

Mrs Justice Proudman

Valedictory speeches from the Chancery Bar

Amanda Tipples QC

(Chairman Chancery Bar Association)

May it please your ladyship, I have very clear instructions this morning from the Chancery Bar Association, which is of course to wish your ladyship well on your retirement.

However, on doing so on behalf of our members we are all very sad to see your ladyship leaving the bench. The reason, my lady, is quite simple. This is because you are a firm favourite of our members. There are a multitude of reasons for this. First and foremost, your ladyship has always been a delight to appear in front of. Further, those of our members who practice in the area of trusts or charities have always hoped to find their cases in your ladyship's list. That is, of course, because of your ladyship's in depth knowledge and sheer expertise in this area of chancery law. You have always listened patiently and attentively to what we have had to say, and it has always been a pleasure to be in your ladyship's court. In more recent times, you have been a real supporter of CLIPS and I think your ladyship may have been one of the first judges in this Division to hear from our CLIPS volunteers. You have also been a real role model for women at the Chancery Bar and in this day and age when, as an Association, we are working hard to encourage able women to apply to our field of practice, it is also really important for us to look ahead and remind ourselves of all that your ladyship has achieved, particularly when it was so much harder than for those of us who have followed behind.

On an entirely personal note, I have always admired your ladyship's style and, as a new silk, I was puzzled as to whether on silks' day, heels with britches were the done thing or not. Your ladyship provided me with very sound of advice, which I have shared with others over the past few years. Your ladyship advised me that the "balanced look" was black patent courts with a two inch stacked heel. Anything higher than two inches was an absolute no – and your ladyship was of course able to justify this wise advice because, as your ladyship told me, "over the years I have seen everything".

We will miss your ladyship enormously at the Chancery Bar and on behalf of the Association we wish your ladyship a very happy retirement.

Robert Pearce QC

May it please your ladyship, I am in complete agreement with my learned friend Miss Tipples, but this is an occasion when good points bear repetition. I would like to say a few additional words, which I hope will express some of the sentiments of those who have come here in such large numbers – before breakfast.

It is difficult to sum up your ladyship's achievements without it seeming as if one is participating in some kind of end-of-term school-leaving ceremony, but I would like to stress three points.

The first is the breadth of the judicial work you have undertaken. Your ladyship was a recorder, at a time when civil practitioners were perhaps given less assistance to find their feet in that jurisdiction than they are now, and a Deputy High Court Judge. You decided some significant cases in that capacity. You were only the second lady to be appointed to the Chancery bench in 600 years of Chancery jurisdiction. You have dealt with virtually the whole range of Chancery work – including areas that perhaps you did not have to deal with at the bar. You have presided in the Upper Tribunal and sat in the Court of Appeal.

All of this was during a period when the workload of the higher judiciary was as onerous and unrelenting as it has ever been.

You have left a substantial body of reported judgments for us to reflect on. If in any of those cases your ladyship was overruled by a higher court – and I can't call any instance to mind – it was doubtless not because your ladyship was wrong, but simply because the higher courts took a different view of the matter.

The second point I would like to stress is that your ladyship brought out the best in the advocates who appeared before you. One knew that one's arguments would be fully tested. Your ladyship has a particular gift for asking concise, penetrating questions that get to the heart of an issue. Yet one also knew that one's submissions would be carefully listened to, and would be given all the consideration they deserved.

The atmosphere in your court was studious and un-melodramatic, and it encouraged the parties to work together, and with the bench, in the interests of a fair trial.

These are the hallmarks of exemplary judging, and we, and our clients, are fortunate to have benefited from them.

Of course, your ladyship is not the only judge to bear the hallmarks of exemplary judging, but we are here focusing on your ladyship's achievements.

The third aspect of your ladyship's work that I must mention is this: However heavy the judicial workload, your ladyship always found time for the things that judges do out of court to support the administration of justice more widely. You have been generous with your time to support the work of professional associations – including, but not limited to, the Chancery Bar Association - in providing continuing education and improving standards, and you have contributed immeasurably to the collegiate life of the Inns of Court. All this was beyond the call of duty.

Those are some of your ladyship's achievements. Reverting to the analogy of the end-of-term school-leaving ceremony, you will be much missed next term; and everyone here would like your ladyship to know in how much affection and respect you are held, how much they appreciate everything you have done; and to wish you the very best for the future.

Mark Blackett-Ord

My Lady... This is the last time that I shall address you in those terms.

