

Spring 1989

## Professional Ethics of Individualism and Tragedy in Martin Arrowsmith's Expedition to St. Hubert, The

Thomas L. Shaffer

Follow this and additional works at: <https://scholarship.law.missouri.edu/mlr>



Part of the [Law Commons](#)

---

### Recommended Citation

Thomas L. Shaffer, *Professional Ethics of Individualism and Tragedy in Martin Arrowsmith's Expedition to St. Hubert, The*, 54 MO. L. REV. (1989)

Available at: <https://scholarship.law.missouri.edu/mlr/vol54/iss2/1>

This Article is brought to you for free and open access by the Law Journals at University of Missouri School of Law Scholarship Repository. It has been accepted for inclusion in Missouri Law Review by an authorized editor of University of Missouri School of Law Scholarship Repository. For more information, please contact [bassettcw@missouri.edu](mailto:bassettcw@missouri.edu).

# MISSOURI LAW REVIEW

---

VOLUME 54

SPRING 1989

NUMBER 2

---

## THE PROFESSIONAL ETHICS OF INDIVIDUALISM AND TRAGEDY IN MARTIN ARROWSMITH'S EXPEDITION TO ST. HUBERT\*

Thomas L. Shaffer\*\*

Sinclair Lewis (1885-1951) was a resolute critic of pretension in American business and in the professions. His only hero story is the story of a physician and research scientist, *Arrowsmith* (1925).<sup>1</sup> It is a story that puts up for examination Lewis's prescription for a moral life in the professions in America and, beyond that, it shows what professional life is like. I want to argue here that (1) although the story is useful for lawyers and for legal ethics, Lewis's principal moral prescription, a brief for individualism in professional life, is incoherent. The ethic of individualism, as Lewis grounds it, depends on an anthropology that is not a truthful description of our situation. Lewis's ethic is an argument for individualism as a virtue that rests on this untruthful anthropology, and is therefore

---

\* This is a revised version of a "Law as a Tragic Profession," a lecture given to the Workshop for Teachers of Civil Procedure, Association of American Law Schools, June 5, 1988, at the University of Virginia. I dedicate it to the Law Class of 1988 of the University of Missouri, Columbia.

\*\* B.A., J.D., LL.D.; Robert and Marion Short Professor of Law, University of Notre Dame; member of the Indiana Bar. I am grateful for the thoughtful assistance of Thomas D. Eisele, Stanley Hauerwas, James W. McClendon, H. Jefferson Powell, Mary M. Shaffer and Nancy J. Shaffer.

1. S. LEWIS, *ARROWSMITH* (1925) (introduction by William Soskin, 1933).

incoherent in its description of reality and in its consequent failure to indicate the difference between a good life and an evil life.

But then I want to argue (2) that the story of Dr. Arrowsmith's struggle with plague on the island of St. Hubert, which is the heart of the novel, is valuable for ethics in the professions: It shows that life in the professions is tragic, tragic because it is limited. We doctors, lawyers, teachers, and ministers want to help, but—even in moral struggle, and even at our best—we cannot help enough.<sup>2</sup> We are limited, and we find, when we look closely at our limits, that it is our ideals that limit us. Our traditions of helpfulness become obstacles to our being helpful. "It takes a long time before a man gets to understand what his duty is," as Martin Buber's Yehudi put it. "It is the duties that prevent him from doing so."<sup>3</sup> *Arrowsmith* is, then, useful for the professions, despite Lewis's failure to make a persuasive case for the virtue of individualism.

### I. ARROWSMITH (AND LAWYERS)

Martin Arrowsmith in medical school was like the law student who gets top grades and wants to be the editor of the law review. Arrowsmith thought of himself as a scholar of healing, as, perhaps, a zealous law-review editor comes to think of herself as a scholar of order. (Order is to lawyering what healing is to the practice of medicine.) Arrowsmith was interested in science. (Science is in professional healing what law is in professional ordering.)

In mid-career Arrowsmith found himself coming from a large, prosperous clinic in Chicago to a new job, working with his medical school model and mentor, Dr. Max Gottlieb, in the McGurk Institute, a research foundation in New York. (He was like the former law-review editor, coming home from Wall Street or one of its functional equivalents, home to law school, as most of us law teachers did, to join the faculty.) Martin, in single-minded devotion to the truth of science, quickly scored; he discovered his phage, a serum that appeared to prevent plague. (This is like getting your tenure piece accepted for the *Harvard Law Review*.) Not only that, he got a chance to try out the phage on an isolated population in the middle of a plague epidemic. St. Hubert, an island in the Lesser Antilles, sent for him in its suffering. It sent for the doctor.

But the doctor was a scientist. The last thing Dr. Gottlieb told Martin, as Martin got on the boat, was to remember to have a control group: Be sure in your science to give sterile water to every other threatened person

---

2. Hauerwas, *Medicine as a Tragic Profession*, in *TRUTHFULNESS AND TRAGEDY* 184 (1977); MacIntyre, *How Virtues Become Vices*, in *EVALUATION AND EXPLANATION IN THE BIOMEDICAL SCIENCES* 110 (H. Englehardt & S. Spiker eds. 1975).

3. M. BUBER, *FOR THE SAKE OF HEAVEN* 85 (L. Lewisohn trans., 2d ed. 1953).

you meet, so that science can learn from your patients whether your serum is any good. If your serum is good, the half of your patients who get water will die. Gottlieb's reasons were substantial moral reasons, although they might not have seemed sound to the suffering people of the island: The good of society is served by having a proven serum, and for that good it is necessary to risk disease and death in half of those who come to be treated. (Science here works the way trials work. Justice in trial law sorts people into winners and losers in a similar way, in similar proportions, and at an analogous social cost.)

Martin failed the test of science. He tried for a while to keep his control group, but finally the healer in him took over and he gave the serum to everybody. The plague was stopped; Martin's career as a scientist was retarded. (It's as if the editors of the Harvard Law Review sent the tenure piece back, after it had gone into galley proofs, and said they had decided to publish an essay by Professor Owen Fiss instead.)

