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GROWING UP GOOD IN MAYCOMB

*Thomas L. Shaffer**

"I am the sum total of those who preceded me," Elie Wiesel wrote recently, "and so are you. Am I responsible for what all of them have done before I came into this world? No. But I am responsible for what I am doing with the memory of what they have done."¹

Jean Louise Finch (Scout), her brother Jeremy, their summer friend Dill, who comes to them from Meridian, Mississippi, and their school friends from the town and the farms around Maycomb grew up in memory and learned, or failed to learn, and accepted, or refused to accept, responsibility for what they did with the memory and in the name that memory gives to a place.²

These children in Maycomb learned the virtues before they learned that what they had learned were virtues.³ The virtues

* Robert and Marlon Short Professor of Law, University of Notre Dame; member of the Indiana Bar. Previous work on *TO KILL A MOCKINGBIRD* includes the first chapters in THOMAS L. SHAFFER, *AMERICAN LEGAL ETHICS* (1985) and THOMAS L. SHAFFER, *FAITH AND THE PROFESSIONS* (1987).

1. Elie Wiesel, *Nostra Aetate: An Observer's Perspective*, 67 *THOUGHT* 366, 368 (1992).

2. "[A] name means continuity with the past and people without a past are people without a name." MILAN KUNDERA, *THE BOOK OF LAUGHTER AND FORGETTING* 157 (Michael H. Heim trans., Arnold A. Knopf, Inc. 1981) (1978).

3. "[I]f Plato is correct . . . if our environment shapes our perceptions and judgments of goodness," Gilbert Meilaender argues, "one whose vision of the good is not properly shaped in childhood may never come to see." GILBERT C. MEILAENDER, *THE THEORY AND PRACTICE OF VIRTUE* 54 (1984). Plato's program, as Meilaender describes it, begins in early childhood, to attachments he calls "erotic"—so that the child will "praise the fine things; and, taking pleasure in them . . . be reared on them and become a gentleman." *Id.* at 55 (quoting Socrates). This is done largely through stories, because "we must learn to delight in what is good" even before we learn that what we delight in is good. *Id.* (emphasis added). "If we want to teach morality . . . we must begin by teaching something else." *Id.* at 56. At the end, Plato's program leaves the reasoning adult with a capacity for moral conversation and with what a traditional Catholic would call a settled conscience: If, at that time, moral argument seems fruitless—as it often must have seemed to Atticus Finch—it is not because what is good "is only a matter of opinion, but because our character

they learned were virtues formed in the memory and in the name that the memory gives to a place. They grew up good in Maycomb. Their childhood story, told in large part as a story about their father Atticus, is about growing up in virtue. The epigraph Harper Lee chose for the novel is from Charles Lamb: "Lawyers, I suppose, were children once."⁴ And the dedication of the novel is to Miss Lee's father, a Monroeville lawyer⁵ ("to Mr. Lee"), and to her sister, who became a lawyer⁶ ("and Alice"), and it is framed as if it were copied from a warranty deed in Atticus Finch's law office ("in consideration of Love & Affection").⁷

and commitments help to determine what we see." *Id.* at 68. Some do not see. When Atticus recommends that his children imagine themselves to be inside the skin of Boo Radley's brother, or the new school teacher from North Alabama, or Mr. Cunningham, it is not because what is good is a matter of opinion, but so that the children will imagine the world as it appears to another person—not so that they will see the world, themselves, that way, but so that they will learn to love. *See infra* notes 40 and 46. Aristotle also discusses the origin of virtue:

[N]one of the moral virtues is implanted in us by nature, for nothing which exists by nature can be changed by habit Furthermore, of all the qualities with which we are endowed by nature, we are provided with the capacity first, and display the activity afterward The virtues . . . we acquire by first having put them into action For the things which we have to learn before we can do them we learn by doing: men become builders by building houses, and harpists by playing the harp. Similarly, we become just by the practice of just actions, self-controlled by exercising self-control, and courageous by performing acts of courage For that reason, we must see to it that our activities are of a certain kind, since any variations in them will be reflected in our characteristics. Hence it is no small matter whether one habit or another is inculcated in us from early childhood; on the contrary, it makes a considerable difference, or, rather, all the difference.

ARISTOTLE, *NICOMACHEAN ETHICS* 33-35 (Martin Ostwald trans., 1962). *See* ALASDAIR MACINTYRE, *WHOSE JUSTICE? WHICH RATIONALITY?* 113-14, 195-96 (1988).

4. CHARLES LAMB, *Epigraph to HARPER LEE, TO KILL A MOCKINGBIRD* (Popular Library 1962) (1960).

5. Amasa Lee, of the Monroeville, Alabama, Bar. Charles Moritz ed., *Harper Lee, CURRENT BIOGRAPHY YEARBOOK*, 1961, at 260. Judge Walter Jones's compilation of all lawyers licensed to practice in Alabama from 1818 until 1948 lists 19 lawyers named Lee. Walter B. Jones, *Alabama Lawyers, 1818-1918*, 9 ALA. LAW. 123, 158 (1948).

6. Alice F. Lee, of the Monroeville, Alabama, Bar. Amasa Lee and his wife Frances Finch had three children; Nelle Harper, born in 1926, was the youngest. *CURRENT BIOGRAPHY YEARBOOK, supra* note 5.

7. James McMillan wrote of Lee's work: "*To Kill a Mockingbird* is a superior book because it was written by a superior person." James B. McMillan, *Book Reviews*, 14 ALA. REV. 233 (1961).

GROWING UP A LADY

A slightly quaint example of growing up good in Maycomb is Scout's learning to be a Southern Lady,⁸ told most directly in the chapter that describes the meeting of a group of Maycomb's Methodist ladies in the Finch home.⁹ It is one of the few occasions on which Scout wears a dress rather than bib overalls, which is significant as well as symbolic: Throughout the story, Atticus's and Calpurnia's failure to put Scout in dresses is evidence of their failure to train her to be a lady.¹⁰

Scout's Aunt Alexandra, temporarily taking charge of the home in order to correct the failure and to provide what a single-parent male and a black woman could not be expected to provide, is hostess for the meeting of the missionary circle of the Maycomb Alabama Methodist Episcopal Church South. She recruits Scout and Calpurnia to help her entertain the members, who gather there to discuss the wretched condition of the children of polygamous and polytheistic Africa. Scout goes about her duties with reluctance: "Ladies in bunches always filled me with vague apprehension and a firm desire to be elsewhere . . . [a] feeling . . . Aunt Alexandra called being 'spoiled.'"¹¹

As if to confirm Scout's misgiving, the young girl has hardly sat down to sip her lemonade when Miss Stephanie Crawford from across the street asks her if she wants to grow up to be a lawyer like her father. "Nome, just a lady," Scout answers,¹² and Miss Stephanie says that if Scout wants to be a lady she

8. "[Southern] women were 'ladies'—gentle, refined, ethereal beings, passion and devotion wrapped in forms of ethereal mould, and surrounded by an impalpable effulgence which distinguished them from all others of the sex throughout the world." MERRILL MAGUIRE SKAGGS, *THE FOLK OF SOUTHERN FICTION* 5 (1972). I write "slightly quaint" because I am worried about being only a man—but there is evidence that the ideal here is not, after all, so quaint. See, e.g., BAILEY WHITE, *MAMA MAKES UP HER MIND* (1993).

9. HARPER LEE, *TO KILL A MOCKINGBIRD* ch. 24 (Popular Library 1962) (1960).

10. See *infra* notes 11 and 17 and accompanying text.

11. LEE, *supra* note 9, at 232; see also CHRISTIANE BIRD, *Harper Lee, in 2 AMERICAN WOMEN WRITERS: A CRITICAL REFERENCE GUIDE FROM COLONIAL TIMES TO THE PRESENT* 540 (Lina Mainiero ed., 1980) (speaking of the theme of the novel as a "gradual moral awakening"). If so, this attitude in Scout occurs a moment after sleep.

12. LEE, *supra* note 9, at 233.

will have to wear dresses more often.¹³ Miss Maudie Atkinson, from a different house across the street, secretly intervenes to teach Scout a lesson—or to confirm her in it—on the importance of meeting slight insults with quiet dignity: “Miss Maudie’s hand closed tightly on mine, and I said nothing. Its warmth was enough.”¹⁴

This becomes a lesson in judgment as much as a lesson in behavior, as, a few minutes later, Mrs. Merriweather begins idly to berate her absent black servant and Miss Maudie stops the conversation with a caustic comment.¹⁵ The secret handshake was a lesson in quiet dignity, but the lesson in judgment is that silence is not always the virtuous response; sometimes a lady stands up against evil, in this case the customary racism that Atticus, elsewhere in the story, refers to as “Maycomb’s usual disease.”¹⁶

How is a lady-in-training to know when judgment—what the moral philosophers call prudence¹⁷—requires speaking out, and when judgment requires quiet dignity? The way ladies tell the difference, as Scout sees it at the meeting, rests on, or at least is confirmed by, an understanding about allies. The fact that morally influential others are present and supportive makes it possible to confront ordinary evil. All through this story, collaborators in the good¹⁸ describe the distinction between

13. LEE, *supra* note 9, at 233.

14. LEE, *supra* note 9, at 233.

15. LEE, *supra* note 9, at 234-36.

16. LEE, *supra* note 9, at 93.

17. Prudence is necessary to the exercise of the other virtues because we need prudence in order to exercise judgment and undertake action in particular situations; it is through judgment and action in particular situations that we acquire and strengthen the virtues. MACINTYRE, *supra* note 3, at 196. Karen Lebacqz speaks of prudence, in particular reference to living virtuously as a professional, as a matter of moral discernment—“perceiving accurately what is required.” KAREN LEBACQZ, *PROFESSIONAL ETHICS: POWER AND PARADOX* 105 (1985). Prudence is, William May says, “to be still, to be silent, to listen,” and “readiness for the unexpected.” WILLIAM MAY, *The Virtues in a Professional Setting*, in *THE ANNUAL OF THE SOCIETY OF CHRISTIAN ETHICS* 71, 83 (1984).

