

Lincoln's Inn Chapel at 400: A Donnean Retrospective
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What is the purpose of having a chapel in a place like this?
What are the connections between faith and community?
How can we balance the demands of religious ethics and professional obligation?
How does a legal institution participate in the administration of moral justice?
What does it mean to be a Christian lawyer?

These are just some of the questions John Donne asked when he mounted the pulpit at Lincoln's Inn on 22 May 1623 to celebrate the dedication of Trinity Chapel. The new chapel had a seating capacity of up to 230 people, but on that day, it was packed to the rafters. The famous London diarist John Chamberlain reported a 'great concourse of noblemen and gentlemen whereof two or three were endangered and taken up dead for the time with extreme press and thronging'; and an eye-witness noted that 'there was such a Concourse & Confluence of people' that Sir Francis Lee, an alumnus of Lincoln's Inn and MP for Warwickshire, 'was so thronged that he fell down dead in the press; and was carried away into a Gentlemans Chamber and with much ado recovered'. The consecration of the new chapel was a significant religious occasion, but it was also a major event in the Society's social calendar, as well as an opportunity to reflect on its place in the divided and complex political landscape that characterised London in the early seventeenth century.

In the prayer before his sermon, as we have heard, Donne implored God to be 'all unto all'. This was an acknowledgment that Christians have different spiritual needs; that there are many souls under the roof of the same chapel, all with their own particular problems and struggles. But the challenge of being 'all unto all' did not only apply to God. Preachers too were keenly aware that sermons needed to be tailored to specific audiences, places, and occasions. In the Bible, it was St Paul who offered the most potent example of preaching that was masterfully adapted to its contexts. The Dutch humanist Erasmus of Rotterdam once said of St Paul that he 'knew how to become all things to all people, and how to accommodate his eloquence to the character of any listener'. Erasmus compared Paul, somewhat comically, to an octopus – a creature famous for its supposed ability to change colours according to its environment. Erasmus' advice to young preachers was to 'adopt the attitude of the octopus' and thus become 'all things to all men'.

For Donne, however, the issue of flexible accommodation to individual circumstances also had important implications for the lawyers and judges in his audience. It was clear to him that when it came to the law, one size could not possibly fit all. Throughout his later years as preacher at Lincoln's Inn, Donne was preoccupied intensely with questions of how the general provisions of the law related to the complexities of particular cases and circumstances. He was concerned, in other words, with the relationship between common law and equity. What are the best forms of judgement, Donne asked in his later Lincoln's Inn sermons, and how will the decisions we make in a court of law – and which may well be a

matter of life and death – stand up in the face of the ultimate judgement, which is not ours, but God’s alone?

The relationship between common law and equity was clearly a topic of general interest to Donne’s audience at the Inn, but for the time of his tenure there, between 1616 and 1621, it was also a matter of enormous political import. During the reign of King James VI and I, the scope and reach of Chancery jurisdiction were greatly expanded. Equitable jurisdiction was an important aspect of the monarch’s prerogative power, and the subject of the king’s judicial authority occasioned intense jurisdictional disputes between the courts of common law and equity. A landmark conflict of 1616 between Lord Chancellor Ellesmere and the Chief Justice of the King’s Bench, Edward Coke, concluded with the issuing of a royal decree which stipulated that any verdict at common law could be revisited in Chancery, but not vice versa; this effectively enshrined the precedence of Chancery. Coke was summarily dismissed in November 1616, and although the new Lord Chancellor, Francis Bacon, made some attempts to appease the common law judges, the relationship between the two legal systems remained extremely fraught. As a result of these tensions, in 1621 Parliament embarked on a campaign of comprehensive legal reform, which focused above all on proceedings in Chancery. When Sir John Tyndall, a Chancery master, was shot and killed after an unpopular equity ruling in November 1616, a common lawyer suggested that his assailant ‘mistook his mark, and should have shot hailshot at the whole court, which indeed grows great, and is enlarged out of measure’. Lord Chancellor Bacon was indicted for corruption and was eventually dismissed in one of the most explosive political scandals of the early seventeenth century.