What Martin was left with for his scientific report was merely clinical evidence and clinical judgment: He could say that he gave the phage to 497 people and only two of them got plague. He could not say who would have contracted plague, then and there, if they had not had the serum. He had practiced healing but he had not practiced science; all he had to show for his pains was 495 people restored to their family and friends, and that result was not scientific.

My view is that the lives of lawyers are tragic, as Martin Arrowsmith's expedition to St. Hubert was tragic—tragic in his being with those who died even after they got his serum; tragic in his merely being with the patients who already had the disease when he got to them; tragic personally in terms of his own suffering, including the death of his wife from plague; tragic professionally in his refusal to be a scientist when it was possible for him to be a healer. The lesson for legal ethics is that there is such tragedy in all of professional life. But, before that issue comes clear in the story of St. Hubert, there is, in Justice Holmes's homey metaphor, green scum to be cleaned off the pool:<sup>4</sup> the ethical claim Lewis makes in the novel, his brief for the virtue of individualism.

## II. LEWIS'S PROFESSIONAL ETHIC OF INDIVIDUALISM

Lewis had written about a vacuous and hypocritical businessman (*Babbitt*, 1922), and about social life in the small-town American Midwest (*Main Street*, 1920). Both novels were commercially successful; neither had heroes; "angry, indignant, sick in the heart of the false standards of success, of the empty worship of pecuniary ambition and of the blatant, raucous

---

4. POLLOCK-HOLMES LETTERS 147 (M. Howe ed. 1942) (to Lady Pollock, Feb. 21, 1909).

monster that emerged from the pioneering efforts of his grandfathers on the various frontiers of American life, [Lewis] poured his wrath down upon the heads of his neighbors."<sup>5</sup> Lewis decided, after these bitter successes as a novelist, to write a hero story. That meant that he had to choose something for his hero to do, and for that he had at hand the profession of medicine: He came from a family of doctors. Then he had to have an idealism for his hero to pursue. He chose scientific medicine, perhaps because he had located an appealing hero in stories about Dr. Jacques Loeb of the Rockefeller Institute, and had as a friend and consultant one of Dr. Loeb's students, Dr. Paul H. DeKruif.<sup>6</sup> Such elements gave Lewis a context and a plot; his deep-seated and cynical American romanticism gave him rugged individualism as a virtue for his hero to grow in and demonstrate.

Arrowsmith's professional experience prior to his coming to the McGurk Institute was a series of disillusionments, in rural private practice, public-health practice, and institutional clinical practice; in each of these settings he concluded that commerce, social climbing, and politics were at war with healing and that healing was a more ambiguous enterprise than he had supposed it would be. When he got to McGurk, and began to work under Dr. Gottlieb's patronage, commerce, social life, and politics were temporarily held at bay. It was possible for him to look more clearly at the distinction between healing and science—and to choose science.

Thus Lewis had his hero's profession defined. He had also indicated, through his character, an anthropology: Arrowsmith was a person who got along professionally without human associations; he moved from job to job, all over the country, but he did not turn to other physicians or institutional associates for his understanding of what he was doing as a doctor. He was all alone. This was to suggest not only an anthropology, an understanding of how people are in a profession, but also to begin to suggest that individualism was desirable as a habit or disposition, as a virtue, a skill, as something to train oneself for. Based on this (as I think) untrue anthropology, Lewis made a case for individualism as virtue, and described it (as classical ethics defines the virtues) in terms of a tension between two alternative and undesirable habits. Virtue is described as the habitual resolution of—the learned skill for resolving—such a tension.<sup>7</sup>

5. Soskin, *Introduction* to S. Lewis, *supra* note 1.

6. Griffin, *Introduction* to TWENTIETH CENTURY INTERPRETATIONS OF ARROWSMITH 1 (R. Griffin ed. 1968) [hereinafter TWENTIETH CENTURY INTERPRETATIONS].

7. "Moral virtue," Aristotle said, "is produced by habit. . . . The mean and the good is feeling at the right time, about the right things, in relation to the right people, and for the right reason; and the mean and the good are the task of virtue. Similarly, in regard to actions, there are excess, deficiency, and the mean." Aristotle, *The Nichomachean Ethics*, in THE PHILOSOPHY OF ARISTOTLE 303, 306 (R. Bambrough ed. 1963). "[A]ny depiction of virtue will reflect beliefs

The critics agreed that Lewis described a tension. They did not agree on what the tension was. Most of them at the time judged that *Arrowsmith*, as the earlier satirical novels had in business and social contexts, described the tension between moral life and commerce; the virtue of individualism lay, here, between the practice of commercial medicine (as Arrowsmith had practiced it in a clinic in Chicago) and the abandonment of any connection with human institutions to pursue truth in lonely objectivity (which is what Arrowsmith did at the end of the novel).<sup>8</sup> A few critics thought the tension was more specifically professional. They saw it as the tension, in medicine, between science and healing.<sup>9</sup> Either view set up the argument for individualism as virtue, but the latter was clearer: The virtue of individualism is unlikely in a healer's life, since that life is contingent, not exact, an art (as the practice of medicine is often described) and not a science, and a life lived in continuous association with people who are ill and afraid.<sup>10</sup> Lewis himself apparently sought this latter tension, so that his description of the virtue of individualism depends on the comparison of lonely science with the associations involved in the life of a healer. In his view (I think) what made the story ethically interesting, and made it possible for Dr. Arrowsmith to be a hero, was his doctor's moral and psychological isolation from the influence of other people—free both from the influences of professional colleagues in science and from suffering patients in healing.

There are two moral episodes in the novel: One contrasts medicine (as science or as healing or as both) and success. The other (success having been set aside as an issue) contrasts science and healing. In both episodes,

---

about human nature and its possibilities," Gilbert Meilaender said. Meilaender, *Joseph Pieper: Explorations in the Thought of a Philosopher of Virtue*, 11 J. RELIGIOUS ETHICS 114, 116 (1983). Arrowsmith's claim for the virtue of individualism is a claim about right in the senses Aristotle spoke of, as well as a statement about human nature, as Meilaender says. Finally, Arrowsmith's ethic is an epistemology: Virtues are "standards by which to measure and evaluate the self," Meilaender says. "They influence the way we describe reality." MEILANDER, THE THEORY AND PRACTICE OF VIRTUE 6, 18 (1984).