18. Aristotle describes friendship as collaboration in the good. See Thomas L. Shaffer, *The Legal Profession’s Rule Against Vouching for Clients: Advocacy and “The Manner That Is the Man Himself,”* 7 NOTRE DAME J.L. ETHICS & PUB. POLY 145, 169-75 (1993) (discussing the virtue of friendship). An example: Scout says that Atticus, in talking to Mrs. Dubose about her flowers, “gets her interested in something nice, so she forgets to be mean.” HORTON FOOTE, *THE SCREENPLAY OF TO KILL*

ordinary evil and casual insult. In Tom Robinson's case¹⁹ and Atticus's confrontive, uncivil defense of Tom Robinson, this looking around for allies becomes clear when Atticus learns that Braxton Bragg Underwood, publisher of the *Maycomb Tribune*, was standing by to defend him from the mob that had come to the jail at night to lynch Atticus's client.²⁰ At another point in the story, Atticus senses that the judge in the Robinson case is an ally because he seems sympathetic with the unpopular tactic Atticus has chosen for his client's defense. The judge seems to have appointed Atticus to defend Tom Robinson because he hoped for and expected just such an unpopular choice of legal theory for the courtroom.²¹

Scout, however, who learns about truth and courage from her father and from Mr. Underwood and Judge Taylor, has to learn to practice prudence as a lady among ladies. Scout learns that, among ladies, there is a sisterhood of sympathy and principle that does not operate in dramatic encounters such as the ones Atticus has with the mob in front of the jail, or with the racist prosecutor in the courtroom, or the mad dog in the street. Among ladies, the presence of collaborators in virtue is as quiet

A MOCKINGBIRD 17 (1964). It is important to notice what this casual and courteous effort to draw Mrs. Dubose's attention away from her bigotry is. The collaboration Aristotle associated with friendship is not just any sort of collaboration. Human beings are manifestly able to combine their talents in order to do evil as some of Mrs. Dubose's neighbors collaborated in her bigotry. As Santayana's Rev. Darnley, the vicar of Effley, put it:

[T]o serve our neighbour and to love him is to serve and to love God. But that is only when you love and foster in your neighbour his participation in divine life, his approach to some sort of perfection. If you love him for his weakness, because he succumbs to you, or serve him in his folly, you are devoting yourself to the service of his vices; you are his worst enemy, as well as God's; and you hate his soul and destroy it.

GEORGE SANTAYANA, *THE LAST PURITAN* 253 (Charles Scribner's Sons 1936) (1935). See *infra* note 40.

19. With some misgiving I am preserving here the custom in Maycomb, at the time of the story, of not referring to black people with courtesy titles.

20. LEE, *supra* note 9, at 157.

21. The novel does not describe the moment in which Atticus accepted the appointment. The screen play for the movie version does describe it, although the exchange, on the front porch of the Finch home, in the evening, Scout and Jem listening through the window, is prosaic: Judge: "I was thinking about appointing you to take the case" Atticus: "Yes Sir. (*Reflects thoughtfully.*) I'll take the case." HORTON FOOTE, *TO KILL A MOCKINGBIRD, TENDER MERCIES, AND THE TRIP TO BOUNTIFUL: THREE SCREENPLAYS* 18 (1989).

as Miss Maudie's handsqueeze.

Collaboration occurs when Miss Maudie stops Mrs. Merriweather's ruminations on Southern black people with a caustic remark (which also operates as a defense of the unusual racial politics of the Finch house). After the remark, Scout notices a silent and unexpected alliance between Miss Maudie and Aunt Alexandra. The alliance is unexpected because the two women are not friends; they have seemed to Scout to be operating at cross purposes as Miss Maudie insists on being mildly unconventional and, worse, on supporting whatever Atticus does, in his house or out of it. By contrast, Aunt Alexandra is as uncomfortable with what Atticus is doing for Tom Robinson as most white people in Maycomb are, and is persuaded that Atticus and Calpurnia are raising Scout to be unladylike. Despite what Scout has already seen to be cold courtesy between Miss Maudie and Aunt Alexandra, what Scout sees after Miss Maudie silences Mrs. Merriweather is a compact to protect the Finch house (and Atticus too). From this compact arises a bit of unexpected sisterhood that teaches Scout about the way Southern ladies get together when they have to without surrendering the independence²² that keeps them apart:

[Aunt Alexandra] gave Miss Maudie a look of pure gratitude, and I wondered at the world of women. Miss Maudie and Aunt Alexandra had never been especially close, and here was Aunt

22. I intentionally avoid the word autonomy. Independence, as I discern it from American cultures, is an aspect of what my daughter Mary and I have called the virtue of *respect* (in Italian, *rispetto*), which is the virtue that trains a child to hold on to her selfhood as she lives out the given anthropology of a life that first puts her in the family, then in the neighborhood, then in the town, etc.. THOMAS L. SHAFFER & MARY M. SHAFFER, *AMERICAN LAWYERS AND THEIR COMMUNITIES* chs. 6-7 (1991). Community in a person's life is, then, like concentric circles, or the ripples that form from a stone dropped into still water. Love begins and is always most intense in the closest circle, the communities in which one is fixed by biology and in which one is dependent. Pope argues that it is natural for us to love those closest to us, from which, he says, follow three things: (i) a preference for kin and friends; (ii) the presence of friendship in "egoistic and reciprocal relationships" (what Aristotle called "base friendship"); and (iii) the development of altruism (in the increasingly broader succession of communities in which the person finds herself) from these two sources (family and base friendships). Stephen J. Pope, *The Order of Love and Recent Catholic Ethics: A Constructive Proposal*, 52 *THEOLOGICAL STUDIES* 255, 287 (1991). An anthropology of self-rule (autonomy) says or assumes that values and habits have value because they are *chosen*; it seems to me a profoundly false account of the way people are. See SHAFFER & SHAFFER, *supra* at ch. 1.

silently thanking her for something. For what, I knew not There was no doubt about it, I must soon enter this world, where on its surface fragrant ladies rocked slowly, fanned gently, and drank cool water.²³

And then the crisis of Tom Robinson's persecution and the gentle drinking of cool water meet. Atticus comes in the house, away from his office at an unusual time of day. He does not interrupt the meeting, except that his presence has already interrupted it. He asks Aunt Alexandra and Miss Maudie to speak with him in the kitchen; he tells them that Tom Robinson has been killed by his jailers and he asks Calpurnia to go with him to the Robinsons' home because he needs her to help him tell the new widow what has happened.

No one tells the other ladies at the meeting what has happened. No doubt that is because Atticus, his sister, and his neighbor know (and Scout learns) that decency requires that the widow learn first. And so the meeting, the fans, the rocking, and the cool water, go on as if nothing has happened—except that Scout and Aunt Alexandra have to take over Calpurnia's duties as well as their own. Scout then describes her duties: "I carefully picked up the tray and watched myself walk to Mrs. Merriweather. With my best company manners, I asked her if she would have some. After all, if Auntie could be a lady at a time like this, so could I."²⁴

Scout's learning to be a Southern lady—learning the way the virtues are practiced in a subtle, demanding vocation—is essential to the story because she is becoming a woman in a place, in a family, in a neighborhood, that teaches children how to take responsibility for a memory and a name.²⁵ By the time

23. LEE, *supra* note 9, at 236.

24. LEE, *supra* note 9, at 240.

25.

Education in the spiritual life means that children must see before them adults who don't go to pieces over a lost job or damaged property, who are not bitter over a death or illness, who don't envy the rich, or condemn as a coward one who doesn't take vengeance. Despite the pain and sorrow that such events bring, we are not to become unglued by them, as though we had no source of strength beyond ourselves. Children need models of virtue.

