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# ATTICUS, THOMAS, AND THE MEANING OF JUSTICE

*Teresa Godwin Phelps\**

Professor Thomas Shaffer admires Atticus Finch, the lawyer-protagonist of Harper Lee's *To Kill a Mockingbird*. Those familiar with Shaffer's work know that for him Atticus<sup>1</sup> represents the quintessential ethical lawyer: Atticus's life is one that lawyers should emulate. In Shaffer's widely-adopted ethics text,<sup>2</sup> Chapter One, which is entitled "The Gentleman from Maycomb, Alabama," tells the story of Atticus Finch as if he were real instead of the product of Harper Lee's imagination.<sup>3</sup> Shaffer's principal reason for utilizing Atticus as an exemplar is Atticus's vigorous yet unsuccessful defense of Tom Robinson, a black man unjustly accused of raping a white woman, Mayella Ewell: "Consideration of Atticus Finch's trial tactics teaches something about the way a gentleman in America practices law."<sup>4</sup>

I am less of an admirer of Atticus. Although he has excellent qualities (and Gregory Peck's movie version of him certainly emphasizes these), he has, in my view, serious flaws. For me, Atticus's acceptance of the racist status quo of Maycomb seriously undermines his character. This Article first discusses Shaffer's view of Atticus and then my alternative vision. It then turns to a discussion of what it means to be just and analyzes whether we should conclude that Atticus is a just man and an exemplary lawyer.

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1 There is some curious convention that seems to require that we call Atticus Finch by his first name, indeed as does his daughter Scout, the narrator of *To Kill a Mockingbird*. I had intended in this Article to call him "Finch" as I would other characters, but I find it sounds artificial and awkward to do so. I have suggested elsewhere that the book creates a reverence and familiarity with him that compels us to call him by his Christian name. See Teresa Godwin Phelps, *The Margins of Maycomb: A Rereading of To Kill a Mockingbird*, 45 ALA. L. REV. 511, 511 (1994).

2 THOMAS L. SHAFFER, *AMERICAN LEGAL ETHICS: TEXT, READINGS, AND DISCUSSION TOPICS* (1985).

3 *Id.* at 3-16.

4 *Id.* at 6.

## I. SHAFFER'S ATTICUS FINCH

Shaffer admires Atticus Finch on at least three levels: as a father, as a lawyer, and as a virtuous man. These roles are not discrete, of course: Atticus's goodness (which Shaffer often gives the Aristotelian term *virtue*<sup>5</sup>) makes him a good father and a good lawyer, and this is part of Shaffer's point. The practice of virtue permeates all aspects of a life. Atticus's children thrive (and grow in virtue themselves<sup>6</sup>) because they watch their father in his practice of the law and in his encounters with the people of Maycomb, some his clients, some not. Atticus remains the same good man in all the roles he plays.

Atticus Finch is what we now call a "single father." He is a widower and, at nearly fifty,<sup>7</sup> somewhat older than the fathers of other children the age of Scout (eight) and Jem (nearly thirteen).<sup>8</sup> He lives with his children in the small town of Maycomb, Alabama and is assisted in housekeeping and childrearing by a black servant, Calpurnia.<sup>9</sup> He is a small town lawyer in general practice and a member of the Alabama legislature.<sup>10</sup> The central event in *To Kill a Mockingbird* is Atticus's defense of Tom Robinson, a black man who is falsely accused of raping a white woman, Mayella Ewell.<sup>11</sup> Although Atticus does not usually take criminal cases,<sup>12</sup> he was assigned to defend Tom Robinson and sets out to do so as well as he can.<sup>13</sup> He refuses to do a perfunctory job of representation, which would be expected of southern lawyers in their defense of black defendants at the

5 See, e.g., *id.* at 27.

6 See Thomas L. Shaffer, *Growing Up Good in Maycomb*, 45 ALA. L. REV. 531, 531 (1994).

7 HARPER LEE, *TO KILL A MOCKINGBIRD* 93 (25th Anniv. ed. Warner Books 1982) (1960).

8 *Id.* at 1.

9 *Id.* at 10.

10 *Id.*

11 Stephen Lubet takes the position, arguendo, that, in fact, we do not know if Tom Robinson is guilty or not. Our information about what happened is garnered through Scout Finch, the book's narrator. Lubet proceeds to examine Atticus's defense as if Tom Robinson were guilty, demonstrating that Atticus "designed his defense to exploit a virtual catalog of misconceptions and fallacies about rape, each one calculated to heighten mistrust of the female complainant." Stephen Lubet, *Reconstructing Atticus Finch*, 97 MICH. L. REV. 1339, 1351 (1999) (citation omitted).

