

21/07/2004

My Lord Mayor, My Lord High Chancellor, My Lords, Master of the Rolls, Aldermen, Sheriffs, Ladies and Gentleman.

The applause which we have just heard is richly deserved. Your powerful and relevant remarks are music to the judiciary's ears.

To have to commence my speech by omitting the name "Mr Recorder" is a painful and jarring reminder of both the City's and the judiciary's loss. A loss made more acute because it followed so closely upon the death of Lord Justice Kay. They were both outstanding judges and fine men. They are going to be particularly difficult to replace, not only because of their judicial qualities, but also because of the administrative responsibilities they performed so well. We are extremely grateful for what they had already achieved and deeply regret that their contribution was so cruelly cut short.

These sad events apart, this is a magnificent year for the Mayoralty. Last year's barrister Lord Mayor has been followed this year by a distinguished solicitor, a partner of the city firm of Linklaters, demonstrating the important contribution that both sides of the legal profession play in the life of the City. From your vantage point as a city solicitor and Lord Mayor, you have accurately identified the importance of the justice system to the City and the City to the justice system.

The judiciary and their spouses always enjoy and appreciate this dinner immensely. It is one of the most important dates in the judicial calendar. This is not only because of the scale of the hospitality. It is also because of the unique platform it provides to address the health of the justice system.

It has been my good fortune to become friends with a number of Lord Mayors. The result is that I now admire immensely the manner in which the City, year after year, succeeds in producing a Lord Mayor of undoubted ability and integrity and a charming Lady Mayoress who, like Patricia, shares the Lord Mayor's commitment to the service of the City and the public.

Our present Lord Mayor is certainly no exception. His speech made clear that he appreciates that the lack of facilities in the Strand are in danger of seriously damaging this country's reputation for excellence in the conduct of commercial and heavy civil litigation. What he did not stress was how active he has been in vigorously arguing for the new court building we desperately need. I am grateful for the opportunity publicly to express the judiciary's appreciation of his efforts. Thanks to him, the prospects are now better than they would otherwise have been.

In addition, accompanied by the Lady Mayoress, the Lord Mayor has been an ambassador extraordinaire abroad for the City and this country. Judges do not travel to the same extent. However, I recently made a visit abroad where, initially, I was extremely impressed by the care that was being shown for my safety. No less than six armed guards were assigned to protect me. I was somewhat less impressed when I learnt they were members of the antiquities and tourist police. I was not a tourist and could only assume that I was regarded as an antiquity!

My Lord Mayor, it is sad that we now live in a world where there have to be so many security precautions. In these difficult times, the justice system is particularly important. It has the responsibility of ensuring that the values that make it such a privilege to live in this country are not undermined to any greater extent than is justified by the threats with which we have to contend. The judiciary has, at all times, to be vigilant to ensure that action which the State takes to protect its citizens as a whole, only interferes with the rights of the individual where that interference is in accordance with the law. That the judiciary has this responsibility is but one example of why it is so important that judicial independence is beyond doubt.

This brings me to the programme of constitutional change announced a year ago. Then I was concerned as to whether the independence and leadership of the judiciary would be undermined. I was sufficiently

concerned to question whether the time had come for this country to have a written constitution.

It had long been my opinion that this country was well served by an unwritten constitution because, however great the pressures, our constitution had proved sufficiently flexible to absorb those pressures. It could evolve and adapt so that it continued to meet the needs of the country. In this respect, it was like the historic office of the Lord Mayor of London. The fact that I was even contemplating that we needed to accept the rigidities of a written constitution is an indication of the depth of my concern about the judiciary's vulnerability in the face of the dramatic changes proposed.

I am glad to say that those concerns have now largely been allayed. It is important I explain why.

My first reason for being less concerned is that the present Government, having threatened in the Asylum Bill to undermine the rule of law to an extent never attempted before by denying access to our courts, has now gracefully performed a U-turn and abandoned this proposal. A U-turn is a manoeuvre which it is never easy for a Government to execute.

The second reason is that the Government has entered into the Concordat with the judiciary. Lord Falconer has been responsible for both these wise and statesman-like actions and it is right that, having voiced criticism in the past, I should now give him full credit for this.

The importance of the U-turn is readily understood. But why is entering into the Concordat so important?

Well, first of all, the Concordat represents a comprehensive guide to the principles which will govern the future relationship between the Government and the judiciary. What was previously uncertain becomes clearly defined, so both sides know what their respective rights and obligations are.

Secondly, the Concordat is universally endorsed by the judiciary as providing essential protection for the independence of the judiciary into the future. In addition, not only has the government signed up to the Concordat, but both the other main political parties have publicly supported it. Commendably, each party has realised that what is at stake - namely, the independence of the judiciary - is of such importance that it should not be made the subject of damaging partisan debate.

Finally, the Concordat does not exclude the Government of the day from involvement with the judicial process, but instead places that involvement on a proper footing.

You may be asking yourself what is the most important feature of the Concordat. My answer would be that each part is as critical as the next. If pressed, I would be tempted to follow the example of the distinguished conductor Zubin Mehta who, when asked which orchestra gave him the most pleasure to conduct, tactfully refused to single out a particular favourite. Instead, he compared his position to a man who had many wives, but no favourite wife. He loved them all, though he was particularly fond of a dimple here and an oboe there.

That it proved possible to reach agreement across the wide range of issues covered by the Concordat was due in no small part to the contribution made by Sir Hayden Phillip. He is on the point of retiring as Permanent Secretary with an outstanding reputation and the gratitude of the judiciary for what he has achieved for the justice system. The translation of the Concordat into statute has also involved extremely hard work on the part of a judicial team led by Lady Justice Arden. They deserve our gratitude.

The Concordat is quite independent of the continuing debate as to whether we have or do not have a Supreme Court and whether we continue to have an officer known by the historic title of Lord Chancellor. I know that these are subjects of considerable importance to many people. However, by comparison to the Concordat, they are not of the same scale of significance. Irrespective of the title by which he is known, there will have to be a minister who will perform the functions that the concordat allocates to the Executive. Irrespective of his title, that minister will no longer be the head of the judiciary. Instead, the Chief Justice will be. As for the Supreme Court, the judges, and the powers that they exercise, will be the same, irrespective of the name of the building in which they sit.

My Lord Mayor, at last year's dinner I said that, in times past, the judicial year had been rather like a carousel, revolving gently within a familiar landscape. I described last year as being more like a roller coaster, with sudden changes of direction and a sometimes breathtaking rate of progress.

Alas, this year we have certainly not returned to the tranquility of the carousel. If anything, the activity has been even more frenetic. However, life has been less frightening and there has been reassuring progress. Indeed, if only we had the resources for the IT which we have been promised for years and the money to refurbish our courts where this is desperately needed and the means to pay our court staff properly, a plateau might be in sight. To reach the plateau would be an immense relief to the judiciary and, in particular, to Lord Justice Brooke who, as the former Judge in Charge of Modernisation, strove for years to make bricks without straw.

The judiciary as a whole has made an outstanding contribution to the progress so far. I am immensely grateful for their efforts. It is hugely encouraging to know that the same energy will be displayed by the judiciary to overcome the challenges that still lie ahead.

My Lord Mayor, the judiciary thank you for your generous toast.

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