Margaret Lucy Dodds, *A Handy Pocket Guide to the Christian Life*, 97 THE CHRISTIAN CENTURY 441, 443 (1980). See GEORGE A. LINDBECK, THE NATURE OF DOCTRINE: RELIGION AND THEOLOGY IN A POSTLIBERAL AGE 60-62 (1984) (speaking of a

Aunt Alexandra comes from Finch's Landing to take charge of Scout's education in manners Scout is ten years old and in the third grade. Most of her formation in virtue has already taken place,²⁶ and most of it appears to have been, as Alexandra fears, masculine education—not because women are absent but because Scout's only living parent is a man, a man of moral power and influence. Scout has to put together the training in virtue she appears to have from her father with the demands and expectations put on a Southern woman in the 1930s.²⁷

The point I get from the meeting of the missionary circle is that the available notions of role are not adequate to describe Scout's moral formation. Scout cannot step from being her father's child into being a Southern lady and then back again, as she goes, say, from the tree house in the backyard to Sunday School. She has to be, as her father is, the same person in town and at home. The fact that she wears bib overalls under her dress when Aunt Alexandra drafts her into service at the missionary-circle meeting shows how she has begun to figure out how to wear ladies' clothing and at the same time accept and practice what she learned when she wore overalls. The women of Maycomb help Scout do this, as they have helped her understand the virtues she appears to learn from her father. Consider three of them, and then consider the ideal of Southern white womanhood:

child's learning in this way—from models—as similar to the way we learn a language). See also *supra* note 3 (discussing how children learn morality).

26. June Tapp and Felice Levine provide evidence that this is the way moral education in fact takes place—that “strong affective attachment . . . is . . . more important . . . than punishment power,” for example. June L. Tapp & Felice J. Levine, *Persuasion to Virtue*, 4 LAW & SOC'Y REV. 565, 576 (1970). Persuasion is a more effective teacher than coercion. *Id.* at 580. Evident virtue persuades to virtue: “If authority figures . . . are to have positive impact, it will be largely through strong and manifest displays of ‘good,’” particularly in the way the adult teacher and model treats children. *Id.* at 577. This moral training is prior to and more powerful than training in rules. For example, children in the Tapp-Levine study were asked when it is moral to break a moral rule. One child said, “[I]t depends on what's going on.” *Id.* at 573. Another says, “If it's a matter of . . . something pretty important, then it's all right.” *Id.* These children were being trained in the virtue of prudence. See MAY, *supra* note 17, at 83.

27. This is like a role, and in that way like much of what one reads in the modern literature of legal ethics, about lawyers having to take on roles. It is like that, but it is also a denial. See THOMAS L. SHAFER, FAITH AND THE PROFESSIONS ch. 3 (1987).

Calpurnia, Scout and Jem's surrogate mother, is the person in the story who is, no doubt, Atticus Finch's best friend (although he would, in a small town in Alabama in 1935, not have put it that way). *Calpurnia* is a demanding teacher. She is the mistress of what feminist scholars, looking at our culture's moral past, call "the woman's sphere."²⁸ She is the one who teaches these white children, as Aristotle said,²⁹ the moral virtues and good habits, long before they choose to behave well—long before their virtues are virtues. Much of what the women in Scout's life think the children learned from their father they in fact learned from *Calpurnia*. Atticus exemplified and confirmed intellectual content, and added the right names—classical names, such as truth, courage, justice—to what they already knew and had begun, because of *Calpurnia*, both to practice and to choose to practice.

Calpurnia demands, nourishes, and comforts. "[B]y watching her," Scout says, "I began to think there was some skill involved in being a girl."³⁰ When Scout criticizes Walter Cunningham for putting syrup all over his lunch (in Maycomb it's called dinner), after Jem induces Walter to come home from school to eat with the Finches, *Calpurnia* is an avenging angel on behalf of Walter and of Southern manners: "Yo' folks might be better'n the Cunninghams but it don't count for nothin' the way you're disgracin' 'em—if you can't act fit to eat at the table you can just set here and eat in the kitchen!"³¹ But when Scout is in pain over the hypocrisy and drudgery of public education, *Calpurnia* is a comforter; she makes crackling bread and gives it to Scout, as a surprise, after school. She also tells Scout she missed her: "The house got so lonesome 'long about two o'clock I had to turn on the radio."³² And Scout concedes some softening: "*Calpurnia*'s tyranny, unfairness, and meddling in my business had faded to gentle grumblings of general disapproval. On my part, I went to much trouble, sometimes, not to provoke her."³³

When Aunt Alexandra comes to Maycomb to see to Scout's

28. *Id.* at 42-47; see SHAFFER & SHAFFER, *supra* note 22, at 58-65.

29. See ARISTOTLE, *supra* note 3, at 33-35.

30. LEE, *supra* note 9, at 118.

31. LEE, *supra* note 9, at 29.

32. LEE, *supra* note 9, at 33.

33. LEE, *supra* note 9, at 38.

refinement, the first thing she wants to do is send Calpurnia away. Atticus bears most of Alexandra's reforms with patience; when, for example, she tells Scout that Scout has to be a sunbeam in her father's life, he tells Scout (on the side) that the Finch family already has enough sunbeams.³⁴ But he is openly stubborn when it comes to his friend Calpurnia. He identifies her as a kinswoman: "She's a faithful member of this family and you'll simply have to accept things the way they are."³⁵ He disapproves of Alexandra's well-bred practice of not saying anything controversial within Calpurnia's hearing: "Anything fit to say at the table's fit to say in front of Calpurnia. She knows what she means to this family."³⁶

Neither of these white children will ever have to live under the oppression Calpurnia lives under, although both of them will be called upon to take responsibility for what they do with the memory of old-style American racism sooner than their father—or anybody else in Maycomb—might have supposed they would. But one of the things they do have to learn—just have to—is that half the people in their town are cruelly oppressed, and it is Calpurnia's undertaking, as much as that of Atticus and Miss Maudie, to teach them about it. The fact that the children do not know, until they are preteens, that Calpurnia has a home and a family of her own justifies as much as anything in the story a nod to the irony of American history.³⁷ Jem and Scout find out about both Calpurnia's family and the community of Maycomb's black Christians when they go with Calpurnia to Sunday services at First Purchase African Methodist Episcopal Church. There they also find out that the black church is the one place in Maycomb that is not racist.

The children notice that Calpurnia speaks differently among black people than she does in the Finch home (and they sharpen the contrast as they remember that "Atticus said Calpurnia had

34. LEE, *supra* note 9, at 86.

35. LEE, *supra* note 9, at 139.

36. LEE, *supra* note 9, at 159.

37. Irony "depends upon an observer who is not so hostile to the victim of irony as to deny the element of virtue which must constitute a part of the ironic situation; nor yet so sympathetic as to discount the weakness, the vanity and pretension which constitute another element." REINHOLD NIEBUHR, *THE IRONY OF AMERICAN HISTORY* 153 (1962). Miss Lee describes with great skill irony as childish honesty and clear vision.

more education than most colored folks"³⁸) and, being children, they mention this to her. She says it is a matter of not putting on airs. It's not that she approves of the lack of education among most of her black neighbors, nor that she thinks black illiteracy is inevitable; she has, after all, taught her own son to read from a copy of Blackstone's *Commentaries* that she borrowed from Atticus. What the Finch children are asked to learn is that a person can work for moral gain in the community without being offensive about it: "[F]olks don't like to have somebody around knowin' more than they do . . . [W]hen they don't want to learn there's nothing you can do but keep your mouth shut or talk their language."³⁹

Mrs. Dubose, the suffering old white bigot who lives up the street from the Finches, was left out of the movie version of the story. My guess is that the omission was not due to the economics of film making alone, but demonstrates that the movie was a 1960s civil rights story, rather than the affectionate story of an Alabama town in 1935, and that the American civil-rights agenda when Horton Foote wrote the screenplay could not find a way to come to terms with Mrs. Dubose—with the fact that Atticus Finch could endure an old woman's ruthless and racist attack on him and his client and at the same time hold her out to his children as the bravest person he ever knew, a teacher of the virtue of courage.⁴⁰

Mrs. Dubose was, Scout said, by unanimous neighborhood opinion, "the meanest old woman who ever lived."⁴¹ She so taunted Jem that he stormed into her yard and beheaded her camellias. His training as a Southern gentleman required him to apologize, make his peace with her, and spend two weeks reading to her from *Ivanhoe*.⁴² And then, when Atticus needed a

38. LEE, *supra* note 9, at 29.

39. LEE, *supra* note 9, at 128.

40. See THOMAS L. SHAFFER, AMERICAN LEGAL ETHICS 16-17 (1985) (discussing Mrs. Dubose and the film-makers' treatment of the last scene in the novel).

41. LEE, *supra* note 9, at 39.

42. This aspect of the episode is, perhaps, an example of what Fred Erisman refers to as traditional Southern romanticism. Fred Erisman, *The Romantic Regionalism of Harper Lee*, 26 ALA. REV. 122, 123 (1973). Another "Southern gentleman" example is in a family recollection of the behavior of William Faulkner. Faulkner's niece, Dean Faulkner Wells, remembered when her uncle (whom she called Pappy) took her to a tea given for fourth-grade girls and their escorts.

way to teach his children what courage was, he dipped (a bit improperly⁴³) into his professional knowledge of her affairs and told them, after Mrs. Dubose's death, that the reading of *Ivanhoe* was to help her overcome morphine addiction, cold turkey, before she died. Her determination to die free of the addiction which had come upon her as beneficent professional medical therapy, on the assumption that morphine addiction is all right for old, sick people,⁴⁴ was the lesson Atticus needed to overcome an impression he had created, in the mad-dog incident, that courage is a *man* with a *gun* in his hand. The movie leaves in the man and the gun and omits the brave old woman.⁴⁵ The memory was just different.

