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Emotions, Gender Expectations and the Social Role of Chancery, 1550–1650

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Chancery was a court that became infamous for provoking anger, contempt, distrust, and disgust, even loathing and rage, two basic emotions that feature right at the centre of Robert Plutchik's three-dimensional emotions wheel. Chancery never became well known for the positive basic emotion of joy.[1] Yet, *some* litigants must have experienced a happy outcome. All literary representations of Chancery have been overwhelmingly negative. Charlotte Smith's *The Old Manor House* of 1793 portrayed the jealous viciousness of Mrs Lennard and her hidden will alongside the stifling orderliness of the court, with its dull annual reports and opaque precedents.[2] In 1920, John Galsworthy gave us *In Chancery*, one volume of the Forsyte family chronicle focused on the unforgettably mean and proud 'man of property', Soames Forsyte, whose 'possessive instinct never stands still' and extends to his wife.[3] Again the court of Chancery featured almost as a metonym for people who were jealous and obsessive and deeply interfering. And then there is *Bleak House*. The trundling and cripplingly expensive case over a disputed will, which Charles Dickens named *Jarndyce v Jarndyce*, played to a knowing readership, though, ironically, the court so hated by the Victorians had a structure and procedures that originally developed from the late sixteenth century under Thomas Egerton, Lord Ellesmere, in response to the weight of demand. There are two questions, then, to answer in relation to human emotions and Chancery in the critical period of its expansion of business. First, what emotions did early modern litigants bring to Chancery – at least, according to the records left behind – and were the

emotions gendered? Second, what emotions did early modern litigants express about Chancery itself? To answer these questions this chapter uses Chancery pleadings and cause papers (bills, answers, replications, and rejoinders) of plaintiff/s and defendant/s for the period 1550 to 1650 and a range of early printed sources about the court.[4] Answers to the two questions, no matter how tentative, are important in addressing current historiography about social relations and the functionality of the court.

Chancery records offer a richness of evidence for social and economic historians. Annie Abram was one of the first to recognize this when she ploughed them for material for *English Life and Manners in the Middle Ages* (1913).[5] The economic historian, Maurice Beresford, also once pointed out that the decree rolls alone provide quantitative data for agrarian history and qualitative material embedded in the records of disputes over earthenware pots, theatre mortgages, and 'the affairs of orphans, widows, almshouses, apprentices, schools, and the like'.[6] In other words, Chancery records reveal the stuff of life and recently a number of historians have been mining them for information on the complexities of early modern markets and the economy and the networks of debt and obligation that held together (or pulled apart) families and communities.[7] Early modern people resorted to Chancery because of the dependence of local communities on legal intervention when self-policing tactics proved ineffective. The link between neighbourly relations and kinship with Chancery is dialectical and complex. Chancery, which was an equity court, made decisions based on the concept of fairness. It was, therefore, embedded in collective, local consciousness as a space for the articulation of emotions in exchange for redress. There were striking overlaps of jurisdiction in the period, between, for example, Queen's/King's Bench and Chancery, but it was equity – or 'positive law' – that most actively legislated in the arena of

emotive legal cases.[8] The Statutes of Parliaments *regulated* the trade of everything from grain and pigs to buttons and lace, but it was the equity courts – and increasingly Chancery – that dealt with actual human interaction *during* trade.[9]

Chancery made an impact on private life because early modern families were essentially small, private businesses in a world comprised of multifarious and interconnected small family businesses. Chancery's caseload overlapped with that of the common law courts, but crucially, it accommodated litigation by married as well as single women, raising the expectation of its role as an arbiter of family relationships. Chancery had the power to issue original writs (as well as decrees and orders), which parties in a case had to respond to, and it even mopped up marital disputes from the ecclesiastical courts.[10] Chancery cases frequently had at their heart a person's will, as petitioners sued executors for legacies and chattel, widows sued for dower, and children sued for their portions. Kinship between litigants was actually a reason to sue, Chancery being seen as a court that 'would entertain a cause where kinship or other connections might influence a judgement'.[11] Humphrey and Mary Abell took Mary's mother, Agnes Warry, to Chancery in 1628 over a copyhold cottage, pasture, meadow, and arable farm at Foxton in Somerset because Agnes's possession or use of the estate did not respect Mary's inheritance by manorial custom despite all solicitations put to her 'in friendly manner'.[12] In this case, the plaintiffs claimed they could get no relief either by manorial custom or common law because the manorial roll had disappeared. The duplication of jurisdiction across different courts was neither unusual nor theoretically problematic – though not without an element of competition too – because the petitioning process was considered to be an appeal directly to the queen's/king's conscience when avenues of

relief had been sought by people in vain and they were left with nothing but due complaint.[13]

Increased use of wills after the Statute of Wills in 1540 was one cause for the climbing number of suits brought to Chancery and this alone brought the court more squarely into the emotional centre of people's lives in local communities.[14] The presence of testamentary proceedings in a case guaranteed high emotional content because, as Philippa Maddern once pointed out, unlike court records, wills 'marked, if not the only, at least the most significant moment in a testator's life' and can be filled with 'apparently artless outbursts of affection, suspicion or concern'.[15] The wills of Robert Angell and his son caused emotional mayhem. Robert left a written will in 1628 splitting his lands between his two sons, Robert and John, with the proviso that if one son died without issue the whole inheritance would go to the other son. Robert died leaving a daughter and when John died she expected to inherit the remainder of the estate, but John Angell left a nuncupative will, stating in front of several witnesses at his deathbed that 'if I thought I should be any worse I would send for my sister Ann … my sister should know how sick I am … [she] is likely to be heire of all I have'.[16] Ill and emotional, John Angell suddenly yearned for his sister and he left ambiguous evidence about her being the 'likely heir', 'must be heire', and probably 'sole heir', and that 'she might have all that I have for there is none to debar her of it' – except, of course, his niece.[17]

Bernard Capp and Linda Pollock have both argued that emotional displays, especially angry outbursts in public, were discouraged in early modern England, Pollock arguing that in studying the emotions it is crucial to understand their culturally specific and situated use. The emotions – or passions in early modern humoral

understanding of their bodily operation – feature within concepts like virtue, suggesting that demonstrations of despair might actually have a positive connotation when articulated in the space of a court. Rightly, Pollock suggests that the modern researcher needs to ask not only how we recognize emotions such as anger in the past, but also when an apparently negative emotion might be perceived as positive in one situation and only negative in another.[18] According to Capp, early modern people 'though easily roused to anger, were committed to the ideal of "good neighbourliness"'.[19] Lawsuits were not considered positive conduits for uncontrolled emotions, but were rather a breach of Christian charity and an act that abandoned early modern ideals of 'kindness', reciprocal obligation, and reconciliation of conflict.[20] Craig Muldrew has spoken, for example, of cultural norms of 'concord, reconciliation and peaceable relations'.[21] There is a puzzle in the historiography here. Certainly the language of consensus *versus* conflict – expressed as kindness or unkindness – is dichotomous and loaded with cultural meaning that travelled from village and town to the court of Chancery in cause pleadings and depositions. Unkindness was a term that expressed the concept of uncharitable behaviour extended to kin and lack of Christian charity afforded to the weaker person in a social relationship.[22] The widow Anne Amundersham explained her case in 1588 by deposing that her brother-in-law, Charles Monck, tried to 'molest, sue and vexe' her for debts owed to him after 'some unkindness' had fallen out between her and her sister and that he now treated her, 'a desolate and a comfortless widow', by 'expostulating of many unkindnesses'.[23] It is a little difficult, therefore, to square the early modern ideal of social harmony with cases like that of Anne Amundersham and the statistics also require explanation. From the late sixteenth century onwards, there were 'about 60,000 suits being initiated yearly before the central courts' and the London