8. Schorer, *On Arrowsmith*, in TWENTIETH CENTURY INTERPRETATIONS, *supra* note 6, at 40; Canby, *Fighting Success*, *id.* at 110.

9. Rosenberg, *Martin Arrowsmith: The Scientist as Hero*, in TWENTIETH CENTURY INTERPRETATIONS, *supra* note 6, at 47; Ober, "Arrowsmith and the Last Adam," *id.* at 57; Dooley, *Arrowsmith*, *id.* at 61.

10. May, *The Virtues in a Professional Setting*, in ANNUAL OF THE SOCIETY OF CHRISTIAN ETHICS 72 (1984) (argues for a morality of fidelity and of covenant in reference to relationships with patients and clients); W. May, Notes on the Ethics of Doctors and Lawyers (1977) (Poynter Center monograph) (makes a similar argument in reference to the ethical tradition in medicine); E. CASSELL, THE HEALER'S ART (1979) (speaks of the "connection" between physician and patient as a source of healing). See J. KATZ, THE SILENT WORLD OF DOCTOR AND PATIENT (1984); L. THOMAS, THE YOUNGEST SCIENCE (1983). Affection is indispensable to being a good doctor, Thomas says; "touching the patient is beneficial and needed." *Id.* at 56-57.

Arrowsmith endured because he stood alone. He left any job in which he could not do what he wanted to do—a luxury few Americans have had. He had two wives; the first was subservient to whatever he wanted to do, and died young because of his work. The other wife he left when she made claims on him that came from her world rather than from his. They had a child; she argued that it was wrong of Arrowsmith to leave her and their child. “It’s just that argument that’s kept almost everybody, all these centuries, from being anything but a machine for digestion and propagation and obedience,” he said. His positive argument for abandoning his family was that he wanted to be alone: “I want my freedom to work,” he said. Lewis’s hero, like Lewis himself, D.J. Dooley wrote, was “the great undisciplined American, the apotheosis of American individuality and irresponsibility.”<sup>11</sup> Dooley was right about individuality but, his accusation of “irresponsibility” may be misleading. Lewis’s and Arrowsmith’s is a moral argument: American individuality was, to them, a way to be virtuous (and therefore responsible).<sup>12</sup>

The novel begins with a sort of epigraph, a scene of Arrowsmith’s great-grandmother, making her way westward in a covered wagon. She is a young woman. She has left her eastern home; her father and her children are also in the wagon. Her mother has died along the way; her father lies dying in the back of the wagon. He asks her to go back to relatives who can take care of him. “‘Nobody ain’t going to take us in,’ she says. ‘We’re going on jus’ long as we can. Going West!’”

Some reviewers decided that Arrowsmith’s great grandmother’s individualism was the novel’s moral claim; they described Lewis’s judgment as being that the opposite to science in Arrowsmith’s life was commerce and success (which, to Lewis, in America, were the same thing). “The real story,” Mark Schorer wrote, “involves the conflict between an ideal of scientific research and the crass threats of commercial compromise with that ideal.”<sup>13</sup> Martin was fighting for his integrity, Schorer said. Charles E. Rosenberg said Lewis chose the medical profession as “one in which dignity and integrity could be maintained in a world of small compromise and petty accommodation.”<sup>14</sup>

The alternative critical view saw the expedition to St. Hubert (a small part of the novel) as the heart of the story, and, with that focus, identified the tension as one between science described by Lewis’s romantic individ-

11. Dooley, *supra* note 9, at 61.

12. This is true of responsibility in the sense in which H. Richard Niebuhr described it—as an ethic of the response that is fitting. But I doubt that Niebuhr would endorse individualism as a virtue; his notion of responsibility was an ethic formed in reference to the community. R. NIEBUHR, *THE RESPONSIBLE SELF* 140 (1979).

13. Schorer, *On Arrowsmith*, in *TWENTIETH CENTURY INTERPRETATIONS*, *supra* note 6, at 43.

14. Rosenberg, *supra* note 9, at 47-48.

ualism at one end and—not commerce, but—healing at the other. Not individualism and commerce, but individualism and healing. D. J. Dooley described the story—and admired it—in those terms:<sup>15</sup>

Should the quest for scientific knowledge override every other human consideration? In Gottlieb's life, it does. Martin decides in favor of humanitarianism when he abandons his controlled experiment on St. Hubert during an epidemic . . . and administers his serum to everyone, but he regards himself as a traitor to science. At the end, he casts everything else aside for the sake of research. The pursuit of truth to the exclusion of error is clearly something desirable; the pursuit of scientific truth to the exclusion of all human values is something else again. We have moved, therefore, from an area in which satire attacks deviations from a reasonable, normal position to an area in which there is a dramatic tension between two kinds of value.

I prefer Dooley's reading to Schorer's and Rosenberg's. The story is trivial if it is about a rugged individual who turns away from vulgar success and fashion, as the cowboy in the movie gets on his pony and rides out of the night club, into the boulevard, on his way back to the ranch. Trivial and probably wrong as well. Sheldon N. Grebstein said of Lewis's moral argument in the story:<sup>16</sup>

[T]he scientist must have a wife, children, and friends who are totally permissive and understanding, who will always be there when he needs them but not there when they might be in the way. . . . [T]he best and perhaps the only possible way to forestall the dangers of the world is to get away from it, to seek isolation. The novel's final conclusion implies, therefore, that the scientist is truest to himself and to mankind when he rejects his own humanity.

*Arrowsmith* is, Grebstein possibly to the contrary, a significant story if it is a story about science in opposition to healing, or even if it is thought of (in fairness to Dr. Gottlieb) as about one kind of healing as opposed to another. If those are the terms in which the moral tension on St. Hubert is defined—and if St. Hubert is the heart of the story—*Arrowsmith* is also a story about tragedy, more interesting than a story about individualism. It is more interesting even if it requires taking the view that Lewis probably told a better story than he had in mind or than his anthropology could encompass. (It has happened to other novelists.)