Miss Maudie Atkinson teaches the children independence (I again avoid the word autonomy) and friendship. She is a devoted gardener—so much so that her ability to continue to grow flowers is a genuine consolation for her after her house burns down. But certain elements in the white Christian church in Maycomb (the Foot Washing Baptists) disapprove of her garden; it is, in

Miss Jenkins [the lady pouring tea] said to me, "lemon or cream?" Not wanting to say the wrong thing, I finally replied, "both." She glanced at me, but went ahead and poured. Pappy was behind me in line When Miss Jenkins asked him which he preferred, he said, "both," as calmly as you please. Neither of them smiled. I felt an immense relief. Pappy sat down beside me and we stared at the mess in our delicate china cups and tried to drink some of it.

Susie James, *Homage to William Faulkner's Homestead*, WASH. POST, Aug. 13, 1980, at B-2.

43. It was a clear violation of the confidentiality rule stated in the Alabama Code of Ethics for Lawyers. Code of Ethics adopted by Alabama Bar Association, No. 21, 118 *Alabama Reports* xxiii (1899); compare MODEL RULES OF PROFESSIONAL CONDUCT Rule 1.6 (1992).

44. This is like the Sheriff's (and Atticus's) view that being shut away was the moral thing to do for Boo Radley. See LEE, *supra* note 9, at 279.

45. A brave old woman is also important to the formation in truthfulness and courage of Gavin Stevens's nephew Chick, in Faulkner's similar story, *Intruder in the Dust*. WILLIAM FAULKNER, *INTRUDER IN THE DUST* (Vintage Books 1972) (1948). What good old women show in these stories is not only what is to be done, but the strength for doing it—both the intellectual content in the virtue of courage and the aspect of courage that keeps us from being so afraid that we are disabled. They thus complete the inadequate ethic that is formed by rules: "Both God and Miss Manners expect people to behave well in their daily life, but while Miss Manners is willing to supply them the rules for doing so, she does not presume to tell them where to get the strength." Judith Martin, *Miss Manners*, WASH. POST, Nov. 4, 1979, at G-17.

their theology, a worldly indulgence. Miss Maudie is also a faithful and understanding companion for the children, as well as a source of firm support for their father in his struggle with the town in the Robinson case. It is Miss Maudie who explains the novel's title, when she tells Scout and Jem what Atticus means when he says it is a sin to kill a mockingbird.⁴⁶ And it is Miss Maudie who defends the Finch home from the racism of Mrs. Merriweather's attack on black people. Scout says of Miss Maudie: "She had never told on us, had never played cat-and-mouse with us, she was not at all interested in our private lives. She was our friend. How so reasonable a creature could live in peril of everlasting torment was incomprehensible."⁴⁷ Not only does Scout find out that an adult can be as much a friend as her summer companion Dill; she also learns that growing up as a Southern Christian woman includes locating and understanding theological distinctions.

Southern White Womanhood. The ethos of Maycomb that clouds men's minds so badly that they will lynch an innocent black man is understood or, rather, rationalized, as the defense of Southern White Womanhood.⁴⁸ Arthur Radley, the strange recluse who lives hidden away next door to the Finch house, and who, at the end of the story, saves the children's lives, was locked away because of an offense to Southern White Womanhood. When he was a boy he was a member of an unruly group of juveniles accused of, among other offenses, "using abusive and profane language in the presence and hearing of a female."⁴⁹ The probate judge released Arthur (Boo) to his father, and his father locked him away.

When Atticus rushes home in the middle of the day, and interrupts the meeting of the missionary circle, after he learns that Tom Robinson has been killed, and asks Alexandra, Maudie, and Calpurnia to speak to him in the kitchen, he becomes so overwrought that he almost storms out of the room—but then checks himself, does not slam the door, and comes back briefly to make a lame joke. "I know what he was

46. LEE, *supra* note 9, at 94.

47. LEE, *supra* note 9, at 49.

48. See WILLIAM FAULKNER, *Dry September*, in COLLECTED STORIES OF WILLIAM FAULKNER 169-83 (1934).

49. LEE, *supra* note 9, at 14.

trying to do," Scout says, "but Atticus was only a man. It takes a woman to do that kind of work."⁵⁰

The defense of Southern White Womanhood is an attitude nourished and promulgated by Aunt Alexandra, who, Scout says, "had river-boat, boarding-school manners; let any moral come along and she would uphold it; she was born in the objective case."⁵¹ Hers is, though, an ethos that carries disadvantages to women—disadvantages that will be challenged, after the story ends, long before anybody in Maycomb would have predicted. What a lady-in-training, learning the memory and the name of Maycomb, does with the disadvantages is to notice them and store them away for later exercises of the discerning judgment that she is also, and at the same time, learning. For example, when the children go to church with Calpurnia, Rev. Sykes's sermon is on drinking, gambling, "and strange women Again, as I had often met it in my own church, I was confronted with the Impurity of Women doctrine that seemed to preoccupy all clergymen."⁵²

The last scene in the novel provides a reminder of where Scout has been in her formation as a Southern Lady, as well as showing a bit of what lies ahead for her.⁵³ Her life and Jem's have been saved by their reclusive neighbor Boo Radley, who has come out of his house to save, be seen by, and be introduced to the children.⁵⁴ It is late at night; the children have been through a harrowing experience; Jem lies asleep in the Finch house, Aunt Alexandra by his side.⁵⁵ The doctor has come and gone. It is time for Boo Radley to go home, and he is afraid. He asks for an escort.⁵⁶ Scout is the only available escort, and she has learned enough about courage to be willing to take on the job; but a Southern Lady knows—as Mrs. Dubose did, from the reading of *Ivanhoe*—about proper appearance in the exercise of courage: "Mr. Arthur, bend your arm down here, like that.

50. LEE, *supra* note 9, at 137.

51. LEE, *supra* note 9, at 131.

52. LEE, *supra* note 9, at 124.

53. Fred Erisman thinks that what lies ahead is indicated in the novel and that it is "a newer and more vital form of romanticism . . . reasonable, pragmatic, and native . . . truly regional in its vision." Erisman, *supra* note 42, at 123.

54. LEE, *supra* note 9, at 271-73.

55. LEE, *supra* note 9, at 280.

56. LEE, *supra* note 9, at 281.

That's right, sir.' I slipped my hand into the crook of his arm."⁵⁷ That way, if Miss Stephanie Crawford was looking out her window, "she would see Arthur Radley escorting me down the sidewalk, as any gentleman would do."⁵⁸

There are other virtues to be learned in growing up good in Maycomb. They are not so evidently a matter of a young girl, already trained in the virtues by her surrogate mother and already under the influence of an upright Southern Gentleman, finding out what it means to be a lady. These virtues can, perhaps, be talked about without being quite as lamely gender specific as I have been in reflecting on Maycomb's memory, and what good women learn to do with its memory and in its name. Part of this broader consideration of virtue involves respect for religion and for ordinary morals. Part is conscious reflection on what it means to be rooted in a community, and part is focused formation on the virtues of discrimination and respect.

RELIGION AND ORDINARY MORALS

The most frequent moral lesson Atticus Finch announced to his children, and practiced for them by example, was a curious and respectful wonder at the mystery of each of the other people they met as they grew up in Maycomb. "You never really understand a person until you consider things from his point of view," he said, "until you climb into his skin and walk around in it."⁵⁹ That moral lesson is, I think, a matter of *faith*. It is related to but not the same thing as his *religion*.⁶⁰

57. LEE, *supra* note 9, at 280.

58. LEE, *supra* note 9, at 281.

59. LEE, *supra* note 9, at 34.

60. Cynthia Ozick treats this faith as the disciplined use of metaphor. Reflecting on the Lord's saying to Israel (through Moses), "[Y]ou were strangers in Egypt," for example:

[D]octors can imagine what it is to be their patients. Those who have no pain can imagine those who suffer. Those at the center can imagine what it is to be outside. The strong can imagine what it is to be weak We strangers can imagine the familiar hearts of strangers.

Cynthia Ozick, *The Moral Reality of Metaphor*, 272 HARPER'S 62, 68 (1986). Christian theology tends to relate a recognition of "the familiar hearts of strangers" to forgiveness. *Id.* Forgiveness through understanding others involves, and I follow here, a theology developed (from Karl Barth) by Milner S. Ball, in his important new book, *The Word and the Law*. Using the critical designation "Word" to identify

Walter Cunningham's father (also Walter), a stubborn, proud farmer—one of “a set breed of men,” as Atticus put it⁶¹—and a client of Atticus's, is an example. It was Mr. Cunningham who brought the produce of his farm to the back door of the Finch house, in payment of a fee Atticus charged him for docking the entail on the Cunningham farm property.⁶² It was also Mr. Cunningham who joined the mob (Faulkner's Mississippi lawyer Gavin Stevens called it “the Face”⁶³) that came at night to the jail in Maycomb—came to lynch Tom Robinson—and were confronted first by Atticus, guarding his client, and then by the children.⁶⁴ Scout saw Mr. Cunningham in the mob and called him by name.⁶⁵ She asked him about his son,⁶⁶ the children's erstwhile luncheon guest.⁶⁷ “How's your entailment gettin' along?”⁶⁸ she asked him. Scout chooses this topic because “Atticus had said it was the polite thing to talk to people about what they were interested in, not about what you were

the Christ, from the opening verses of St. John's Gospel, Ball says: The Word generates faith rather than religion. However, faith is not necessarily separable from religion. As Barth said:

Faith is neither religion nor irreligion, neither sacred nor profane; it is always both together. Religion is not to be discarded . . . Religion is the attempt to know God. God's self-revelation does not correspond to religion but contradicts it. Nevertheless, revelation can and does adopt religion. This is so not because religion is privileged or especially apt to revelation, but because religion belongs to the human condition . . . In embracing humanity, the Word embraces religion.

