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MORE'S UTOPIA IN AMERICA

PAUL S. LIETZ*

WHAT MANNER OF BEING is an Indian? The question has a ring of naïveté for modern ears, but when the Spanish theologians replied almost five hundred years ago, that answer determined the fundamental position of the Indian in the system of Spanish law. The circumstances were these. About two years after Columbus had sailed on his second voyage to the New World a caravel arrived from the island of Hispaniola with some strange creatures aboard. The Admiral had ordered his agent, the Florentine Juanoto Berardi, to sell them as slaves. In routine fashion Bishop Fonseca, in charge of Indian affairs, received clearance from the Spanish monarchs Ferdinand and Isabella to sell the natives in Andalusia. But unexpectedly there was a reversal of the order. The Indians were not to be sold until the Christian monarchs could be advised by the lawyers, theologians and canonists whether or not these beings could rightfully be enslaved and until they could determine from Columbus the reasons why he had sent them back as captives.¹ In this way the Admiral, anxious to exploit his discovery, planted in the Spanish court the theological and juridical problem of the Indian.

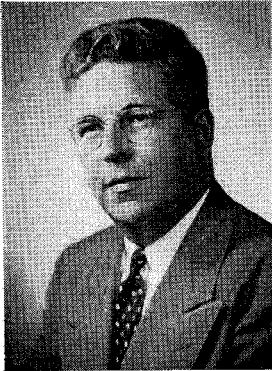
In the following years the argument raged at home and in the colony. Stories reached Spain of the daring crimes of the goatherd Pizarro, of cutthroats like Pedrarias who practiced their brutality upon Indian and Spaniard alike. Others, less violent perhaps, insisted upon enriching themselves by the labor of the Indian and lobbied at the court for legalizing slavery, even threatening to desert the colony if their purposes were frustrated. The chief adversaries of the exploiters were the friars, Franciscans, Dominicans and Jeronymites, who cried out in protest on both sides of the ocean. The redoubtable Dominican, Las Casas, fired his listeners like a William Lloyd Garrison about the crimes of his compatriots. The Franciscan, Zumárraga, first bishop of Mexico and Protector of the Indians, was held incommunicado and had his life threatened for protesting their cruelties. He finally managed to get his complaints to the Crown by smuggling out a letter coated in wax and

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¹ DE NAVARRETE, *II COLECCION DE LOS VIAJES Y DESCUBRIMIENTOS QUE HICIERON POR MAR LOS ESPAÑOLES* . . . 191 ff. (Madrid, 1825-37).

concealed in a cask of oil.²

In the midst of the turmoil and confusion of charges and counter-charges, the Spanish theologians and canonists tried to make their careful deliberations. Was the Indian a human being or was he of a lower



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order of nature, such as Aristotle might classify as a natural slave? Could he be enslaved in war, as was licit in the case of the Saracens? Could he own property? govern himself? Did the Spanish monarchs have authority over him? the Pope? Many answers were given to these questions but by none so clearly and effectively as by the Dominican Vitoria in his lectures at Salamanca in the thirties. In the *De Indis* and in the *De Jure Belli* he laid down the principles concerning the moral and juridical personality of the Indian and fixed the legal status he was to have for almost the whole of the colonial period.³ To resolve the matter finally, Pope Paul III spoke

² ICAZBALCETA, DON FRAY JUAN DE ZUMARRAGA, PRIMER OBISPO Y ARZOBISPO DE MEXICO 68 (Madrid, 1929).