The issue of individualism in *Arrowsmith* thus has to be disposed of before the issue of tragedy can be reached. The tension has to be seen as one between noble science and noble healing; then it can be tragic. Lewis's resolute disdain for human institutions, his inability to see relationships in any light except domination and submission, have to be cleared away before the story of St. Hubert can be a tragedy. Institutions and communities

---

15. Dooley, *supra* note 9, at 64.

16. Grebstein, *The Best of the Great Decade*, in *TWENTIETH CENTURY INTERPRETATIONS*, *supra* note 6, at 68.



are unavoidable in moral discourse, as they are in life; it is not truthful to speak as if they can be left out of account; it is not truthful to speak of science as if it were not, and did not have to be, an institution, or as if it can never be a community. Lewis "nowhere gives a picture of a true home or a true church or a true corporate life of any kind; he has taken the tradition of dissent to its logical and ultimate conclusion," Dooley said. But "there is always a system of some kind, and the argument against system per se is usually either fretful or ignorant."<sup>17</sup>

Because institutions and communities cannot be avoided, and because a moral course that sets itself against reality is not helpful in ethics, Lewis's individualism, although indicatively romantic, in a uniquely American way, is also incoherent: It provides no rational way to distinguish the morally admirable person from the reprobate. As Henry Seidel Canby put it, when the novel was published:<sup>18</sup>

There is essentially no greater clarity of mind in those who like Martin and Gottlieb despise success than in . . . the cynical . . . who yearn for it. The idealists have no plan except to be always working at their passion. They are just as strenuous, just as irresponsible, just as disregardful of any end except their own pleasure. The difference is solely that Lewis's heroes work at something greater than themselves, while his villains serve their baser instincts. To a saint, or an ascetic, or even to a civilized European all might seem to be mad though with a difference in the morals of their madness.

I think that Lewis told a better story than he had in mind, a better story than his moral anthropology would bear. That story has to do with Arrowsmith's expedition to St. Hubert, where science and healing were in tension, in the doctor's heart and in the minds and hearts of his professional colleagues. That tension is not romantic; it is earthy, pervasive, and painful.

### III. THE MORAL TENSION IN THE EXPEDITION TO ST. HUBERT

The moral tension in Arrowsmith's visit to St. Hubert is serious and interesting: There are ethical lessons in it, lessons for lawyers. There is social ethics in it; there is professional ethics in it; and there is tragedy.

The argument to delay the use of a promising treatment for illness, until the treatment can be evaluated by bureaucrats or scientists, is familiar

---

17. Dooley, *supra* note 9, at 61. Stanley Hauerwas speaks of the medical fraternity as a practice—a source of the virtues of justice, truthfulness, and courage. S. HAUERWAS, *SUFFERING PRESENCE* 51-54 (1986). Lewis Thomas described a scientific community that would have met Hauerwas's criteria. L. THOMAS, *THE LIVES OF A CELL—NOTES OF A BIOLOGY WATCHER* 68-74 (1979). He made similar observations about Bellevue Hospital, veterinary medical students at the University of California-Davis, and the professional tradition (in law as well as in medicine) of sharing the discovery of information with professional colleagues. L. THOMAS, *THE YOUNGEST SCIENCE* 135, 186-87, 206 (1983).

18. Canby, *supra* note 8, at 112.

to those who read newspaper stories about lethargy in the Food and Drug Administration on the use of placebos in the search for a cure for Acquired Immune Deficiency Syndrome. That social argument was focused in Arrowsmith's story when the desperate people of the island sent for help. Even if the people who were asked to help claimed to be research scientists—not healers—they were, even so, trained to be healers. There was an expectation of cure in those who called for help—cure rather than the solution to a scientific problem—and there was, in the scientists who listened to the call, no claim that the call had been directed to the wrong people. They accepted that they were called in to be healers. (The issue in placebos—as experiment or as therapy—is an issue about deceit.<sup>19</sup>)

Arrowsmith's professional colleague in the expedition to St. Hubert was Dr. Gustaf Sondelius, a world-famous enemy of epidemics, ruthless destroyer of insects and mammals that carry disease, a single-minded and violent combatant:

Sondelius wanted to exterminate all the rodents in St. Hubert, to enforce a quarantine . . . and to give Martin's phage to everybody . . . all at once. . . . Martin protested. . . . He knew, he flung at them, that humanitarian feeling would make it impossible to use the poor devils of sufferers as mere objects of experiment, but he must have at least a few real test cases, and he was damned . . . if he would have his experiment so mucked up by multiple treatment that they could never tell whether the cures were due to [other medications] or phage or none of them.

The trustees adopted his plan. After all, while they desired to save humanity, wasn't it better to have it saved by a McGurk representative than by . . . the outlandish Sondelius.

Arrowsmith was determined, as he put it, not "to give up the possible saving of millions for the immediate saving of thousands." He retained his determination while he worked on St. Hubert, for a relatively long time; no doubt many people on the island died who would not have died if he had given them more than sterile water. "[H]e would not yield to a compassion which in the end would make all compassion futile." An unproved medication will not be available when it is needed, because doctors and governments do not feel confident in its usefulness and business consequently does not manufacture it. "[D]o not let anything, not even your own kind heart, spoil your experiment," Dr. Gottlieb told Martin. "[T]here must be knowledge. So many men . . . are kind and neighborly; so few have added to knowledge. You have the chance! You may be the man who ends all plague."

It is hard to assess such an altruistic claim without being cynical, especially when you consider the price paid by members of the control group, or by those who die while science waits for its evidence. Gottlieb's

---

19. See generally Brody, *The Lie That Heals—The Ethics of Giving Placebos*, 7 SOC. RESP.: JOURNALISM, L., MED. 27 (1981).

claim is not altruistic in the first place: All humanitarian social argument is sustained by self-interest and earthy friendship. Self-interest throws doubt on Gottlieb's moral claim, even though we should probably admit that no social argument is sustained without self-interest—even though we admit that in the American professions, if not in other systems of social ethics, altruism is sustained by friendship; it is always subject to an accusation of elitism, clannishness, or nepotism.

