Endowed Sermon before a congregation of lawyers and judges.

Gray's Inn: Sunday May 10th 2015. EASTER 6.

The Mulligan Sermon.

Travel between North and South Wales is notoriously difficult. I love to drive down the coastal road, following the great sweep of Cardigan Bay from Abersoch on the Lleyn peninsula via Porthmadoc, Aberystwyth and Cardigan right down to Fishguard. You must never be in a hurry – it's imperative that you stop and admire the beauty at regular intervals; and also that you add an hour or two to negotiate the obstacles that Nature has put in the way. When you get to Aberdyfi, for example, you can see the next bit of your road at Ynyslas – a stone's throw across the estuary. But you can't just drive there. You'll need to reckon on a full hour-long round trip up the valley to Machynlleth before crossing the river and following it back all the way to the coast. It's a pretty run but time-consuming.

It's one of the scions of Aberdyfi who's at the heart of this commemorative sermon. This is where Richard Atkin was raised and where he spent so much of his time with his family. Here, this great Lord of Appeal in Ordinary sat as an ordinary magistrate on the local bench. This is where he played golf, walked the hills and gathered his clan around him. This was home.

The bridge which would make the journey from North to South Wales more straightforward has never been built. But Lord Atkin, in his legal life, did build a bridge, a bridge that helped to negotiate the inchoate landscape of the common law, making it much simpler to make connections between cases relating to negligence and the duty of care. Perhaps we could go even further and, invoking an old Welsh proverb (*a fo ben, bid bont*, "let him who would be a leader be a bridge"), we might even describe the man himself as a bridge into a new era of law-making.

The Donoghue v Stevenson case is reckoned to have produced one of the most famous judgements of the last century; that may well be so but, for all that, it was new to me. In my journey from total ignorance to some kind of understanding of this case, and in the name of verisimilitude, I've developed quite a taste for ice cream drowned in ginger beer, ginger beer poured from opaque bottles into which snails if they were so minded, could crawl, die and decompose with ease. The learning curve has been both steep and interesting.

I'd never previously thought of the wild jungle of proliferating precedents emerging from actions in the past. Nor would I have thought it possible (had I known of these) to imagine that a unifying statement of principle, what Atkin called a "general conception," could be framed that would somehow hold them all together. But that, so they tell me, is precisely what Richard Atkin did. Considering what Tennyson called:

That codeless myriad of precedents,
That wilderness of single instances,

it must have been like looking into a bucket of eels.

It certainly seems to have needed someone with a subtle yet tenacious frame of mind and brilliant intellectual ability even to think of wrestling a shape out of such fissiparous materials, the equivalent perhaps of asking Michelangelo to carve his David from one of my mother's giant blancmanges. But it's just what the good judge did. And the story of a putrescent snail gave him the opportunity he needed to establish a reference point, a comprehensible principle, that would help to define the scope of a duty of care and liability for negligence. In Atkin's mind, it all had to do with morality. It purported to answer the question "Who is my neighbour?" with which the parable of the Good Samaritan ends and it clung to the so-called golden law: "Do to others as you would have them do to you." Atkin found a way to solve his problem:

Peeping through this legal mess
What oft was thought but ne'er so well expressed.

And yet, however well his brave new concept might meet a genuine need in the courts, Atkin was as clear as can be that its use would inevitably have to be applied restrictively. He left the wider implications and possible applications to those at work in the fields of morality and theology.

I've taken that observation as a challenge. Following his example, taking a hard look at the field of moral theology, another area where a myriad of precedents and a wilderness of single instances has brought its own confusions and complexities, I want to see whether, in Christian ethics too, but without this time feeling bound by the need for restriction, we can push back behind the cases to a general conception.

I could write a book on this subject. Jesus touched the untouchable, reached the unreachable, brought dirty and dangerous people in from the margins of society; he dealt with Roman soldiers and Samaritan villagers; he consorted with people in the finance sector and those who would have been on benefits; he enraged some of his contemporaries, inspired others; he died the death of a petty criminal. His story and his teaching has produced a bewildering range of responses – was he a social revolutionary or an ascetic monk? Did he consort with a prostitute? Was he a covert homosexual? Should the gospels be treated as allegories, memories, special pleading, taken at face value or subjected to the dictates of historical criticism? Jesus has become the weapon of choice for people with the most diverse views and outlooks on life. Plenty of single instances, a myriad of precedents indeed.

Can there be a unifying principle against which to make sense of all this confusion? I believe there can be. And what's more, I'd want to look at the parable of the Good Samaritan (just as Atkin did) and to address the question he highlighted: "Who is my neighbour?" But I don't want to tread the ground that he covered or posit a conception as he did. I want to suggest something even more primordial, instinctual, than he sought to attain. A concept comes from the realm of logic; it's an intellectual construct shaped after a thorough forensic examination of the evidence. What I want to put forward in my attempt to move beyond the restrictions within which the law must operate is much more visceral, carnal, gutsy.