³ SCOTT, THE SPANISH ORIGIN OF INTERNATIONAL LAW. FRANCISCO DE VITORIA AND HIS LAW OF NATIONS (Oxford, 1934) (*passim*). By contrast, it is noteworthy that Judge Samuel Sewall of the Superior Court of the Massachusetts Bay Colony at the beginning of the eighteenth century says that he had "essayed to prevent Negroes and Indians being rated as cattle but could not succeed." Another Puritan, Cotton Mather, said "we know not when or how these Indians first became inhabitants of the mighty continent, yet we may guess that probably the Devil decoyed these miserable savages hither in hope that the gospel of

definitively on June 9, 1537. The enemy of the human race, said the Pope, has contrived to create the widespread impression that the Indians and other people just discovered were to be treated as dumb brutes created merely for the service of Europeans and that they were incapable of receiving the faith. On the contrary, he insisted, the Indians were really men, not only capable of understanding the faith, but most anxious to receive it. He therefore declared that:

... [D]espite what has been said to the contrary, the aforesaid Indians and all other peoples that may become known to Christians in the future, even if they are outside the Faith of Christ, may not be deprived of their liberty or the right to possess their property. On the contrary, they must be allowed to possess and enjoy freely and lawfully their liberty and their possessions and must not be reduced to slavery. If the contrary is done, it is void and of no effect.⁴

No other colonial power so conscientiously considered the question of its title in the New World nor limited it so carefully in favor of the Indian. The Spanish government believed itself to be under a the Lord Jesus Christ would never come to disturb his absolute empire over them," cited in Hanke, *Pope Paul III and the American Indians*, 30 HARV. THEOLOGICAL REV. 68, n. 11 (1937).

⁴ "Ac volentes super his congruis remediis providere, praedictos Indos et omnes alia gentes ad noticiam Christianorum imposterum deventuras, licet extrá Fidem Christi existant sua libertate ácerum suarum dominio privatos, seu privandos non esse. Imó libertate ed dominio huiusmodi, uti potiri, et gaudere, liberé et licité posse, nec in servitutem redigi debere. Ac si secus fieri contigerit irritum et innane." GUTIERREZ, FRAY BARTOLOME DE LAS CASAS (Madrid, 1878) (Appendix A). In a pastoral letter to the Archbishop of Toledo on May 29, 1537, the Pope had decreed excommunication incurred *ipso facto* and reserved to him for absolution against anyone enslaving the Indians. This was later removed. HERNÁEZ, ed., I COLECCION DE BULAS BREVES Y OTROS DOCUMENTOS RELATIVOS A LA IGLESIA DE AMERICA Y FILIPINAS 102 (Brussels, 1879).

solemn obligation to convert the Indian and to protect him from his exploiters. But in the period before 1530, despite the legal protection and the protests of zealous clergy, the Indian was too often left defenseless by the turbulence and disorders of the period which often made a shambles of government itself. The cupidity of the settlers who saw in Indian labor an easy way to wealth, the venality of some government officials, and the laxity of some of the clergy defeated at times the best efforts to enforce beneficent laws.