So much for the gossip value of the story. But why was this technical issue in law worth preaching about? What was so important about equity to Donne’s audience in the 1620s? The answer, I think, is that discussions about the nature of equity always came back, for Donne, to complex questions about the nature and exercise of personal conscience. In the words of Donne’s former employer, Lord Ellesmere, ‘the office of Lord Chancellor is to correct Mens Consciences for Frauds, breaches of Trusts, Wrongs and Oppressions, . . . and to mollify the extremity of the law.’ Aside from this focus on conscience and intent, appeals to equity frequently invoked foundational concepts of natural justice, and they also relied on spiritual virtues such as charity and mercy. Petitions of complaint to the Chancellor, for example, typically requested that legal remedy be granted ‘for the love of God and in the way of Charity’. Equity, then, was one of the key places where the languages of the law and of religion overlapped. Donne’s rhetoric in the Lincoln’s Inn sermons frequently draws on these connections between law and religion; he tells his audience, for instance, that even though ‘various occasions may vary their Laws, adhere we to that Rule of the Law, which the Apostle prescribes, that we always make, . . . *The end of the Commandement charity*: for, no Commandement . . . is kept, if, upon pretence of keeping that Commandement, . . . I come to an uncharitable opinion of other men.’

In theory, then, equity seemed to provide the procedural flexibility required to make general laws meet the demands of individual circumstances, thereby bringing justice ‘unto all’.

Inquiries into motive and intent were, after all, the defining characteristic of equity courts; the courts of Chancery and Star Chamber famously proceeded ‘ad personam’ rather than ‘ad rem’ and put enormous discretionary power into the hands of a single judge. In practice, however, things were rather more complicated, both in the spiritual and in the legal sense. Donne closely examined the complexities of equitable judgment in a sermon preached on Trinity Sunday 1620, on a text that would have resonated deeply with his audience. This text was Genesis chapter 18, verse 25, ‘Shall not the Judge of All the Earth Do Right?’ Throughout his sermon, Donne draws a decisive contrast between God’s perfect equity on the one hand, and the much more limited scope and capacity of human judgment on the other. ‘Earthly Judges’, Donne explains, ‘have their distinctions, and so their restrictions; . . . But God hath *Judicium discretionis*, no mist, no cloud, no darknesse, no disguise keeps him from discerning, and judging all our actions . . . God knows my heart’. For Donne, God is the perfect judge of consciences, but he is also the perfect law-maker; he embodies the true intent and spirit of the law because he created it. Donne proceeds to extend this unfavourable comparison with human judges, who, he says, frequently struggle to ‘declare what was the true meaning of that Law-maker when hee made that law’. A ‘Chancellor’ in a court of equity, Donne says, judges ‘according to the Dictates of his owne understanding’ and thus ‘may have some excuse, He did as his Conscience led him’. But what happens, Donne proceeds to ask, if the Chancellor’s conscience leads him astray?

Donne’s legal rhetoric targets the courts of equity in quite a specific and technical way, through an idea of judicial discretion specifically associated with Chancery procedure; a Chancery judge, he says, has ‘*Judicium discretionis*, and so *Judicat personam*’. In the minds of its supporters, the chief advantage of equitable justice lay in its procedural flexibility: the chancellor was not tied to the rigid rules of common law but was free to admit a wide range of factors and considerations. The litigants, in turn, were at liberty to present any information they judged to be beneficial to their cause. Donne’s negative portrayal of human judgement reveals the other side of this argument: that a chancellor empowered by equity’s procedural latitude might not be equipped to cope with the proliferating evidence generated by the case; or that chancellors might interpret their powers in different ways, each ‘according to the Dictates of his owne understanding’. In this last point, Donne anticipates the most famous critique of equity by John Selden, who said that ‘Equity is a Roguish Thing. For Law we have a Measure, know what to trust to, Equity is according to the Conscience of him that is Chancellor, and as that is larger or narrower, so is Equity.’ A chancellor’s conscience, in Selden’s judgement, is ‘an uncertain measure’.

By contrast, Donne finds, there can be no error in God’s judgement of the human conscience, because he created it, and therefore knows its every desire and motion. God’s eternal omniscience also obviates the need for appeal from his judgement. Donne tells us that God ‘alwaies knowes all evidence, before it be given’ and that he ‘sees secret thoughts’. God has ‘the power of discerning all actions, in all places’ and he judges ‘*Sine Appellatione*’, we cannot appeal against his verdicts.

Donne's comments on Chancery ultimately also address questions about the exercise of absolute royal prerogative, since equitable relief was intended to reflect the king's discretion. Lord Keeper Williams maintained in the spring of 1621, for instance, that 'in the court of equitie, the King governes (like God himselfe) by his owne individuall goodness and Justice'. And the king himself was adamant that equitable judgements had the status of state secrets and could not, therefore, be subject to scrutiny; in a Star Chamber speech of 1616 he reminded his judges that '[t]hat which concernes the mysterie of the Kings power, is not lawfull to be disputed'. By emphasizing the shortcomings of any human judgement, including the king's, Donne highlights the dangers of straying too far from the settled institutions and procedures of the common law; therefore, he concludes, 'the larger the jurisdiction, and the higher the Court is, the more carefull ought the Judge to be of wrong judgement'.

