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BARRISTERS AND JUDGES IN ENGLAND TODAY*

*RT. HON. SIR ROBERT MEGARRY***

It is indeed an honour to be invited to deliver the Twelfth Annual John F. Sonnett lecture at Fordham University. It is also somewhat intimidating to be following in the footsteps of my eleven highly distinguished predecessors, including, as they do, Chief Justices of the United States, of England and of Ireland. At one stage I began to fear that I would be struck dumb; but I am a lawyer, and I was comforted by the well-known rule of medical diagnosis in your country. This is that you can always tell the state of a lawyer's health by looking at his mouth: if it is shut, he is dead. I hope that I am not.

The careers of my predecessors in office, and that of John F. Sonnett himself, suggested that my subject should be professional rather than academic in nature, and so I shall speak of barristers and judges in England today. The main problem, of course, is not what to say but what to omit; for the subject is vast. The question that I ask and shall seek to answer is this: With all the changes in society and social attitudes since 1945, how are the Bar and the judiciary in England faring, both individually and in relation to each other? From time to time on your side of the Atlantic there are flattering references to the high general standards of advocacy in England; but are they deserved today? I propose, therefore, to attempt something of a progress report on the forensic process in England and Wales. Scotland and Northern Ireland have their own separate legal systems and legal professions, and so I shall say nothing of them. Limitations of time mean that I must generalize, so that to most of what I say there will be unspoken exceptions and qualifications; and my emphasis will be on the Bar.

I must begin with a short prelude on scale. By comparison with the United States, everything in England and Wales is so small. My figures are very approximate, for in such matters detail tends to stultify. The area of England and Wales is less than 60,000 square miles, in contrast with your 3.5 million; and our population is not quite 50 million, as against your figure of over 225 million. Thus although our population is some 22 percent of the size of yours, it is crammed into less than two per cent of your area. Moreover, very few live more than 250 miles from London, where there is a heavy concentration of lawyers. Our legal profession is also relatively very small. We have some 500 judges for a population of nearly fifty million. The

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** The Vice-Chancellor of the Supreme Court of England and Wales. This article is a revised version of the Twelfth Annual John F. Sonnett Memorial Lecture, delivered by the Vice-Chancellor at the Fordham University School of Law on April 13, 1982.

judges with unlimited jurisdiction (comprising the High Court, Court of Appeal and House of Lords) number a little over 100; and there are less than 350 circuit judges, exercising a limited jurisdiction. If one adds a number of lawyers whom we do not call judges but who exercise full-time judicial functions and would probably be called judges in your country, there is a total of 500, or not much more. This compares with some 30,000 judges in the United States. Then we have some 4,500 practising barristers and about 45,000 practising solicitors, so that, including the judges, there are some 50,000 lawyers for nearly 50 million people. I do not know how many lawyers there are in the United States. I have heard it estimated that before very long there will be nearly a million of them; and I know that in 1979 there were over a quarter of a million members of the American Bar Association. In the year 1978, I believe that some 36,500 new lawyers were admitted to the various Bars in the United States; and this alone is equal to nearly three-quarters of the entire legal profession in England and Wales.

The accuracy of the figures does not matter much. What does matter is the broad effect of the comparison. Nobody in a vast country such as yours can hope to understand how the English legal profession works without appreciating to the full how small and compact it is by comparison with yours. Even so, it is now far larger than it was in 1939 or 1945. Since then, in broad terms, the profession has doubled in numbers; and in some respects it has more than doubled. The great surge in crime and divorce, and the extensive provision of legal aid, have seen to that. So how are the standards of the profession faring? Has more meant worse? Any answer must be very much a matter of impression; but I think that the general view is that for the most part, with some unhappy exceptions, standards have been maintained. Certainly I would assert this for the Chancery Bar, which I know best, though I believe that there are fields in which my common-law brethren are less happy.