Dr. Gottlieb's humanitarian social argument ("so few have added to knowledge") is perhaps strong enough to display a tension between social altruism and a corresponding humanitarian argument from Dr. Sondelius; but Gottlieb's is also, of course, an argument from and to self-interest ("you may be the man"). It is an argument tinged with hubris. Gottlieb himself "was like a fabulous painter, so contemptuous of popular taste that after a lifetime of creation he should destroy everything he had done, lest it be marred and mocked by the dull eyes of the crowd." Gottlieb, Lewis said, thus harbored "concentrated indifference" to demands for healing.

Martin, who may have remembered that he was first attracted to the medical profession because he wanted to make money, said to his wife, "Pretty soon, if I'm successful in St. Hubert, I'll begin to count in science." And she said, "Going *places!*" That edge of self-interest is, to the worldly reviewer's mind, nothing less than realism: "Martin Arrowsmith is an unheroically complex, often confused and faltering, rather selfish and unprofound person whose importance as a character does not depend on his fully succeeding in the quest to which he has dedicated his life,"<sup>20</sup> Griffin said. The presence of self-interest does not defeat the social argument: Idealism is sustained by self-interest.

The keener lesson about moral claims in professional life is a lesson about self-deception. The idealism of professional life makes it possible to disguise arrogance and self-interest in social idealism and claims of objectivity.<sup>21</sup> We professionals get to do what we do because we have power, and power seeks moral justification, seeks it even in deception. "Martin swore . . . that he would observe test conditions; he would determine forever the value of phage by the contrast between patients treated and untreated, and so, perhaps, end all plague forever; he would harden his heart and keep clear his eyes." He was able to preserve his own interests, endure (for a while anyway) the moral tension that the social issue presented to him, and at the same time claim the idealism, because he had power; as Sheldon Grebstein put it, "the world needs him, and both he and the

---

20. See *supra* note 16.

21. Hauerwas & Burrell, *Self-Deception and Autobiography: Reflections on Speer's Inside the Third Reich*, in TRUTHFULNESS AND TRAGEDY, *supra* note 2. FINGARETTE, SELF-DECEPTION (1969). See T. SHAFFER, AMERICAN LEGAL ETHICS, ch. 6-7 (1985), on self-deception in law firms.

world know it. The same was not true of Carol [the Midwestern housewife of Lewis's *Main Street*] and [Lewis's businessman George] *Babbitt*. Once isolated from their society, there would be no place for them to go."<sup>22</sup> Among powerful professional people, the social issue is kept in contention by claims of truth and of healing, sustained by power and self-interest, disguised enough by moral claims to keep self-interest intact. Disguised by the importance of the moral issue and by humanitarian rhetoric.

The point is at least mildly ironic, because Martin Arrowsmith's stubborn determination to preserve the experiment on St. Hubert was not sustained as much by humanitarian altruism as it was sustained by friendship; earthy, self-interested friendship. Martin worried about being a good scientist because he sought the approval and affection of his mentor, Dr. Gottlieb. His conscience was kept in tension by the demands of healing and the implications of the request to him to heal St. Hubert, at one end, and by personal loyalty—love, I think—at the other. Martin would not have been able to withstand the evidence of death and suffering all around him on the island with the altruistic inspiration of science. He would have faltered sooner but for Gottlieb's personal demand on Martin's loyalty.

Gottlieb was growing old; he had not accomplished what he hoped to accomplish in science; he had been deterred from his lonely experiments by the burdens of taking over the administration of the Institute—a post he accepted out of a pride that was at war with his dedication to science. The expedition to St. Hubert held for Gottlieb a promise of personal vindication: "Martin, I grow old. . . . Let nothing, neither beautiful pity nor fear of your own death, keep you from making this plague experiment complete. And as my friend—if you do this, something will yet come out of my Directorship. If but one fine thing should come, to justify me — ." The altruistic social argument was less powerful than the claim put on Martin by his oldest and perhaps his only friend.<sup>23</sup>

This subjective effect of friendship on professional behavior is something Lewis would have been the first to condemn: It is cronyism of the sort he saw all over in American fraternal and communal life, and he despised it. It is ironic that he made it a determinative force in his hero story, but he did. (Maybe he didn't know friendship when he saw it.) He would have been the last to admit that a noble ideal could be sustained by friendship, although he might have recognized, as Griffin noticed, that Martin was entirely capable of being selfish.

---

22. See *supra* note 16.

23. I have argued for a similar moral connection between George Eliot's young physician, Tertius Lydgate, and the older parson, Camden Farebrother, in *Middlemarch* (1871). See T. SHAFFER, *FAITH AND THE PROFESSIONS*, ch. 4 (1987). The ethics of friendship in such stories is, I think, a matter of character rather than code.

The irony dissipates when the altruistic claim is sustained by fraternalism, by the friendship within a calling that Alasdair MacIntyre,<sup>24</sup> Stanley Hauerwas,<sup>25</sup> and James W. McClendon<sup>26</sup> have lately taught ethics to call a "practice." There is, within the competing altruistic claims of Sondelius on the one hand and Gottlieb on the other—and in the consciences of physicians in the story who were more ambivalent—a serious and relatively less self-deceived argument about what medicine should do.

Sondelius opposed the use of St. Hubert's people for experimental purposes. He went to the island to battle the plague with all of the knowledge, experience, and power that he had. He argued that the phage should be given to everyone on the island; he was so firm in this that he refused the phage himself, unless Martin gave it to everyone, even though he did his professional work in the most dangerous places on the island. Finally, as he must have known he would, Sondelius died of plague. He held to his position in the argument with unusual sincerity, but, to him, it was nonetheless a *professional* argument: "Sondelius . . . insisted that in this crisis mere experimentation was heartless, yet he listened to Martin's close-reasoned fury with . . . enthusiasm . . . [as for] anything which sounded new and preferably true." He knew, and knew professionally, that a healer had often to override the resistance of those being healed: "How many times, in how many lands, had Gustaf Sondelius flattered pro-consuls, and persuaded the heathen to let themselves be saved!" He was also prepared to see others pay the price for his convictions;<sup>27</sup> in his ardent blowing of poison gas into infected warehouses on St. Hubert, there was not time to be thorough in removing people; a tramp was poisoned to death in one of them: "Poor fella—bury him," said Sondelius. There was no inquest."

