In Memoriam: E.P. Thompson

STAUGHTON LYND

And did those feet in ancient time,
Walk upon England's mountains green;
And was the holy Lamb of God,
On England's pleasant pastures seen!

And did the Countenance Divine,
Shine forth upon our clouded hills?
And was Jerusalem builded here,
Among these dark Satanic Mills?

Bring me my Bow of burning gold:
Bring me my Arrows of desire:
Bring me my Spear: O clouds unfold!
Bring me my Chariot of fire!

I will not cease from Mental Fight,
Nor shall my Sword sleep in my hand:
Till we have built Jerusalem,
In Englands green & pleasant Land.¹

I. A 1966 CONVERSATION

I had only one conversation with Edward Thompson. It was in the spring of 1966, at the apartment of Eugene Genovese in Manhattan. A few hours before I had been in London speaking at a rally against the war in Vietnam. I believe I introduced myself to Edward Thompson by offering greetings from the pigeons in Trafalgar Square.

Four things from that conversation remain in my mind. Thompson spoke with disdain of historians who, in his phrase, "never untied a bundle" of manuscripts. I formed a mental picture of bundle upon bundle of manuscripts at the British Home Office, each tied with string. Be that as it may, the message was clear. Radical historians may make political demands of themselves over and above the requirements of good historical scholarship, but the requirements of historical scholarship are the same for everybody. We have to be good craftspersons, whatever else we may be.

Secondly, I said something to the effect that it might be the Third World, rather than the working class of advanced industrial societies, that took the lead in the transition from capitalism to socialism. Had it been a year or two later I might have cited Frantz Fanon or Regis Debray. In 1966, I believe I referred to Sartre.

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¹ William Blake, Preface to Milton (1804).

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Thompson reacted sharply. He did not believe for a moment that the industrial working class was finished as an historical agent. Why, there was this strike and that struggle that had just happened in Britain, and he felt sure that there was more to come.

I recall being very surprised. The message to be drawn from this exchange, I think, was not that anyone could say with confidence what the respective roles of First and Third World proletarians would be in the long run; it was simply that one ought not to give up on the workers of one’s own country. I apparently was influenced. I have spent the past twenty-five years as a historian and a lawyer trying to do what Thompson suggested. My clients have typically been discharged or displaced industrial workers.

A third point Thompson made in our 1966 conversation had to do with what he called “doing history” and “doing politics.” He did not see how one could do both at the same time. He suggested then, and his later life seems to exemplify, that one must do history and politics in alternation, for separate periods of time.

I find this idea inadequate. Surely it falls short of what Marx called a unity of theory and practice. I wonder if the difficulty Thompson found in connecting theory and practice was related to something else: that the focus of his scholarly inquiry shifted further and further back in time, from William Morris (late nineteenth century), to the formation of the English working class (early nineteenth century), to studies in seventeenth and eighteenth century popular culture.

Finally, there was the question of Edward’s acerbic dialogue with Perry Anderson and other British Marxists (about which I say more below). I cannot remember what point this exchange had reached at the time I spoke with Thompson in 1966. Nor can I recall any particular words that Thompson used. What came through and what stays in mind is the passion with which he spoke. Thompson’s biographer Bryan Palmer describes his attitude as follows:²

Though retaining from Marxism a set of central questions and analytical methods, Thompson conceived of himself less and less in terms of traditional Marxism and more and more in terms of a moral agenda that turned on opposition to power and its abuses. “We need, in some new form,” he would write in The Nation in 1983, “a ‘Wobbly’ vocabulary of mutual aid and of plain duty to each other in the face of power.”

II. THE “DOUBLE SERVICE” OF THE LAW

In the conclusion to his book Whigs and Hunters, Thompson expresses a view of the law with which every legal worker on the Left should grapple. His imagined interlocutors were the British Marxists grouped around

Perry Anderson and the French structural Marxists influenced by Louis Althusser. But what Thompson had to say is equally subversive to the views of Critical Legal Studies scholars in the United States.

