



LORD CHIEF JUSTICE
OF ENGLAND AND WALES

THE RIGHT HON. THE LORD BURNETT OF MALDON

DINNER FOR HER MAJESTY'S JUDGES 2018

4 July 2018

1. My Lord Mayor, Lord Chancellor, my Lords, Ladies and Gentlemen. It is a great pleasure for me and fellow members of the judiciary of England and Wales to be here tonight.
2. This is my first Judges' Dinner as Lord Chief Justice. It provides me with an opportunity to express my profound thanks to the judges gathered here, and to the judiciary as a whole, for the outstanding hard work done in upholding the rule of law and administering justice in our country, often in very difficult circumstances. The judiciary deals with countless thousands of cases every day, with a workload that grows ever heavier and more complex. The work done in the Royal Courts of Justice and Rolls Building by the Court of Appeal and High Court represents only a tiny fraction of that done across the country by nearly two thousand salaried judges in the courts and tribunals, almost 7000 part-time fee-paid judicial office holders and some 16,000 magistrates. Every criminal case, every civil dispute, every family case and those in the tribunals represents an important, often life-changing, event for the people involved. They both deserve and receive careful and impartial attention from our judges in whatever court or tribunal they dispense justice.
3. It is said that the judiciary are the guardians of the rule of law. That is undoubtedly true, for without an independent judiciary able to state authoritatively what the law is, and to adjudicate impartially on disputes of every nature, the rule of law would be no more than a high-minded phrase. Whilst that proposition is, I think, incontrovertible the judiciary cannot uphold the rule of law or administer justice in splendid isolation. The rule of law is underpinned by a partnership, with each partner playing its proper role. Parliament and the Government by statute must provide the resources, financial and administrative, necessary to maintain the courts system. Many other public bodies and agencies play their parts. So too does a vibrant,

independent legal profession. It has been more than 300 years since the rule of law in a form we would recognise today was planted in our constitutional arrangements by the Glorious Revolution. It has grown strong. Its roots are so deeply embedded that few give it a second thought. But like all well-established plants it needs constant nourishment, care and attention as well as some reshaping.

4. The broad partnership that underpins the rule of law is reflected tonight in the three speakers. My Lord Mayor on behalf of the City and Corporation. The Lord Chancellor on behalf of the Government and Parliament and the Lord Chief Justice on behalf of the judiciary.
5. There has been a long history of local government playing a part in the administration of justice across the nation. But the City of London through tradition and practice of long-standing is the pre-eminent example. There is a partnership between the judiciary and the City, illustrated by the dual roles of the Recorder of London and Common Serjeant as the senior judges at the Old Bailey, while also undertaking important advisory, ceremonial and community roles for the City. The City retains an interest in the Old Bailey and the Mayor's and City of London Court.
6. My Lord Mayor has mentioned the Corporation's work, alongside HMCTS to develop a new court in the City. This is an exciting project which will deliver modern Crown Courts, Magistrates' Courts and Civil Courts in the square mile close to legal London. They will deal with work which has particular affinity with the financial and professional services provided within the City of London. They will be state of the art courts and will play an important part in the administration of justice of London. My Lord Mayor we are grateful to the City for its contribution to maintaining the rule of law and support for the administration of justice illustrated by this substantial financial commitment. With the development of Fintech, smart contracts and digital ledger technology – amongst other things – the establishment of what might be a bespoke financial and business court for the 21st century cannot be welcomed strongly enough.
7. The new court in one of the many ways in which the City of London seeks to demonstrate its pre-eminence as a financial and legal centre, a pre-eminence that there is a particular need to sustain through uncertain times.