Sondelius took one side of the professional argument. Dr. Stokes, a missionary physician working in St. Swithin's Parish, took the other side. Dr. Stokes's parishioners were dying from plague; he finally died from it himself, and yet he said, "Arrowsmith, I have a notion of what you may want to do experimentally. If [the Surgeon General of St. Hubert] balks, you come to me in my parish—if I'm still alive."

Because the argument was professional, Martin Arrowsmith himself understood the argument more as a doctor would than as either an extra-professional social or humanitarian issue. It was the *healer* in him that recognized the tension created by his friendship for Dr. Gottlieb; finally he saw his failure to be scientific as a matter of "honor." That is, he

---

24. See generally A. MACINTYRE, *AFTER VIRTUE: A STUDY IN MORAL THEORY* (1981).

25. See generally *supra* note 17, ch. 2.

26. See generally J. MCCLENDON, *ETHICS: SYSTEMATIC THEOLOGY* (1986).

27. Shaffer, *The Gentleman in Professional Ethics*, 10 *QUEEN'S L.J.* 1, 33 (1984).

described his failure in fraternal terms, professional terms: "Despite Stokes's dismay, he gave the phage to everyone who asked. Only in St. Swithin's, since there his experiment was so excellently begun [by Stokes], did some remnant of honor keep him from distributing the phage universally."<sup>28</sup>

Within the "practice," Martin had enough moral clarity to impose on himself an odd integrity that seems to have been an attempt to endure the tension and tragedy of his life on St. Hubert. In St. Swithin's, as elsewhere, Martin was able to function both as scientist and healer only by removing the few vestiges of experiment from his work as a healer. He did one or the other: in St. Swithin's he turned the experiment over to Stokes; elsewhere he turned the healing over to others and gave his own time to the experiment. His social and personal life became inevitably schizoid, but he attempted to keep his professional life orderly. Arrowsmith could not function as healer and scientist at the same time.<sup>29</sup>

#### IV. PROFESSIONAL RESPONSES TO TRAGEDY

The ethical agenda with regard to tensions such as Arrowsmith's, as Alasdair MacIntyre put it with regard to teaching medicine, is not that the professional people we teach and have taught are unaware of moral issues in their professional lives. Rather, the ethical agenda for professionals has to do, as he says, with the strength to avoid false solutions to issues we are aware of.<sup>30</sup> The initial weakness in *Arrowsmith*, for example, is the false solution of lonely individualism that so appealed to Sinclair Lewis and that has, since his day, infected decision and discussion in education, medicine, and public law—the notion, as applied in our profession, that the highest good we can seek for ourselves or for our clients is to keep people away from one another, to isolate them, and then to focus on their rights rather than on their relationships.<sup>31</sup> In *Arrowsmith*, that notion was

---

28. See *supra* note 17. Honor is not, in traditional reckoning, a virtue. T. SHAFFER, *supra* note 21, at 74-75; B. WYATT-BROWN, SOUTHERN HONOR: ETHICS AND BEHAVIOR IN THE OLD SOUTH 14-22 (1982), describes a culture in which conscience submitted to convention (which is what happens in a morality of honor) until convention took the place of conscience; when that happens, notions of conventional morality "stress . . . sociability and manliness as the highest significations of honor," and to be honorable is to be moral. By the way, if that, or something like it, is what Lewis means in his reference to Arrowsmith's scientific honor, he establishes a dependence on community that belies Arrowsmith's claim to independence.

29. An analogy occurs to me: Perhaps the legal profession in America has tried to separate advocacy and counseling in the way Arrowsmith tried to separate his science from his healing. See Jones, *Lawyers and Justice: The Uneasy Ethics of Partisanship*, 23 VILL. L. REV. 957, 965 (1978) (discussing the Joint Conference Report on Professional Responsibility of 1952).

30. See *supra* note 2.

31. See Shaffer, *The Legal Ethics of Radical Individualism*, 65 TEX. L. REV. 963 (1987).

untruthful; it led to an unpersuasive view of virtue in a practice, and it hid from view the reason for the young doctor's behavior.

The ethical word MacIntyre and Stanley Hauerwas<sup>32</sup> contributed to a discussion such as the one I have been writing about here is the word *tragedy*; the false solution on which their insights focus is the denial of tragedy.

Classical stories describe moral tragedy in terms of a choice such as Arrowsmith had on the island. Sophocles's *Antigone*, ordered by the state not to bury her dead brother, disobeyed the state in faithfulness to her family: "Such, I hear, is the martial law our good Creon lays down for you and me . . . [but] No, he has no right to keep me from my own." She buried the body of Polynices, and suffered for her choice, but she nonetheless honored the community whose demands she disobeyed: "I was born to join in love, not hate—that is my nature."<sup>33</sup> Thus Socrates, unjustly condemned by the state to capital punishment, would not flee from Athens: "Then they [the laws of Athens] would say, 'If you repay evil with evil, and injustice with injustice in this shameful way, and break your agreements and covenants . . . and injure those whom you should least injure, yourself and your friends and your country and us, and so escape, then we shall be angry with you while you live, and when you die our brothers, the laws in Hades, will not receive you kindly; for they will know that on earth you did all that you could to destroy us.'"<sup>34</sup>

Lewis's story of the physician on St. Hubert, practicing his craft in tension between science and healing, presents such a tragic situation. But Lewis's argument for the virtue of individualism does not show, as Sophocles and Plato did, a way to live with tragic choice, a way to live nobly and at the same time to honor the claim that moral choice denies. To understand the Greek way of living with the tragic nature of life, one has first to recognize that the human person is a communal creature, inevitably heedful of the claims of community (state and family, friends who weep for life, and friends who weep for loyalty). In Lewis's context—illustrated, as I think, by this hero story—one would have to understand that the demands of science are as communal as the demands for healing.