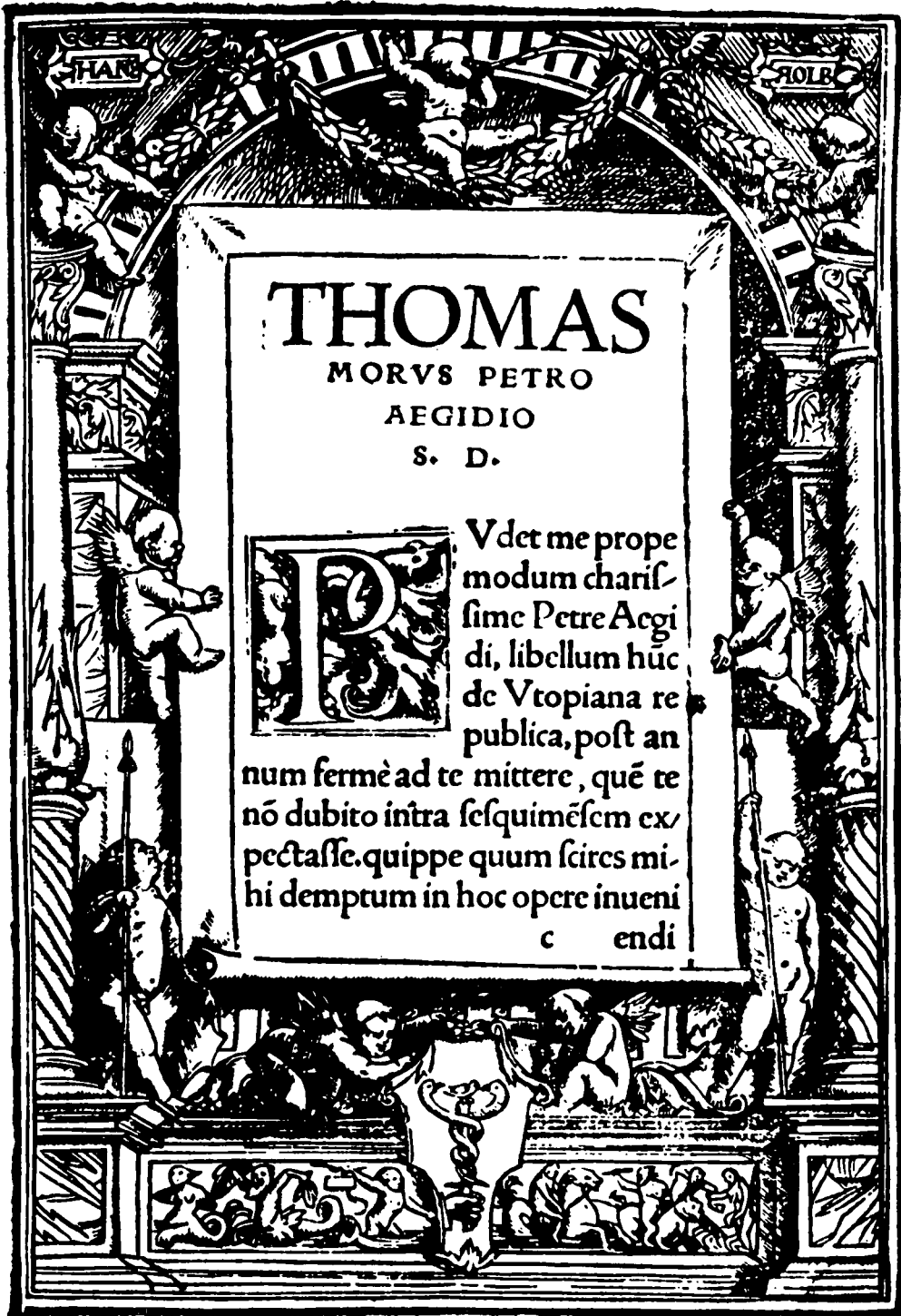
The remedy, prescribed somewhat over-cautiously at times, was to remove officials, though they be the original conquerors themselves, and replace them with new ministers sent out from Spain. In Santo Domingo in 1500 Columbus was deprived of his authority and sent back to Spain in irons; on his next voyage he was denied access to the colony he had founded. Cortes similarly was removed and tried for his acts in 1524. In place of the doughty explorer the Crown sent a civil governor, Ovando, law code in hand. In Mexico, an Audiencia, a group of five judges, came to enforce the venerable laws of Spain, transferred to the Americas in 1530.

In broad outline at least, New Spain was to be a replica of Old Castile. The laws, the blueprints for the towns, the curricula of the schools, the plan for civil government and the controls on economic life were all faithfully modelled on those of Spain. Even the crusade against the Moslems was continued on more moderate terms against the Indian. He presented an obstacle to the planners but only a temporary one, for he was to be Christianized and hispanicized, nor was the one always distinct from the other. The work was to be done by the friars in carefully planned

missions and thereafter by the infinitely less zealous Spanish settler in the feudal fief called the *encomienda*, where the price of conversion was sometimes ruthless exploitation and virtual slavery. Ordinarily ten years would suffice for the mission to do its work, and the Indian might then safely be allowed to disappear into the vortex of colonial life. These were the general plans, but there were suggested variations and even vigorous dissent.