To address you thus from Junior Counsel's row reminds us of the time when from the same place you first welcomed Mary Arden to the Bench in 1993. Your task was easy. To see Mary Arden is to think of Arcadia, where Shakespeare put his Forest of Arden, so you get quickly to Mary Arden. Mary came to the Bench from company chambers, but you were the first woman from traditional chancery chambers. To welcome you too to the Bench with a pun on your name was easy as well, for we knew the words in *Measure for Measure*, which are always worth repeating, if only to remind us of your wise and good husband Crispian who can recite them at the drop of a hat:

“Merciful Heaven

Thou rather with thy sharp and sulphurous bolt

Splittest the unwedgeable and gnarled oak

Than the soft myrtle: but man, proud man...”.

Today we remember the words that follow immediately:

“Man, proud man,

Dressed in a little *brief* authority...”

Those words, in Latin, are now your heraldic motto, painted up in Lincoln’s Inn Hall. Now we are lamenting the end of your “brief authority”, hastened alas by your health difficulties.

We must see this passing of time in its context. Soon after Shakespeare had written *Measure for Measure* the earliest principles of chancery jurisdiction were hammered out by Lord Chancellor Bacon. That was four hundred years ago.

Today, for the first time in four hundred years, a woman Chancery Judge is retiring from judicial office. It has never happened before. Although Lady Justice Arden is still happily at it, you the first woman High Court Judge from traditional Chancery chambers, are the earliest Woman Chancery Judge to retire. And it is still less than a hundred years since the first woman was called to the Bar.

When you came to the Bar in 1972, the requirement of a chancery practitioner was to be an ugly, old, man. You were not. Although you did your bit with the ugly, by wearing some hideous glasses. You were not really a barrister: you were a lady barrister. Or a “girl”.

But you gave warning of your impending success, by winning the highest Oxford prize, the Eldon Law Scholarship, in 1973, following Hart, Munby and others, and competing against one Nicholas Patten who came second.

You rose to the top of the profession. When you were eligible, everyone at the Chancery Bar aspired to the Chancery High Court Bench, and the rival candidates amongst the men were formidably competent.

You beat them all. As a consequence, all eyes were on you. As a Judge, would you be schoolmarmish or dithering or hysterical? Which of the known weaknesses of the female sex would be revealed in you first?

I have done considerable research for the purpose of this address, hoping to find record of you as a judge showing these alleged female vices, or indeed some of those little infelicities of which we are so tolerant in male judges.

But I drew a blank. You really did not put a foot wrong. In court you were friendly, but serious without being pompous. When you told Counsel that you were not sure about a certain proposition of law, you spoke the truth, and were not merely setting a trap. You are a feminist, but no-one in your court would ever have guessed how rampant. You, the most womanly of women, were never sappy.

Section 9 of the Wills Act 1837 is the foundation of the present law of the formalities for making a will. It requires that the will be in writing, signed by the testator and witnessed by two or more witnesses. It is true that your patron Lord Eldon particularly disliked this piece of legislation which was passed late in his life, ten years after he had ceased to be Lord Chancellor. (I should mention that Lord Eldon, Dickens's Lord Chancellor, never received any valedictory address from the Bar.)

Lord Eldon disliked the 1837 Act because it reformed the previous law, which we the older members of the Chancery Bar remember well. A will disposing of real property required three witnesses, but a will of mere personalty required no witnesses at all. Lord Eldon so disliked the reforms that he executed wills for himself in the old style only a very few days before the Act came into force. The old brute.

I do not compare you to Lord Eldon. But I relish your intellectual honesty. Section 9 came before you in the famous case of *Marley v Rawlins*, a case on which others have already spoken.

The Supreme Court reached a different conclusion from you upon which it would be impertinent of me to comment. But yours was the intellectual honesty.

Lord Brightman's motto heraldic motto was, "Steer a true course."

You owed it to us all especially your own sex, that you should consistently play a straight bat. You did not complain when on the Bench, life got tough for you. You refrained from public approval or condemnation of injustice in the legal process about which you could do nothing.

You watched in dignified silence, the triumph of the three new Orwellian principles of modern procedure:

1. if you change the name of something, it will magically make the thing better;
2. that mistakes in litigation should be penalised in costs, as it punishes the poor catastrophically and has no effect on the rich, so you get rid of poor litigants;
3. that as ever more paperwork is prescribed by the rules in cases, it somehow makes the cases cheaper.

Your balance, kindness and above all your good judgment, delivered with modesty and understatement, have been a triumph.

Your ladyship – now this really the last time - we will miss you on the Bench very much.

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