Sinclair Lewis's doctor-hero story is compelling in its narrative display of the tragic character of life in the professions. It is, beyond that, not a plausible hero story, because Lewis's brief for the virtue of individualism does not describe the difference between a good life in the professions and an evil life in the professions. It is not possible, from this story, to show rationally how it would have been moral to maintain the control groups

---

32. See *supra* note 2.

33. SOPHOCLES, *Antigone* in *THE THREE THEBAN PLAYS* 42, 43, 68 (R. Fagles trans. 1982).

34. PLATO, *EUTHYPHERO, APOLOGY, CRITO* 51, 63-65 (F. Church trans. 1948).

on St. Hubert—any more than it is possible to show why it was moral for Arrowsmith's great-grandmother to continue westward as her father died in the back of the wagon, to refuse, as she did, to seek someone who could care for her father. The only appeal Lewis allows his reader, as his reader ponders the tragedy in our lives, is the appeal to the individualistic, lonely self as a moral tyrant. Lewis's critics made a moral appeal in their rejection of the romantic individualism he urged on them. They claimed an ethic; their ethic was to appeal to communitarian judgment and—although they did not say so—to reject the individualism Lewis and other chroniclers of the frontier ethic in America urged on them.

Professional life is tragic in the way Dr. Arrowsmith's situation on St. Hubert (or Antigone's at the gates of Thebes or Socrates's in prison) was tragic. The ethics of individualism (or of autonomy) do not show a way to deal with the tragedy; Lewis's virtue of individualism would have only caused Arrowsmith to turn from tragedy, to deny it, as he turned from and denied his wife and son at the end of the novel. The fact that he gave the plague, finally, to everyone on St. Hubert, that he turned in compassion to his patients and turned away, in disloyalty, from his friendship for Dr. Gottlieb, does not so much illustrate a way to live with tragedy—to be tragically professional—as it illustrates tragedy itself. And, incidentally, the uselessness of an ethic of individuality in professional life: In no case was Arrowsmith's action an action consequent on individuality; he turned away from one communal commitment in order to keep another communal commitment—he did not stand alone, and he could not have stood alone. His claim of individuality was an empty boast.

The ethical agenda here is to speak of a way to live with tragedy in professional life. My argument on that agenda is for a communal, not an individualistic, way.<sup>35</sup> Familiar professional stories, as well as familiar theory in professional ethics, describe such a communal way, alternatively (with some overlap) in terms of civic community, organic community, and membership in professional fraternities—or, as MacIntyre, Hauerwas, and McClendon would have it, in "practices."

### *Civic Community*

Republican legal ethics in America argues that lawyers are responsible as the priests and prophets of justice in a national American community. The Jeffersonian version of the argument sounds quaint to modern ears; the grandfather of American legal ethics, David Hoffman of Baltimore (1784-1854), used sacerdotal imagery for it. The lawyer's work, he said, "expands the understanding and furnishes the heart with the purest prin-

---

35. See Shaffer, *supra* note 31; Shaffer, *The Unique, Novel, and Unsound Adversary Ethic*, 41 VAND. L. REV. 697 (1988); Shaffer, *The Legal Ethics of Belonging*, 49 OHIO ST. L.J. 703 (1988).



ciples of action. . . . Its office is, indeed, to adjust the disputes and to preserve the harmony of individuals, and of society; to vindicate the laws of God and man; and to lessen, or remove all the evils which arise from ignorance and vice . . . ministers at the altar of justice."<sup>36</sup> The communal office of lawyers is, in that view, aristocratic—acceptance of domination in the community and of responsibility for what the government (which is a lawyer's means to communal ends) does to relationships. This was perhaps the legal profession's version of a parallel control of and responsibility for health in the medical profession. (An example: The contemporaneous principle of medical ethics that laid a moral duty on the *patient* not to consult a second physician.<sup>37</sup>) The rhetoric of that early American professionalism sounds hubristic to modern ears, but the principles remain in the most recent consensus statements on ethics from national associations of physicians and lawyers.<sup>38</sup>

There is arrogance in such assertions of republican duty. Lawyers were (are?), as Toqueville said, aristocrats in the American republic,<sup>39</sup> and aristocrats tend to arrogance. But arrogance is not the ethical difficulty with republican ethical communitarianism. The ethical difficulty is historical. Mr. Jefferson's hope for a moral commonwealth in America has not been realized. The common sense of moral integrity on which Jeffersonian professionalism rested was frail when Hoffman wrote; frailer still as (Protestant) American state religion was diffused by immigration, civil war, and industrial revolution; and effectively silent (for present purposes) when the professions began, a hundred years ago, to teach and to practice the ethics of the marketplace.<sup>40</sup> Sinclair Lewis (and G.B. Shaw),<sup>41</sup> writing about business and the professions during World War I and in the 1920s, had

36. T. SHAFFER, *supra* note 21, at 59 (quoting Hoffman, *Resolutions in Regard to Professional Deportment*, in A COURSE OF LEGAL STUDY, Appendix (2d ed. 1836)).

37. J. KATZ, *supra* note 10, at 230, 233 (quoting CODE OF ETHICS OF THE AMERICAN MEDICAL ASSOCIATION II-7 (1847)).

38. "A lawyer is a representative . . . having special responsibility for the quality of justice." MODEL RULES OF PROFESSIONAL CONDUCT, Preamble (1983); AMERICAN MEDICAL ASSOCIATION, PRINCIPLES OF MEDICAL ETHICS (1980), *quoted in* J. KATZ, *supra* note 10, at 237.

39. DEMOCRACY IN AMERICA (1835), *quoted in* T. SHAFFER, *supra* note 21, at 101-105.

40. See Schudson, *Public, Private, and Professional Lives: The Correspondence of David Dudley Field and Samuel Bowles*, 21 AM. J. LEGAL HIST. 191 (1977); Shaffer, *supra* note 21, at 183-87, 315-61; Shaffer, *The Legal Ethics of Belonging*, *supra* note 35; M. Schudson, *Origins of the Ideal of Objectivity in the Professions: Studies in the History of American Journalism and American Law 1830-1940* (Harvard University, 1976) (unpublished); M. SCHUDSON, *DISCOVERING THE NEWS: A SOCIAL HISTORY OF AMERICAN NEWSPAPERS* (1978).

41. B. SHAW, "The Doctor's Dilemma" (1909), in *THE DOCTOR'S DILEMMA* (1915); B. SHAW, *GETTING MARRIED, AND THE SHEWING-UP OF BLANCO POSNET* (1928), at 1-116; R. BOXILL, *SHAW AND THE DOCTORS* (1969).

plenty to be disgusted about, and both were closer to the truth when they attacked not arrogance in the professions but venality among professionals.