12 Scout explains early in the novel that her father developed a "profound distaste for the practice of criminal law" because his first two clients, clearly guilty of murder, had refused to plead guilty to second degree murder and escape with their lives. "His first two clients were the last two persons hanged in the Maycomb County jail." LEE, *supra* note 7, at 9.

13 *Id.* at 80, 92-93.

time (1935).<sup>14</sup> Despite Atticus's confrontational defense, in which he makes it clear that Mayella is lying and that her father was the one who actually beat her,<sup>15</sup> the jury takes little time to find Robinson guilty of a crime he clearly did not do—guilty because he is black.<sup>16</sup> For Shaffer, Atticus deserves our admiration not because he saves Robinson, but because he insists on telling the truth, even though he knows he will fail.<sup>17</sup>

His telling of the truth is also how he is able to imagine the sort of community he seeks to protect for his children and his neighbors. Because he tells the truth, because he has a relatively clear idea of himself and his community, and because he is brave, he is able to confront conventional, cultural untruth and in doing so to offer up his life (as he does, in front of the jail, facing the lynch mob), the lives of his children (as he does toward the end of the story), and the security of his neighbors. His confrontation is in aid of who he is and also in aid of what his community is. In both respects, Atticus is integrating and protecting what is good and what is evil in his culture. Those tasks are how a gentleman-lawyer in America sees his profession.<sup>18</sup>

For Shaffer, Atticus's ability to accept "Maycomb's usual disease,"<sup>19</sup> the inbred racism that results in flagrant and deadly injustice, is a "moral quality that the theologian Reinhold Niebuhr . . . called the ability to be *ironic*, the ability to tell the truth without being destroyed by it."<sup>20</sup> Atticus can "tell the truth about his community but still remain fond of his community . . ."<sup>21</sup>

Importantly, though, in Shaffer's view, Atticus's adherence to truth telling in his defense of Tom Robinson was not a mere knee jerk reaction to a principle he held dear: "always tell the truth." In fact, the novel ends with Atticus's concurrence in a lie—that Bob Ewell fell on his knife—to save the recluse Boo Radley, who actually killed Ewell while saving the lives of the Finch children, from embarrassing and

14 The text of the novel does not specify this generally accepted date. See Thomas L. Shaffer, *The Moral Theology of Atticus Finch*, 42 U. PITT. L. REV. 181, 182 (1981).

15 *Id.* at 183–208.

16 *Id.* at 214.

17 *Id.* at 80.

18 See SHAFFER, *supra* note 2, at 9.

19 LEE, *supra* note 7, at 93.

20 SHAFFER, *supra* note 2, at 7

21 *Id.* Shaffer refers specifically to Niebuhr's definition of irony which "depends on 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 constitutes another element." *Id.* at 7; see REINHOLD NIEBUHR, *THE IRONY OF AMERICAN HISTORY* 153 (1962).

potentially emotionally damaging public acclaim and gratitude.<sup>22</sup> Although Shaffer calls Atticus's lie a "mistake,"<sup>23</sup> he argues that

when he joined in the lie to protect Boo Radley . . . he became a sharper, more memorable person . . . both to Maycomb and to those of us who are in need of lawyer heroes. The struggle [to join in the lie] illustrates how a person obeys the "moral imperative" even when he makes a mistake (as his lie to protect Boo Radley may have been). Obedience to the "moral imperative," to the impulse or the grace that tells us to do good and avoid evil—that is, to take moral notions seriously—is what gives a person identity. It is the moral act which made Atticus a person rather than merely an individual. . . .<sup>24</sup>

Shaffer's understanding of Atticus is layered and complicated, but I think it is fair to say that he embraces the character because Atticus offers an example to aspiring lawyers (Shaffer's students) of how a lawyer should act. According to Shaffer, a lawyer is obliged to follow his conscience, to "bear the discomfort" of being a virtuous person even if the sometimes de minimus code of professional ethics suggests otherwise:<sup>25</sup> "Atticus would not have understood that devotion to the Constitution requires the untruthful practice of law. . . . [or] that a lawyer's morals are to be determined by the government."<sup>26</sup> At the same time, following one's conscience is not necessarily free of conflict: "There are . . . crucial conflicts in which different virtues appear as making rival and incompatible claims upon us."<sup>27</sup> Atticus's choice to lie to protect the reclusive (now we would call him agoraphobic) Boo Radley was just such a moment. The virtue of truth telling (and following the necessities of the law required by his oath of office) and the virtue of protecting the weak came into conflict. Both values exert their moral authority. Shaffer would have his aspiring ethical lawyers know that lawyers confront these conflicts and that there are no easy answers.