As I look at the parable, I search for a clue that will differentiate the Samaritan from the Levite and the Priest. The men of religion skirt around the man in distress, the Samaritan doesn't. So far so good. But the Samaritan's readiness to stop in his tracks is, according to the text, attributable to the fact that he, unlike the others, was "moved to pity" or "filled with compassion." These formulations are very weak translations of the verb whose meaning they seek to convey. *Σπλαγχνιζομαι* – with its root, *σπλαγχνον*, scarcely disguised – is the verb in question. And what does it mean? It has to do with our guts, our innards, our stomach, intestines, bowels, entrails, offal and all those parts of the human physiognomy "south of the equator" that we're either wilfully ignorant or perhaps somewhat ashamed of. So what of it? Well, just imagine – the Samaritan sees the poor devil writhing on the ground and, no compassion fatigue or aloof dedication to the demands of his diary for him, he recognises the other man's plight. Not only sees it but feels it, feels it like a kick in his own gut. He doesn't stop to ask questions relating to etiquette or convention, he doesn't look around to see if the perpetrators are still lurking, he just goes to

the rescue. He is prompted to do so by a physical reaction in the depths of his own being. This suggests that one person is able to register another person's suffering as if it were their own. This is a radical suggestion that cries out for our attention. If true, it would suggest that we are not slaves either to our biology –evolution, survival of the fittest, natural selection, the law of the jungle etc. or indeed to our culture – what's fashionable, acceptable, good taste. We can transcend ourselves, not only *think* outside the box but *feel* outside it. "Who is offended and I burn not?" asks Saint Paul. How can I shut my eyes, stop my ears, zip up my wallet, keep my mouth closed, maintain a stony indifference, a distant and detached attitude when I come across someone who's in pain? Or when I live within a system that invents, creates, imposes pain and suffering on vulnerable people?

Having started here, I went on to search out other places where this strong, sinewy, grizzly, gristly verb is used in the New Testament. And I found that it occurs just a dozen times. And every single time it's used, it's either Jesus who is the subject of the verb or else the person holding "the Jesus position" in one of his key parables. So Jesus has pity on a crowd – lost and hungry, like sheep without a shepherd. And he is moved with compassion for some blind men, a mother whose only boy had died, the father of a boy suffering from epilepsy and, most radical of all, a leper. In all these cases, there is a visceral response from Jesus and he moves quickly to relieve their various needs. And then there are the stories. It's the Samaritan who is moved with pity when he comes across the mugged man; it's the father of the prodigal son who overflows with compassion at the sight of his wastrel boy coming home; and it's a creditor who somehow shows mercy to a stupid man who'd fallen into debts that he can't repay.

In all these cases, the solution to the problems, social as well as individual, is rooted in a capacity of one person to identify with another, to register the other person's pain, to respond actively to his need. John Wesley was surely on to this when he urged his followers to act as neighbours not only "to those who need you but to those who need you most." Seek them out. Help them carry their burdens. I could build a doctrine of hope, construct an understanding of a meaningful society, develop a case for virtuous living, on this simple understanding that one person can break out of the prison of the self, the dungeon of despair, the subjection to instinctual drives of one kind or another, and feel another's pain. This capacity to be drawn out of ourselves would be my general conception, the elixir that could help humanity rise above its pre-occupation with personal gain, national supremacy, fear of failure, lust

for power and mean self-obsession. This is where unfettered thinking about our duty to care, unrestricted and free-ranging ideas about the dangers of negligence, might lead us. It surely ought to be the responsibility of religious leaders, certainly Christian religious leaders, to be painting such a picture, creating such a vision of the possibilities of human life, a picture that's called in the scriptures, the Kingdom of God. And the law, along with all other agencies, institutions and social instruments, should play its own part in supporting and serving the building of such a world where, without restriction, every human being would be invested with his or her rights and be able to flourish as surely they were intended to flourish.

Near the beginning of the Second World War, Lord Atkin lost both his house near Victoria station and his familiar haunts here at Gray's Inn – all destroyed by enemy action. We've been thinking of events of this nature at the 70th anniversary of VE Day. But if Atkin lost his London homes, he could still take solace back in Wales. We began in Aberdyfi, let's end there. Legend has it that the original township was once drowned under the waters of Cardigan Bay. And, so we're told, just now and again the bells of the church of the sunken Aberdyfi can be heard pealing defiantly, hauntingly, reminding the local people of a lost and muffled world. In 1936, just four years after Lord Atkin's judgement, a public appeal succeeded in the purchase of a set of bells for the real parish church of the actual Aberdyfi, the church he and his family attended Sunday by Sunday when in residence. I can't believe that the noble and learned Lord didn't make a handsome contribution to this cause. The buried bells of Aberdyfi (*clychau Aberdyfi*) may ring out their ghostly message for all they're worth, preachers and visionaries may sing the song of human hope till the last syllable of recorded time, but it's the real peal in the mundane world of everyday life that summons us to action.

Preachers and visionaries, politicians and (why not?) lawyers, must somehow excite, stimulate, enjoin, disturb, kick in the groin, those who can help to build a world where, without restriction, we love our neighbour and do to others what we would have them do to us, a world fit for our children and our children's children to grow up in. And why shouldn't that begin here and now? With you and me? We need not ask not for whom the bells toll –they toll for you and they toll for me.

God help us.

Amen.