Let me assume this to be so, and let me address myself to the Bar. Why is this the case? How is it done? In attempting to answer these questions I must express my thanks to those who founded this series of lectures for forcing me to attempt some analysis of what it is all too easy to assume and take for granted. After due reflection, I can put my answer in a single but not very short sentence. From the outset of his career at the English Bar, a barrister finds himself enveloped in a system of continuous professional assessment, correction and encouragement, and this directs and sustains his career in accordance with the established standards of the Bar.

That is my proposition. It rests on six major factors. Let me list them, before turning to look briefly at each of them. They are: (1) the pupillage system; (2) the chambers system; (3) the Inns of Court; (4) the institution of silk; (5) the influence of the Bench; and (6) the judgment of solicitors. You will observe that I have not included legal

education. In the course of teaching much law and some professional skills, legal education contributes something, and there have been many improvements over the last twenty years; but I cannot see it as being a major factor in my thesis. I do not suggest that the six factors that I list form part of any overall plan or design. Each grew up separately, and each has been refined and improved from time to time; yet however haphazard, the team works. In a word, it is very English. Let me take each of the six heads in turn.

1. *The Pupillage System*

Nobody may practise at the English Bar without first becoming a pupil of an approved practising barrister for a year or more. A rule of this sort had been customary for very many years; but not until 1959 was it made binding. In order to ensure that the pupil-master is sufficiently experienced, that he has a good reputation, and that he has enough work to make the pupillage valuable to the pupil, the pupil-master must have been continuously in practice at the English Bar for at least five years, and he must be on his Inn's list of approved pupil-masters. He must also be a junior (that is, a barrister, of whatever age, who is not a Queen's Counsel), so that he will have work of the type that the pupil will hope to do when his pupillage ends.

The pupil has a seat in his pupil-master's chambers, and he tries his hand at any or all of his pupil-master's work. He goes to court with him, makes notes of the evidence and arguments, fetches textbooks and law reports when a new point suddenly emerges, and generally assists his pupil-master. In chambers, he drafts opinions and pleadings, makes notes on points of law and practice for his master, and attends conferences with solicitors and clients. A valuable part of this education lies in the pupil seeing how far his master alters or rejects what the pupil has drafted; and his master will explain to him why this has been done. Another valuable part of his education is learning what his master, and others in chambers, regard as being proper to do, and how best to do it.

For the first six months of his pupillage the pupil, despite being a barrister, is not allowed to address a court; but after that, his pupil-master, if he thinks him fit, may give him some relatively simple work to do, such as making a plea in mitigation of sentence in a minor case, or appearing before a Master in chambers on some small procedural point. The pupil may also, under the guidance of his master, accept work on his own account, if he is fortunate enough to get any. The essence of the pupillage, however, is for the pupil to see everything from the inside, living in the highly professional atmosphere of barristers' chambers, and seeing how experienced and reputable advocates behave. Until some ten years ago the pupil paid his pupil-master a customary fee of 100 guineas (i.e. £105). This had been unchanged since it was first fixed in about 1780; but now there is no payment,

either by or to the pupil. There is a system of scholarships, bursaries and loans to help in meeting the financial problems of the pupillage year.

A pupillage is wonderfully revealing. Within a few months the pupil-master will know whether or not the pupil has any real aptitude for the Bar. The pupil's academic record may be outstanding or modest or dismal; but success at the Bar depends upon many other factors, and these begin to emerge during the pupillage. The pupil, too, knows that his future largely depends upon his performance during his pupillage. The Bar is competitive and crowded, and when a pupillage ends, the pupil will have to find a set of chambers willing to accept him as a member. If he has shown outstanding qualities, his pupil-master's chambers, however pressed for space, will somehow find room for him; for all concerned will do everything possible to keep up the standards of their own chambers. If the pupil is merely good, and there is no room for him in his pupil-master's chambers, the master will at least speak well of him when other chambers enquire. But a pupil who has been found to be lazy, stupid, self-important, untrustworthy or a dozen other things, will have small prospects of obtaining a seat in any save the most dreary of chambers. Careers at the Bar begin with the pupillage; and some end there. Yet a pupillage is not merely a time of trial; it is an essential part of the training for those who will succeed at the Bar. The beginner must be caught at the outset of his career and set upon the right lines. Early habits and attitudes tend to endure.