## II. MY ATTICUS FINCH

For years I taught *To Kill a Mockingbird* in my Law and Literature course as a Shaffer disciple: good lawyers should act as Atticus does. They should follow their consciences as best they can, even when con-

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22 LEE, *supra* note 7, at 273–79.

23 See Shaffer, *supra* note 14, at 196 (1981).

24 *Id.* at 195–96 (internal citations omitted).

25 See *id.* at 223.

26 *Id.* at 224.

27 SHAFFER, *supra* note 2, at 29 (quoting ALASDAIR MACINTYRE, *AFTER VIRTUE* 134 (1981)).

fronted, as they surely would be, by incommensurable choices. Then one day in class a student raised her hand and told me that she was deeply troubled by such unflinching admiration of both Atticus and *To Kill a Mockingbird*. "Wait a minute," she said, "Tom Robinson is dead! Why am I supposed to feel good about this book?"

Despite his vigorous defense of Tom Robinson, Atticus never believed that the jury verdict would be anything other than guilty. When Scout asks him if he can win at the initial trial in Maycomb, he answers summarily, "No, honey."<sup>28</sup> The only hope, and not a strong one, lies in an appeal in which even Atticus has little hope: "I told him [Tom] what I thought, but I couldn't in truth say that we had more than a good chance."<sup>29</sup> Meanwhile, Tom is imprisoned seventy miles from his home, and his wife and children are not permitted to visit him. Tom, apparently "tired of white men's chances," makes a desperate run for escape and is shot dead by the prison guards.<sup>30</sup> At the heart of *To Kill a Mockingbird* is a tragedy that was reenacted time and again in the South of the first half of the twentieth century. An innocent black man is adjudged guilty and ends up dead. Atticus knows that this kind of injustice occurs and is not even very surprised that it has happened again this time. And for the people of Maycomb, it is business as usual:

Maycomb was interested by the news of Tom's death for perhaps two days . . . To Maycomb, Tom's death was typical. Typical of a nigger to cut and run. Typical of a nigger's mentality to have no plan, no thought for the future, just run blind first chance he saw.<sup>31</sup>

Scout, Atticus's daughter and the book's narrator, understands it differently:

Senseless killing—Tom had been given due process of law to the day of his death; he had been tried openly and convicted by twelve good men and true; my father had fought for him all the way. . . . Atticus had used every tool available to free men to save Tom Robinson, but in the secret courts of men's hearts Atticus had no case.

28 LEE, *supra* note 7, at 80.

29 *Id.* at 238. Tom Shaffer thinks otherwise. He maintains that Atticus thought he could win on appeal, suggesting Harper Lee had the acquittal of some of the Scottsboro boys in mind. See Dinitia Smith, *Scottsboro 70 Years Later, Still Notorious, Still Painful*, N.Y. TIMES, March 19, 2000, at C1. Shaffer's position comes from a letter he wrote to me last year. See Letter from Tom Shaffer to Teresa Godwin Phelps (Nov. 1, 2000) (on file with author).

30 See LEE, *supra* note 7, at 238.

31 *Id.* at 243.

Tom was a dead man the minute Mayella Ewell opened her mouth and screamed.<sup>32</sup>

But, had Atticus used “every tool available to free men” as Scout attests (and, I think, as Shaffer would have us conclude)? Importantly, Atticus is not just a small town lawyer but a state legislator, one so popular with his constituents, the people of Maycomb, that he is still sure to be re-elected even after his unpopular in-your-face defense of the doomed Tom Robinson. What was the point of that defense if Scout is right that Tom Robinson was a “dead man” from the start? To educate the people of Maycomb? To make them aware, even slightly, of their own bigotry and hypocrisy? If we, as readers, go along with this and admire Atticus and *To Kill a Mockingbird* we become accomplices in the objectification of Tom Robinson. We forget all about Tom Robinson, fail to take note of his death except in passing, fail to listen to my student—“Hey wait a minute. Tom Robinson is *dead!*” Robinson is merely a means to our own self-righteous end, and we, like all the citizens of Maycomb including the Finches, have treated him in a deplorable way. We have appropriated his story into our own narrative of Atticus’s nobility.<sup>33</sup> The humanity and uniqueness of Tom Robinson becomes invisible,<sup>34</sup> buried beneath not only Maycomb’s racism, but also our own failure to see. Blinded by the light of Atticus’s “goodness,” we fail to see Tom Robinson at all except as an object to that end.<sup>35</sup>

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32 *Id.* at 244.

