

GEORGETOWN COMMENCEMENT SPEECH

23 May 2010

Mr President, Madam Dean, Members of Faculty, Fellow Graduates,
Ladies and Gentlemen

You have probably heard the old saying: that behind every successful man there stands a surprised woman – sometimes two – both his wife and his mother. In the case of a successful woman there is also a surprised woman around but she is right inside the successful one! So I stand before you both surprised and delighted by the honour you have bestowed upon me.

I have been astonished at every new twist and turn my career has taken. None of these could have been foreseen in around 1960 when I first decided to try to become a lawyer. The height of my ambition then was to join the small firm of solicitors – attorneys - in the small country town in the north of England where I grew up. This was the original Richmond, after which indirectly all the other Richmonds around the world – including the one just down the road from here – were named. Sometimes I think that it might have been more difficult to become the first woman trainee with that firm than to become the first woman Law Lord.

When I began my Law studies in 1963, the thought that I might be good enough at it to become a University teacher, let alone any sort of judge, never crossed my mind. The first full time woman judge had only just been appointed – Dame Elizabeth Lane was appointed a county court judge in 1962 and promoted to the High Court in 1965.

When I graduated in 1966 and went off to the University of Manchester to become a law teacher, I was attracted by their suggestion that I should qualify as a barrister and gain some practical experience of advocacy in the courts. But three years after doing so, I was ‘put to my election’ by the then Dean of the Faculty as well as by my Head of Chambers at the Bar – I could not make progress with either without giving one of them up. I chose the academic life, mainly because this was more compatible with having a family – the work-life balance, as we now call it, in Universities has always been rather more congenial than in practice. But it was not irrelevant that my first husband was also in practice at the Manchester Bar – we had narrowly avoided being on opposite sides of the same case several times and my regular though modest salary as a law teacher gave us some cushion against the insecurity of a barrister’s life. So once I had made that choice, we thought, there was no prospect of my ever becoming a judge, let alone one of the most senior judges in my country.

But sometimes you make your own luck. I wrote a book on *Mental Health Law* for my students of social work and psychiatry. This led to my first judicial appointment, as a presiding member of mental health review tribunals (as well as to my long and happy association with Professor Gostin of this very Law School). I edited a Journal on Social Welfare and Family Law. This led to my joining the Council on Tribunals, a public body which supervises administrative and other tribunals outside the ordinary courts. It also brought me to the attention of the Lord Chancellor, who was then responsible for judicial appointments, and the suggestion that I might become a ‘baby judge’ – that is, a part time, fee paid, trial judge in the Crown and county courts. I wrote books on Family law, which led to my joining the Law Commission, an official body

which promotes the reform of the law. And that led ultimately to the full time Bench.

I tell you all this because there are some messages in my story for you all as you set out on the rest of your lives. In a rapidly changing world we must all expect the unexpected. Anything may happen. So we must be ready to grasp the opportunities which come our way. One of the great things about a University education, especially at graduate level, is that it gives you the tools with which to do this – the habits of intellectual curiosity, of thinking for yourselves, of fair minded evaluation of the evidence, whatever it may be, and above all the ability to work hard - when you need to do so – without being told (although I also hope that it teaches you how to have fun – without being told).

Another message is just how radically women's lives have changed in my working life time. There were only three colleges for women in the University of Cambridge when I was there and twenty one for men (Oxford was little better, with only five women's colleges). This was a built-in quota which we didn't question then. Betty Friedan had only just published *The Feminine Mystique* and Germaine Greer's *The Female Eunuch* was yet to come. There were only six women Law students in my year. Those of us who studied family law were told that it might be better for us if we forgot it all after the exams. Knowing our rights might inhibit us from becoming good wives and mothers.

Now, women are entering Law schools and the legal profession in equal if not greater numbers than men. But this has been going on for two decades and still there are far too few women in senior positions in the Law in my country as well as in yours. One of the reasons for this is that

many women still have to make choices about how to balance their work and family lives. Like me, they may choose the more family-friendly option. Some of us look forward to the day when it is not just the women who have to make these choices, but the men are expected to do so too.

Even so, it should not have taken the United Kingdom until 2004 to appoint a woman 'Law Lord'. After all, you managed to do it more than 20 years earlier. There must have been many able and well qualified women lawyers before me. They just weren't visible to or recognised by the powers-that-be. But please don't assume that those days are over and all is now well. We must all strive to understand and to overcome the continuing barriers to women's advancement everywhere.