2. *The Chambers System*

No barrister may practise at the Bar unless he does so from a set of chambers. Physically, chambers consist of a number of rooms containing other barristers (usually from about eight to twenty of them, some sharing rooms) and a barristers' clerk, with typists and other staff. The rent and other expenses are shared by all the barristers in the chambers. In London, where about three-quarters of the barristers practise, nearly all the chambers are in one of the four Inns of Court. The clerk is a sort of business manager for each barrister in his chambers, and his functions include fixing and collecting their fees.

An essential difference between barristers' chambers and solicitors' offices is that every barrister is independent, and practises on his own. He is not in partnership with the other members of chambers or anyone else; partnerships at the Bar are prohibited. Often two members of the same chambers will be on the opposite sides in a case, assailing each other in court with all the added zest of being stablemates, and often close personal friends. This is particularly the case in some of the specialist chambers. Apart from the broad division between Chancery chambers and common-law chambers, there are sets of chambers that specialise in company law, or taxation, or landlord

and tenant, and so on. In these chambers, the chances of opposing solicitors each briefing a different member of the same chambers is high. In such cases, the clerk of the chambers is a happy man; for most clerks work on the basis of a percentage of the earnings of each of his barristers.

Despite these prospects of diversity, there is a strong corporate spirit in a set of chambers. One of the senior members will be the Head of Chambers, responsible for paying the rent and other outgoings, and for collecting (through the clerk) a fair share from each of the other members of chambers. It is to the Head of Chambers that junior members will turn for advice and assistance when confronted with some problem of ethics or propriety. It is the Head of Chambers who will utter warning words to any member of chambers whose conduct appears to require them. He shares with all the other members of chambers a common concern that the chambers should maintain their high standing in the eyes of the Bench, the rest of the Bar, and solicitors. Standards can be maintained much more readily by personal and informal words within a small unit than by an impersonal and formal disciplinary process, a process which must of necessity be reserved for major delinquencies and cannot so well supply a warning word in time.

There is also a strong tradition at the Bar for senior members to help beginners; and this flourishes in the atmosphere of chambers. It is in chambers that beginners get started at the Bar. Sometimes a busy and overpressed practitioner will divert some small work to a beginner in chambers whom he trusts; and there is also a process known as "devililing." The overworked practitioner will ask a not-so-busy beginner to draft an opinion or statement of claim for him, or to write a note on the law, much as the beginner did when he was a pupil. The difference is that the devil will usually be paid for his work. If the work is good and can be used without much alteration, he may expect to get at least half the fee received by the principal. As with a pupillage, this process is highly educational; and a devil may work for any or all in his set of chambers, or, indeed, outside.

3. *The Inns of Court*

The four Inns of Court are Lincoln's Inn, Inner Temple, Middle Temple and Gray's Inn, to put them in their traditional order. They are as closely similar in substance as they are pleasantly diverse in detail. They are all close to the Royal Courts of Justice in London and to each other. Nobody can be called to the Bar without joining one of them. Indeed, it is the Inns alone, and not the courts, that can call a person to the Bar; and it is the Inns alone that, subject to an appeal to the judges as Visitors to the Inns, can suspend or disbar a barrister. Each Inn is managed by its Benchers, or, more formally, "Masters of the Bench." These consist of all the judges of the High Court (and

above) who belong to the Inn, some forty of the senior Queen's Counsel of the Inn, and perhaps ten of the senior juniors. There are also a number of distinguished persons, some of them not members of the Inn, or indeed, lawyers, who have been elected honorary Benchers. I give the numbers of my own Inn, Lincoln's Inn, the Inn in which Thomas More held office over 450 years ago. Today we have about 130 Benchers, including many who have retired and twenty honorary Benchers. The main body of active Benchers is about sixty or seventy strong.