Consistory Court alone witnessed a rise in female defamation cases which 'substantially outflanked demographic change'.[24] Marital litigation cases in the Court of Requests also 'expanded steadily' from the 1590s.[25] Tim Stretton has recently challenged what he calls the 'surprisingly positive vision of the meaning and effect of rising interpersonal conflict', and he argues that just because much value was placed on neighbourly relations, there is no reason to suppose that rising levels of litigation did not intensify pressure on local communities and lead to heightened social conflict within them.[26] Alexandra Shepard has reached the same conclusion in her work on the university courts in Cambridge.[27]

The dialectical process of information and emotions exchange between community and court is one that is worth considering further. Landed and mercantile families depended on good relations with neighbours and kin to thrive and survive as economic units and individuals would spend very large sums on lawyers to settle disputes and also to maintain the good reputation needed to do business. The 'chains of credit' in rural and market towns depended on central courts like Chancery 'to maintain the trust upon which credit was based'.[28] Growing use of wills and strict settlements from the late sixteenth century reflected economic and concomitant social change. The transactional nature of interpersonal relations hardened because of the legal complexities of expanded commerce. Muldrew points to 'the sheer complexity of innumerable reciprocal obligations', and argues that the early modern market constituted a dense web of promissory notes and bonds.[29] Stretton has also recently suggested that economic change itself, 'as the exchange value of money eclipsed its *use* value', resulted in more family and community disputes accompanied by erosion of faith in the law courts to sort them out.[30] Wills and settlements were, effectively, private

law, but when disputes arose, the overlapping jurisdictions of common law and equity law were needed to resolve ambiguous legal entitlements. The question arises, then, about Chancery as an expanding arena for articulation of emotions.

The anthropological view would be that if the material interests of individuals are viewed as integral to the internal dynamics of family relationships and the relational in communities, then emotion becomes a vital category of analysis.[31] In early modern English society, the twinned concepts of trust and honour were invoked to encapsulate the sense of being ill treated over material things in life. They were concepts that became a legal trope, placed centrally (in terms of persuasive location) within Chancery pleadings. They were lent secondary efficacy by the idea that coercion and obstruction had been the cause of a person's misery. For example, Anne Amundersham's bill to Chancery stated that she had placed 'great trust and confidence' in her brother-in-law, before he started charging her interest on her debts.[32] The linguistic construction is multiplied many times over in pleadings. Anne Drewe's pleadings provide evidence of coercion. She took out two bills in Chancery in 1608 accusing several people of obstructing her right to title so that she could not 'peacablie and quietlie' enjoy her farming land and woodland in Hampshire.[33] She deposed that the defendants broke trust by not listening to reason, by taking possession of the land through 'casuall or other meanes' and by hiding, altering, and defacing documents to force her off her land.[34]

Early modern credit relations were, thus, inseparable from and linked to sociability. They were also, therefore, linked to gender construction, especially in terms of masculine or feminine trust and honour. All Chancery statements were transformed into legal evidence by an oath being sworn on the Bible. How litigants were supposed to behave while under oath was influenced by the gender expectations of conduct books.

In terms of the litigant's cognitive appraisal of a situation, they were reporting not only on factual information but its emotional impact as transformative (in the present and/or future) of their material and emotional wellbeing. Affective events became infused by gender expectations into a document of legal persuasion. Male litigants were bound by an amphibolous language of honour that incorporated ideas straight out of Baldassare Castiglione's *The Book of the Courtier* such as chivalry, courtesy, and civility. Male honour outside the court intersected with the language of pride and indignation during a Chancery case. Richard Bowdler, a merchant's factor, brought a suit in 1620 against George Morgan, a merchant he supplied, complaining that Morgan had fiddled the books. Morgan was literally 'called to account', the court having the authority to subpoena an individual to produce documents and records for scrutiny by a group of appointed commissioners. He was ordered to pay £579 6s. and was outraged at the breach of trust shown by Bowdler and by the impact of the Chancery decision on his reputation as a man whose honour was under-written by his financial honesty. He counter-sued, Chancery overturned the decree and Bowdler was ordered to pay £7,486 1s. 10d. But matters did not stop there – to clear his name and restore his honour, Bowdler then petitioned Parliament to have the proceedings in Chancery made void.[35] One of the men felt concerned enough about their male reputation to have the whole proceedings published in a broadside for a public airing.

Men's litigiousness is well known, though women's litigiousness has also become more clearly understood through the work of Laura Gowing and Tim Stretton among others.[36] Approximately 10 per cent of all cases in Chancery were brought by single female plaintiffs (mostly *feme sole*, though some *feme covert* as well). A much higher percentage still of cases featured women as *uxor*.[37] The 'culture of litigation',

suggests Stretton, witnessed a proportionally greater rise in female litigation than male in the Court of Requests. It rose from about 25 per cent during the reign of Elizabeth to about 40 per cent by the end of the reign of James VI and I, some of the increase being accounted for by spillage from Chancery after a decision made by Chancellor Hatton in 1589 to move smaller Chancery cases.[38] The impact of female gender construction in Chancery was complicated because two sets of dualisms came into play in the instance of every woman litigant to intersect with their position – plaintiff or defendant – in relation to the legal case. First was the dualism of the quiet and ordered Christian woman who co-existed with the woman of medical texts who was controlled at times by her passions such as uterine fury and absence of reason. Male plaintiffs, often acting in collusion with their wives, could use the very effective tactic of suggesting a female defendant's loss of reason to undermine her evidence. Agnes Warry's son-in-law and daughter made repeated reference to the way in which she 'withstood the orators', 'fayning … excuses' about how she 'could not but to her greate losse remove the goods she had' in the house they wanted from her.[39] Perhaps unsurprisingly, when she came to write her will Agnes decided not to include her daughter and son-in-law.[40] The universe of kin expanded and contracted contingently during the emotional moment of making a will, as Maddern has shown, and wills often revealed nothing about *inter vivos* property transfer, whether this had been through amicable indenture or the legal force of an unwelcome Chancery order.[41]

The second dualism, of course, was the legal one of *feme sole*/*feme covert*. The never-married *feme sole* could be seen as being as susceptible as the *feme sole* widow to the manipulative behaviours of the more powerful in society, who were, by default, men. In 1638, Katherine Proctor, the niece of a wealthy yeoman farmer, Miles Proctor,

lodged a bill of complaint in Chancery against a 'confederacy' of men who, 'by practice and combinacion [*sic*] among them', had fraudulently taken possession of her uncle's land when she was 'the right heir and next of blood'.[42] The answer of the main protagonist made an appeal to the cultural expectation that Proctor would want to find a male heir. He deposed that Miles Proctor's last words were to call him 'my brother'.[43] Even though the two men were not, in any way, blood related, he tried to invoke kinship through their shared masculinity. Miles Proctor's widow, as executor of her husband's will, was crucial to the defeat of the men, as she could bring together in her witness statements her widow's despair with the important legal responsibility she held to protect her husband's interests and wishes.[44] The emotional content of the Proctor women's case was heavy indeed – the embattled widow and her defenceless niece – and they won. However, a single woman plaintiff or defendant could also fall prey to the gender expectation of women's weakness in the face of temptation. The covetous, greedy woman was a caricature of satirical pamphlets and ballads that crossed over into representation of female litigants in court evidence. In 1619, the married plaintiffs Edward and Susan Alston accused Elizabeth Elsam of behaving 'contrary to all right equity' by fraudulently plotting to keep all of her late husband's estate to 'the benefitt' of herself.[45] She was accused of being deceitful and dishonourable in hiding conveyances and the probate inventory of her husband's chattels so that they could not establish his worth at death and they put this down to her greed.[46]