God alone, Donne, insists 'is the Judge of all the earth; of this which I tread, and this earth which I carry about me; and when he judges me, my Conscience turnes on his side, and confesses his judgement to be right'. But God, unlike human beings, is also capable of endless acts of mercy and he searches for any opportunity to overturn or void his own judgements; he declares, Donne says, 'a *vacat* upon his *Fiat*', returns a verdict of 'Nonobstante upon his Amen'. In an extraordinary tribute to God's love and goodness, Donne reminds his audience that the 'words of man, in the mouth of one faithfull man, are a Canon against God himselfe, and batter down all his severe and heavy purposes for Judgements. . . . God puts himselfe into the way of a shot, he meets a weak prayer, and is graciously pleased to be wounded by that: God sets up a light, that we direct the shot upon him, . . . yea, God charges, and discharges the Canon himself upon himselfe'.

It is precisely because of the overlap between legal and spiritual duties that the dedication of the new chapel represented such an important milestone in the life of Lincoln's Inn. The full title of the consecration sermon in its 1623 edition was 'Encaenia. The Feast of Dedication. Celebrated at Lincoln's Inn.' The meaning of the Greek word 'Encaenia' is 'renewal', and in its original context it referred to the re-dedication of the Second Temple after its profanation by a Greek king in the second century BCE. For Donne, the consecration of the new chapel is, similarly, an act of re-dedication. This applies first of all to the physical aspects of the new building, as a focal point for the communal life of the Society and as a place of spiritual solace. The first question that Christ's disciples asked of him, Donne reminds us, 'was *Magister, vbi habitas*; they would know his standing house, where he hath promised to bee alwaies within, and where at the ringing of the Bell, some body comes to answere you'. If we build a church, Christ will always be at home, ready to teach and comfort us. Donne's sermon ranges widely over a long tradition of church-building and church consecration, and from Solomon's Temple to London's city parishes. But he leaves his audience in no doubt that the most important act of re-dedication takes place in the smallest chapel of all – the heart of each Christian. The festival of renewal, Donne says, 'belongs to vs, because it is the consecration of that place, which is ours, . . . But it is more properly our Festiuall, because it is the consecration of our selues to *Gods* seruice.' Donne's sermon eloquently calls for a renewed commitment to the principles of Christian worship, and especially to the core virtues

of charity and mercy. But he also demands a re-dedication to the principles of justice, because these, too, involve the lived experience of mercy and charity. Towards the end of his sermon, Donne reflects, pointedly, that '[s]ome callings are in their nature more obnoxious, and more exposed to sinne, then others are: accompanied with more tentations'. The most dangerous calling of all is that of a judge, especially one that, as we have heard, acts 'in the court of equitie . . . like God himselfe'. It is not remotely surprising, then, to find Donne calling for restrictions on equitable powers, and to urge judges to conform to, as he puts it, 'the limits of a profession, . . . the limits of precedents, [and] . . . the limits of time'. Earthly judges, he insists again and again, have their limitations, and so it is incumbent on them to look inward, to judge themselves, and to exercise humility, lest they are found wanting at the most important judgment of all: 'Judge all that earth that thou art', Donne urges, 'and thou shalt leave nothing for the last Judgement. Mingle not the just and the unjust together; . . . And when all is done . . . Be mercifull to thine owne soule'.

I want to leave you with Donne's final words to his audience on 22 May 1623, not only because they are deeply moving, but because they were, in fact, always already meant for you. The dedication of Trinity chapel, its most famous preacher insisted, was not just for the seventeenth-century incarnation of Lincoln's Inn, but for all succeeding generations too. These are the words the congregation heard 400 years ago:

Almighty God worke in you a perfit dedication of your selues at this time; that so, receiuing it from hands dedicated to God, hee whose holy Office this is, may present acceptably this House to God in your behalves, and establish an assurance to you, that God will be alwayes present with you and your Succession in this place. Amen.

[ENDS]

Further information on the legal scandals of the early 1620s can be found in volume 5 of *The Oxford Edition of the Sermons of John Donne* (Sermons Preached at Lincoln's Inn, 1620-1623), ed. Ettenhuber (Oxford: OUP, 2015)