MILNER S. BALL, *THE WORD AND THE LAW* 100 (1993) (quoting KARL BARTH, *EPISTLE TO THE ROMANS* 128 (Edwyn Hoskyns trans., 6th ed. 1933)).

61. LEE, *supra* note 9, at 26.

62. LEE, *supra* note 9, at 25.

63. FAULKNER, *supra* note 45.

64. LEE, *supra* note 9, at 153-55.

65. LEE, *supra* note 9, at 155.

66. LEE, *supra* note 9, at 156.

67. LEE, *supra* note 9, at 27-28.

68. LEE, *supra* note 9, at 155. In reference to her conversation with Mr. Cunningham, in front of the jail, Scout says, his “legal affairs were well known to me; Atticus had once described them at length.” *Id.* See *supra* note 43 (discussing violation of the ethics code). Scout has absorbed much of Atticus's straight talk about law. She complains, for example, that “the only message [Jem] got from Atticus was insight into the art of cross examination.” LEE, *supra* note 9, at 55. Scout, too: “Never, never, never, on cross-examination ask a witness a question you don't already know the answer to, was a tenet I absorbed with my baby-food.” LEE, *supra* note 9, at 179.

interested in."⁶⁹ "I'll tell him [Walter, Jr.] you said hey, little lady," Mr. Cunningham finally said, and then he led the mob away and the crisis passed.⁷⁰

Later, Atticus told the children that

Mr. Cunningham's basically a good man, . . . [h]e just has his blind spots along with the rest of us [Y]ou'll understand folks a little better when you're older. A mob's always made up of people, no matter what. Mr. Cunningham was part of a mob . . . but he was still a man. Every mob in every little Southern town is always made up of people you know⁷¹

In the screenplay, Atticus had told Scout earlier not to call him to the door when Mr. Cunningham brought nuts and vegetables from his farm. "I think it embarrasses him to be thanked He is paying me . . . the only way he can . . . he has no money The Cunninghams are country folks, farmers, and the crash hit them the hardest."⁷²

The theology that explains such a faith is a theology that sees that the world is redeemed. In specifically Christian terms, it sees the Word spoken of in the opening verses of St. John's Gospel as working in nature, in society, and in each person—sees the action of the Word in the world as not limited by the creeds and principles with which religion seeks to explain Who God is and what God is doing in the world. And so every other person is not only interesting, not only fits in, but is also inexplicable: "The Word generates faith rather than religion,"⁷³ as Milner S. Ball puts it. "Our faith is our faith, but as it is the faithfulness of God, it cannot be restricted by formulas or definitions or anything applied from without, as though in some way

69. LEE, *supra* note 9, at 156.

70. LEE, *supra* note 9, at 156.

71. LEE, *supra* note 9, at 159-60.

72. In the screenplay, Foote describes the scene:

(ATTICUS holds the sack of nuts. SCOUT is on the steps behind him. SCOUT leans on Atticus' shoulders as they watch MR. CUNNINGHAM leave.)

Scout, I think maybe next time Mr. Cunningham comes, you better not call me.

SCOUT: Well, I thought you'd want to thank him.

ATTICUS: Oh, I do. I think it embarrasses him to be thanked.

FOOTE, *supra* note 21, at 6-7

73. BALL, *supra* note 60, at 100.

unauthorized by the Word."⁷⁴ He quotes Karl Barth: "[T]rue Christians can only remember that the first might also be the last, so that at the very best [they] can only believe that [they] believe."⁷⁵

As Scout's character is formed in such a faith, she develops respect even for the racist prosecutor, Mr. Gilmer, who abuses Tom Robinson during the trial—abuses him by mocking him for saying he felt sorry for a poor and ignorant white woman, Mayella Ewell, the prosecuting witness against him, on a capital charge of rape.⁷⁶ When Mayella is on the witness stand, Atticus addresses her as "Miss Mayella" and calls her "ma'am," until Mayella complains that Atticus is mocking her, just as Mr. Gilmer mocks Tom Robinson. Judge Taylor has to intervene: "Mr. Finch is always courteous to everybody . . . he's trying to be polite. That's just his way."⁷⁷ As a matter of faith, though, Atticus's habit and his lesson are more than courtesy. When he tells Scout, after she asks him about his being accused of being a "nigger lover," that he tries to love everybody, he means it.⁷⁸ It is a matter of faith, rather than a matter of religion.

The habit and the lesson operate up close as well as outside the house. No doubt the up-close part of this faithful regard for the redeemed other person comes first in a child's moral development; it is something that is learned first at home and among the people at home.⁷⁹ It becomes a virtue in this story when Scout realizes that she is herself treated as redeemed: "I found

74. BALL, *supra* note 60, at 101.

75. BALL, *supra* note 60, at 101 (quoting KARL BARTH, CHURCH DOGMATICS, I/2 at 485).

76. LEE, *supra* note 9, at 198-201.

77. LEE, *supra* note 9, at 184.

78. LEE, *supra* note 9, at 113. The love commandment, Victor Furnish says, is not given as impractical

and therefore used to convict people of sin or to engender a sense of guilt. On the contrary, in every instance it is formulated as an eminently practicable commandment for readers who are presumed to understand themselves as members of a community called and empowered by God to be a new people [I]n every case the commandment is conveyed as a specific rule for behavior or . . . the means by which all the other rules are to be interpreted. Victor P. Furnish, *Love of Neighbor in the New Testament*, 10 J. RELIGIOUS ETHICS 327, 333 (1982). Jesus had that understanding as an educated and observant Jew.

79. See *supra* note 22. The model is primarily parental. See Arthur Dyck, *Loving Impartiality in Moral Cognition*, in THE ANNUAL OF THE SOC'Y OF CHRISTIAN ETHICS 55-72 (D.M. Yaeger ed., 1989).

myself wondering . . . what I would do if Atticus did not feel the necessity of my presence, help and advice. Why, he couldn't get along a day without me. Even Calpurnia couldn't get along unless I was there. They needed me."⁸⁰ And then she sees it as something to *do*, to apply, as the practice of getting into the other person's skin. Thus, Scout bites her lip and refuses to fight Cecil Jacobs, after Cecil insults her father, because Atticus asked her not to fight and she feels she has to do something for Atticus: "Atticus so rarely asked Jem and me to do something for him, I could take being called a coward for him. I felt extremely noble for having remembered, and remained noble for three weeks."⁸¹ When the children go to church as Calpurnia's "company," each of them takes the customary Sunday dime for the collection plate, but they then have to accept Calpurnia's saying that putting money in the plate would show disrespect for the church and for their status as her "company": "Jem's face showed brief indecision . . . but his innate courtesy won and he shifted his dime to his pocket."⁸²

When she finally, at the end of the story, meets Boo Radley, Scout tells Atticus that she finds Boo "real nice," and Atticus says, "Most people are, Scout, when you finally see them."⁸³ But not all people are "real nice" after one sees them—which means, if I have the ethical theory right, that one will never see them. Mayella Ewell, who falsely testifies against Tom Robinson, is an example of the first half of this distinction, and people who are "trash" are an example of the second. For example, Mayella is redeemed in a world in which the Word is at work: Scout, learning how to practice faith, sees Mayella Ewell lie in court to condemn Tom Robinson but comes to some compassion for her, as Atticus does in his jury speech. Scout remembers that the Ewells live next to the Maycomb town dump and salvage trash from the dump. Mayella, the eldest and caretaker of several motherless children, has salvaged makeshift pots from the trash and used them to put beauty in her miserable home. Scout remembers a picture in her mind as Mayella falsely testifies:

80. LEE, *supra* note 9, at 145.

81. LEE, *supra* note 9, at 81.

82. LEE, *supra* note 9, at 122.

83. LEE, *supra* note 9, at 284.

There "[a]gainst the fence, in a line were six chipped-enamel slop jars holding brilliant red geraniums, cared for as tenderly as if they belonged to Miss Maudie Atkinson."⁸⁴ What Mayella does to Tom Robinson is, so far as the law is concerned, unforgivable. And neither Atticus nor his children can ignore what she does. But Mayella is also redeemed; it is a matter of faith. The geraniums are a reminder of unseen grace.

The Finch children are also raised to be religious; they are moored, religiously, in the low-church, old-South Protestantism that their ancestor brought to that part of Alabama when he fled English restrictions on the Methodist movement. Church is, Scout says, "Maycomb's principal recreation," and anybody who does not go to church is, she says, unforgiven, even though the town supposes that they worship at home.⁸⁵ When Atticus is gone to the capital to serve in the legislature, and therefore not at home to take the children to church services, they go to the black Methodist church with Calpurnia.

