



JUDICIARY OF
ENGLAND AND WALES

**The Lord Mayor's Banquet to Her Majesty's Judges
Lord Judge, the Lord Chief Justice
3 July 2013**

My Lord Mayor, it is exactly 50 years since I was called to the Bar and in October it will be 25 years since I was appointed a High Court Judge.

These years have taught me that we have the priceless advantage of living in a country which respects the rule of law, and I believe equally respects its concomitant, the independence of the Judiciary. I suspect that none of us can articulate it in quite the same way as John Locke, "where law ends, tyranny begins", but, as a community, deep down in our history and traditions indeed right down to our very roots as a nation, we have an instinctive, intuitive feel that respect for the rule of law has served us well. It has not made, and it could never have made, a perfect society. But without it our society would be catastrophically worse.

I am not, of course, talking about rule by judges or lawyers. Judges themselves are governed by the rule of law which they are responsible for upholding without fear or favour. They cannot give judgments according to their personal whims or prejudices or preferences. They sometimes must give judgments contrary to their personal preferences, because that is what the law requires. The difficulties they have to face are not always appreciated. They are easily criticised, and cannot answer back.

The rule of law cannot be safeguarded by craven judges or pusillanimous judges, or by judges who lack fortitude, or judges who fail to foresee or anticipate unintended consequences which may, however slightly, diminish their independence, without which the rule of law cannot survive.

It is, of course, inconceivable that in this country the army might threaten our elected government. It is inconceivable that a judge might lose office or be demoted because he or she gave judgments against the wishes of the government of the day. It is inconceivable that any minister might write to a judge or get a secretary to telephone a judge and let it be known that a particular result was expected. It is inconceivable that any judge, at whatever rank, would give a similar intimation to any other judge, however new, and however junior in the judicial

hierarchy. None of these things has ever happened in my time. That should be a source of national pride.

But “what is to come is still unsure”. That means that the future cannot be guaranteed. History is full of examples of the dangers of smugness, or indifference, of taking things for granted. We never should. Our world - the whole world moves at breathtaking speed. We all puff and pant to keep up with it. Pundits declare and pontificate, and do not come back 3 months later to say that they were wrong. We get caught up in the moment, and react, sometimes with little reflection.

But the future is long as well as short. And in the haste we may not discern small, even tiny little steps, totally unintended little steps which might, long term, serve to undermine the principle of judicial independence upon which the rule of law depends.

Let me give one example from our own world. Less than 10 years ago in 2005, and perhaps more important, although often overlooked, in 2007 spectacular changes to our constitutional arrangements were made. The independence of the judge in Court was unaffected, but the consequences to the institutional independence of the judiciary, as the third pillar of the constitution, have not yet been settled. We must be cautious, meticulous in our scrutiny.

Let me give an example that affects everyone in the country, and indeed in the world. I do not think that the new world of communications and the impact on our lives has begun to be appreciated, not least because none of us has the slightest idea of how they will develop in 5, let alone 10 or 20 years. Is it already beyond our ability to prevent some of the wicked suffering visited on children for the purpose of creating foul images for downloading? The speed with which information is disseminated is said to have been a crucial element in the Arab Spring. But how do we avoid what at the moment may seem inevitable that as this new world develops centralisation and control will be accumulated by authorities of State. That would be unlikely to enhance our freedoms. We simply have no idea where this will all end, so we must be watchfully alert.

So we must remain vigilant against the slightest encroachment on judicial independence, not because judicial independence represents some traditional flummery, some bauble, some meaningless superficiality, but because without an independent judiciary the rule of law would collapse.

My Lord Mayor, in spite of all the difficulties, to be a judge is a great privilege. It has been an astounding privilege to have held this Office. From my brother and sister judges I have encountered nothing but kindness, loyalty, and support, and perhaps most important of all, true friendship, without which the responsibilities would have been crushing. I have had to ask many judges at all different levels of

the judiciary if they would be prepared to take on additional burdens without additional remuneration or even much recognition, beyond my thanks. In all those myriads of occasions only twice has a judge asked to be excused, both revealing matters of personal disaster which had overtaken them or their families. Without their willingness, and the toleration of their other halves of the consequent interference with their family lives, the system would collapse. As well as thanking you and the City my Lord Mayor for this wonderful occasion, may I, through you, on behalf of both Judith and myself express our profound gratitude to them all. The memories will keep us warm for as long as memory lasts. We shall miss you.