Thompson did battle with the notion that because law is nothing more than an instrument of the ruling class, legal rhetoric is a sham. He conceded, indeed insisted, that law is an instrument of the ruling class, and nowhere more so than in eighteenth-century England. But this is not all that law was, or is.

[The] oligarchy employed the law, both instrumentally and ideologically, very much as a modern structural Marxist should expect it to do. But this is not the same thing as to say that the rulers had need of law, in order to oppress the ruled, while those who were ruled had need of none. What was often at issue was not property, supported by law, against no-property: it was alternative definitions of property-rights . . . .

It is not possible to conceive of productive forces as a substructure of society distinct from the law, Thompson argued. "How can we distinguish between the activity of farming or of quarrying and the rights to this strip of land or to that quarry? The farmer or forester in his daily occupation was moving within visible or invisible structures of law . . . ."

In Thompson's view, the law does not belong wholly to the powerful. It is contested terrain. "There were alternative norms; that is a matter of course; this was a place, not of consensus, but of conflict." On behalf of its own self-interest, the ruling class must let the law have some autonomy.

If the law is evidently partial and unjust, then it will mask nothing, legitimize nothing, contribute nothing to any class's hegemony. The essential precondition for the effectiveness of law, in its function as ideology, is that it shall display an independence from gross manipulation and shall seem to be just. It cannot seem to be so without upholding its own logic and criteria of equity; indeed, on occasion, by actually being just.

Like religion, then, law in the Thompsonian view performs a "double service." Law simultaneously advances the agenda of the ruling class and inhibits it. For the oppressed, also, law is more than empty rhetoric, more than a mask. "[S]o far from the ruled shrugging off this rhetoric as a hypocrisy, some part of it at least was taken over as part of the rhetoric of

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4. Id. at 261.
5. Id.
6. Id. at 263.
the plebeian crowd, of the ‘free-born Englishman’ with his inviolable privacy, his habeas corpus, his equality before the law. If this rhetoric was a mask, it was a mask which John Wilkes was to borrow, at the head of ten thousand masked supporters.”

Likewise, a few pages later, “it was a mask which Gandhi and Nehru were to borrow, at the head of a million masked supporters.”

Law was for Thompson a “cultural achievement . . . towards a universal value,” “an unqualified good.” To those who believed that new and superior socialist arrangements were just over the historical horizon, he observed dryly: “watch this new power for a century or two before you cut your hedges down.”

The difference between Thompson and Critical Legal Studies is not that one adheres to moral values and the other does not. Critical Legal Studies writers, I believe, tend to project moral vision in the form of personal utopias, unconnected to any hard-won institutional precedent. I think Thompson would have considered this attitude cavalier. Thompson viewed “norms” and the law that articulates these norms as the product of centuries-long human agency, precious collective capital that should not lightly be discarded. I think he would have tried to talk to the Critical Legal Studies folk about what he called “political culture.” The entire history of such a nation as England might be understood as a struggle to create, maintain, and expand a political culture.

The law-and-order brigade would like us to think that the constitution is a generous provision, made at some time by Them to Us. But they know in their hearts that the opposite is true. They know that one way of reading our history is as an immensely protracted contest to subject the nation’s rulers to the rule of law.

This contest has swayed backwards and forwards, through a thousand episodes, and with each generation it has been renewed. We have subjected feudal barons, overmighty subjects, corrupt Lord Chancellors, kings and their courtiers, overmighty generals, the vast apparatus of Old Corruption, inhumane employers, overmighty commissioners of police, imperial adventurers and successive nests of ruling-class conspirators to the rule of law. Every now we have notched up a victory, and every then the ratchet has slipped back.

8. WHIGS AND HUNTERS, supra note 3, at 263-64.
9. Id. at 266.
10. Id. at 267.
11. Id. at 266.
13. Id. at 246.
In my opinion we will best serve the memory of Edward Thompson not by refighting in the abstract the issue of the nature of law, but by attending to the preservation of those aspects of "bourgeois law" that will have continuing validity in a socialist society, or in any democratic society. Civilian control of the police and military was one such permanently good arrangement, Thompson believed. He was even more strongly committed to trial by jury. The place of the jury in English constitutional history, he wrote,

does not rest on a naive belief that every jury verdict must be true, rational and humane.