I would not argue, though, that the practice of the professions became morally disintegrated—then or later. What I would argue is that American republican ethics has influenced rhetoric more than behavior, and that behavior has been connected to the other two centers of communal morals in my outline—organic communities and practices—more than to the professional codes we have as the heirs of the republicans.

### *Organic Communities*

I mean here communities which are literally organic (family and extended family, ethnic group), and those that plausibly claim organic metaphors (neighborhood, town, religious congregation).<sup>42</sup> One way to identify them with a single notion is to appropriate Carol Greenhouse's insight that the communities we identify with account for our behavior, so that our morals are displayed in an explanation that is also a claim of belonging. ("I did that because I am Irish . . . a Southern Baptist . . . a Shaffer . . . from the South.") It is evidently the case that morals in professional life are traceable to such communities more than to the American national identity on which republican professional ethics rested.<sup>43</sup> I have worked and am working on the argument elsewhere, and do not develop it here, except to say that I am persuaded enough by the point to have allowed it to guide my work as a teacher in American law schools: The most prominent, reliable, and defensible guidance for professional life (I say to my students) are the morals and the virtues one brings to law school from family, town, and religious congregation.

### *Practices*

Of course, even if organic communal influences are more prominent, reliable, and defensible than patriotic or civic communal influences, communal influences do not deliver us from the tragic nature of professional life. What communal influence does—or rather, has done—is to train the professional person in useful skills for living such a life.

Stanley Hauerwas has argued that the negotiation of tragedy in a professional's life depends on character. It depends on the careful and truthful development of the virtues that a practice nurtures; it depends on careful and truthful attention to the traditional values that a physician or lawyer takes from her colleagues and teachers in a professional tradition.<sup>44</sup>

42. T. SHAFFER, *supra* note 31, at 965-66 n.8.

43. C. GREENHOUSE, PRAYING FOR JUSTICE—FAITH, ORDER, AND COMMUNITY IN AN AMERICAN TOWN 23-42 (1986); Shaffer, *supra* note 35.

44. See *supra* notes 2 and 17 and accompanying text.

MacIntyre summarizes those as the virtues of courage, truthfulness, and justice.<sup>45</sup> The professional discussion or debate that Drs. Arrowsmith, Sordelius, and Stokes had on the morality of control groups on St. Hubert shows how virtue in a practice works. Justice here is not justice as in "the administration of justice," but justice as in Socrates, Aristotle, and the Hebrew prophets. Justice as something people give to one another. Justice as righteousness.<sup>46</sup>

Professional care is a thing of limits. That fact and the burdens that a profession undertakes are the sources of its tragedy. In Hauerwas's treatment<sup>47</sup> (or Ivan Illich's<sup>48</sup>), the hubris of professional medicine is that death is a mistake: Medicine can cure. In truth, as Arrowsmith showed in his life on the island, if not in his theories, the burden of medicine is not to cure, but to care for: No one on St. Hubert was saved from death, and many not on St. Hubert died sooner because Arrowsmith chose to be a healer rather than a scientist.

Our parallel legal hubris is that we administer justice. The burden of the law as a calling is not to provide justice but to discover and revere the justice we find when we intrude on human relationships. In both cases the professional person is in need of an ethic that takes into account the nature of existence as a thing of illness and contention, of love and hate and death, and that takes into account as well the "disasters, errors, and helplessness" that attend professional service.<sup>49</sup>

MacIntyre's vivid medical example is an image that is hard to forget: In "the case of recently born crippled infants . . . heroic efforts may preserve either a needless bundle of distorted and suffering nerves and tissues or . . . a human child, physically imperfect but with real potential, perhaps even a Helen Keller. Any rule which relieves the physician of the burden of extending suffering uselessly imposes on him the burden of taking innocent life wantonly; and no rule would be worst of all."<sup>50</sup> Hauerwas's is a legal example, borrowed from Richard Wasserstrom; it is the example of professional preference—the fact that we prefer the interests of our clients over the interests of others, as a parent prefers the interests of his own child over those of other children.

In neither case does professional technology answer, and, because the cases are so stressful, technology may be disastrous and erroneous as well. If Martin Arrowsmith had been the scientist he wanted to be, half of his

45. See *supra* note 17 and accompanying text.

46. *Supra* note 24, at 175-83; T. SHAFFER, *supra* note 21, at 417-24.

47. See *supra* note 2 and accompanying text.

48. I. ILLICH, *MEDICAL NEMESIS* (1976); see also S. HAUERWAS, *supra* note 2.

49. S. HAUERWAS, *supra* note 2.

50. MacIntyre, *supra* note 2, at 109.

patients would have died of plague,<sup>51</sup> as half the citizens who are in trials today will lose their cases, and well more than half have lost human relationships that are important to them and that have more to do with justice than the judicial system can even imagine.

---

51. Lewis's novel does not lead to a transcendental way to live with tragedy, but the Greeks did, and MacIntyre, Hauerwas, and McClendon do. One lived nobly and with integrity in the Greek tragedies. The fate that was unyielding and inexplicable to the Greeks, in Hebraic understanding is a Person, a Loving Father, the Ruler of the Universe. And so, fate is ultimately benign. In a sense, there can be no Hebraic tragedies. There can of course be suffering, and situations in professional life in which there seems to be no right course of action. But if the Lord provides such situations in life, He also indicates a way to live in the situations. Thus Hauerwas speaks of tragedy (in a Hebraic sense) as the triumph of meaning over power. Examples of this perspective on tragedy abound in the stories of Jewish and Christian heroes and martyrs and in such modern stories as those of Martin Luther King, Jr., and the young Jewish volunteers who were murdered by police officers and buried in a dam in Mississippi. There is meaning in such stories; we remember the meaning; and the meaning triumphs over destructive power. Neither the triumph nor the meaning seemed to be accessible to Sinclair Lewis. *Arrowsmith* has to be taken—and I do take it—as showing truthfully the tragic nature of professional life, but not as showing the suffering virtues that are appropriate for living with tragedy in the lives of one's clients. As to that consequent, religious ethic, see T. SHAFFER, *supra* note 23, at 58-70.