The most striking objections to this recognized procedure came from those in Spain and America who had been caught up in the ideological currents flowing from Italy and northern Europe. Spanish humanism exhibited the same high moral concern for the reformation of society, of the Church, the preoccupation with the literary study of the Bible and the collation of its ancient texts which characterized the movement in the north of Europe. Initially its moving spirit was Cardinal Jiménez de Cisneros, Primate of Spain, Confessor of Isabella, provincial of the Franciscans, and Inquisitor General. In 1510 he founded the university at Alcalá devoted to biblical and humanistic studies. Its scholars produced the great polyglot Bible of 1517 with parallel texts in Latin, Greek, Hebrew and Syriac. Erasmus' works began to be printed in Spain in 1525. The *Enchiridion* or *Manual of the Christian Knight* was translated into Spanish with inquisitorial approval in 1526. It influenced a generation of Spaniards to reject formalism in religious life and practice and to think in the devotional patterns of Thomas á Kempis and the Pauline concept of the Mystical Body of Christ.⁵ The general interest

⁵ BATAILLON, I ERASMO Y ESPAÑA, ESTUDIOS SOBRE LA HISTORIA ESPIRITUAL DEL SIGLO XVI 12-26 (Mexico, 1950).



Title page of the copy of the Utopia which once belonged to Fray Juan de Zumárraga, first bishop of Mexico. This is the Latin edition printed at Basle in 1518. The border is a woodcut by Hans Holbein the younger, friend of Erasmus and More. This copy is now in the University of Texas Library, Austin.

among the humanists in the reformation of European society led some of the Spaniards to follow Thomas More in his rationalization of the ideal state from the Platonic model.

The moral force of this Spanish humanism spanned the ocean and focused upon the Indians and their exploiters in America. Although both men mentioned the New World in their writings, neither Erasmus nor More had any special concern for its problems. Their attention was fixed on Europe. But among the group of Spanish missionaries and administrators who came to New Spain after 1530, there were men who were zealous for the new learning but saw special adaptations of its ideas in America. These men shifted their vision from the Old World to the New, from the reformation of a European society hardened in its ways, to the creation of a new and ideal world in America by the shaping of the malleable minds and spirits of its primitive peoples.⁶ Among these was the first bishop of Mexico, Juan de Zumárraga, Franciscan, Protector of the Indians and avid humanist. Another was Vasco de Quiroga, lawyer, judge of the second Audiencia court sent to restore civil order in Mexico in 1530 and later first bishop of Michoacán. It is he with whom this essay is especially concerned.

Quiroga's early life and training are for the most part still obscure. The internal evidence of his writings shows that he had been trained in theology, the law, the Church fathers, the classics and the cultural traditions of Spain. A personal library of 626 volumes attests to his zeal for learning. His references to Erasmus and other humanists, especially his quotation

and paraphrasing of More, indicate the dominant intellectual interests of his life and colored everything he wrote. This writing constitutes in major part his official and unofficial reports to the king recommending changes of policy and solutions for problems drawn from his own experience and background. Very often his opinions were in vigorous dissent from those of his colleagues and even from prior decisions of the Crown.

Nothing reveals the degree of freedom to criticize enjoyed by the Spaniards of the New World as much as the vigorous objections expressed by Quiroga even to fundamental policy acts of the Crown. In 1535 when Charles, the emperor, under severe pressure from the colonists and encouragement from the Crown lawyers, opened the gates to Indian slavery by permitting the capture and sale of the natives taken in "just war," Quiroga wrote one of his stern protests.⁷ A just war against the Indians, said the judge, was an impossibility because the conditions upon which it was predicated could never be present. The natives neither rebelled against nor resisted the preaching of the faith. On the contrary, they welcomed both the missionary and his teaching. They were infidels, but that fact alone, as the Pope was to emphasize two years later, was not sufficient cause for war or for despoiling them of their lands and property. The rule of war, as Cardinal Cajetan had said, applied only to peoples *sive regali sive politici regimine gubernentur* and could be applied

