

# H-Net Reviews

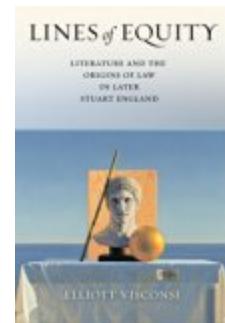
in the Humanities & Social Sciences

Elliott Visconsi. *Lines of Equity: Literature and the Origins of Law in Later Stuart England*. Ithaca: Cornell University Press, 2008. xii + 216 pp. \$39.95 (cloth), ISBN 978-0-8014-4672-6.

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## Imaginative Originalism

Outside of law, “equity” means fairness, parity; within the law, it is an act of interpretation that reads a statute in the context of the principle behind it. These senses both rely on the idea of justice on a higher plane. In seventeenth-century England, occupation of that higher plane was violently contested, with a parade of Stuart kings (James, Charles, Charles II, and James II) staking out a position above the law, and the Commonwealth and regicide placing the law above the king. (Charles I, it should be remembered, was tried before he was executed.) Equity—the spirit behind the letter, the sense of what is right beyond what is legal—formed the centerpiece for political claims across the spectrum particularly during the turbulent late Stuart period, the Restoration years of 1660-88. Contemporary political essays and literature repeatedly touted equity as being beyond politics and also in different senses as an embodiment of time-immemorial. Elliot Visconsi’s focus on equity and myths of origins (origins of law as a principle, not the codification of bodies of laws) is necessarily concerned with politics and kingship, national character, and history.

*Lines of Equity* is not about the narratives or practice of law. Rather, the works of literature Visconsi focuses on fuse metaphysical and metaphorical understandings of equity with a practical and urgent sense of contemporary readers, mores, and politics; he posits a reciprocal relationship between the dynamics of literature and law. For Visconsi, equity is both a literal and a figural concept through which he traces the anxiety that law alone

stood as the nation’s defense against its own people’s irrationality and the unreliable swings of history. “The wild, lawless and debauched national character,” Visconsi writes, was “for many ... intellectuals across the political spectrum at the heart of the seventeenth century’s ongoing crisis of sovereignty” (p. 19). The “lines” of his title are both the poetic and theatrical lines of fiction and the threads of kingship, origins, and civilizing forces which twist through the cultural preoccupations of the time and which join in the larger fabric of equity.

The works that exemplify this crisis of equity loosely cluster around two related pressure points in the history of English monarchy: the early years of the Restoration (works of the mid-1660s) and the turbulent years spanning the end of Charles II’s reign and into the revolution (works from 1684-88). Central to Visconsi’s project is “imaginative originalism” or the fictionalizing of origins of law. That fictionalizing is both popular and ideological, *dulce et utile*, because for Restoration intellectuals, “the remedy for the problem of the English people’s lawless barbarism was the fictional method itself” (p. 21). The poets of the Restoration wrote for a world that, from princes to commoners, subscribed to the belief that it was the responsibility of literature to discipline and reform readers. Whether pedantic or frothy, fiction was still expected to contribute to the moral instruction of readers and audiences, a role to which the authors in Visconsi’s book were profoundly committed.

In separate chapters, Visconsi treats central literary

works by John Dryden, John Milton, and Aphra Behn, as well as the web of literary production that surrounded the trials and executions of Republicans Henry Vane (1662) and Algernon Sidney (1684). Each chapter examines fictional representations of origins (for example, the birth of civilization in the Americas, the founding of Rome, or the Creation of Man). These origin myths are repeatedly imbued with uncertainty about the presence or role of the monarch-figure who is the embodiment and force of civility and truth, or in other words, equity. *Lines of Equity* provides careful readings of contextual documents that parallel the concerns of the literature, which is his central subject. Visconsi quite elegantly reads legal documents and histories, travel narratives, theological pamphlets and essays, and lesser-known poems and plays beside and through each other. One of the pleasures of this book is that context remains exactly that; Visconsi provides enough to ground his explications, but not so much as to distract the reader from the fictionalizing of equity, which is, ultimately, the focus of his attention.