8. The creation of this new court sits comfortably with the long overdue and much wider courts and tribunals modernisation programme.
9. The programme is now well underway and delivering visible improvements in the way we operate, and the service we provide to the public. But those visible successes have not yet spread to all parts of the justice system. That will take time, require the focussed involvement of judges in helping to frame the parameters of change, and continued financial commitment from Her Majesty's Government. The annual funding arrangements recently agreed with the Lord Chancellor ensure continued support for this financial year. I look forward to that support enduring throughout the period of the programme. There remains much to be done before it is completed. And may I stress a point I made recently in the Sir Henry Brooke lecture? The modernisation and improvements envisaged are not an end in themselves. When completed, none of us can sit back and think 'job done'. The Courts Service will need to keep pace with advancing technology and developments in society to enable the judges to deliver justice in a way appropriate to ever-changing times.
10. As my Lord Mayor has recognised, the rule of law and a well-functioning justice system underpin the prosperity and stability of the nation and are worth multiples of the crude calculation of the money generated by legal and allied services. Just look at countries that struggle to provide either.
11. At a national level individuals and businesses can vindicate their rights through the courts and tribunals if that becomes necessary. But the existence of a functioning justice system means that most do not need to do so. It acts to encourage better conduct and better decision making as a silent but powerful tool of last resort.
12. At the international level, our courts and the high reputation of our judiciary underpin the attraction of England and Wales as a jurisdiction of choice, and of English law as the governing law for many international transactions that have no connection with the United Kingdom. The benefits to the economy and to the exchequer that this brings are well-known. We must do all we can to ensure that those benefits are not lost in an increasingly competitive international legal services market place.

13. All of these benefits depend upon having in place the skilled judges needed at every level to dispose of the business of the courts. It is well-known that there has been difficulty in attracting applicants with the right skills to fill a variety of vacancies in recent years. But let me dwell for a moment on the High Court. There is a statutory complement of 108 High Court judges. Historically there was no difficulty in filling that complement. That is no longer so. For the fourth year in a row the Judicial Appointments Commission, despite its best and impressive endeavours, has been unable to recommend for appointment the number of judges needed to maintain the statutory complement. We currently operate the High Court with only 93 judges, so 15 down. The recent High Court competition, the product of which will take up appointment from the Autumn, is expected to yield a small number of candidates of the highest quality – and I might add a socially diverse group with as many women as men, and including solicitors and serving judges as well as practising barristers. But we needed many more to make good the shortfall of recent years. That shortfall followed and largely resulted from the steady erosion of judicial terms and conditions. We face a real prospect next year of having to operate with about 80 % of the complement.
14. That is unsustainable. There is an urgent need to act now if we are to avoid serious and lasting damage to the High Court and to the international position of the jurisdiction of England and Wales, with knock on consequences for the professional services industry and the City. We – the judiciary – will continue to play our part to encourage applications for judicial appointment at every level from suitably qualified practitioners from all parts of the legal profession, and to ensure that the work remains as stimulating and rewarding as ever. But the main levers are not in our hands. I very much appreciate the Lord Chancellor's commitment to help ensure we can recruit the right number and quality of judges, in which the government's response to the SSRB report later this year will play a vital part. The professions must play their part too, and encourage more of their brightest and best to apply for the bench, in the interests not only of the legal system in which they thrive, but of wider public service.
15. My Lord Mayor, all the participants in the broad partnership of which you, the Lord Chancellor and judiciary are representatives, have the same central aims – to uphold the rule of law and to play our parts in delivering justice to those who use our courts and in support of a flourishing legal community.

16. I finish as I began with thanks to all my colleagues but will be forgiven an individual mention.

In just over three weeks' time, Sir James Munby, the President of the Family Division, who is unable sadly to attend this evening, reaches what has been dubbed "the age of statutory senility". He must retire at a time when he remains brimming with energy, enthusiasm and intellectual vigour. All my fellow judges here know what a truly outstanding contribution he has made to the development of the Family Court and to the evolution of family law. There are many whose lives he has touched. We will miss him enormously and wish him well for the future.

17. Finally, My Lord Mayor, we are very grateful for the generous hospitality and support which you and the Corporation have given to me and the judges and to your other guests. Thank you.