⁷ Cf. "Información en derecho del Licenciado Quiroga sobre algunas provisiones del real consejo de Indias," in PACHECO AND CARDENAS, X COLECCION DE DOCUMENTOS INEDITOS RELATIVOS AL DESCUBRIMIENTO, CONQUISTA Y ORGANIZACION DE LAS ANTIGUAS POSESIONES ESPAÑOLAS 341 ff. (Madrid, 1864-89).

⁶ II *id.*, Appendix, "Erasmus y el Nuevo Mundo."

against individuals acting as such. The Indians, Quiroga maintained, had no political organization; they lived scattered about the country like animals, without law or order. Ordinarily they offered no resistance to unlawful Spanish aggression, but even if they did, such resistance would be permitted by every law, divine, human and natural. *Vim vi repellere licet omnes leges omniaque jure proclamant*. The adage was true even when the aggressors come under the guise of pacifiers.

It may have been, said Quiroga, that the Indians enslaved one another, but native practice differed essentially from the Spanish concept of slavery; the latter consisted merely in title to a man's labor in perpetuity. An Indian became a slave for the slightest of reasons, gambling debts or even a handful of maize if he were hungry enough. Obviously the transfer of such persons from Indian to Spanish masters was unjust. The pacification of the land was undertaken by Spain, in short, for one single purpose, to instruct the natives in the Faith. . . . "[H]aving any other purpose the Spaniards may not even drink the water in this land with a good conscience."

Quiroga's *Información en Derecho* of 1535 with its stern reminder of the limitations of Spanish authority in America and its trenchant criticism of Spanish failures in policy and practice sound strange to modern ears accustomed to bland assumptions concerning the arbitrary character of Spanish rule. Actually such protests were accepted procedure. They raise no serious problems for the modern student who recognizes the essentially judicative character of Spanish rule. Failures came from the inability of the royal court to resist the pressure of vested interests or to distinguish at times the sheep from the wolves among

the host of litigants for its judicial favor, despite the high moral norms in which its decisions were conceived.

Quiroga's *Información* had a positive side. He had conceived a plan for America that was audacious and challenging; it must have caused no little amazement at the court. His observation of the Indians showed them to be living as brutes and barbarians:

They live scattered through the fields like animals and for this reason become evil, fierce, bestial and cruel, destructive, inhuman, ignorant and tyrannical toward one another. . . . They worship many gods and live contrary to the natural law and in tyranny among themselves. . . . in ignorance of the manner and benefits of living in an organized society, without law and without a king. . . . and their chiefs are tyrants over the lesser and weaker ones who cannot protect themselves.⁸

If, on the other hand, they could be gathered into towns, all this would change. Actually an organized political life would show them to be a far different people. Intrinsicly their natures were of "fine metal" or like "soft wax" ready to be molded, a clean tablet not yet written upon, "a new vessel into which up until now nothing has been poured." Their very simplicity is a great natural gift. They must be protected from the pride, covetousness, ambitions and maliciousness which are the almost natural features of that European world which he rejects as an "Age of Iron or worse." While left to themselves they were content with the abundance which a rich soil provided for them almost without labor. It was this easy dependence upon a bountiful nature that made them such idlers, lazy and ambitionless, satisfied with their

⁸ *Id.* at 357.

12 V T O P I A E I N S V L A E T A B V L A



Woodcut of the island of Utopia by Ambrose Holbein, brother of Hans, who shared in illustrating the Basle edition of More's work of 1518. Newberry Library, Chicago.

lot. Contact with the Spaniards would make them change for the worse unless they were taught an industry of their own. This is Quiroga the humanist speaking, the disciple of Erasmus and More . . . and of Plato, who taught the humanists, among other things, the nature and necessity of the *polis*.