But why did we all go into the Law in the first place? Assuredly it was not in order to be popular. On the whole, the public and politicians in my country do not like lawyers. Some of them have read their Dickens and remember the fog surrounding the Lord Chancellor as he sat delaying justice in *Jarndyce v Jarndyce* for decades. Even today, they see us as doing any number of shady or unpleasant things – collecting debts on behalf of loan sharks, making people bankrupt, liquidating companies, facilitating hostile take-overs, devising cunning tax avoidance schemes, prosecuting the innocent and defending the guilty, and perhaps above all vindicating the human rights of some very unpopular people.

In vain do we try to explain that this is what the rule of law is all about. The rule of law means that everyone is expected to obey the law and to meet their legal obligations and should face punishment or enforcement if they do not. But the rule of law also means that these coercive powers of the state should not be arbitrarily meted out by unaccountable state

officials. They should be imposed by an independent judiciary sworn, as I have sworn, ‘to do right to all manner of people, after the laws and usages of this realm, without fear or favour, affection or ill-will’. We have those words engraved in the glass screen in the entrance hall to the Supreme Court to remind us all what judging is all about. We also have Eleanor Roosevelt’s words on two sides of a screen in one of our court-rooms: ‘Justice cannot be for one side alone but must be for both’.

So, it is our duty as judges to uphold the rights of all people. We are fond of quoting your Justice Frankfurter, in *US v Rabinowicz* in 1950: ‘It is a fair summary of history to say that the safeguards of liberty have frequently been forged in controversies involving not very nice people’. As Lord Steyn put it in the House of Lords in a case involving one of our most notorious murderers: ‘Even the most wicked of men are entitled to justice at the hands of the State’.

This means that we have had to uphold the rights of some people who may be very dangerous indeed – rights not to be exported to states where they face a real risk of being tortured; not to be locked up indefinitely on the orders of the Government because they are suspected of terrorism which cannot be proved in an ordinary criminal court; not to be subjected to coercive powers on the basis of evidence which has been obtained abroad through the use of torture; not to be have their liberty restricted without knowing enough about the case against them to be able to mount an effective challenge to it; not to be beaten up while in a detention centre run by the British Army in Iraq; not to have their assets frozen on the basis of United Nations security council resolutions without the explicit sanction of our Parliament.

I could go on. These are just a few of the cases which have come before the highest court in the United Kingdom in the last few years. We were able to decide them in the way that we did because we now have our own Human Rights Act. You, of course, have had a Bill of Rights for more than two centuries but for us it is something quite new. We thought that we knew about freedom and did not need it. But in 1998 our sovereign Parliament made the rights contained in the European Convention on Human Rights into rights which are enforceable in UK law. What Parliament has given us, Parliament may take away. The Queen is due to open our new Parliament on Tuesday 25 May. The judges attend in their splendid robes (and in some cases 18th century full bottomed wigs – but we have dispensed with these in the 21st century Supreme Court) to listen to her speech from the throne, telling us what her new Government plans to do in the coming session. I had the great honour and pleasure of being there in 1997 when the new Government announced its plan to enact the Human Rights Act and I confess to hoping that I shall not be there on Tuesday to hear that another Government plans to abolish it.

But there is also a message for all of you in this. We in the courts cannot do our job of ‘doing right to all manner of people’ without the lawyers who bring these cases to court. We can only decide the cases which come before us. We do not go looking for them ourselves. We need dedicated lawyers who can recognise an injustice when they see one and make the arguments which enable us to recognise it too. And if we need those lawyers, how much more do their clients need them! So do not be afraid to be unpopular when you have to be.

In the newly created home for the Supreme Court of the United Kingdom we have many quotations to remind us of our task. One of them sums up

what many people dislike about lawyers. From the poet Dryden (in 'The Hind and the Panther', referring to the Ten Commandments): 'No written laws can be so plain, so pure, but wit may gloss and malice may obscure'. It is our job to see through both the wit and the malice to the true meaning of the law. But another sums up what is good about the law and lawyers in today's world - where we are all interconnected whether we like it or not. From your own Martin Luther King (in a letter from Birmingham jail, 16 April 1963): 'Injustice anywhere is a threat to justice everywhere'.

So go out there and fight it!