Married couples came to Chancery with different expectations arising from conflicting advice. Women under coverture were expected to manage family money and assets wisely in their role as household managers, but men expected to have the final say. Marriage manuals occasionally advised women to place their family's interests

ahead of husbands who were feckless.[47] Case law laid down by the Lord Chancellor's decree of 1467 was unequivocal: 'whatever a married woman does may be said to be done for dread of her husband.'[48] However, research on coverture has revealed that the agency of a woman under coverture was rather greater than this would suggest and Chancery cases do reveal a greater ambiguity in the treatment of married women than one might expect.[49] There were also subtly different gender expectations in relation to the type of property involved. The wealth that was invested in chattels rather than land or capital was feminized in a way that could favour female litigants; but not always, and only if there was not a clash of female interests. In a pleading of 3 May 1593, Lady Elizabeth Weston was accused by her son-in-law, Thomas Bishop, of 'secretly and covertlye' keeping 'jewells, money, goods and chattels … being of greate vallue' which had been the property of her dead husband.[50] Thomas Bishop was interested in the portable investment value of the jewels, but his wife, Jane, the other plaintiff, felt an additional emotional attachment to the material objects themselves: 'one jewell called a flower of dyamonde … one jewell called a cross of dyamonde … one jewell with pictures enamylled … dyvers pettycoats of great vallue.'[51] These, of course, had belonged to her deceased mother. Thomas and Jane Bishop believed that Elizabeth Weston had placed these in 'some secret place', but Elizabeth Weston deposed that her husband, while alive, had given jewellery and clothes away 'to her greate misliking', because she, also, wanted the highly personal items that were missing, including the first wife's clothes.[52]

However, the key to a history of emotions and gender expectations in Chancery does not just lie in searching for descriptive evidence in the court records about the feelings of female and male litigants about property. Chancery was embedded in the

social history of England and it existed in dialectical relation to the people who brought cases and participated in evidence collection. The *habitus* of Chancery lay in its constantly adapting structure and organizing principles, producing collective practices understood by Chancery officials and litigants alike.[53] Chancery, just like other overlapping social structures such as kin, household, and church, was a generator of community, the manifestations and representations of which changed over time. As Susan Broomhall and others have shown in relation to the household, Chancery accommodated 'multiple emotional communities', emotions themselves potentially creating constellations of power and individual agency.[54] The interaction between individuals and the court was complex not least because it existed to serve their needs. Chancery was representative of the monarch and a two-way conduit for what Patrick Collinson once called 'monarchical republicanism'.[55] The monarch's negotiating power for and with the public was the reward litigants received in exchange for their obedience. In Chancery, the power of litigants lay in being ruled and being granted 'the weapons of the weak', which included use of their emotions to appeal to the monarch's conscience.[56] Their initial bill of complaint represented what John Walter would call a legitimate 'public transcript', or protest about their condition.[57] Litigants, witnesses, and Chancery officials were all inescapably linked by emotions not least because, as Robert Plutchik once argued, cognitive feedback loops produce emotions and the increased autonomic activities that lead to cognitive actions (a neuroscientist would say through the production of multiple monoamine neurotransmitters) produce overt behaviours (often gendered) and outcomes or effects.[58] Put more simply, the physiological changes that took place when interaction between court and litigants created emotions led themselves to the cognitive decisions that decided further interaction. Indeed, one

question worth asking is if Dickens, in his portrayal of *Jarndyce v Jarndyce*, captured in fictional form the litigant and court trapped in a cycle of emotional cause and effect.

The imagined central presence of the monarch is an important key to understanding the strategies and responses of litigants in Chancery. Chancery was one of the English central law courts, the origins of which lay in the medieval royal court. After the common law courts separated from the Curia Regis at the end of the thirteenth century, the justice that was still thought to be vested in the office (and, therefore, natural body) of the king led to petitioning the king for redress if justice was not thought to be delivered elsewhere. The petitions were referred on to the Chancellor, who, by the end of the fourteenth century, dealt with all the business of the court with the help of legal clerks.[59] The original *locus* of Chancery was wherever the Lord Chancellor happened to be, including his household where he read petitions and *affidavits* in a case and reached a verdict, though by 1550 his office was associated with the smaller and larger Inns of Court around Chancery Lane.[60] Some legal historians regard Chancery as an embryonic English civil service or 'the original bureaucratic department of state'.[61] However, it was in the construct of conscience that Chancery located and found its *raison d'être*. The Lord Chancellor in Chancery came to represent the monarch's conscience, so that effectively he became the chief interpreter of the king's law of equity. Both king/queen and Chancery jurisdiction were embedded in the *lex terrae*: '[w]hat Chancery does *is* part of the law of the land.'[62] Therefore, in its very constitution Chancery was a court that dealt with people's emotions and the focus of their emotional engagement with the court was the Lord Chancellor himself. He *was* the only judge; his authority *was* law, not least because he could overturn judgements at common law and conscience itself became seen as 'rooted in some higher law'.[63]

Litigants saw the Lord Chancellor's power of governance and authority in the localities, whether urban or rural, as supreme in property and money-matters close to the heart. For this reason petitioners to Chancery appended very personalized statements to their causes. 'And the Orators shall dayly pray for your lord[shi]pp in health', said Humphrey and Mary Abell when trying to reclaim her father's tenancy of a cottage and farm in Foxton.[64]

The origins of most of the business and case law of Chancery lie in cases such as *Messynden v Pierson* (*c*. 1420) when Thomas Messynden discovered that the *feoffees* of his father's land refused him the right to come into the land and he appealed on the grounds that he 'can have no recovery at common law'.[65] Cases were, therefore, not just emotional in content, but emotional in process. The language of no recovery of an entitlement changed not at all and became a mainstay of Chancery business. Through emotional pleas, plaintiffs had to claim 'non-recovery' at common law or the need for discovery of documents that would prove their common law right. Quite a bit of non-recovery business came from copyhold cases (because of the weaker position of the tenant in relation to the lord of the manor) and Chancery came to have effective control of the rolls. Mostly these cases were a plea for recovery of tenure through sighting the copy in the rolls, plaintiffs requesting a search for the entry.[66] Elizabeth Angell, who was the only daughter and heir of John Angell of London, claimed that she could not access possession of her father's lands in 1648 because 'by some sinister and casuall meanes' some of her kin had concealed title deeds which she asked the court to have 'discovered' so that she should enjoy 'recovery of her rights by law'.[67] Female plaintiffs deploying the language of being wronged laid claim to an enhanced embedded emotional content because of their sex. However, it was not simple and social status