The concept of the town was not new to the sixteenth-century Spaniard. It was, in fact, so much a part of his history that it has been said that medieval Spain was nothing more than a league of city states. Its counterpart designed for the Indian population of the New World can be traced back at least to 1503. The Indian pueblo, sometimes called a *hospital*, became the principal institution for further Christian training and hispanicizing the natives after their conversion. The two processes went hand in hand and were sometimes confused with one another. Spaniards were to live in the villages with the Indians to bring them quickly by both precept and example to a knowledge of Spanish customs, all in the hope that these would be accepted as their own. The intent appears clearly in the plan for the Indian Puebla de los Angeles founded near Mexico City in 1531. Spaniards were ordered into the village. As an inducement each was assigned twenty Indians to be his apprentices for the learning of Spanish trades.⁹

Obviously Quiroga's plan was different. Contact with the Spaniards would cause the Indians to lose that which he most prized in them, that humility and lack of greed "which we ought to have as Christians." He saw in them the qualities of mind and spirit of the people of Lucian's Golden

Age; not solicitous for the morrow, they showed complete disregard for the things so much coveted by the Spaniards. In this new Golden Age, the Indians had forgotten greed, ambition, pride, pomp, vainglory, and the wealth seeking which caused such heartbreaks among Europeans.

Quiroga proposed no modest plan comprising a village or two and a few hundred natives. In time, he told the king, the villages will be as numerous as "stars in the sky or atoms in the sea." There would rise up a great Christian Indian commonwealth composed of innumerable self-ruled and self-sufficient hospital pueblos. With God's help he would plant a generation of Christians like those of the primitive Church. It would be "a very great and pious work and very profitable and satisfying for the discharge of the consciences of the Spaniards here who believe that they have killed or caused to be killed the fathers and mothers of these orphans."¹⁰

This apocalyptic view of Indian society was a transferal of the often repeated aspirations of the northern humanists to return Christian society to the idealized conditions of the primitive Church. It was an important theme of Erasmus in the *Enchiridion*. The early Franciscans brought the idea with them to the New World, but Quiroga went directly to the *Utopia*. In the *Información* he speaks of More as "the author who ordered and composed the fine state and republic from which was drawn that of my opinion." The English saint is regarded as the "illustrious gentleman of more than human talent" who has so well estimated the needs of these people that it would seem almost that he was inspired by the Holy Ghost. The *Utopia* specifically

⁹ Audiencia to the Empress, March 30, 1531, in DEL PASO TRONCOSO, II EPISTOLARIO DE NUEVA ESPAÑA, 1505-1818 43-44 (Mexico, 1939).

¹⁰ INFORMACION 133 and *passim*.

was to be the model of the new Christian commonwealth that Quiroga planned.

Without waiting for the approval of the government, Quiroga initiated the work with his own resources. He purchased some land at Santa Fé, then two leagues from Mexico City, and in 1533 began the organization of the first of the *pueblo-hospitales*. Others followed when in 1537 he was made Bishop of the newly erected see of Michoacán. Their manner of operation can be shown from the ordinances drawn up by Quiroga a short time before he died in 1565. By that time some of the *hospitales* were thirty years in operation, yet the plans for their continuance in the ordinances show a remarkable conformity with the ideas of the *Información* of 1535. The structure and organization of the hospitals follow closely those of the *Utopia*.¹¹

The *hospital* was an Indian self-governing community. There were only two points of contact with the Spanish administration, the *corregidor* in the temporal order and the *rector* in the spiritual. Spanish jurisdiction was limited to protection against outside enemies and the settlement of juridical disputes which were appealed to it from the Indian courts established in the hospitals. Ordinarily these must pass through the office of the rector-priest who administered ordinary justice, as in the *Utopia*, without benefit of lawyers. The patriarchal society of the *Utopia* is found in Quiroga's communities with little modification. The oldest of the household had authority over all who lived in the group, sons, daughters, married or single, relatives and servants. Among these precedence in

authority was on the basis of age. This Indian community was governed by the principal and three or four *regidores* chosen first by vote of the *pobres* and then by the heads of families. These enacted regulations for the internal governance of the hospital and included the making of ordinances and the expulsion of lazy or otherwise unworthy members.