It rests upon a total view of the relation between the legislature, judiciary and the people; upon a notion of justice in which the law must be made to seem rational and even humane to lay jurors (hence inhibiting a thousand oppressive processes before they are even commenced, through the knowledge that no jury would convict); and upon a particular national history of contests between "the people" and the Crown or state, in which the jury has won and reserved for itself, in its verdict, a final power.  

An English citizen charged with a serious crime has the option to be tried by jury: to "put himself upon his country." Were it otherwise, Thompson thought, "I would no longer know who the British people are."  

III. ACADEMIC BLINDNESS

Edward Thompson, the most influential historian writing in the English language during the second half of this century, never received a Ph.D. He wrote his masterpiece, The Making of the English Working Class, while serving as a sort of adjunct professor at a provincial university; the book was originally to be an introductory essay for a text to be used in his workers' education classes. In 1965, Thompson was appointed to a regular academic position at Warwick University, and for years I have wondered if I erred in turning down an invitation to join him there on a one-year basis. Now I learn from Edward's obituaries that in 1970 he became involved with students who had invaded the university offices and held a sit-in, and in 1971 he resigned, after writing stingingly about the ethos and administrative arrangements of this new "business university."  

Thereafter, until his

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14. Id. at 232.
15. Id. at 236.
death, Thompson lived as an independent writer and peace agitator, supported in part by the academic income of his wife, Dorothy Thompson.

Thompson's life accordingly should challenge us to consider the relationship between academic livelihood and intellectual life on the Left. Perhaps more particularly, we may wonder if some of Thompson's originality and incisiveness arose precisely because he was not, during most of his life, a university professor.

For Thompson, academic custom often ran counter to the values that meant most to him. He believed in human agency, as opposed to any form of determinism; in the rationality and dignity of working people; and in the necessity of moral values and moral choices. By contrast, academic life tended to segregate teachers from practice; to persuade them that they were better than ordinary people; and to lead to amoral and sterile theorizing.

An early and much-quoted passage from "Outside the Whale" (1960) sounded Thompson's theme of human agency. During the confining years of the Cold War, Thompson wrote:

[M]en had abandoned human agency. They could not hold back change; but change went with the shuffling gait of circumstance. It did not stem from the operation of human consciousness and will upon circumstances. Events seemed to will men, not men events. For meaning can be given to history only in the quarrel between "ought" and "is"—we must thrust the "ought" of choice into the "is" of circumstance which in its turn defines the human nature with which we choose.17

Likewise, in The Making of the English Working Class, Thompson said it was a study "in an active process, which owes as much to agency as to conditioning," and criticized prevailing orthodoxies that "tend to obscure the agency of working people."18 He insisted that the poor be remembered as protagonists, as thinking men and women guided by norms of their own. In rioting for food in the eighteenth century, or in smashing machines in the early nineteenth century, those who took direct action had in mind a "legitimizing notion." They were the champions of a "moral economy" derived in part from late medieval English laws that sought to ensure access to good wheat bread at reasonable prices or to maintain the quality of English textiles. As these laws were evaded and ignored, the poor turned first to others to enforce them, but if the Justice and the Parliament refused to act they took matters into their own hands. Against academics of Right and Left who wished to reduce culturally-mediated behavior to economics, Thompson counterposed an anthropological view, claiming

17. E.P. Thompson, Outside the Whale, in Out of Apathy 184 (1960).
that these common folk displayed "a pattern of behavior of which a Trobriand islander need not have been ashamed."19

The themes of agency, working-class rationality and dignity, and the need for moral values are summoned as prosecutors of the academic way of life in "The Poverty of Theory." The essay confronts academic intellectuals who (according to Thompson) are the product of a rupture "between intellectuality and practical experience." It attacks the "characteristic delusion of intellectuals, who suppose that ordinary mortals are stupid."20 Further,

