmen, and the spurious origin of familiar doctrines. The Praise of Folly contains the following incident: Someone asked during a theological discussion, what authority there was in Scripture for burning heretics. A sour-looking old man said that St. Paul had especially ordered it, quoting "Haereticum hominem devita," for that "devita" meant "de vita tollere"; and all laughed. The following note to Matthew XIX, 12, shows the quality of these notes: "Men can have license to keep concubines and remain priests; if they take wives, they are trown to flames." It is easy to imagine the profound effect of such instruction upon the passions of people who had long been the victims of oppression. The church began to rouse from its lethargy. A new hope entered the hearts of the righteous. The Pope was with the reformers. It might be possible to cure the corruptions of the old body, and More and Erasmus became eager and hopeful.

At this crisis Luther nailed his propositions to the door and began that shattering crusade against the church which inaugurated the Reformation. The moderate reformers of England were shocked by Luther's violence. More aided King Henry to prepare that defense which won for him and his successors the title of "Defender of the Faith."

Now we come to that which we set out to consider. More was made Chancellor, and as Chancellor began those persecutions from which we shrink with horror. What is the explanation? He was generous, cultivated, a fine lawyer, a reconciling judge, a reformer and a teacher of toleration. He became a more cruel persecutor than the priest-cardinal who preceded him. Let us glance for a moment at the portrait drawn of him by Erasmus:

"The expression of his face is pleasant and cordial, easily passing into a smile, for he has the quickest sense of the ridiculous of any man I ever met. He dresses plainly, no silks or velvets or gold chains; he has no concern for ceremony and expects none from others; he holds forms and courtesies unworthy of a man of sense, and for that reason has hitherto kept clear of the court. More loves freedom and likes to have his time to himself. His talk is full of charming, full of fun, never malicious. He is wise with the wise, and jests with fools, with women especially. He is fond of animals of all kinds and likes to watch their habits. All the birds in Chelsea come to him to be fed. He has never made an enemy nor become an enemy. His whole house breathes happiness, and no one enters it who is not the better for his visit. He has a fine intellect and an excellent mem-

ory. He is so ready in argument that he can puzzle the best divines on their own subjects. Colet, a good judge on such points, said More has more genius than any man in England. He is religious but without superstition. He has use for prayer, but he uses no forms and prays out of his heart."

How could such a man become an inquisitor and a persecutor? I will not attempt to palliate his iniquity, but I may perhaps offer an explanation which will serve to soften indignation. More was essentially a fanatic. He practiced as a young man "penitential austerities," and all his life wore next his skin, secretly, a hair shirt, which his daughter Margaret alone knew of. He died rather than forsake the conviction that an Italian Pope was fitter to direct English ecclesiastical affairs than an English king. His eye was fanatical: Holbein's portrait is rather the picture of an ascetic priest than of a kindly man. The features are pinched, the eye introspective. If we add to such a character the new hope which he shared with Erasmus that the Church might be reformed without violence, we may perhaps understand why he turned so savagely upon disturbers of its peace. It is natural for a man to prefer his own way. None can tolerate fools who rush in to do angels' work. More knew better than another the difficulties in the way of reform, and he knew that those difficulties would be vastly increased by inconsiderate and too rapid innovation. He was not scornful of all faiths, as was the Roman praetor who bade the Christians be still and burned them ruthlessly because they would not; he was rather like Calvin, who was also a persecutor. Both cherished an institution and resented a violence which threatened to destroy its value. Each feared that if the chains of discipline were relaxed and every man were free to frame his own doctrine, the usefulness of religion would yield to the shattering eccentricities of individual opinion. More tried to quiet fanaticism first by persuasion and then by terror. He burned by way of example. He tortured to compel. His wisdom, his policy rather than his heart led him astray.

He did not check the tide, perhaps he accelerated it, but he tried in his own way, and in Calvin's, and in the Roman praetor's way—and all of these were wise men. That what he had feared might happen did happen does not excuse him, but it does perhaps explain him and in a sense vindicate him. His martyrdom was followed by a century of incessant strife and unsettlement and the overthrow of that church which he cherished. The Puritan, emancipated, became himself a persecutor, and each party in turn attempted to extirpate opinions which it deemed injurious. A century later Milton wrote in derision of the sects:

"There is not any burden that some would gladder post off to another, than the charge and care of their religion. There be, who knows not that there be? of protestants and professors, who live and die in as errant and implicit faith, as any lay papist of Loretto.

"A wealthy man, addicted to his pleasure and to his profits, finds religion to be a traffic so entangled, and of so many piddling accounts, that of all mysteries he cannot skill to keep a stock going upon that trade. What should he do? Fain he would have the name to be religious, fain he would bear up with his neighbors in that. What does he, therefore, but resolve to give over toiling, and to find himself out some factor to whose care and credit he may commit the whole managing of his religious affairs; some divine of note and estimation he must be. To him he adheres, resigns the whole warehouse of his religion, with all the locks and keys, into his custody; and indeed makes the very person of that man his religion; esteems his associating with him a sufficient evidence and commendatory of his own piety. So that a man may say his religion is now no more within himself, but is become a dividual movable, and goes and comes near him, according as that good man frequents the house. He entertains him, gives him gifts, feasts him, lodges him; his religion comes home at night, prays, is liberally supped, and sumptuously laid to sleep; rises, is saluted. and after the malmsey, or some well-spiced bruage, and better breakfasted than He whose morning appetite would have gladly fed on green figs between Bethany and Jerusalem, his religion walks abroad at eight, and leaves his kind entertainer in the shop trading all day without his religion."

This then is the excuse for More. He was sincere, he loved the Church, he wished to preserve it intact but purified; he feared the fanatical innovations of unthoughtful meddlers, he attempted to restrain them and in his exasperation persecuted them. We regret most heartily a cruelty which was so fruitless, an obsession which was so natural; yet we regret more that culture, charity, wit, humor and the sweet goodness of a noble man could not withstand the seductions of a fanatical policy. That he died as he had forced others to do, for faith's sake, may convince us of his sincerity, but it cannot reconcile us to his wrong-doing nor to the futility of that new learning and sweet doctrine of faith, hope and charity which had been newly brought to men. Erasmus hated fanaticism and refused to die for its gratification; More, equally wise, attempted to justify it and became its victim. He is to be revered as a lawyer and a judge, but as a man he disappoints us.

ISAAC H. LIONBERGER.