One essential of being a Bencher is to recognise that within the Inn all Benchers are treated as being equal, regardless of any judicial or other office that they hold. The one exception is the Treasurer, who during his year of office is the Head of the Inn. This rule of equality is good for the judges, doing much to prevent them from becoming too pompous and self-important. Much of the work of the Inn is done by standing committees. Nobody would be surprised to find a junior presiding over a committee in which a proposition that is strongly supported by a Lord Justice, a High Court judge and a junior is being opposed by three Queen's Counsel and a Master, and is ultimately defeated by a large majority. There is also easy conversation between all Benchers round the lunch table (most Benchers sitting or appearing in the Law Courts lunch in their Inn), though counsel who are appearing before a judge who is a fellow-Bencher will usually avoid sitting next to him. This easy mixing does much to avoid the "them" and "us" syndrome. In addition to being undeniably pleasant, it also plays a real part in the formation and maintenance of professional standards, and in diminishing the avoidable asperities of conflict in the courtroom. It was Tranio who advised:

Do as adversaries do in law
Strive mightily, but eat and drink as friends.

The civilising effect of habitual communal lunching is not, of course, confined to Benchers, but applies to all members of the Inn. Any temptation to indulge in sharp practice becomes less acute if the victims will be those whom you have met, and will meet, at the lunch table of your Inn. In addition, the hope of becoming a Bencher in due time plays its part, even if only subconsciously; for election as a Bencher is by the Benchers, and none save those of good repute will be elected.

4. The Institution of Silk

Taking silk is indeed an important step in a career at the English Bar. Norman Birkett, who became Sir Norman, and then Lord Birkett, once told me that he always regarded it as the most important and pleasurable step of all, outstripping appointment as a judge or promotion. Out of a practising Bar of some 4,500, about ten per cent

are silks, or "Queen's Counsel". The term "silk" comes from the gown. When appointed a Queen's Counsel you become entitled to wear a silk gown in place of the cotton gown of juniors, and you wear a tailcoat of a particular design instead of an ordinary jacket. On formal occasions (and they are few), you wear knee breeches and a wig with long flaps on each side, like a bloodhound's ears (a "full bottomed wig"), in place of the short wig that you wear on ordinary occasions, and juniors wear on all occasions. You also put "Q.C." after your name; and this is known, both inside the law and out, as an official recognition of your high standing as counsel. Despite the name, today there is no special position for Queen's Counsel in relation to working for the Crown.

The effect of becoming a Queen's Counsel is that you have to give up doing some of the less important kinds of work, leaving them for juniors, and you expect to spend your time on the more important and difficult cases. Broadly, you will be paid more money for doing less work, though it will be work of greater responsibility. Some juniors come to accept that silk is beyond their reach, while others hesitate to accept the responsibility, preferring to be "led" by a Queen's Counsel in the important cases. Yet the great majority of juniors hope to reach the plateau of silk, and reach it as early in their careers as they safely can. Needless to say, nobody has any prospect of being given silk unless he is of good repute.

The process of taking silk begins with an application to the Lord Chancellor, made by December 31 in any year. It is usually futile to apply for silk until you have been in practice for at least ten years; fifteen or twenty years is more normal. With your application you send details of your career and your earnings at the Bar, and you name two High Court judges as referees. The referees will in due course send the Lord Chancellor their views on your abilities as an advocate, and your conduct and repute; and they will be very frank. Usually the views of other judges will be available as well.

The Lord Chancellor then holds a meeting to consider the list of applicants, summoning the four Heads of Division, namely, the Lord Chief Justice (for the Queen's Bench Division), the Master of the Rolls (for the Court of Appeal), the President (for the Family Division), and the Vice-Chancellor (for the Chancery Division). All of these are, of course, practising judges, sitting every day in court. The Lord Chancellor himself is no mere Minister of Justice, but is a working judge who often sits as such, presiding over the House of Lords for the hearing of appeals. Among those at the meeting, there is likely to be at least one with a firsthand knowledge of each applicant for silk; and all will know the judges who have expressed their views about the applicants. There will be a frank exchange of opinions, particularly about those thought to be marginal, and ultimately the Lord Chancellor will decide upon a list of the successful. In recent years, the list has tended to include not much more than a quarter of those who have applied.