also enhanced the emotional impact of a plea. In the case of Alan Best, a yeoman, in 1597, redress was sought from the fraud of Lady Anne Brooke, whom he accused of hiding an inventory linked to a will.[68] Widows had pleading power by virtue of their vulnerability and this could be doubled in relation to a man of better social standing. The widow Margaret Baynes took a goldsmith, Robert Myles, to Chancery when he tried to evict her from an inn previously owned by her husband.[69] Certain phrases developed that bent and shaped emotions to the needs of equity law and became in themselves legal tropes that formed the building blocks to resolution of the case and decree. Bills were drawn up claiming 'the sufferance of the plaintiff', 'wrongful dealings', and a desire 'to be relieved'.[70] In this way, emotions had to be performed and enacted in order to build the legal case. Indeed, the performance of emotions in the court setting, as Philippa Maddern once pointed out, actually *produced* legal decisions.[71] In other words, emotions, procedures, and process were all inextricably linked and channelled through the generic labels that litigants and deponents used to describe others – 'solicitous husband' or 'cruel guardian', for instance – as they recorded their case or supported the case of an ally. There was an intersection between emotional social categorization and social expectations, including those of gender, status, and age. The 'grieving widow' was more than just a legal category describing *feme covert* – it was an emotionally loaded trope designed to invoke the Lord Chancellor's pity in order to influence his decision and win the case.

Chancery was a bill of procedure court. Early Chancery drew up bills in legal French, but by 1550 a standardized form of 'Chancery English' was being used.[72] Standardization was the result of the sheer weight of work and the development of training of lawyers in the Inns of Court.[73] Use of the vernacular rendered attorneys and

legal clerks accessible to litigants who brought to them the myriad small (and large) annoyances and disappointments of daily life, which were then transcribed and collated as pleadings by clerks at the request of one complainant or complainants (the plaintiffs). A set of interrogatories was determined and put to the defendant/s, who then needed to lodge their answers with lawyers. In some cases, the plaintiff/s followed this with a replication to the answer and the defendant/s then had right of rejoinder. Stretton has demonstrated that many of the cases brought to Chancery were shifted from the common law courts, often for strategic reasons. Indeed, he suggests that many cases were vexatious as people used the court essentially as an appellant court to claim no recovery at common law or require discovery of evidence. When pleading sufficiency at common law, plaintiffs needed to claim that the case at common law was fraudulent in some way.[74] Maurice Beresford noted in many cases involving land enclosure that 'the combat of the initial pleadings is soon revealed as a posture'.[75] However, performance and posture is never entirely devoid of emotion and is always something more situated and lived than performativity suggests. The emotional process prompted by following procedure often intensified when each side called their witnesses (or deponents). Witnesses also testified after being sworn in by an oath taken on the Bible before giving their answers to interrogatories put to them by men of standing commissioned by the court. Witness re-telling of events was as much of a performance, including the narrative of emotion needed for persuading the court of the reliability of themselves and their evidence. The commissioners who took the evidence were metaphorically given 'the keyes to the libertie of England', commanding 'full power and authoritie to examine diligentlie all witnesses' and so the legitimate authority they wielded made

them the temporary *locus* of an emotional public transcript as the case unfolded in layers of emotionally crafted evidence.[76]

Chancery cases are best understood not as something that took place in one of the central law courts, but as taking place in a fluid environment that existed between the court (wherever it was sitting) and multiple communities spread out like a web throughout the kingdom. And because 'Chancery subsisted on the deficiencies of the common law and on pleas of defective evidence and partiality' it was always dealing with litigants who were disaffected both with their neighbours and the legal system.[77] It heard petitions from plaintiffs whose power relationship to the defendant was sometimes so unequal that they might not get a fair deal and could be subject to force or duress. It heard cases in which the plaintiff was desperately seeking relief from a bond, such as *Barrantyne v Jeckett* of 1553/4.[78] The very nature of equitable justice meant that from the outset, Chancery was a court that heard from and about people who were already disaffected or feeling vulnerable with one another *and* with the law. Equitable justice could only be arrived at by using 'conscience as a criterion of judgement', but, of course, this remained a rather uncertain principle even as the legal language of conscience seeped into public consciousness.[79] Dennis Klinck has observed that the Coke–Ellesmere jurisdictional conflict in the early seventeenth century did lead to reflection on conscience, its meaning and impact and, according to Klinck, Puritan writers, notably William Perkins, defined equity as the interplay between the role of the magistrate and the moderation of social interactions that altered – for the better – the conduct of private individuals.[80] Certainly Mark Fortier has spoken of a 'culture of equity' that mixed ideas of Christian equity with the language emerging from Chancery

and the concept was used as a tool of moral persuasion in literary works of drama, poetry, and history to form part of the English cultural heritage.[81]

Litigants understood the role of conscience in their lives. However, this does not preclude them disagreeing with equity decisions in their individual cases. In Chancery some suits, by definition of 'discovery and recovery', were short, only getting to the bill stage and the legal drama could be unfolding elsewhere. Anna and Toby Chapman, for example, in 1617, asked for the discovery and recovery of her father's will and the probate inventory which were not 'at large' because of 'secret plots' involving both of her brothers; she only wanted her marriage portion of £100 out of her father's £4,000, but in the standard emotional appeal she claimed that her brothers were trying to defraud her of her 'sole and only maintenance and meanes'.[82] The common span of cases was about two to three years with up to five years not unusual.[83] Cases that involved multiple suits and went on for many years did exist and they were the ones most responsible for escalating conflict at home and against the court. Perhaps the best example is that of John Barterham. Described by contemporaries as 'a headstrong litigious Man', Barterham pursued multiple cases over more than three decades.[84] He became 'utterlie consumed in tedious and expensive suites of Law' and when he was finally awarded damages that fell vastly short of his expectations and expenses he turned his anger on John Tindall, a Master of Chancery.[85] On 12 November 1616, Barterham followed Tindall while 'full of rage, furie, and headlong indignation' and after a little 'uncivill language' outside Lincoln's Inn he shot him dead.[86] The reporter on the case spoke of Barterham's 'melanchollie thoughts', which he associated with the loss of control and anger.[87] This was an idea that had common cultural purchase. Robert Burton's *Anatomy of Melancholy* of 1621 spoke of 'Lust harrow[ing] us on the one side,

envy, anger, ambition on the other', both sexes being 'torn in pieces by our passions, as so many wild horses' that become mad.[88] Barterham hanged himself in the King's Bench prison, a location loaded with the symbolism of fallen and dishonoured manhood.[89]

It was in the very long cases, then, that emotions *between litigants* could turn into deeply negative emotions *against Chancery*. Chancery was, by its very nature, integrally involved in difficult local and familial disputes and if they were not quickly resolved the court became both solution to and cause of further social conflict. The Victorians did not invent the critique of Chancery. After all, as early as the 1590s Shakespeare wrote the famous line 'let's kill all the lawyers'.[90] Much later, in 1828, a writer for the *Monthly Magazine* said that 'the grand evil of the Court – its original sin – is the narrowness of its capacities relatively to the matters requiring its attention' and he reached the unforgiving conclusion that 'it is obvious that gentle medicines and soothing palliatives will be about as efficacious as *breathing* over a limb up to which mortification was crawling'.[91] The Bob Cratchets were just *so* visible by then. They were to be seen either sitting at their wooden desks surrounded by alphabetically arranged pigeonholes or drinking coffee at Millington's.[92] But their visibility was not new either. The Six Clerks were established in an office in Chancery Lane from 1622 where, according to one later, rather biased, commentator, they 'performed their increasingly useless functions'.[93] However, the terminology of Old Corruption was used by Chancery lawyers, themselves, when they were annoyed at having to put all business through the sworn clerks, who occasionally fell prey to a cull of their numbers.[94] In other words, the social discourse of hating Chancery emanated as much from within the legal profession as without, as Chancery periodically underwent reform ahead of the

Judicature Act of 1873. For example, during the 1650s, when delays in Chancery became lengthy, the situation was seized upon by Exchequer lawyers who tried to attract Chancery litigants with the promise of shorter cases and after Chancery survived the Commonwealth period – becoming stronger because of reduced competition – cheaper under-clerks of Chancery quickly exploited the rising fees of the Six Clerks Office by offering to do the same job for half the price 'more expeditiously'.[95] Both served to feed a popular hatred of Chancery.