I must remind a Marxist philosopher that knowledges have been and still are formed outside the academic procedures. Nor have these been, in the test of practice, negligible. They have assisted men and women to till the fields, to construct houses, to support elaborate social organisations, and even, on occasion, to challenge effectively the conclusions of academic thought.21

Thompson reached out to popular culture, even to religion, as an antidote to two-dimensional academicism. It is "profoundly important that our protestant prejudice should be renewed, that we should think ourselves to be 'free.' "22 The Marxism of "closure," which he deplores, has arisen and been replicated

not in the Soviet Union, but within an advanced intellectual culture in the West. Its characteristic location has been in universities . . . 23

A merely theoretical Marxism "allows the aspirant academic to engage in harmless revolutionary psycho-drama, while at the same time pursuing a reputable and conventional intellectual career."24 Rather than be that kind of Marxist, Thompson exclaims, "I would rather be a Christian (or hope to have the courage of a certain kind of Christian radical). At least I would then be given back a vocabulary within which value choices are allowed."25

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21. Id. at 8.

22. Id. at 152.

23. Id. at 184.

24. Id. at 186.

25. Id. at 189.
IV. Morris, Blake, and Love

In a 1976 postscript to a new edition of his biography of William Morris (first published in 1955), Thompson went further than before in delimiting the proper scope of Marxist theory. It should now be clear, runs the crucial paragraph,

that there is a sense in which Morris, as a Utopian and moralist, can never be assimilated to Marxism, not because of any contradiction of purposes but because one may not assimilate desire to knowledge, and because the attempt to do so is to confuse two different operative principles of culture.... Marxism requires.... a sense of humility before those parts of culture which it can never order. The motions of desire may be legible in the text of necessity, and may then become subject to rational explanation and criticism. But such criticism can scarcely touch these motions at their source. “Marxism,” on its own, we now know, has never made anyone “good” or “bad”.... So that what Marxism might do, for a change, is sit on its own head a little in the interest of socialism’s heart. It might close down one counter in its universal pharmacy, and cease dispensing potions of analysis to cure the maladies of desire. This might do good politically as well, since it would allow a little space.... for the unprescribed initiatives of everyday men and women....  

William Blake was the one radical intellectual about whom Thompson had no such mixed feelings. To begin with, unlike John Thelwall and Brontierre O’Brien, both sons of merchants, or William Morris, whose father made his fortune in mining stocks, Blake’s father and brother were hosiers, as was the first husband of his mother, Catherine Hermitage. Thus Blake “straddled two social worlds: that of intellectuals and artists, and that of tradesmen and artisans.”

Moreover, Thompson saw Blake as the last English intellectual at home both in working-class resistance to industrial capitalism and the Romantic critique of Utilitarianism. Thompson’s admiration for Blake, now poignantly available in the posthumously-published Witness Against the Beast: William Blake and the Moral Law, is very closely tied to his view of academic culture and his convictions about the limitations of theory.

Despite every precaution, we have a continuing difficulty in our approach to Blake, which derives from our tendency to make overly academic

27. THE MAKING OF THE ENGLISH WORKING CLASS, supra note 7, at 157 (Thelwall), 821 (O’Brien).
29. THE MAKING OF THE ENGLISH WORKING CLASS, supra note 7, at 832.
assumptions as to his learning and mode of thought. It takes a large effort to rid ourselves of these assumptions, because they lie at an inaccessible level within our own intellectual culture—indeed, they belong to the very institutions and disciplines with which we construct that culture. That is, we tend to find that a man is either "educated" or "uneducated," or is educated to certain levels (within a relatively homogeneous hierarchy of attainments); and this education involves submission to certain institutionally defined disciplines, with their own hierarchies of accomplishment and authority.

Blake's mind was formed within a very different intellectual tradition. In the nineteenth century we sometimes call this, a little patronisingly, the tradition of the autodidact. This calls to mind the radical or Chartist journalist, lecturer or poet, attaining by his own efforts a knowledge of "the classics." This is not right for Blake. For a great deal of the most notable intellectual energies of the eighteenth century lay outside of formal academic channelling. . . .