The list is now much longer than it once was. In 1956 I was one among eleven, whereas today there are a little over fifty each year. But even this is very different from Canada, where in a single year one Province alone may create double our number for a population less than one-sixth our size.

In England, the institution of silk is thus vigilantly guarded. Great care is taken to ensure that, as far as possible, every silk is truly silk-worthy. The list will often include one or two who are not practising barristers, such as a distinguished academic lawyer, or the holder of some important governmental legal position; but all the others will be appointed on purely professional grounds. Yet despite every care, there will be occasional mistakes. One New York lawyer visiting the Law Courts in London heard a dreary and incompetent lawyer addressing the court. On being told that the advocate was a Queen's Counsel, the American said: "Now I know why you say 'God save the Queen.'"

As you might expect, there are some pleasant formalities when new silks are appointed. Each year, the list of the successful is published just before Easter; and some ten days later, on the first day of the next term, the new silks will put on their formal dress and be sworn in before the Lord Chancellor at the House of Lords. They will then come to the Law Courts to be "called within the Bar" by each of the Heads of Division; for silks sit in the front row in court. Between the front row and the second row, where juniors sit, there is a notional "Bar," represented in many of the courtrooms by a little wooden gate at each side of counsel's rows. When the new silks come to my court, I interrupt the case that I am hearing, and say to the first of the new silks: "John Arthur Smith" (or whatever his name is), "Her Majesty having been pleased to appoint you one of her counsel learned in the law, you will take your seat within the Bar accordingly." Mr. Smith will then advance through the little gate, stand in the middle of the front row, bow to me, to the other silks and to the juniors, and then sit down. Whereupon I say: "Mr. Smith, do you move?" He then rises, bows to me (which is the courteous way of saying "No, I have no motions to move"), and then leaves the court. *E da capo al fine.**

There are, of course, variations. When asked: "Mr. Smith, do you move?", one obese new silk replied: "With difficulty, my Lord." Whether he rivalled Chief Justice Taft, I do not know; at times Taft weighed well over 300 pounds. Mr. Justice Brewer once reported, as an instance of Taft's innate courtesy, that he had seen him give up his seat in a street car to three ladies. When the future Lord Morton of Henryton took silk, Lord Justice Scrutton, who shared Morton's love of the golf course, was presiding over a Court of Appeal before which Morton had made the requisite three bows. As Morton was leaving the court, Scrutton called out "Fore," by way of friendly greeting; but Morton heard it as "Four," and returned to make an extra bow.

* "And this is repeated until the end."

5. *The Influence of the Bench*

The influence of the Bench is twofold; for the Bench is both a goal and a guardian. It is a goal in that most practising barristers—not all, but the great majority—hope that one day they will be offered a seat on the High Court Bench. Such an offer will be made only to those of the highest professional standing and integrity. The attractions are various. The work, though demanding, is interesting and important. Although there are now seventy-seven High Court judges in place of the twenty-eight of 1939, their standing in the community remains very high. They are always knighted on appointment, so that Mr. John Smith becomes “Sir John Smith” and his wife “Lady Smith,” a feature not to be ignored. The salary is much less than earnings at the Bar (when I was appointed it meant a reduction to about one-third), but there is an assured income, and a pension which can be taken after fifteen years service. The salary today is about \$75,000; but few are appointed until they are over fifty, when they have passed the worst financial stresses of educating their children. (The youngest appointments to the High Court Bench this century were the future Lord Hodson and the future Lord Devlin, each appointed when 42; but they were exceptional). To those in their mid-fifties, wondering how long they will be able to maintain their full vigour as advocates and withstand the competition of younger rivals, and lacking any partners to sustain them, a seat on the Bench has obvious attractions. They will bear in mind that an offer, once rejected, is unlikely to be repeated, and that with a compulsory retiring age of seventy-five, and with fifteen years of service required to qualify for a full pension, as the age of sixty approaches and is passed the offer of an appointment will become less and less likely.