Like the *Utopia* the community of Quiroga was agricultural and communal. All males were trained in farming and all must take their turns working upon the common lands for growing corn, hemp, wheat, flax, barley, fruits and vegetables. There were no owners even of the small kitchen gardens which each family worked for itself but which together with the households themselves could be periodically reassigned. The products of the fields were distributed by the Indian government on the basis of need, and the surplus used for the support of the widows, orphans, the blind, or outsiders coming for alms. Beyond that the surplus was sold and the proceeds placed in a common treasury. The communal ideal was carried over into dress, where, like More, Quiroga prescribed simple, unadorned raiment for all. While half of the population worked the fields, another portion labored at trades for which they were specially trained: weaving, bricklaying, stonecutting, carpentry and the like. The girls learned spinning and weaving of simple articles.

In the latter half of the eighteenth century a biographer of Quiroga, Juan José Moreno, attested to the flourishing condition of the same establishment.¹² Nicolás León, distinguished scholar and historian

¹¹ For a discussion of the Ordinances, see ZAVALA, LA "UTOPIA" DE TOMAS MORE EN LA NUEVA ESPAÑA (Mexico, 1937).

¹² MORENO, FRAGMENTOS DE LA VIDA Y VIRTUDES DEL ILMO. Y RMO. SR. DR. D. VASCO DE QUIROGA 196 (Mexico, 1766).

writing at the beginning of the present century, noted that the foundations in Michoacán were still functioning in his day much as Quiroga had first ordered them.¹³ While they have now disappeared, the visitor to the region about the lake of Pátzouaro and in the town of Uruapan can still see the monuments and relics of the man and his work, whether in the beautiful churches and chapels of the area, or the handicrafts of the Indians who still work and live in the framework of the simple economy which

¹³ LEON, EL ILMO. SENOR DON VASCO DE QUIROGA 156 (Michoacán, 1903).

Quiroga had established there. "Tata" Vasco, as he is affectionately termed, is not only venerated by these descendants of the hospitals but his imprint is still upon their lives and customs.

Visitors to the library of the University of Texas will be privileged to see a copy of *Utopia* which once belonged to Bishop Juan de Zumárraga, first bishop of Mexico, a close personal friend of Bishop Quiroga. This may well have been the very copy from which Bishop Quiroga drew some of his ideas for his *hospitales*.



The Old Church (*continued*)

appears to have been accepted by Tennyson when he wrote in "*A Dream of Fair Women*":

Morn broadened on the borders of the dark
Ere I saw her who clasped in her last trance
Her murdered father's head.

Though there is in St. Dunstan's a monumental inscription to Margaret Roper who died in 1544, she was in fact buried in the Old Church at Chelsea. Her husband William Roper, who died on 4th January 1578, directed in his will that his body be placed with that of his wife and children at Chelsea in the County of Middlesex "in the vault with the body of my dearly beloved wife (whose soul Our Lord par-

don), where my father-in-law Sir Thomas More (whose soul Jesus bless) did mind to be buried." For a reason which remains obscure the direction of William Roper was not carried out. His body lies in the family vault at St. Dunstan's, Canterbury. The fact is no less interesting seeing that one of the executors of the will of William Roper was the celebrated Catholic lawyer Edmund Plowden, "perhaps the greatest lawyer in a century of great lawyers," who had lately built the noble hall of the Middle Temple, and whose name as Executor of William Roper is thus happily linked with the memory of St. Thomas More.