Atticus's faith includes his religion, though they are not the same thing. "Faith," Karl Barth said, "is neither religion nor irreligion, neither sacred nor profane; it is always both together."⁸⁶ Faith includes so much more than religion, but as Milner S. Ball points out, religion cannot be discarded by a faithful believer.⁸⁷ Barth says religion "must be borne as a yoke which cannot be removed."⁸⁸ To destroy temples "is not better than to remove them."⁸⁹ Membership in the church, which was important to people in Maycomb, is, seen from the standpoint of faith, not something to be envied.⁹⁰ As Ball notes, Barth said that a true Christian can only "remember that the first might also be the last."⁹¹ And so, Scout says, Atticus sits by himself in church; he goes there to pray, in and as part of the church. He tells Scout that he took on the painful burden of Tom Robinson's

84. LEE, *supra* note 9, at 173.

85. LEE, *supra* note 9, at 13.

86. KARL BARTH, EPISTLE TO THE ROMANS 128 (Edwyn Hoskyns trans., 6th ed. 1933); *see supra* note 56 (discussing Milner Ball's theology developed from Karl Barth).

87. BALL, *supra* note 60, at 100.

88. BARTH, *supra* note 86, at 258.

89. BARTH, *supra* note 86, at 176.

90. BALL, *supra* note 60, at 101.

91. BALL, *supra* note 60, at 100.

defense because it was important to him to go to church and to pray there, and he could not pray in church and at the same time refuse to help Tom Robinson.⁹²

Ordinary morals. Maycomb has an ethic and a web of moral rules and customs, not all of them traceable to its conventional religion, and a few of them inconsistent with any thoughtful exercise of Christianity.⁹³ Scout explains some of these:

92. "Faulkner is a profoundly religious writer; . . . [h]is characters come out of a Christian environment, and represent, whatever their shortcomings and whatever their theological heresies, Christian concerns; . . . [t]hey are finally to be understood only by reference to Christian premises." CLEANTH BROOKS, *THE HIDDEN GOD* 22-23 (1963). I see this hidden God (partially) in *To Kill a Mockingbird* as well. But I mean, with reference to Atticus, in the church, to suggest as well a religion that is encompassed by faith. In a more faithful representation, the church Atticus belongs to would be more than a subculture of the Maycomb community. See JULIAN N. HARTT, *A CHRISTIAN CRITIQUE OF AMERICAN CULTURE* (1967). The church, Barth says, is

held together by the fact that it has the freedom, and no choice but to use this given freedom, to call God *our* Father As the community of the one Lord, it is not a monolith or collective in which the individual can be no more than a functioning organ, one among many moved and moving wheels in a mechanism. It is a *people* in which, as all these freed and free persons have a common Father, they are related, responsible, and united to one another.

KARL BARTH, *THE CHRISTIAN LIFE* 82-83 (Geoffrey W. Bromiley trans., 1981). The church, so understood, and faithful in this way, would not, I think, have supported racism—support that is casually described in the story by the fact that the black and white Methodist churches are separate and that the white Methodist church is part of a denomination divided from its counterpart in the North.

Of course Barth's notion of the church has, throughout the history of Christianity, been more a theological proposition than a social reality. See Thomas L. Shaffer, *Erastian and Sectarian Arguments in Religiously Affiliated American Law Schools*, 45 STAN. L. REV. 1859 (1993), and SHAFFER, *supra* note 40, at ch. 8. What prophets like Atticus do in the formal worshipping community is to remind the *religiously* faithful both of their collective failure and of the fact that this *people* (who they are), this community, has within itself the guidance and the energy to overcome its failure. I have used and recommend three modern and powerful texts in teaching law students about these two theological arguments—which, as I say, Atticus might have made—WALTER BRUEGGEMANN, *INTERPRETATION AND OBEDIENCE: FROM FAITHFUL READING TO FAITHFUL LIVING* (1991); STANLEY HAUSERWAS & WILLIAM H. WILLIMON, *RESIDENT ALIENS: LIFE IN THE CHRISTIAN COLONY* (1989); and John P. Reeder, Jr., *Visions of Community*, 16 RELIGIOUS STUD. REV. 28 (1990).

93. It is, nonetheless, an organic community. Cf. Thomas L. Shaffer, *The Legal Ethics of Radical Individualism*, 65 TEX. L. REV. 963 (1987) (viewing the organic community as prior to individuality). Maycomb was, I think, a community in which moral discourse was possible. The community, as it forms its children, may mislead and shape badly. The answer is to provide enough space "for differing visions of what is good." MEILAENDER, *supra* note 3, at 69. I would say that moral discourse is possible where the community leaves enough space for prophets to speak and to be

"Finders were keepers unless title was proven . . . [H]elping ourselves to someone's scuppernongs was part of our ethical culture, but money was different."⁹⁴ Southern children learn from the crib to call elders "sir" and "ma'am," and not to point at people. Ritual neighborliness is characteristic of small Southern towns. "Neighbors bring food with death and flowers with sickness and little things in between."⁹⁵ Even Boo Radley's brother and his jailer,⁹⁶ a man capable of firing his shotgun at children in his garden,⁹⁷ comes out of his house when neighborliness requires him to come out.⁹⁸ People in Maycomb do not vote for Republicans; they maintain a caste system that puts "the older citizens" at the top, followed by "the present generation of people who had lived side by side for years," all of their manners toward one another refined by time.⁹⁹ There are those at the top of the system who are still young enough to accept the burden of leadership. Atticus goes to the legislature and there takes on the least glamorous tasks,¹⁰⁰ while Aunt Alexandra fits into the so-

heard. See SHAFFER, *supra* note 27. Neither Meilaender's argument nor my way of putting it means that all visions are true; we mean that it is possible, in such a community, to look, to see, and to talk to our neighbors about what we see—all of that *within* a coherent vision of the good:

Successful moral education requires a community which does not hesitate to inculcate virtue in the young, which does not settle for the discordant opinions of alternative visions of the good For moral education requires that virtuous exemplars be presented the young, not that a thousand choices be given. At the same time . . . [c]ommunities which do not permit the virtues they inculcate to be transcended by what is good . . . cut themselves off from the very source which inspired their efforts to shape character. Perhaps communities which seek seriously to inculcate virtue while also gathering regularly to confess their failures and recommit themselves to what is good are the best we can manage.

MEILAENDER, *supra* note 3, at 72.

94. LEE, *supra* note 9, at 39-40.

95. LEE, *supra* note 9, at 281.

96. LEE, *supra* note 9, at 17.

97. LEE, *supra* note 9, at 58.

98. When Miss Maudie's house burned down, Nathan Radley joined the rest of the neighborhood in helping put out the fire. LEE, *supra* note 9, at 76.

99. LEE, *supra* note 9, at 134.

100. The children puzzle over an editorial cartoon that shows Atticus, the legislator, "barefooted and in short pants, chained to a desk" and ignoring "frivolous-looking girls" who are yelling "yoo-hoo" at him. Jem says the point is that Atticus does "things that wouldn't get done if nobody did 'em [I]t's like reorganizing the tax systems of the counties and things." LEE, *supra* note 9, at 119. I think of Trollope's parliamentary gentleman, Plantagenet Palliser, who devoted himself to

cial hierarchy of the town "like a hand into a glove."¹⁰¹ Southerners of that time and place sometimes named their children after Confederate generals, although it was a practice, Atticus said, that tended to make "slow steady drinkers."¹⁰² Atticus gives his children air rifles for Christmas, but he does it with distaste. Scout says, "[M]y father . . . hated guns and had never been to any wars."¹⁰³ Atticus tells his brother Jack that Jack will have to show them how to use the rifles: "That's your job I merely bowed to the inevitable."¹⁰⁴ Still, Atticus says, "it's a sin to kill a mockingbird"—the one time, Scout says, that Atticus described anything as sinful.¹⁰⁵

Ordinary morals are, in the way the Finch children grow up, subordinate to the direction and the witness indicated by faith, including the part of their faith that is religious. That is the importance of Atticus's insistence on truth in the Robinson trial (even at the expense of his client's life and almost of his children's) and of the courage that, he insists, is better illustrated by a bigoted old woman overcoming morphine than by his being the best rifle shot in Finch's Landing. The biblical word for such a moral stance is "prophet"—one who reminds a community of what its deepest commitments are and of what it might cost to bear witness to those commitments.¹⁰⁶

devising and attempting to sell (to a smug and uninterested Victorian society) a decimal system of coinage. TROLLOPE, *THE PRIME MINISTER* (Oxford 1951) (1876).