33 I have an ongoing fantasy of re-writing *To Kill a Mockingbird* from the perspective of a member of Tom Robinson’s family—his wife’s story, or perhaps *his* child’s. In a recent review of the film *To Kill a Mockingbird*, Roger Ebert reveals that he also troubled by the film’s point of view that ignores Tom Robinson except as an instrument to another end. He writes: “The problem [in the courtroom scenes], for me, is that the conviction of Tom Robinson is not the point of the scene, which looks right past him to focus on the nobility of Atticus Finch.” Roger Ebert, *The Way We Wish We Were*, CHI. SUN-TIMES, Sept. 30, 2001, at 8.

34 In his novel *Invisible Man*, Ralph Ellison makes the point that blacks in general are invisible to whites, that they see only what they want to see. See generally RALPH ELLISON, *INVISIBLE MAN* (1952).

35 An instructive contrast to the portrayal of Tom Robinson in *To Kill a Mockingbird* is William Faulkner’s portrayal of Lucas Beauchamp in *Intruder in the Dust*, another novel set in the South in the first half of the twentieth century. See generally WILLIAM FAULKNER, *INTRUDER IN THE DUST* (1948). Beauchamp, also unjustly accused of murder, takes proving his innocence into his own hands. Beauchamp sees himself as fully equal to whites and acts accordingly. He does not depend on the goodness of a white lawyer. For a full discussion of the critical differences between the two novels, see generally Rob Atkinson, *Liberating Lawyers: Divergent Parallels in Intruder in the Dust and To Kill a Mockingbird*, 49 DUKE L.J. 601 (1999).

My student's reaction, "Hey wait a minute; Tom Robinson is dead!" has thus led me to a re-examination of the novel: the marginalization of certain classes of people such as the Ewells and of uppity blacks like Lula. The novel wastes little time or sympathy on the unpleasant but helpless child Burris Ewell or the clearly abused Mayella Ewell.<sup>36</sup> And it unfavorably compares the black separatist Lula, who, when Calpurnia takes the Finch children to her Negro church, challenges Calpurnia to examine the unequal relationship she has with the Finches (when Calpurnia says that the children are her company at church, Lula sneers: "Yeah, an' I reckon you's comp'ny at the Finch house durin' the week.") to the more compliant Uncle Tom-ish Calpurnia (*and* Tom Robinson—his first name may be no accident).<sup>37</sup> My student's remark has also led me to a reconsideration of the kind of man and lawyer that Atticus Finch is. Does he act justly? Is his "honest" but failed defense of Tom Robinson justice? These questions about Atticus compel me to a much larger question: What does it mean to be just?

### III. THE MEANING OF JUSTICE

Justice has a broad range of meanings. A first group of meanings has to do with process and a legal system. Justice is the "proper administration of laws . . . the constant and perpetual disposition of legal matters or disputes to render every man his due."<sup>38</sup> The word itself derives from "right" and "law."<sup>39</sup> Within this meaning, justice presupposes a legal system, and, it would seem, if one administers that system

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36 Scout relates the scene that involves Burris insulting the teacher in her first grade class. Burris "was the filthiest human being I had ever seen," who swears at the teacher and leaves school every year after attending just one day. LEE, *supra* note 7, at 31–32. Atticus later tells her the Ewells should not be expected to go to school. *Id.* at 35. During the trial, Scout has a keen insight into Mayella:

[I]t came to me that Mayella Ewell must have been the loneliest person in the world. . . . [W]hite people wouldn't have anything to do with her because she lived among pigs; Negroes wouldn't have anything to do with her because she was white. . . . Maycomb gave them [the Ewells] Christmas baskets, welfare money, and the back of its hand.

*Id.* at 194.

37 For a thorough discussion of the novel's treatment of different classes of people, see generally Phelps, *supra* note 1. The change in my interpretation of *To Kill a Mockingbird* is an example of what Wayne Booth has called "coduction," our ongoing reinterpretations that result from re-readings and from conversations with others. See WAYNE BOOTH, *THE COMPANY WE KEEP: AN ETHICS OF FICTION* 72–73 (1988).

