

Speech on behalf of Legal Wales by Huw Williams, Chair of Public Law Wales, at a Legal Wales Dinner to mark the retirement of Lord Thomas of Cwmgiedd, Lord Chief Justice of England and Wales, held at the Senedd 27th October 2017

Lord and Lady Thomas, Gyfeillion.

May I first thank you Mr Counsel General for allowing Legal Wales to come together in this magnificent setting tonight and for your warm welcome to us this evening. Dioch yn fawr.

On behalf of everyone present can I also thank Fflur Davies, Deborah Ashleigh Thomas and Ronnie O'Connor and their front of house team for their excellent service this evening and Executive Chef, Jason Lloyd and his brigade for the splendid dinner we have just enjoyed. Diolch yr fawr i chwi i gyd,

I said "Gyfeillion" a moment ago because it conveys a sense of shared collegiality and endeavour that speaks to my task this evening which is to thank Lord Thomas of Cwmgiedd – in which thanks I also join Anne, Lady Thomas, for they are indeed a formidable partnership – for his contribution to the founding and development of Legal Wales.

The bare bones of Lord Thomas' career are well known.

After a brilliant academic record at Cambridge, and at the University of Chicago he was called to the Bar in 1970. He joined one of the top commercial chambers and took silk at the age of 36.

Between 1971 and 1986, he was also a volunteer at the Islington Legal Advice Centre on a weekly basis. The problems of the clients he encountered there were a world away from a commercial practice involving Lloyds litigants, international litigation in jurisdictions such as Singapore and reporting for the Department of Trade as inspector into the affairs of the late Robert Maxwell.

He was appointed to the High Court in 1996 and served on the Wales and Chester Circuit (as it then still was) as Presiding Judge. After a period in charge of the Commercial Court and he joined the Court of Appeal serving as Senior Presiding Judge. In 2008, he was appointed Vice-president of the Queen's Bench Division and Deputy Head of Criminal Justice. In 2011, he became President of the Queen's Bench Division and in 2013 the Lord Chief Justice of – as we are in Wales – Wales and England.

Lord Thomas, of course, hails from the upper Swansea Valley where his father practised as a solicitor and was under-sheriff of Breconshire.

Now there is a well-known Welsh saying “Gorau Cymro, Cymro oddi cartref” which can loosely be translated as saying that the most fervent Welsh are those who live away from home and celebrate their Welshness from afar.

Not so with Lord Thomas, he was called to the bar at Gray's Inn – the Inn traditionally associated most closely with Wales - and began his ascent of the judicial ladder sitting as an assistant recorder and then recorder on the Wales and Chester Circuit; and, of course, his family retained a home in Cwmgiedd. Notwithstanding his work at the commercial bar in London and abroad, therefore, I am certain, Lord Thomas, that Wales has always remained your true home and indeed when you were created a peer you chose to include Cwmgiedd in your title.

Thus, I am sure that it will be seen in years to come that it was Wales' great good fortune that your tenure as a Presiding Judge here coincided with the passing of the first Government of Wales Act in 1998 and the inauguration of the National Assembly in 1999.

For you were quick to identify the opportunity that devolution could offer to lawyers in Wales, but coupled this with a clear sighted appreciation of the weaknesses and particular instability of the initial

devolution settlement – and I am tempted to say, the one after and so on down to the most recent.

However, what I do not think that those of us who first encountered you around this time were quite prepared for your capacity for getting things done – a capacity which has assumed legendary status over the years since.

When I received the invitation to speak this evening I was on my way back from an event at the Law Society in Chancery Lane, where the Old Council Chamber was renamed in honour of David Lloyd George to mark the centenary of the only solicitor to date to be Prime Minister. Turning over in my mind what I might say tonight, I recalled that when he took office Lloyd George reached out beyond the politicians and officials, to call on the expertise of businessmen and industrialists help organise the country for victory in the Great War. Lloyd George called these his “men of push and go”. I doubt that anyone here will disagree that Lord Thomas is a modern day example of that spirit of “push and go”!

In the immediate wake of the Government of Wales Act you provided the impetus for the legal profession to establish associations that would reflect Wales’ re-emergence as a nation with a distinct political and legal identity (in addition to a continuous cultural and linguistic identity) and be part of the wider development of Welsh civil society.

One or two of these societies fell by the wayside but Public Law Wales, the Wales Commercial Lawyers Association and the Welsh Legal History Society have stayed the course under your Presidency of each of them; all have become established features of the Welsh legal landscape and they are all well represented here tonight.

Likewise, when the idea of a Legal Wales Conference was first mooted you were an enthusiastic supporter and resolved that the event could - and must - be a success. It was; and is by now, of

course well established, providing a platform for comment and debate about legal issues affecting Wales – and it is to be hoped also established by convention as a fixture in the diary of the Lord Chief Justice of the day!

Similarly, I recall your vision and inspiration in shaping and chairing the inaugural “Chatham House Rules” seminar for the Richard Commission in 2003 which laid the foundations for Legal Wales’ subsequent seminars for the All-Wales Convention and the Silk Commission. Their final reports reflect the deliberations of those seminars and forged Legal Wales’s reputation for contributing the profession’s perspective to the constitutional debate.