101. LEE, *supra* note 9, at 134.

102. LEE, *supra* note 9, at 158.

103. LEE, *supra* note 9, at 105.

104. LEE, *supra* note 9, at 84.

105. LEE, *supra* note 9, at 94.

106. W. Sibley Towner includes the prophet's use of the rhetoric of secular life and the fact that the prophet's constituencies are the community of court, cult, and school. The prophet's message is one he finds in sacred tradition, particularly the tradition of covenant that one finds in Judaism and in Calvinist Christianity. The prophet compares that heritage with what the community is doing. The prophet in this biblical model is an insider (e.g., the prophet Nathan, in King David's court, II Samuel 12). W. Sibley Towner, *On Calling People "Prophets,"* in 1970, 24 INTERPRETATION 492 (1970). See THOMAS L. SHAFFER, ON BEING A CHRISTIAN AND A LAWYER ch. 10 (1981). Like saints, as James William McClendon argues, prophets have a faith which is against the church. But this faith is *in* the church and it sustains the church. JAMES W. MCCLENDON, JR., BIOGRAPHY AS THEOLOGY 204-15 (1974). A prophet, in Gaylord Noyce's phrase, is "always . . . chipping away at wrong. The wrong is in us and it is in the structures around us." Gaylord Noyce, *The Dilemmas of Christians in Business*, 98 THE CHRISTIAN CENTURY 802, 803 (1981). A slightly more debatable notion is that the prophet is also *in complicity*

The critical prophetic events in the story are, of course, the trial of Tom Robinson and the death of Bob Ewell, at the end of the story, when Atticus Finch, uncommonly devoted to the truth, goes along with Sheriff Tate's public lie to protect the reclusive Boo Radley. The Sheriff says to the town that Ewell fell on his own knife, as he tried to kill Scout and Jem; in fact, as the Sheriff and the Finches know, he was killed by Boo Radley.¹⁰⁷ But sometimes the narrative events are more mundane: use of the commonest of all epithets in that time and place, the word "nigger," is perhaps an example. Atticus tells his children that use of the word by white people is "common," and he tells them that Hitler is a maniac (this in 1935).¹⁰⁸ But, in the closer-to-home case, he feels that he has to say more, lest the children fail to understand white people who are "common." Atticus explains that white people who use the word "nigger" have been corrupted; the word, he says, has "slipped into usage with some people like ourselves, when they want a common, ugly term to label somebody."¹⁰⁹

Atticus says that the corrupters in this case were people who are "trash," meaning what my grandmother from Kentucky called "poor white trash," and meaning as well to invoke the

with the wrong that his community is doing; that, I think, is an important aspect of the Southern gentleman-lawyer as prophet in stories such as Atticus's and Gavin Stevens's. See SHAFFER & SHAFFER, *supra* note 22, at ch. 4. John Reeder puts it as, "[o]ne stands on part of the raft while repairing another part The individual always works with an inherited social repertoire even when elements are discarded or radically reinterpreted." John Reeder, *Visions of Community*, 16 RELIGIOUS STUD. REV. 28, 29 (1990). It may be useful, on this point about complicity, to notice Karl Jasper's and Calvin Schrag's distinction between community and conformity; they present those as *alternatives*—so that the person I am calling a prophet can either conform to what his community is doing or take the alternative course. This would be particularly important in biblical theology, where Israel is a priestly people chosen and rechosen, disciplined and redeemed, by the God of history—a people who need prophets to remind it of what it is. It would also be important to an adequate notion, for Christians, of what the church is.

107. LEE, *supra* note 9, at 276-78.

108. LEE, *supra* note 9, at 113.

109. LEE, *supra* note 9, at 113. Children are, by hearing and imitating such usage, trained in vice. Faulkner tells of a seven-year-old white boy, growing up with his black foster-brother: "Then one day the old curse of his fathers, the haughty ancestral pride based not on any value but on an accident of geography, stemmed not from courage and honor but from wrong and shame, descended to him." WILLIAM FAULKNER, GO DOWN MOSES 111 (Vintage Books 1973)(1942). See KUNDERA, *supra* note 2.

harshest and most judgmental word Atticus—or, I suppose, any Southern gentleman—used. The Ewells, for example, are trash (Mayella excepted). Atticus tells the children that the “Ewells had been the disgrace of Maycomb for three generations They were people but they lived like animals.”¹¹⁰ He uses the word again to condemn white merchants who cheat black people; that practice, he says, is “ten times worse than cheatin’ a white man . . . the worst thing you can do.”¹¹¹ He seems to distinguish the merchant who preys on black people from the jurors who condemned an innocent man in the Robinson case; the jurors have lost their good sense—temporarily. The merchant is trash: “As you grow older, you’ll see white men cheat black men every day of your life but let me tell you something and don’t you forget it—whenever a white man does that to a black man, no matter who he is, how rich he is, or how fine a family he comes from, that white man is trash.”¹¹²

The judgment Atticus hands down to his children regarding people who are trash seems to contradict the ethic he otherwise announces to them, namely, the ethic of climbing into the other person’s skin. Maybe that is because the story needs a villain and Bob Ewell, who is trash, is it; maybe, too, there is a limit to the extent to which a good mentor can follow his own principles.¹¹³ We are all subject, more than we might like to think, to

110. LEE, *supra* note 9, at 35.

111. LEE, *supra* note 9, at 204.

112. LEE, *supra* note 9, at 223. The mob that comes to lynch Tom Robinson includes such people, but it also includes Mr. Cunningham and other farmers and the sort of citizens who served on the jury. It is interesting that it does *not* involve the Ku Klux Klan: Jem suggests to Atticus that the Klan was involved, but Atticus says not. Jem says he had heard that the Klan in Maycomb got after some Catholics once. Atticus says he never heard of any Catholics in Maycomb. “[Y]ou’re confusing that with something else,” he says. “Way back about nineteen-twenty there was a Klan, but it was a political organization more than anything. Besides, they couldn’t find anybody to scare.” LEE, *supra* note 9, at 149. He remembers that the Maycomb Klan did attempt to intimidate Mr. Sam Levy, but Mr. Levy, farmer and leader of a family that, Scout says, were among Maycomb’s “Fine Folks,” made them feel ashamed of themselves. LEE, *supra* note 9, at 149. Atticus is naive when he tells Jem, in reference to the broader community, “The Ku Klux Klan’s gone. It’ll never come back,” but there is no evidence in the story that it came back to Maycomb. LEE, *supra* note 9, at 149.

113. It is easy to imagine that the trials and appeals in the Scottsboro case were in Miss Lee’s mind when she told the story of Tom Robinson’s trial. See DAN T. CARTER, *SCOTTSBORO: A TRAGEDY OF THE AMERICAN SOUTH* (1969). It is interesting,

the deviance systems our communities maintain for us. In any event, there are distinctions. Dolphus Raymond, the strange river dweller who comes to town at the time of the Robinson trial and comforts the children after they hear Mr. Gilmer abuse Tom Robinson in court, is ruled outside of decent society because he has married a black woman. However, the children, who talk to him and learn that he pretends to be drunk in public so that people will have a comfortable reason to condemn him, know he is not trash.¹¹⁴ Dolphus might even cause the children to reflect on the category.

Community. After the trial and the Finches' return home, Atticus notices and explains to Scout that Jem has been deeply hurt by what he saw in the courthouse and that it will take time for his wounds to heal. Atticus becomes unusually voluble:

They're ugly, but those are the facts of life . . . [P]eople have a way of carrying their resentments right into a jury box . . . Don't fool yourselves—it's all adding up and one of these days we're going to pay the bill for it. I hope it's not in you children's time.¹¹⁵

He does not seem to consider the possibility that he could *leave* Maycomb to pay its bills without him or that his children might leave before the bills have to be paid. He does not claim immunity from the debt. He recalls a point he made to Scout before the trial, after he told her they would not win the case: "[W]e're fighting our friends," he said. "But remember this, no matter how bitter things get, they're still our friends and this is still our home."¹¹⁶ And, to Alexandra, referring to what Maycomb is doing to Tom Robinson, he says, "This is their home, sister . . . We've made it this way for them [the children], they might as well learn to cope with it."¹¹⁷

When Scout wonders, to Dill, why Boo Radley has never left the home in which his family keeps him prisoner, Dill, who knows a bit more than Scout about being rootless, says, "Maybe

though, that Atticus did not make an issue, as defense lawyers in some of the Scottsboro trials and appeals did, of the exclusion of black people (or, for that matter, of women) from juries, and did not insist, as those lawyers sometimes did, that courtesy titles be used when addressing black witnesses. See *supra* note 19.

114. LEE, *supra* note 9, at 163, 203-04.

115. LEE, *supra* note 9, at 223.

116. LEE, *supra* note 9, at 81.

117. LEE, *supra* note 9, at 215.

he doesn't have anywhere to run off to."¹¹⁸ These Southern people regard their community as organic and inevitable—as fate. It is an attitude described by a Southern gentleman I know as a matter of “staying put.”¹¹⁹ Staying put is characteristic of stories about the South, as it is characteristic of stories of the Hebrew prophets. In one case Jeremiah stays in the city and goes into the dungeon; Socrates refused to flee Athens and suffered capital punishment instead. In the other, the Southerner stays put and accepts complicity in his community's evil. Complicity simply because, try as he might, no person can see clearly everything his community does to perpetuate its injustices. Staying put, even in complicity, reflects what Isaiah said when he accepted his commission from God:

Then said I “Woe is me! For I am undone; because I *am* a man of unclean lips, and I dwell in the midst of a people of unclean lips Also I heard the voice of the Lord, saying, “Whom shall I send, and who will go for us?” Then said I, “Here *am* I; send me.” And he said, “Go”¹²⁰

118. LEE, *supra* note 9, at 146.

119. Staying put is a principal theme in Faulkner's *Intruder in the Dust* and appears as a theme in his other work. WILLIAM FAULKNER, *INTRUDER IN THE DUST* (Vintage Books 1972) (1948). “A gentleman can live through anything,” the grandfather in *The Reivers* says. “He faces anything. A gentleman accepts the responsibility of his actions and bears the burden of their consequences, even when he did not himself instigate them but only acquiesced to them, didn't say No though he knew he should.” WILLIAM FAULKNER, *THE REIVERS* 302 (1962). “In accepting his fellow townspeople as necessarily flawed human beings,” Carol R. Rigsby says of Gavin Stevens's nephew Chick, “he is no longer ashamed to count himself among them.” Carol R. Rigsby, *Chick Mallison's Expectations and Intruder in the Dust*, 29 MISS. Q. 389 (1975-1976). Edmund Wilson might have said of Miss Lee's story what he said of Faulkner's stories, when he wrote:

I do not sympathize with the line of criticism which deplores Faulkner's obstinate persistence in submerging himself in the mentality of the community where he was born, for his chivalry, which constitutes his morality, is a part of his Southern heritage, and it appears in Faulkner's work as a force more humane and more positive than almost anything one can find in the work of even those writers of our more mechanized society who have set out to defend human rights.