The process of appointment is simple enough. The appointment is made by the Queen on the advice of the Lord Chancellor, after he has made such consultations as he thinks fit. These consultations always include the Heads of Division, much as on the appointment of silks, though on a more intensive scale. The sole criterion is to find the most suitable man or woman for the job. Politics, though once a factor, have ceased to play any real part in appointments to the Bench. The time of the change may be pinpointed. For a very long time the Attorney-General of the day was regarded as having a strong claim to the Lord Chief Justiceship, when it fell vacant. Yet when Viscount Caldecote, a former Attorney-General, resigned the Chief Justiceship on January 21, 1946, while a Labour government was in office, the new Chief Justice was not the Attorney-General but was Lord Goddard, a Law Lord with no more than a trace of politics in his youth, and that not on the Labour side. When he resigned in 1956, Lord Justice Parker took his place. In 1971 he was succeeded by Lord Justice Widgery, who as Lord Widgery, the Lord Chief Justice, delivered the John F. Sonnett Lecture in 1974. In 1980, he was succeeded

by Lord Lane, a Law Lord. All these were non-political career lawyers; and in each case the Conservative government that was in power at the time followed the lead given by the Labour government in 1946.

This non-political attitude has percolated downwards. Not for many years has a Member of Parliament been regarded as having, as such, any claim to a vacant judgeship, or, for that matter, to appointment as a Queen's Counsel. Any preferment must be based on professional standing rather than political affiliations. At most there may be an occasional suspicion that in a marginal case politics may have tipped the balance.

Another feature of the past that has disappeared is the appointment to the Court of Appeal or House of Lords of anyone who has not first become a High Court judge. I do not say that such leaps have become impossible; but the climate of opinion makes them improbable. A few years on the High Court Bench may do much to demonstrate the suitability (or unsuitability) of a judge for a seat in the Court of Appeal; and those few years are also likely to give greater understanding and depth to the exercise of the appellate function. Nor has the appointment of academic lawyers to the Bench come any nearer. As a former president of the Society of Public Teachers of Law (which roughly corresponds to the Association of American Law Schools), I suppose that I am about the nearest approach to an academic lawyer on the English Bench. But my road to the Bench, like everyone else's, was through practice at the Bar. That is now the only road. A modern development, introduced by the Courts Act 1971, is that many senior Queen's Counsel are now appointed to sit as Deputy High Court judges once or twice a year, for two, three or four weeks at a time. The primary object is to make inroads on the backlog of cases waiting to be heard; but a valuable secondary consequence is that the process is usually revealing about the silk's suitability for appointment to the Bench.

I turn from the Bench as a goal to the Bench as a guardian. Every barrister realises that the judges play a large part in whatever standing and recognition he has, especially as the numbers of judges and practising barristers are so relatively small. The impact of counsel and judge upon each other in court is also great. Except in serious criminal cases and in defamation, for all practical purposes every case is decided by the judge alone, without any jury. On appeal, there are no briefs in your sense of the word. The whole forensic process, both at trial and on appeal, is one of oral communication between counsel and judge. All is direct, man to man, or woman to woman, or as the case may be. In the bound and rebound of ideas between Bench and Bar, the stress of argument is wonderfully revealing.

There are no formal time limits, even on appeal. Chief Justice Hughes, I am told, was so punctilious a time-keeper in your Supreme Court that he was able to stop a Wall Street lawyer in the middle of

the word "If." In England, the courts subscribe to the proposition that one of the first duties of a judge is to make it disagreeable for counsel to talk nonsense; and usually the judges apply the skills that they have acquired in this process to prolixity as well, though their success is not uniform. The Court of Appeal once vainly attempted to stem the flow from a barrister notorious for his ability to make ten words do the work of one. On and on he went, and finally, as he was going round the course for the third time, he made a new complaint about the trial judge: "And when I tried to put that point, my Lord, the judge stopped me." The presiding judge saw his chance: "Tell us, Mr. Smith, just *how* did he do that?" The reply was prompt and indignant: "By falsely pretending to be in my favour, my Lord." In another appeal, counsel began to cite a number of cases in support of elementary propositions of law. Soon the presiding judge gently observed: "Mr. Jones, I think that you may assume that this court has *some* knowledge of the law." "My Lord," replied Mr. Jones, grimly, "that was the mistake that I made in the court below."