One further factor accounts for the negative emotions aimed at Chancery. Equity law made it requisite that plaintiffs 'show not only a cause of action in conscience but also the absence of a remedy at law'.[96] Only a dogmatic escalation of emotions, in petitionary statements that transformed parties in a case into supplicants to the king's conscience, could succeed at showing absence of remedy at law. The emotive relationship invoked by equity law between monarch and subjects by legal process was summed up by one pamphleteer when he commented that 'The Law is a dumbe King; the King a speaking Law'.[97] Early modern litigants were highly indignant *per se*. Legal fees were a constant butt of jokes. Everything (absolutely *everything*) cost money – every term-hiring of an attorney, every injunction, every writ for execution of a decree, every decree (at £16 8s. in the 1650s, paid by plaintiff/s as well as defendant/s), every extra sheet of vellum if more than one piece was used, every enrolment of a deed, and so on and on.[98] The devious clerks Prag and Prog in *A New Case Put to an Old Lawyer* of 1656 were 'dangerous for mens purses' and Hold-Case, the lawyer, had an alias of Long-Suit to indicate his propensity for spinning out proceedings.[99] Prag had 'a sublime and zealous spirit for advance of the Law', though his main quality consisted of being able to procure for the Masters of Chancery 'Decoys, Cheats, and meer Petty-fogging

Foists, and Hackney-Jades'.[100] But such representations were inevitably Janus-faced because the principle of 'no remedy at law' created a mutual dependency between litigants and the monolith of equity that Chancery had become. Those who attempted to save the court from abolition claimed 'the sweetnesse of *Equity*, which is nothing else but *Mercy* qualifying the sharpnese of *Justice*'.[101] The anonymous writer of *Considerations Touching the Dissolving or Taking Away the Court of Chancery* reminded potential litigants of the substantial benefits to them of invoking equity: '[t]he *Wolf* may eat the *Lamb*, when there shall be none to stretch out their hand to deliver the oppressed.'[102] Written in 1653, after the regicide, it would seem that when the chips were down for lawyers, the king's conscience did not need a king. The writer also issued a dire warning to the Commonwealth – if Chancery collapsed, 'the heap of new causes' would 'swell up the *discontents* of the people'.[103] Commercialization of printing and the expansion of print culture after the 1650s ensured that Chancery cases, such as *The Case of Sir Robert Atkyns … against a Decree Obtain'd by Mrs. Elizabeth Took* of 1695, appealed to an expanding market for scandal that was also fed by trial accounts of adultery and divorce cases (especially after the Norfolk case of 1700) and ordinaries' accounts of criminal trials such as that of Stephen Arrowsmith for rape of a child.[104] The law of conscience transformed easily into morality tale, though the reporter on the Tindall murder went one step further to undermine the prerogative of the king in Chancery: 'Rulers and Maiestrates, are Gods upon earth, yet they are Mortall Gods.'[105]

Studying Chancery without studying in detail the litigants is like studying only one half of an equation. The freedom of contract thought to belong to the Lockeian private individual, or individual conceptualized as free to contract with others, was not so new to the late seventeenth century. At least from the late sixteenth century, there

had been a need for systematic and growing intervention in private affairs by public institutions. Chancery was one of those institutions because, as Michael McKeon's work has so acutely revealed, there was never anything secret really about people's domestic and working lives.[106] The category of knowledge that was classified as private law was shaped by the changing needs of individuals over time and the informal and extra-institutional identity of the legally informed individual formed a public that could (and did) use its knowledge of law to invoke the conscience of the queen/king to their own advantage. Emotions articulated in court about private life created a bond that connected litigant and lawyer in a dialectical process that affected not only the individual but also collective outcomes, including legal change.[107]

Emotions in Chancery ran high between litigants and were aimed also at the court and its personnel. Indeed, Chancery was doomed to frustrate and anger its clients. It collected evidence of their distress with one another and required that they articulate emotions to make the very sort of case that would be put to the law of equity and conscience. The emotional outbursts of litigants easily deflected at the court itself. Thomas Audley's 1526 analysis of the impact of equity touching the individual's possessive instinct is instructive. Use of property depended 'solely on confidence and trust between those who are in actual possession' and when possession was in direct contradistinction to *enfeoffment* at common law, then equity law made everyone uncertain of their title 'for now land passes by words and bare proofs in the Chancery' according to 'the whim (*arbitrement*) of the judge in conscience'.[108] Legal intervention – once invoked – was identified with the Lord Chancellor whose authority was representative of the monarch and state governance and who could, therefore, become the focus of popular discontent. Furthermore, the 1536 *Statute of Uses* placed

confidence and trust at the heart of how Chancery dispensed justice, when the concept of use, which Henry Sherfield in 1623 called 'bastardly', meant that estates had started passing through use and not common law to the point where 'the use is somewhat clogged, that it cannot dance up and down at all times so lightly as it could before it was clogged with the estate'.[109] Dickens could not have said it better. The somewhat indeterminate law of use and possession meant that litigants had to take it very much on trust that Edward Coke was right when he said that Chancery 'will not order a matter … which is directly against a rule and maxim of the common law'.[110] 'Where Certainty wanteth, the common Law faileth', according to one legal report of 1665, but 'help is to be found in Chancery'.[111] These principles heightened the collective belief of lawyers in the effective role of conscience as a calibrator of common law, when what was actually on offer was constant accumulation of case law that was supposed to determine byzantine distribution of real estate and capital assets. Chancery became an edifice that just could not live up to its own ideals and, as has been shown, between 1550 and 1650 it was already producing cases that provided the model for *Jarndyce v Jarndyce*. However, the strongest evidence of the largely negative emotional response to Chancery can be found in the wake of the regicide, when the execution of the king led to an almost complete collapse in popular belief in the court's ability to deliver justice through a law based on the king's conscience. The survival of Chancery *after* the regicide may well have been to fulfil continued social need for arbitration in property and debt disputes. Litigants and the court remained locked in a destructive mutual dependency that simply ensured the ire of future generations of litigants. Indeed, Chancery litigants and lawyers continued to be irritable with one another and they

simply learnt afresh how to criticize Chancery and to find ways of emoting both in pleadings and in print.

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[1] Dylan Evans, *Emotion: A Very Short Introduction* (Oxford: Oxford University Press, 2001), p. 5; Robert Plutchik, 'The Nature of Emotions', *American Scientist*, 89 (2001), 344–50.

[2] Cheryl Nixon, 'Legal and Familial Recordkeeping: Chancery Court Records and Charlotte Smith's *The Old Manor House*', *Literature Compass*, 2 (2005), 1–24, citing D. M. Kerly, *An Historical Sketch of the Equitable Jurisdiction of the Court of Chancery* (Cambridge: Cambridge University Press, 1890), pp. 185–7.