Edmund Wilson, *Books: William Faulkner's Reply to the Civil-Rights Program*, 24 THE NEW YORKER 35 (Oct. 23, 1948). The bond that makes staying put possible is affection. As Walker Percy put it, “[T]hese Louisianians, for all their differences and contrariness, have an affection for one another. It is expressed by small signs and courtesies, even between strangers, as if they shared a secret.” WALKER PERCY, *THE THANTATOS SYNDROME* viii (1987).

120. *Isaiah* 6:5, 6:8-9 (King James).

Class, Discrimination, and Respect. The moral culture in which the Finch children are formed is not an egalitarian culture. When Atticus, in his jury speech, reminds the jury that, in court, all people are equal,¹²¹ he means to draw a contrast between the ethos they find in the law (an irony, surely, as he must have realized even as he said it) and the ethos they find outside the courtroom. Maycomb's is a class-based social order; children there are made to understand that what Miss Maudie calls "people of background" should control the society, and, if they cannot or do not control it, the society is worse for the absence of control.¹²² The highest tribute the town can pay a person, she says, is to trust him with the sort of mission Atticus undertook when he agreed to defend Tom Robinson, but only "[t]he handful of people in this town with background" understand.¹²³ Aunt Alexandra, for all of Atticus's scoffing at her snobbery, impresses on the children the peculiar and superior status of the Finch family in and around Maycomb and the burdens of leadership that go with superiority. Atticus accepts what is important in her campaign when he says to her, "I just hope that Jem and Scout come to me for their answers instead of listening to the town."¹²⁴

Class is buffered in Maycomb by the practice of what Shirley Letwin calls the virtue of discrimination,¹²⁵ and by the virtue of respect. Discrimination is the practiced ability to tell people from one another and to treat them in a way that is consis-

121.

[T]here is one way in this country in which all men are created equal—there is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution, gentlemen, is a court.

LEE, *supra* note 9, at 208.

122. LEE, *supra* note 9, at 239.

123. LEE, *supra* note 9, at 239.

124. LEE, *supra* note 9, at 93.

125. SHIRLEY R. LETWIN, *THE GENTLEMAN IN TROLLOPE: INDIVIDUALITY AND MORAL CONDUCT* 68 (1982). "His honesty leads him to speak differently to friends and to strangers, in private and in public. He will lie to a murderer in order to save his friend, though his honesty will keep him from pretending . . . that he has not lied." *Id.* at 72. "When faced with transgressors," she says, "the gentleman will consider whether he is faced with an eccentric, a ruffian, or a villain." *Id.* at 69. And he will act differently with each of them. See SHAFFER, *supra* note 40, at 45 (discussing gentlemen's eccentricities).

tent with their differences.¹²⁶ It is what causes the Sheriff and Atticus to lie to protect Boo Radley's seclusion when neither of them would have lied to protect Jem, the gentleman in training.¹²⁷ Discrimination is what caused Atticus to rush into Miss Maudie's burning house and rescue her old heavy oak rocking chair, when the other men in the neighborhood were trying to rescue more valuable property—"sensible of him," Scout thought, "to save what she valued most."¹²⁸ It is what causes Atticus to tell the children not to bother the Radleys, when he seems not to worry about them bothering Miss Maudie or Miss Stephanie Crawford, or even Mrs. Dubose (although he also, when he first heard of Boo's confinement, "shook his head and said, 'Mm, mm, mm'").¹²⁹

Respect is the virtue that accepts the differences discrimination helps a person notice and then treats each person with dignity.¹³⁰ It is, as the Finch children learned it, a theological virtue.¹³¹ It follows from the faith that the world and each per-

126. See LETWIN, *supra* note 125, at 68.

127. At first, Atticus thinks that Jem killed Bob Ewell and that the Sheriff's lie is meant to hide the fact.

128. LEE, *supra* note 9, at 74.

129. LEE, *supra* note 9, at 15.

130. See LETWIN, *supra* note 125, at 68.

131. Finally, respect is love bestowed, and, as such, it is constituent of faith and of the discernment of God's action in the world. See *supra* note 18 and accompanying text. Respect is here a virtue that causes the virtuous person to go beyond perception, because love is *bestowed* on the other as well as *perceived* in him—or, rather, because it is bestowed it is perceived:

[L]ove outstrips valuation and respects the dignity of other persons rather than merely computing their utility. Given these facts, putting charity first is actually the surest means to the *avoidance* of cruelty. It furthermore limits the sort of ubiquitous irony that must eventually be self-defeating because it is insufficiently other-affirming.

Timothy P. Jackson, *The Disconsolation of Theology: Irony, Cruelty, and Putting Charity First*, 20 J. RELIGIOUS ETHICS 1, 29 (1992). The other person is then approached, as I think both Professor Ball and Karl Barth would put it, *as* redeemed. See *supra* note 92 and accompanying text. Stanley Hauerwas speaks of this as a method of perception, as a way of finding out what is going on in the world and what God is doing in it; he borrows Iris Murdoch's phrase, "just and loving gaze" and notices that convention (*cf.* Jackson's references to irony and the avoidance of cruelty) is as much an obstacle to such perception as neurosis is. STANLEY HAUERWAS, *VISION AND VIRTUE* 30-45 (1974). The late Professor Warren Lehman, referring to the lawyer-client relationship as moral discourse in much the same spirit, said, "We are dealing with the most difficult problems of the interior and virtuous life We must speak . . . gently to the spirit." Warren Lehman, *The Pur-*

son in it has been redeemed, is, as the Finches' Methodist ancestors would have put it, a child of God. Respect practiced at home causes Atticus to listen carefully to each side when his children come to him to adjudicate one of their quarrels;¹³² it causes Dr. Jack, their uncle, to tell them in advance what he is going to do when his treatment of them causes pain; it causes Atticus to tell Mrs. Dubose that she is as pretty as a picture,¹³³ and the tyrannical Mr. Radley to come out of his house and greet Alexandra, to "come up in the front yard and say he was glad to see her."¹³⁴

Scout, who at that point in the story has never seen Boo Radley, imagines what might happen if he were to come out of his house and sit on the front porch: "Hidy do, Mr. Arthur," she would say, "as if I had said it every afternoon of my life. 'Evening, Jean Louise,' he would say, as if he had said it every afternoon of my life, 'right pretty spell we're having, isn't it?' 'Yes sir, right pretty,' I would say, and go on."¹³⁵

When Boo does come out, after the attack on the children and after he kills Bob Ewell, he joins the Sheriff and Atticus on the front porch of the Finch house. He does not have a chair. Scout gets one for him, but she puts it at a distance from the others, "in deep shadow. Boo would feel more comfortable in the dark."¹³⁶ She is practicing respect, as well as discrimination, as the children are when they turn their snowman into what Miss Maudie calls "an absolute morphodite," by putting an apron on him, because they at first made the snowman look too much like their neighbor Mr. Avery.¹³⁷ This sort of thing is often spoken of as Southern courtesy, and it is that; but in this story, which is a story about how children are taught the virtues, it is shown to be a practice that is necessary when a society preserves both its memory and a faith that says every person is redeemed.

suit of a Client's Interest, 77 MICH. L. REV. 1078, 1078 (1979).

132. See LEE, *supra* note 9, at 90.

133. LEE, *supra* note 9, at 104.

134. LEE, *supra* note 9, at 131.

135. LEE, *supra* note 9, at 245.

136. LEE, *supra* note 9, at 275.

137. LEE, *supra* note 9, at 72.

CONCLUSION

Growing up good in Maycomb is as ordinary and as deep and profound as Patrick Henry's "Johannanine Haiku":

The Word became Flesh
and dwelt among us and said
"Come and have breakfast"—
which is not
Exactly
what we would have expected.¹³⁸

138. Patrick Henry, *Johannanine Haiku*, 38 THEOLOGY TODAY 479 (1982). "What is a home?" Walker Percy asked. "A home is a place, any place, any building, where one sinks into one's self and finds company waiting." WALKER PERCY, THE SECOND COMING 242 (1980). I am grateful, as if I had been served breakfast at their hands (as I am, rather often), for the kind assistance of Mary M. Shaffer-Seytre and Nancy J. Shaffer.