Among the issues you highlighted at these seminars and at other events are the unique issues around the impact of devolution on the single jurisdiction of Wales and England; and the importance in a democratic society of a rational, certain and publicly comprehensible distribution of powers.

I should also make specific mention of your encouragement in ensuring that Legal Wales presented a compelling case, based upon the need to respect the national devolved institutions, to Sir Anthony May’s¹ examination of the structure of the Administrative Court and which resulted in the establishment in 2009 of a fully functioning Administrative Court in Wales.

However, perhaps your most enduring legacy - dating back to your arrival as Presider, is the effect you have had in engendering that spirit of collegiality – “cyfeillgarwch” – among all sections of the legal community in Wales and which lies at the heart of the endeavour we now think of quite naturally as Legal Wales.

The constancy of your interest in Wales is more remarkable given the roles that have been called upon to fulfil following your time as Presiding Judge in Wales.

¹ Lord Justice May

It is sufficient this evening to recall that you were at the heart of the restructuring of the senior judiciary in the wake of the hasty decision in 2003 that the way to resolve a spat between two cabinet ministers was to abolish the office of Lord Chancellor. As a result, the office of Lord Chief Justice as now constituted can be properly regarded as a largely new role lying at the heart of the separation of powers which the Constitutional Reform Act 2005 sought to institute; and a truly immense role it is – by the account of one commentator, it encompasses no fewer than 44 distinct roles and functions.

Crucially, the Lord Chief Justice is now the fulcrum of the relationship between the judiciary and the executive and it has been your lot over the last four years to “speak truth unto power” about the need for reform in the face of the multiple challenges the legal system faces – financial, technological, economic and political and, latterly, the effects on the place of the common law internationally, posed by the UK’s withdrawal from the European Union and the prospect of deep legal integration based on the civil law amongst the “EU27” who will be largely freed of the need to accommodate the common law tradition.

In doing all this you have had to remain on the right side of that fine line between the role of the judge and the realm of politics; operating successfully in a vital section of what Peter Hennessy has termed the “hidden wiring” of our constitution.

As Lord Chief Justice you have, the last year, also experienced shocking and unwarranted attacks on the independence of the judiciary. I am sure I speak for all of us when I say we owe you a debt of gratitude – both as citizens and as lawyers committed to upholding the rule of law - for your forthright and courageous defence of a fundamental principle of our constitution – and, if I may say, doing so in place of the high officer of state whose sworn constitutional duty it was to do.

Accordingly, I think I can say without fear of contradiction tonight that your conduct in the face of such multiple challenges will surely be an example and a precedent to guide your successors as Lord Chief Justice for decades to come.

Now it has not gone unnoticed that you returned to your roots as it were for your last sitting in court as Lord Chief Justice was in Swansea; and the subsequent announcements of your appointment as Chancellor of Aberystwyth University and as Chair of a Welsh Government Commission on Justice in Wales, show that your commitment to the interests of Wales remains undimmed.

I am sure that many of us here tonight look forward to sharing views and ideas with your Commission; and to the impetus you will undoubtedly provide to the task and your lecture earlier this evening to the Wales Governance Centre and Public Law Wales has provided us with a foretaste of that. Indeed, I recall that the old Welsh Office used on its badge that line, derived from a 15th century praise poem: “Y Ddraig Goch ddyry cychwyn”; often translated as “the Red Dragon provides the impetus”, although “cychwyn” also has connotations of stirring to action or a call to arms, so perhaps an appropriate strapline for your Commission’s work should be “Cwmgiedd ddyry cychwyn”!

Of course it has long been a part of the literary heritage of Wales to address those who achieve great things through verse and Legal Wales is fortunate to count bards amongst its ranks. Emyr Lewis (well-known to us as all, I am sure, as the senior partner in Wales of the firm of Blake Morgan) is unable to be here tonight, but as a chaired bard and one of your avowed “fans” he has composed a pair of *englynion* in your honour and I would now like to address them to you – and for those not familiar with “Iaith y Nef” or, as J.R.R. Tolkien called it, “the senior British language”, Emyr has provided a free English translation and explanation, which is printed on the back of your menu cards.

Felly:

**Cymru'r Gyfraith i'r Gwir Anrhydeddus Yr Arglwydd Thomas o
Gwmgiedd,
Arglwydd Prif Ustus Cymru a Lloygr**

Yn y drefn o gadw'r hedd – mae yno,
er mwyn cael cydbwysedd,
ran i glorian ac i gledd
ac i awen Cwmgiedd:

awen sy'n rhoi uwch ben swm rheg - ei le
i lais clir rhesymeg;
yn wyneb ymffrost, gosteg;
uwch rhoi taer, chwarae teg.

Presentations

So, it gives me the greatest pleasure on behalf of Legal Wales to present these *englynion* to you, inscribed by the calligrapher Ieuan Rees, Llandybie.

And to Lady Thomas, I hope you will accept this small token of Legal Wales' esteem and affection.

Toast

I orffen felly gallai ofyn i Cymru'r Gyfraith sefyll ac yfed mewn testyn diolch a dymuniadau gorau i'r Arglwydd a'r Foneddiges Thomas o Gwmgiedd/

Finally, I invite Legal Wales to rise and drink the health of Lord and Lady Thomas of Cwmgiedd.

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