[3] John Galsworthy, *The Forsyte Saga* (New York: Charles Scribner & Sons, 1929), p. 343.

[4] Kew, The National Archives (hereafter TNA), C2, C3, C5, C6, C22 (1558–1649). Chancery records number half a million sets of documents and are relatively under used. They have been fairly extensively considered by historians interested in the law itself and Chancery as a legal institution. See, for example, Timothy S. Haskett, 'The Medieval English Court of Chancery', *Law and History Review*, 14, no. 2 (1996), 245–313; W. J. Jones, *The Elizabethan Court of Chancery* (Oxford: Clarendon Press, 1967); Henry Horwitz, *Chancery Equity Records and Proceedings 1600–1800* (London: H.M.S.O., 1995); Dennis R. Klinck, *Conscience, Equity and the Court of Chancery in Early Modern England* (Farnham: Ashgate, 2010); Michael Lobban, 'Preparing for Fusion: Reforming the Nineteenth Century Chancery', *Law and History Review*, Part I: 22 (2004), 389–427; and Part II: 22 (2004), 565–99.

[5] Janet Sondheimer, 'Abram, Annie (1869–1930)', *Oxford Dictionary of National Biography*, online edition (Oxford University Press, 2004) <http://www.oxforddnb.com/view/article/61580> [accessed 21 August 2014]; see also Mary Clayton, 'The Wealth of Riches to be found in the Court of Chancery: The Equity Pleadings Database', *Archives*, 28 (2003), 1–31.

[6] M. W. Beresford, 'The Decree Rolls of Chancery as a Source for Economic History, 1547–*c*. 1700', *Economic History Review*, 32 (1979), 1–10.

[7] See, for example, Craig Muldrew, *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England* (Basingstoke: Palgrave, 1998); Sara Butler, 'The Law as a Weapon in Marital Disputes: Evidence from the Late Medieval Court of Chancery, 1424–1529', *Journal of British Studies*, 43 (2004), 291–316; Tim Stretton, 'Written Obligations, Litigation and Neighbourliness, 1580–1680', in *Remaking English Society: Social Relations and Social Change in Early Modern England*, eds Steve Hindle, Alexandra Shepard, and John Walter (Woodbridge: Boydell, 2013), pp. 189–210. I have recently argued that there was not so much separation between the meanings of male honour and female honour in property and business cases as might be expected, but that the pervasive cultural construction of femininity based on sexual honour was confined to and defined by the legal jurisdictions that placed it on trial ('Femininity and Honour in Early Modern English Chancery Court Cases', unpublished conference paper, Berkshire Conference on the History of Women, Toronto, 22 May 2014).

[8] Lloyd Bonfield, 'Seeking Connections between Kinship and the Law in Early Modern England', *Continuity and Change*, 25 (2010), 49–82.

[9] Bonfield, 'Seeking Connections', p. 54.

[10] John Baker, *The Oxford History of the Laws of England: Volume VI, 1483–1558* (Oxford: Oxford University Press, 2003), p. 171.

[11] William J. Jones, 'Conflict or Collaboration? Chancery Attitudes in the Reign of Elizabeth I', *American Journal of Legal History*, 5, no. 1 (1961), 12–54 (p. 20).

[12] TNA, C3/393/3, Pleadings, Humphrey Abell and wife Mary Abell *v* Agnes Warry, 1628.

[13] N. G. Jones, 'The Bill of Middlesex and the Chancery, 1556–1608', *Journal of Legal History*, 22, no. 3 (2001), 1–20; J. F. Baldwin, 'The King's Council and Chancery II', *American Historical Review*, 15 (1910), 744–61 (p. 750).

[14] Joseph Biancalana, 'Testamentary Cases in Fifteenth-Century Chancery', *Legal History Review*, 76 (2008), 283–306 (esp. pp. 304, 306).

[15] Philippa Maddern, 'Friends of the Dead: Executors, Wills and Family Strategy in Fifteenth-Century Norfolk', in *Rulers and Ruled in Late Medieval England: Essays Presented to Gerald Harriss*, eds Rowena E. Archer and Simon Walker (London: Hambledon, 1995), pp. 155–74 (esp. pp. 155, 158); cf. David Cressy, 'Kinship and Kin Interaction in Early Modern England', *Past & Present*, 113 (1986), 38–69. Enjoyable discussions with Philippa Maddern – Pip – deeply influenced my reading of wills and, indeed, of all seemingly dry legal records.

[16] TNA, C5/387/4, Pleadings, Elizabeth Angell *v* John Tounson and Anne Tounson, 1648; and TNA, C22/1009/43, Depositions, Elizabeth Angell *v* John Tounson and Anne Tounson and Richard Cockerill, John Gooseman, Elizabeth Tadman, 20 October 1652.

[17] TNA, C22/1009/43, Depositions, Elizabeth Angell *v* John Tounson and Anne Tounson and Richard Cockerill, Thomas Veritie, John Gooseman, Francis White, 20 October 1652.

[18] Linda Pollock, 'Anger and the Negotiation of Relationships in Early Modern England', *Historical Journal*, 47 (2004), 567–90 (esp. pp. 570–4).

[19] Bernard Capp, *When Gossips Meet: Women, Family and Neighbourhood in Early Modern England* (Oxford: Oxford University Press, 2003), pp. 204–5.

[20] See Keith Thomas, *The Ends of Life: Roads to Fulfilment in Early Modern England* (Oxford: Oxford University Press, 2009), ch. 6; Capp, *When Gossips Meet*, chs 5, 6; Craig Muldrew, 'The Culture of Reconciliation: Community and the Settlement of Economic Disputes in Early Modern England', *Historical Journal*, 39 (1996), 915–42; Steve Hindle, 'A Sense of Place? Becoming and Belonging in the Rural Parish, 1550–1650', in *Communities in Early Modern England: Networks, Place, Rhetoric*, eds Alexandra Shepard and Phil Withington (Manchester: Manchester University Press, 2000), pp. 96–114; Linda Pollock, 'Honor, Gender, and Reconciliation in Elite Culture, 1570–1700', *Journal of British Studies*, 46 (2007), 3–29; Linda Pollock, 'The Practice of Kindness in Early Modern Elite Society', *Past & Present*, 211 (2011), 121–58; see also Pollock, 'Anger and the Negotiation of Relationships'.

[21] Muldrew, 'Culture of Reconciliation', pp. 918–19.

[22] Pollock, 'Practice of Kindness', p. 135.

[23] TNA, C2/A2/58, Pleadings, Anne Amundersham *v* Charles Monck, 1596–1603.

[24] Muldrew, 'Culture of Reconciliation', p. 918, incorporating his statistical estimations from C. W. Brooks, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge: Cambridge University Press, 1986), pp. 49–51, 56–7; p. 305 n. 21.

[25] Tim Stretton (ed.), *Marital Litigation in the Court of Requests 1542–1642* (Cambridge: Cambridge University Press, 2008), p. 9.

[26] Stretton, 'Written Obligations', pp. 192–3.

[27] Alexandra Shepard, 'Litigation and Locality: The Cambridge University Courts, 1560–1640', *Urban History*, 31 (2004), 5–28.