6. *The Judgment of Solicitors*

In England, no barrister can appear in court as counsel unless he has been instructed by a solicitor. The livelihood of a barrister is thus wholly dependent upon solicitors and what they think of him. Solicitors are the judges of the Bar; they brief the good and ignore the bad. The judgment of forensic ability is made not by laymen, who too often think that storm and fury make good advocacy, even when empty of content. It is made by solicitors, lawyers who are skilled in litigation and well accustomed to appreciating quiet and effective competence, and to discounting froth, however impressively uttered. They can recognise the budding skill of a beginner, perhaps on the other side in a case, who, though losing, proves to be resourceful and tenacious; and for the next case that they have of the same kind, they may well brief that beginner in preference to counsel whose win was unimpressive. From counsel's point of view, the ultimate triumph may lie not in winning the case but in winning the solicitors on the other side for future cases. In a word, counsel are the subject of continuous assessment by the general body of solicitors, all of whom have the commendable aim of getting for their clients the best possible value for money.

CONCLUSION

Those, then, are my six major factors. I have set out my prelude, stated my theme, and deployed my six variations; and so I come to my coda. From the outset, a barrister is enveloped in a system of continuous professional assessment, by his pupil-master, by his fellows, by judges, and by solicitors. His progress depends on their judgment of how good a barrister he is. Politics play little or no part, whether party politics or the politics of any bar association or other body; nor

do the views of laymen count. The whole atmosphere is professional. The barrister is set on the right lines by his pupillage, sustained by the chambers system and the fellowship of his Inn, continuously assessed, aided and corrected by solicitors, his fellows and the judges, and encouraged throughout by the goal of silk and ultimately the Bench. Is it any wonder, then, that, set in this climate, so many barristers attain and maintain high standards? Instead, it would be surprising if they did not.

There are, of course, failures, quite apart from those who are found to lack the qualities necessary for practice at the Bar, and who, weeded out by the system, depart for other fields of endeavour. There are a few whom no system will tame, just as there are many who in any event would instinctively go right. But for those at neither extreme, the system does much—very much—to bring out the best and discourage the worst. It is also very pleasant. The barrister's Inn is a social club in which the real brotherhood of the law flourishes. This emphasises one of the defects of the system. Today, a quarter of the Bar mainly practise outside London; and for them, the Inns, from geographical necessity, can provide so little. There are other defects, too; I certainly am not suggesting that the rose has no thorn. But even after allowing for all qualifications and exceptions and blemishes, I assert that the system as a whole plays a very large part in maintaining high standards at the English Bar.

Perhaps I may end by saying something of my own Inn. When a Bencher dies, the great bell of Lincoln's Inn, brought back from Cadiz in 1596, is slowly tolled from 12:30 p.m. until 1:00 p.m. For many years, barristers in the Inn, hearing the bell, have sent their clerks to find out who it is that has been gathered to his fathers; and this continues to this day. When the bell was still newly-hung in the chapel, the great Dr. John Donne was Preacher to the Inn; he held office from 1616 until 1622. In 1624 his *Devotions Upon Emergent Occasions* was first published; and in it there is a well-known passage which may have had its origin in the brotherhood of the law that Donne found in the Inn. I like to take it as extending also to the brotherhood of the law that knows no national boundaries. In modern orthography it runs as follows:

No man is an island, entire of itself; every man is a piece of the continent, a part of the main; if a clod be washed away by the sea, Europe is the less, as well as if a promontory were, as well as if a manor of thy friend's or of thine own were; any man's death diminishes me, because I am involved in mankind; and therefore never send to know for whom the bell tolls; it tolls for thee.