Speech to Justice Finch (1634)

Lord Keeper Thomas Coventry

Transcript

Norfolk Record Office, RYE 20, Item 4, ff. 11r–13v

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The Lord Coventry Lord Keeper of the great Seale of England his speech to the Lord cheif Iustice Finch at the tyme of his installation in the Court of Co[m]mon Pleas the 16th of October 1634

M[aste]r Sergeant Finch

The Kinges Ma[ies]tie calling to mynde yo[ur] many services to himselfe and the Queene, and knowing well yo[u]r great learning accompanied with much dexteritie in accomplishing of busines of weight, hath appointed yow to succeed the place vacant in this Court, and here to sitt as cheife Iustice; In this you see manifest argument of the singuler goodnes of the King and Queene so myndefull of their servantes imitating God above, that rewardes not *secundum, sed supra bona opera*, Now, as many heretofore, so yow in yo[u]r due tyme, have cause to acknowledge with David, that yo[u]r cupp doeth overflowe; and this is a great comfort to see yo[u]r indeavors not onely favoured with acceptance, but crowned with reward, So it will instruct yow, (your service having brought yow to promotion) and putt yow in mynde of yo[u]r service, The guiftes of Princes, though they are *sine aliquo reddendo*, yet they are not to be received so by them that have them, but as fruites sowne in fruitfull ground to them that receive them: And of this nature is yo[u]r place, which yo[u]r Master gives yow to serve him in, And yett yow must serve so as you may be

fruitfull

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fruitfull to his people: I remember in *Rotulo Parliamenti ~~2°~~ 20° Edw[ardi] primi* in a great cause betwixt Humfry de Bohun and Gilbert de Clare it was said of that King, who was as great a lawgiver, as a victorious Prince, and therefore stiled the Iustinian of England *Rex omnibus Iustitiae debitor*, The King our Master, as much as any, makes the same acknowledgement in practise, (never any king, I may say never any man of a Iuster or more vpright hart) that equall Iustice should be minstred to his subiectes: For hee knowes well, that *Rex et subditus* are correlatives even as man and wife, and the Emblemme of the king not wanting betwixt them, As the subiect owes obedience, so the king protection and Iustice. This debt is *debitum Iustitiae*, too great and heavy a burden to be borne by a king compounded onely of mortall flesh, were it not that his Counsell were as religious and Iust, as hee wise and politique, and thereby the load of kinges busines is lighted by laying a part ^{of} that great and insupportable burden ~~of~~^{on} Iudges: for this *debitum Iustitiae*, which is the debt of a King primarily by secondary meanes becomes the debt of Iudges, and under as great bondes as may be, greater there cannot be to bynde the consciences of men, The first Bond is *debitum Patriae* due to all the Kinges people, whose causes

and pleas

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and pleas are the proper subiectes of this Tribunall, and whose flourishing estate dependes much vpon the iust proceedinges of this Court, were there no other motive, yet this that prevailes among the heathen *amor Patriae* were strong enough to make Iudges desirous of this duty. The second is *debitum Regi*, For hee trustes them with his richest treasure, that which is dearer then the apple of his eye. This Iustice is one prime and principall part of his oath at his Coronation *facies eis in omnibus Iustitiam aequam et rectam*, And what you are to give the king for this you shall need to goe no further then yo[u]r oath, the neglect of which puttes you in the will of the king for body, landes and goodes. The third the greatest of all is *debitum Deo*, as hee is the Fountayne of all Iustice, and a fearefull revenger of all them, that doe the contrary. And three wayes shall mynde yow how this is a debt to God. First *Ratione iuramenti*, by reason of yo[u]r oath, for the imediate relation it hath to God. That it is *Religio Iuris iurandi* and therfore vnder this oath you are bound to God in a full discharge, Secondly *Ratione loci*, for the seate of Iudges, God sittes whereon you sitt, And you assure yo[u]r selfe, that hee that settes you there, will take a strict accompt of yow. Thirdly *Ratione Iudicij* the Iudgement it selfe is Godes, if you be vpright as yow ought: It is said in the 82 psalme, God standes in the congregation of Princes, hee is the Iudge among Godes.