[28] Craig Muldrew, 'Rural Credit, Market Areas and Legal Institutions in the Countryside in England, 1550–1700', in *Communities and Courts in Britain 1150–1900*, eds Christopher Brooks and Michael Lobban (London: Hambledon, 1997), pp. 155–78 (p. 177).

[29] Muldrew, 'Culture of Reconciliation', p. 925; see also Muldrew, *Economy of Obligation*.

[30] Stretton, 'Written Obligations', p. 209.

[31] Hans Medick and David Warren Sabean, 'Interest and Emotion in Family and Kinship Studies: A Critique of Social History and Anthropology', in *Interest and Emotion: Essays on the Study of Family and Kinship*, eds Hans Medick and David Warren Sabean (Cambridge: Cambridge University Press, 1984), pp. 9–23 (p. 13).

[32] TNA, C2/A2/58, Pleadings, Anne Amundersham *v* Charles Monck, 1596–1603.

[33] TNA, C3/266/3, Pleadings, Anne Drewe *v* Hugh Matthewe and Alice Matthewe, 13 April 1608; TNA, C2/D3/16, Pleadings, Anne Drewe *v* William Fisher and William Lacy, 18 June 1608.

[34] TNA, C3/266/3, Pleadings, Anne Drewe *v* Hugh Matthewe and Alice Matthewe, 13 April 1608; TNA, C2/D3/16, Pleadings, Anne Drewe *v* William Fisher and William Lacy, 18 June 1608.

[35] Anon., *Richard Bowdler, Plaintiff. George Morgan, Defendant* (London, 1621), single-sheet broadside.

[36] Laura Gowing, *Domestic Dangers: Women, Words and Sex in Early Modern London* (Oxford: Clarendon Press, 1998); Tim Stretton, *Women Waging Law in Elizabethan England* (Cambridge: Cambridge University Press, 1998).

[37] This is a provisional calculation based on a late seventeenth-century sample used in preparation for Arts and Humanities Research Council Collaborative Doctoral Project No. AH/M004384/1, 'Women in Chancery: An Analysis of Chancery as a Women's Court of Redress in 17th Century England', Amanda Bevan (Principal Legal Records Specialist, TNA) and Amanda Capern.

[38] Stretton, *Women Waging Law*, p. 43, figures from p. 39, citing Amy Erickson, 'Common Law versus Common Practice: The Use of Marriage Settlements in Early Modern England', *Economic History Review*, 43 (1990), 21–39 (p. 28); and Wilfred Prest, 'Law and Women's Rights', *Seventeenth Century*, 6 (1991), 169–87 (p. 182). For women in economic cases in the Court of Common Pleas see Lloyd Bonfield, 'Finding Women in Early Modern English Courts: Evidence from Peter King's Manuscript Reports', *Women's Legal History: A Global Perspective*, Special Issue of *Chicago-Kent Law Review*, 87 (2012), 371–91.

[39] TNA, C3/393/3, Pleadings, Humphrey Abell and Mary Abell *v* Agnes Warry, January 1628.

[40] TNA, PROB/11/189/13, Will of Agnes Warry, 6 May 1642.

[41] Maddern, 'Friends of the Dead', pp. 155, 158.

[42] TNA, C6/107/110, Pleadings, Proctor *v* Twistleton, Spalton, Nailer, Dickenson, and Howson, 1641.

[43] TNA, C6/107/110, Pleadings, Proctor *v* Twistleton, Spalton, Nailer, Dickenson, and Howson, 1641.

[44] Cf. Philippa Maddern, 'Widows and their Lands: Women, Lands and Texts in Fifteenth Century Norfolk', *Parergon*, 19, no. 1 (2002), 123–50 (p. 125).

[45] TNA, C6/1/19, Pleadings, Alston and Alston *v* Elsam, 1619.

[46] TNA, C6/1/19, Pleadings, Alston and Alston *v* Elsam, 1619.

[47] Capp, *When Gossips Meet*, p. 29.

[48] Anon. (1467), calendared in J. H. Baker and S. F. H. Milsom (eds), *Sources of English Legal History: Private Law to 1750* (London: Butterworths, 1986), pp. 98–9.

[49] See Tim Stretton and Krista J. Kesselring (eds), *Married Women and the Law: Coverture in England and the Common Law World* (Montreal & Kingston: McGill-Queens University, 2013).

[50] TNA, C2/B4/51, Pleadings, Thomas Bisshoppe and Jane Bisshoppe *v* Lady Elizabeth Weston, 3 May 1593.

[51] TNA, C2/B4/51, Pleadings, Thomas Bisshoppe and Jane Bisshoppe *v* Lady Elizabeth Weston, 3 May 1593.

[52] TNA, C2/B4/51, Pleadings, Thomas Bisshoppe and Jane Bisshoppe *v* Lady Elizabeth Weston, 3 May 1593 and 10 May 1593.

[53] Pierre Bourdieu, *The Logic of Practice* (Stanford: Stanford University Press, 1990), pp. 53–4.

[54] Susan Broomhall, 'Emotions in the Household', in *Emotions in the Household, 1200–1900*, ed. Susan Broomhall (Basingstoke: Palgrave Macmillan, 2008), pp. 1–37 (pp. 14–15).

[55] Patrick Collinson, 'The Monarchical Republic of Queen Elizabeth I', in *Elizabethan Essays*, ed. Patrick Collinson (London: Hambledon, 1994), pp. 31–57.

[56] James Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven: Yale University Press, 1987).

[57] John Walter, *Crowds and Popular Politics in Early Modern England* (Manchester: Manchester University Press, 2006); and John Walter, 'Public Transcripts, Popular Agency and the Politics of Subsistence in Early Modern England', in *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland*, eds Michael J. Braddick and John Walter (Cambridge: Cambridge University Press, 2001), pp. 123–48 (esp. pp. 123–4).

[58] Plutchik, 'The Nature of Emotions', p. 347. For the current interplay of psychoanalytical theories between Plutchik's 'wheel of emotions' and monoamine neurotransmitters, see Lövheim's 'cube of emotion': Hugo Lövheim, 'A New Three-Dimensional Model for Emotions and Monoamine Neurotransmitters', *Medical Hypotheses*, 78, no. 2 (2012), 341–8.

[59] Philip H. Pettit, *Equity and the Law of Trusts*, 6th edn (London: Butterworths, 1989), pp. 1–2.

[60] Robert Megarry, *Inns Ancient and Modern: A Topographical and Historical Introduction to the Inns of Court, Inns of Chancery, and Serjeants' Inns* (London: Selden Society, 1972), p. 33.

[61] Baker, *The Oxford History of the Laws of England*, p. 171.

[62] Klinck, *Conscience, Equity and the Court of Chancery*, p. 158, citing Thomas Egerton, Lord Ellesmere, *The Priviledges and Prerogatives of the High Court of Chancery* (London, 1641), sig. A3^{r}.

[63] Klinck, *Conscience, Equity and the Court of Chancery*, p. 159.

[64] TNA, C3/393/3, Pleadings, Humphrey Abell and Mary Abell *v* Agnes Warry, 1628.

[65] *Messynden v Pierson* (*c.* 1420), calendared in Baker and Milsom (eds), *Sources of English Legal History*, pp. 94–5.

[66] Alexander Savine, 'Copyhold Cases in the Early Chancery Proceedings', *English Historical Review*, 17 (1902), 296–303 (esp. pp. 300, 302–3).

[67] TNA, C5/387/4, Pleadings, Elizabeth Angell *v* John Tounson and Anne Tounson and others, 1648.