The particular non-academic intellectual tradition in which Thompson seeks to place Blake is a small but persistent Protestant sect, the Muggletonians. Like the Quakers, the Muggletonians were antinomians: that is, they believed in an "inner light" that enabled ordinary men and women to find ultimate spiritual truth, without the mediation of any externally-defined moral law. Unlike the Quakers, Muggletonians refused "submission to the rationalism and civilizing modes of the time, with an accompanying upwards drift in the social status of their following," and maintained their plebeian character into the second half of the eighteenth century.

Blake's supposed link with the Muggletonians derives from the fact that a man with the same last name as Blake's mother (Hermitage), who lived in the same London parish where the Blakes lived, wrote Muggletonian songs of praise. On this foundation Thompson erects the following hypothesis:

We could suppose that William Blake in his childhood was made familiar with the structure of antinomian thought and the central images of Genesis and Revelation in a Muggletonian notation; that he turned sharply away from this in his 'teens, rejecting the know-all dogmatism of the sect, and its philistinism towards all the arts (except divine songs); read widely and entered the artistic world without restraint; took stock of works of the Enlightenment; was led back toward his origins by reading Boehme and Swedenborg; and then, in his early thirties (the years of the Songs and the Marriage of Heaven and Hell) composed a symbolic world for

30. Witnes Against the Beast, supra note 28, at xiii-xiv.
31. Id. at 86.
himself in which the robust tradition of artisan and tradesman antinomianism reasserted itself, not as literal doctrines, but as a fund of imaginative possibilities and as intellectual footholds for an anti-Enlightenment stance.\textsuperscript{32}

The critical affirmation in Blake's intelligent anti-intellectualism, Thompson says, was love. His antinomian heritage enabled Blake to question and resist the simplicities of mechanical materialism and Lockean epistemology, in which the revolutionary impulse was to founder. For in shedding the prohibitives of the Moral Law, Blake held fast to the affirmative: Thou Shalt Love.\textsuperscript{33}

And:

Hence Blake, however close he is to the Paitites, will not dispense with "The Divine Image" and the "Everlasting Gospel." Just as with deism or atheism, he can agree with the analysis but still require, at the end of it, a utopian leap . . . To create the New Jerusalem something must be brought in from outside the rationalist system, and that something could only be found in the non-rational image of Jesus, in the affirmatives of Mercy, Pity, Peace and Love.\textsuperscript{34}

And last:

The busy perfectionists and benevolent rationalists of 1791-6 nearly all ended up, by the later 1800s, as disenchanted men. Human nature, they decided, had let them down and proved stubborn in resistance to enlightenment. But William Blake, by denying even in the \textit{Songs of Experience} a supreme societal value to rationality, did not suffer from the same kind of disenchantment. His vision had been not into the rational government of man but into the liberation of an unrealized potential, an alternative nature, within man . . . \textsuperscript{35}

The practice of love and solidarity by working people emerges as E.P. Thompson's great theme. The early nineteenth century experienced "the loss of any felt cohesion in the community, save that which the working people, in antagonism to their labour and their masters, built for themselves."\textsuperscript{36} At the end of the nineteenth century, the "social sense" had been "brought near to extinction everywhere except in the centres of

\textsuperscript{32} Id. at 105.
\textsuperscript{33} Id. at 128.
\textsuperscript{34} Id. at 221.
\textsuperscript{35} Id. at 228-29.
\textsuperscript{36} \textsc{The Making of the English Working Class}, supra note 7, at 447.
working-class life." Thompson valued the working class no less than did Karl Marx. But in the end the working class mattered, not because it was destined to overthrow capitalism, but because it kept alive among Satanic Mills an ethic of mutuality that prefigured a better society.

Like Latin American liberation theology, Thompson perceived the problem as capitalism and imperialism, but the answer as mutual aid, plain duty to each other, building community, and creating a culture of solidarity within the shell of the old society. The special responsibility of anyone who wishes to carry on the work of Edward Thompson, it seems to me, is to seek in our own time, in whatever places we live and labor, to nurture the spirit of working-class solidarity.

37. William Morris, supra note 26, at 511.