Beginning with Dryden's 1665 *Indian Emperor*, a heroic tragedy of political and personal disloyalty and incivility in the clash between the colonizing Spanish and the native Mexicans, Visconsi shows the force of the author's ambition to "cultivate the souls of a divided and traumatized nation through the seductive counsels of fiction" (p. 37). He argues that the play recreates the drama of divided loyalties Dryden's spectators were experiencing in their political consciences and that Dryden uses his characters' self-justifications to force auditors to consider morality, to weigh guilt, to adjudicate actions: to practice equity. This crucial early chapter thus elucidates the connection between literary and political-social projects and the importance of the metaphoric figures of equity in the figural beginnings of states.

Visconsi then switches from the Royalist Dryden to Milton, a Commonwealthsman without a Commonwealth, who in 1665 despaired of taming the "rabble of wild barbarians" who had failed their own Republic, seeking "fit audience though few" for his illustration of divine equity in *Paradise Lost* (p. 117). Milton's epic is no stranger to "law and literature" discussions, focused (as here) on the question of divine justice and the mercy of the Son. What Visconsi brings to the table is the crucial connection between form and content in the poem along the lines of Stanley Fish, whereby equity depends on the reader's active interpretation of his or her own reading practice. Milton, Visconsi argues, leads his readers into ethically difficult and conceptually murky situ-

ations, nudging them toward critical reasoning and the higher view. "A good part of the Son's function ... is to represent the fashion in which equity can be, in addition to legal interpretation, a habit of soul and a creedal commitment to realizing mercy and grace through action" (p. 103).

Visconsi shows many of these same literary strategies in the Republican "lifewritings, political tracts, and treason trials," primarily those of Vane and Sidney, implicitly blending the ideological crises of the beginning and the ending of Charles II's reign. While the immediate occasions differed, both men fell to Charles II's retribution for their roles in supporting the regicide of his father. Their trials and executions were fashioned (in part by themselves) as martyrdoms, and both men's lives produced a profusion of texts and representations intended to be "read" as moral instruction. In this chapter, Visconsi shows most clearly his alliance with such scholars as Susan Staves and Annabel Patterson in reading the affective strategies of public events as political manipulation, with the trope of equity here working against a king and in favor of a more abstract Truth and Constitution. If the spectacular events of their martyrdoms were so clearly legible, however, one wonders whether the "exemplary fiction" that Sidney made of his final days was meant to evoke Vane's (p. 134). This is one of several moments in which the reader wishes for more connection between the works themselves.

While his individual readings are rich and persuasive, and the overall exposition of the shared understanding of the place of literature in public life enlightening, the separate pieces do not cohere into an entirely convincing whole, in part because Visconsi does not fully address the differences between, and effects of, genre. His last full chapter focuses on the late, disillusioned work of Behn, both her novella *Oronoko* (1688), about an African prince subjected to the cruelties of mercenary Englishmen, and her tragicomedy *The Widow Ranter*, set in Virginia and first performed in 1689. Behn, a diehard loyalist, could not accept the nation's rejection of James II. While this chapter provides wonderful insights about these works and enriches the overall discussion of "imaginative originalism," one wants it in conversation with the discussion of Dryden's tragedy, as both authors were equally well known as Royalists and as playwrights, and the central piece in each chapter is the theatrical condemnation of the behavior of European colonizers of the New World. Both writers confront a vacancy of leadership, a crisis of loyalty, and a population of savages; both successfully engage a wide-ranging public audience. Interested

as he is in the interactions—or the intended interactions—of these works with the English populace to whom they were addressed, one wants a discussion of theater as a peculiar form of address, metaphorically related to the courthouse in frequently repeated and widely accepted tropes. Nor does Visconsi consider how all of these authors and events might be in dialogue with each other. Behn was quite familiar with Dryden's work: Are her Indians at all indebted to his? Are her Englishmen more or less savage than his Spaniards? Is her dramatization of the difficulties of equity an update of his, or a refutation

of it?

That said, all of Visconsi's readings individually are insightful, strong, and richly contextualized. His management of classical and contemporary political philosophy is both deft and temperate. *Lines of Equity's* theorization and articulation of the law-literature relationship (beyond simple coexistence) offers a vital example of the depth of meaning legal studies can have in literature, and should have an important impact throughout the field of law and literature.

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