[68] TNA, C2/B31/58, Pleadings, Alan Best *v* Lady Anne Brooke, 1597.

[69] TNA, C2/B13/5, Pleadings, Margaret Baynes *v* Robert Myles, 1587.

[70] Anon., Y. B. Pas. 4 Edward IV, fol. 8 (1464); Case of Lord Dacre (1535); Anon., CUL, MS Gg. 2. 31 fol. 33 (1602) decision of Thomas Egerton, Lord Ellesmere; all calendared in Baker and Milsom (eds), *Sources of English Legal History*, pp. 96; 106; 453.

[71] ARC Centre of Excellence for the History of Emotions Annual Report (2013).

[72] John H. Fisher, 'Chancery and the Emergence of Standard Written English in the Fifteenth Century', *Speculum*, 52 (1977), 870–99. Chancery hand made its way into *A Newe Booke of Copies* (1574; 1585; 1620).

[73] C. M. Rider, 'The Inns of Court and Inns of Chancery and their Records', *Archives*, 24 (1999), 27–36.

[74] Stretton, 'Written Obligations'.

[75] Beresford, 'The Decree Rolls of Chancery', p. 2.

[76] TNA, C22/1009/43, Warrant of the Commissioners to collect Depositions, Elizabeth Angell *v* John Tounson and wife Anne Tounson, 23 September 1652.

[77] Jones, 'Conflict or Collaboration?', p. 52.

[78] Edith G. Henderson, 'Relief from Bonds in the English Chancery: Mid-Sixteenth Century', *American Journal of Legal History*, 18 (1974), 298–306 (p. 298).

[79] Dennis R. Klinck, 'Lord Nottingham and the Conscience of Equity', *Journal of the History of Ideas*, 67 (2006), 123–47 (p. 123).

[80] Dennis R. Klinck, *Conscience, Equity and the Court of Chancery*, chs 5–6.

[81] Mark Fortier, *The Culture of Equity in Early Modern England* (Aldershot: Ashgate, 2005), pp. 22–3.

[82] TNA, C2/C21/55, Pleadings, Anna Chapman *v* Tobie Chapman, 9 May 1617.

[83] William T. Jones, 'Due Process and Slow Process in the Elizabethan Chancery', *American Journal of Legal History*, 6 (1962), 123–50 (p. 130).

[84] *The Harleian Miscellany: Or, a Collection of Scarce, Curious and Entertaining Pamphlets and Tracts … Found in the Late Earl of Oxford's Library*, 8 vols (London: T. Osborne, 1744–6), VIII, 21.

[85] *A True Relation of a Most Desperate Murder, committed upon the Body of Sir John Tindall Knight, one of the Maisters of Chancery* (London, 1617), sig. Av.

[86] *A True Relation of a Most Desperate Murder*, sigs B^{r}–$B1^{v}$.

[87] *A True Relation of a Most Desperate Murder*, sig. B^{r}.

[88] Robert Burton, *The Anatomy of Melancholy* (1621; London: J. M. Dent & Sons, 1978), p. 69.

[89] *A True Relation of a Most Desperate Murder*, sig. $B2^{v}$; *The Harleian Miscellany*, VIII, 21.

[90] See *Henry VI, Part II*, Act IV, scene ii.

[91] Anon., 'Court of Chancery: No. III', *Monthly Magazine, Or, British Register* (London: R. Phillips, October 1828), pp. 372, 385.

[92] J. C. Fox, 'The Chief Clerks in Chancery and their Predecessors', *Law Quarterly Review* 29 (1913), 418–24; Hugh H. L. Bellot, 'The Inns of Chancery their Origin and Constitution', *Law Magazine and Review Quarterly*, 5th Series, 37 (1912), 189–202.

[93] Robert Megarry, *Inns Ancient and Modern: A Topographical and Historical Introduction to the Inns of Court, Inns of Chancery, and Serjeants' Inns* (London: Selden Society, 1972), p. 36.

[94] Lobban, 'Preparing for Fusion', esp I, pp. 396–7, II, p. 617.

[95] Anon., 'Court of Chancery: No. III', p. 372, citing [Joseph Parkes], *Parkes History of the Court of Chancery* (London: Longman, 1828), p. 255. See also, Anon., *Reasons for the Bill for Regulating the Six Clerks Office in Chancery, with an Answer to the Six Clerks Case* (*c*. 1668–1700); Henry Horwitz, 'Chancery's "Younger Sister": The Court of Exchequer and its Equity Jurisdiction, 1649–1841', *Historical Research*, 72 (1999), 160–82 (pp. 162–3). For the attempted reforms of Chancery in the 1690s see Mike Macnair, 'Common Law and Statutory Imitations of Equitable Relief under the Later Stuarts', in *Communities and Courts*, eds Brooks and Lobban, pp. 115–32 (pp. 116–17).

[96] Baker, *The Oxford History of the Laws of England*, p. 174.

[97] *A True Relation of a Most Desperate Murder*, sig. B3^{r}.

[98] Anon., *Proposalls [sic] Concerning the Chancery* (London, 1650), Table of Fees appended after p. 27; *Orders in Chancery* (London, 1665), pp. 37–46.

[99] Anon., *A New Case Put to an Old Lawyer* (London, 1656), p. 5.

[100] Anon., *A New Case Put to an Old Lawyer*, pp. 8–9.

[101] Anon., *Proposalls* [*sic*] *Concerning the Chancery*, sig. A^{r}.

[102] Anon., *Considerations Touching the Dissolving or Taking Away the Court of Chancery* (London, 1653), p. 9.

[103] Anon., *Considerations Touching*, p. 8.

[104] Cf. Amanda L. Capern, 'Adultery and Impotence as Literary Spectacle in the Divorce Debates and Tracts of the Long Eighteenth Century', in *Spectacle, Sex and Property in Eighteenth-Century Literature and Culture*, eds Julie A. Chappell and Kamille Stone Stanton (New York: AMS, 2014/15); *Old Bailey Proceedings Online* <www.oldbaileyonline.org, version 7.1> [accessed 25 August 2014] ,trial of Stephen Arrowsmith, 11 December 1678 (t16781211e-2); and Anon., *The Confession and Execution of the Two Prisoners that suffered at Tyburn on Munday the 16th of Decemb., 1678 … Steven Arrowsmith, for a Rape committed on a Girl between eight and nine years of age* (London, 1678).

[105] *A True Relation of a Most Desperate Murder*, sigs $C2^{v}$–$C3^{r}$.

[106] Michael McKeon, *The Secret History of Domesticity: Public, Private and the Division of Knowledge* (Baltimore, MD: Johns Hopkins University Press, 2005).

[107] Cf. Brian Cowan and Leigh Yetter, 'Public and Privacy in Early Modern Europe: Reflections on Michael McKeon's *The Secret History of Domesticity*', *History Compass*, 10 (2012), 599–607 (pp. 600–1).

[108] Thomas Audley's Reading on Uses (1526), calendared in Baker and Milsom (eds), *Sources of English Legal History*, p. 104.

[109] Henry Sherfield's Reading on Wills (1623), calendared in Baker and Milsom (eds), *Sources of English Legal History*, p. 124.

[110] *Stone v Withipole* (1589), Edward Coke for the defendant, calendared in Baker and Milsom (eds), *Sources of English Legal History*, p. 500.

[111] Anon., *Reports or Causes in Chancery* (London, 1665), p. 25.