38 BLACK'S LAW DICTIONARY 776 (5th ed. 1979).

39 THE RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE 775 (5th ed. 1971) [hereinafter RANDOM HOUSE DICTIONARY].

correctly, one is just. Justice is closely aligned to due process. If we are content with this meaning of justice, then Atticus acted justly: he did all he could within the corrupt racist legal system of Maycomb, a system that doomed Tom Robinson from the moment "Mayella Ewell opened her mouth and screamed."<sup>40</sup> Tom Robinson received Maycomb's fully legal version of "due process."

Viewed in this way—that Atticus is just because he observed the letter of the law—Atticus is much like Creon in Sophocles's *Antigone*<sup>41</sup> and Captain Vere in Herman Melville's *Billy Budd*.<sup>42</sup> Each of these characters follows the law, finds a morally innocent person guilty, and condemns that person to death. And in each case, the good of the innocent victim was trumped by the good of the community—the fragile state of Thebes and the British navy in a time of mutiny. Atticus Finch may be a good man in his day-to-day dealings with people, but he, like Creon and Vere, is content with and complicitous in an unjust status quo. When Atticus discusses the trial with Jem and Scout after Tom's guilty verdict, Jem is upset that a racist jury could send an innocent man to his death (if the appeal is unsuccessful, Tom will go to the electric chair). He challenges Atticus: "Then go up to Montgomery and change the law."<sup>43</sup> Atticus, a state legislator who indeed could attempt to make changes in the law, wants none of it. He replies, "You'd be surprised how hard that'd be. I won't live to see the law changed, and if you live to see it you'll be an old man."<sup>44</sup> This willing acceptance of injustice cannot be what a good parent teaches his or her children: injustice is inevitable and that we have to learn to live with it.<sup>45</sup> Robert Cover, in the preface to his book about abolitionist judges, *Justice Accused*, characterizes such a moral-formal choice as "Vere's dilemma, the choice between demands of role and the voice of conscience . . . [which] contributed so much to the force of legitimacy that law may provide. . . ."<sup>46</sup> Complicity in an unjust system is itself injustice on two levels: it has an unjust result for the person before the law *and* the complicity of a good person in an unjust sys-

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40 LEE, *supra* note 7, at 244.

41 SOPHOCLES, *ANTIGONE* (Andrew Brown trans., Aris & Phillips Ltd. 1987).

42 HERMAN MELVILLE, *Billy Budd*, in *SHORTER NOVELS OF HERMAN MELVILLE* 227 (Liveright 1942).

43 LEE, *supra* note 7, at 223.

44 *Id.*

45 Atticus actually says nearly this in an earlier conversation with his sister, Alexandra: "This is their home, sister. . . . We've made it this way for them, they might as well learn to cope with it." *Id.* at 215.

46 ROBERT M. COVER, *JUSTICE ACCUSED: ANTISLAVERY AND THE JUDICIAL PROCESS* 6 (1975).

tem lends legitimacy to that system. Cover writes: "Make no mistake. The judges we shall examine really squirmed; were intensely uncomfortable in hanging Billy Budd. But they did the job. Like Vere, they were Creon's faithful minions. We must understand them . . . if we are to understand the processes of injustice."<sup>47</sup>

But there is also another group of meanings of justice that describe justice in broader terms as "fairness," "equity," and "evenhandedness."<sup>48</sup> Or even more expansively as does Paul Lehmann who says that "justice" is regarded as "the political form of love."<sup>49</sup> Peter Goodrich, in his discussion of the classic iconography of justice as blindfolded, tells us that at one time the opposite of justice was not injustice but evil: "The absence of justice was not injustice but rather irrationality, violence, and the failure of meaning."<sup>50</sup> Certainly all three of these can be seen in Tom Robinson's experience of injustice in Maycomb, Alabama. Mayella Ewell was beaten by someone left-handed; Tom Robinson's left hand and arm were left limp and useless by an accident with a cotton gin.<sup>51</sup> The jury, nonetheless, irrationally concluded that he was guilty.<sup>52</sup> Violence was present in many ways—in the would-be lynch mob's presence at the jail in an attempt to lynch Tom Robinson before the trial, and in Robinson's death—shot by guards while, allegedly, attempting to escape.<sup>53</sup> But perhaps most of all, Robinson experiences injustice because of a failure of meaning; he is a victim of what Jean-Francois Lyotard has called the *differend*.<sup>54</sup> He is essentially silenced by the legal system. If one has been disempowered, victimized, and silenced by a system of justice, one experiences the *differend*, in which a common language does not exist by which one can express one's sense of injury.<sup>55</sup> Normal logical and legal systems of discourse, foreign languages to such victims, fail. The legal system of Maycomb is written in a language that Tom Robinson can neither understand nor use to prove his innocence.