And so

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And so when you sitt here, yow must thinck that God is in yo[u]r face to give Iudgement, as it is right, or otherwise to punish, And therefore, whensoever you shall sett yo[u]r selfe on yo[u]r cushion either here or in any other place, yow have cause to say, as Iacob did when hee slept in Bethell, how wonderfull is this place? this is the house of God. Thus vpon the generall I feare I have spent toomuch tyme, I will make amendes in the p[ar]ticuler, somewhat for order, *Co[mmun]ia Pl[ac]ita* is the pleas of the people, and as they are numberles, so necessarily must their pleas and causes; therefore they are all civill, whether for landes, goodes, reall, p[er]sonall or mixt: they are the proper obiect of this Court. First therefore you must vse diligence in attending and dispatching the multitude of businesses in this Court: Com[m]on Industry may discharge com[m]on imploymentes; but this is a sup[er]lative and transcendent, And therefore yo[u]r diligence must be extraordinary: Secondly yow must vse great patience in matters brought before yow: I must confesse, that a multitude of busines and a good will to dispatch will as soone trye ones patience as any thing yet whatsoever tryall yow are putt to, be not from yo[u]r tryall: nothing better becomes a Iudge then patience. Thirdly yow must vse great caution in discerning those thinges brought before yow: For those, that have ill causes, will omitt no indeavour to beguile yow: Therefore yow must keepe watch and ward and try every thing,

that no

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That no counterfett coyne be putt vpon you. Then in the fowerth place it is necessary to vse all expedic[i]on: *nulli differrimus* is coupled with *nulli negabimus*, *nulli vendemus Iustitiam*: all three are nought, and none can tell, which is worst, In the first place I shall advise and wish yow in all your Iudgementes to insist vpon the auncient wayes of our co[m]mon lawes: New opinions are many tymes in a Counsellor retayned to defend a side: but they stand not with the gravity of a Iudge; To invent or finde out anything is com[m]endable in a Counsellor, but lett a Iudge stand *super antiquas vias*: For *Lex loci et consuetudo Angliae* is all in all. One

p[ar]ticuler more, which I thinck conduceth much to Justice, to give all encouragement to the good and expert Clarkes of this Court: It hath ever byn the great com[m]endac[i]ons and honor of this Court to be furnished with the best Clarkes: These encourage others, reforme and reduce to the same purity of pleading: which (as M[aste]r Littleton saith) is one of the most honorable thinges of the lawe, And if a man observe, what a multitude of Just causes are overthrowne by vicious entries and pleadinges, hee will have cause to beleeve it: And therefore, as yo[u]r power is great to doe this, forgett not to doe it. I know to whome I speake, yo[u]r great vnderstanding and Iudgement, and that dexterity in yow needes not, that I should say halfe this, and yet, considering what order is, and the duty of my place and affection to yo[u]r p[er]son, I could doe no lesse.

I shall

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I shall shutt vpp all in twoe mementoes; the one, the Iustices of this Court are stiled by the name of Iusticiarij without addic[i]on, and the processe likewise *coram Iusticiarijs* without addic[i]on: Addic[i]on for the most part diminishes. That is an honor and somewhat more, in that it hath byn more attributed to this Court, then any other: Thinck on it, and lett it be an occasion vnto yow to thinck what it is, and to followe it, The next memento is to remember the catalogue of yo[u]r predecessors, For I may be bould to say, As many reverend men have byn vpon the cushion in this Court, as ever satt in any, especially the remembrance of the best is all the best instrucc[i]on and lesson to yo[u]r selfe: Out of my true and harty affecc[i]on to yow, I wish that you may often thinck of them, and so thinck of their wayes, that yo[u]r wayes may exceed and outrunn the best of all./

Other manuscript witnesses

- British Library, Lansdowne MS 211, ff. 87r–97x
- Houghton Library, fMS Eng 1266, volume I, ff.225r–229v

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