Atticus Finch is fully aware that the system will fail Tom Robinson. After the trial, Jem cries and insists, "It ain't right."<sup>56</sup> Atticus,

47 *Id.* at 7.

48 RANDOM HOUSE DICTIONARY, *supra* note 39, at 776.

49 PAUL LEHMANN, ETHICS IN A CHRISTIAN CONTEXT 255 (1963).

50 Peter Goodrich, *Justice and the Trauma of Law: A Response to George Pavlich*, 18 STUD. L. P. & SOC'Y 271, 272 (1998).

51 LEE, *supra* note 7, at 188.

52 *Id.* at 214.

53 *Id.* at 238.

54 JEAN-FRANCOIS LYOTARD, THE DIFFEREND: PHRASES IN DISPUTE 3-31 (Georges Van Den Abbeele trans., 1988)

55 *See id.* at 12.

56 LEE, *supra* note 7, at 214.

although he agrees that the result is not right, "was his impassive self again"<sup>57</sup> and tells his sister that such injustice is "just as much Maycomb County as missionary teas."<sup>58</sup> Despite his role as not only a practicing lawyer but also as a lawmaker, Atticus never takes responsibility for the system, never sees (or tells his children) that the system must be changed.

Justice is not merely following the usual procedures within the usual system. Nor is it acting in accord with one's conscience. Justice is instead dynamic: "[T]he justice that ought to be the aim of responsible politics is one that is always in the making. It calls for an ongoing conversation about justice itself, a conversation that always calls upon and contests both convictions and criticisms of them."<sup>59</sup> Justice is not *accepting* the story as it is, but it is "writing the story of who we would be as a people. . . ."<sup>60</sup> The law is not merely a system of rules that we are bound to observe; it is also a powerful force for change, a way of engaging in a conversation about justice. Atticus as the practicing lawyer may have done the best he could. Atticus as the lawmaker fell far short. The Tom Shaffer from whom I learned all these things about justice never would have.

In a recent talk, Shaffer related the "Parable of the Dangerous Curve" that he had heard in church:

The curve was so bad that drivers regularly miscalculated, ran off the road, and injured or killed themselves and their passengers. . . . [T]he people in the church, under their preacher's leadership, went like good Samaritans out to the curve and tended to the dead and injured. . . . And then some of the good Samaritans suggested that it would be a good idea for the city council to petition the state department of transportation to straighten out the road. . . . The no-curve highway plan ran into opposition from the mayor of the town, who owned property through which a new, straight road would go. Some of the good Samaritans went to their preacher and asked him to use his influence to get the council to overrule the mayor and petition the department of transportation to straighten out the road into town. The preacher declined. He said he did not believe in mixing religion and politics. And so the curve remains. The good Samaritans continue to go out to the curve and tend to those who, in the biblical phrase, have fallen among thieves.<sup>61</sup>

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57 *Id.* at 215.

58 *Id.*

59 BERNARD P. DAUENHAUR & PAUL RICOEUR: THE PROMISE AND RISK OF POLITICS 319 (1998).

60 Milner S. Ball, *Just Stories*, 12 CARDOZO STUD. L. & LIT. 37, 42 (2000).

61 Thomas L. Shaffer, *The Irony of Lawyers' Justice in America*, 70 FORDHAM L. REV. (forthcoming Apr. 2002) (manuscript at 1, on file with author).

Shaffer says that his pastor's telling of this parable is an example of irony, in Reinhold Niebuhr's sense,<sup>62</sup> the product of detached observation that allows us to judge and be sympathetic all at once.

The element of virtue in . . . [the] parable was . . . the preacher's urging his people to practice mercy and love of neighbor. The weakness, vanity, and pretension lay . . . [in] that the preacher's principles made him prefer the dangerous curve to a safe road so that his followers would have an opportunity to be Christians.<sup>63</sup>

The best I can do (out of admiration for Tom Shaffer) when it comes to Atticus is to look upon him ironically, recognizing the virtue that he does have—his truthfulness and his love of his community—but refusing to ignore the weakness that allows him to use that love to accept things as they are. Maycomb will give him many opportunities to be a Christian in a good Samaritan sense. But he also has the opportunity, and forgoes it, to overturn the moneylenders' tables in the temple, or at least to try to fix the curve in the road.

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62 See SHAFER, *supra* note 2, at 7.

63 *Id.* at 2.

