

After Dinner Speech by HH Wendy Joseph KC

6 October 2023

Lady Chief Justices – a pair of you, Past Lord Chief Justice, Justices of some of the highest courts in our jurisdiction, Judges at all levels, Chairs past and present of legal Wales, Ladies and Gentlemen:

You've had a day of speeches and now, when you thought it was all over, up I pop. If you're wondering 'what's she doing here? What's she going to talk about, well so am I. And it is a question. Because after-dinner speakers are supposed to send the guests away happy. And while I'm very used to sending people away ...

Anyway I got guidance from the so kind, so helpful, The lovely Huw Williams, Milwyn Jarman and Jonathan Rees. The guidance was to speak for for 20-25 mins. I just thought I'd warn you so you can refill your glass, and if you find you concentrate better with your eyes shut, I will entirely understand.

Anyway back to the Lovelies. They had three thoughts about what I should cover. The first was 'a little about your background in Cardiff and route to the Bar'. I'm a bit diffident about this, not being sure what possible interest it could be to you, but I'm nothing if not obedient. So here goes.

It is, of course, an absolute joy to be back home in Cardiff. I can't be the only one here who was born in Northlands Nursing Home or who grew up in Roath and Llanishen. And I'm surely not the only one who knew what they wanted to be when they were 7. But whilst you had your eyes, even then, on the top courts, I just wanted to be a writer. My Dad had read me a story by Kipling called How The Alphabet was Made; and I was enchanted by the idea that shapes on a page make sounds, that make words

that make stories that you can whisper into the minds of people even if they are miles away. When I was 7, I thought that was magical – and I still do.

I stuck with the idea of writing all through my years at Cathays High School for Girls and when I went I off to Cambridge University. It wasn't until the end of my 2nd year there that my mother – justifiably worried because my Dad had died and his undeniable brilliance had left not much by way of hard funds – said 'Darling how exactly are you going to earn a living?' Actually that isn't quite how she put it. She said 'Do you think you might like to be able to afford to eat?'

Now she had a point and I had a boyfriend who was just changing from history to law and ... of such chances are lives made. Imagine if he had been changing from history to Land Management in Turkestan.

Anyway I went to the Criminal Bar (as a matter of record, he didn't) and I thought my Mum would be pretty pleased with me. I asked her to come and see me in court. I was prosecuting a small case in a small crown court and settled her up in the public gallery to watch. I tore enthusiastically into a young black defendant and thought I did rather well. But when I went to collect my mother, she was less impressed. She said,

'I was sitting next to the nicest woman. We were chatting. I pointed to you and said "that's my daughter". She pointed to the defendant and said "and that's my son". I was ashamed of you,' said Mum. 'I didn't bring you up to accuse a total stranger of lying. Better,' she said, 'you had been a florist. At least flowers smell nice.'

And she was right. There's a lesson to be learned here – about how not to abuse the power which is given to advocates. And it *is* a power ... to speak to people in the witness-box which, if you did it in the street, would likely earn you a bop on the nose. The skills of advocacy are those of subtlety and persuasion not of battery and bloodshed.

Anyway, writing seemed to be forgotten. But in fact, looking back on it, I can see those years were the perfect preparation for writing. Because the criminal bar isn't really about the law at all. Oh, you have to know the law, or at least where to look it up and how to manipulate it – but what life at the criminal Bar is about is people, their lives and the unholy mess they can make of them. The criminal courts are a daily drama unfolding before your eyes. They are all about stories. And isn't this what a writer is interested in?

And what the Criminal Bar asks of its advocates is to use words to persuade ... to get inside other people's heads and make them see what you see. And isn't that what writers do?

Of course none of that occurred to me then. I just had 32 fascinating years at the Bar, the last 10 in silk. And I thought I was as happy as I could be until I suddenly found I was tired of always fighting one corner or the other; and thought there might be even greater happiness on the Bench. Also a pension.

So instead of being one of the more senior members of the Bar I became a very junior judge. Now, as you know, baby judges aren't sent to the Old Bailey. They are sent to the outer edges of the public transport system, to boldly go where no one else wants to. They are sent to courts where the roofs leak and justice stops when it rains. They are sent to the sort of courts where they send the new ushers. They are sent to Snaresbrook.

My new usher was Lynn and she was as recent to the job as I was. Lynn's 1st task was to 'ush' me into court – to throw open the door, command everyone to stand and to announce, by reading from that little card which the MoJ thoughtfully provides, 'Oyez, oyez, oyez, all persons having business before the Queens Justices draw near

and give your attendance.’ But at the critical moment Lynn lost her little card. Improvising, she announced, ‘Hurray, hurray, hurray, here comes Judge Joseph.’ And it’s been all downhill ever since.

Four years later I moved to the Old Bailey where the City maintains impeccable roofs. When I arrived I was only the 3rd ever full-time female appointment there. There’d been no woman judge for years. In 2012 at the Central Criminal Court there were 16 full time judges, 15 men and me. By the time I left a decade later, there were equal numbers of men and women on its Bench, and now, with the latest round of appointments, women are in the majority. Just saying.

The Old Bailey was my working home for a decade and you will know what it’s like ... day after day, murder after murder. Half the defendants are only caught because they *will* drop their oyster cards at the scene, or phone their mums as they run away, or adopt disguise by turning hoodies inside out in front of a CCTV camera. I don’t know how the police would manage without their help. Perhaps, though, it’s not so surprising when you think they are mostly not much more than boys.

But the real joy of being an Old Bailey judge, of being a judge anywhere, is all that is required of you is be fair and do right to all manner of people after the laws and usages of this realm, without fear or favour, affection or ill will. Those are the words that have passed the lips of all of us who have been privileged to take the judicial oath. I found it good to keep those words, that thought, on a little card beside me on the Bench, next to another little card that reminded me to ‘Shut up’. It’s surprising how much practice it takes to obey those two sets of instructions.

So that’s the journey from North Road to the Old Bailey, potted, as ordered by The Lovelies. But I warned you they gave me three things to cover. The second was

couched thus. 'We think the transition from judge to author is a point of interest.' Actually it was a point of accident.

In lockdown 2020 I was sent away because, though the Old Bailey never closed its doors, it closed all but a few of its courts. I could live with that. The day job didn't need me. But my other job, that of Diversity and Community Relations Judge, did. Or I thought it did. That stream of schoolchildren (I even had one lot from Cathays), students, Imams, parents of autistic kids, and all the many others who wanted to understand about the courts, or thought the courts should understand about them. In lockdown how was I to keep in touch with them?

I had an idea. I thought if I could write a little pamphlet describing the sort of thing that happened when schoolchildren came into my court after working hours, I could send it out to the schools that might otherwise have come to me. So I did and I asked a Literary Agent I knew, 'Alice, could we publish this and send it out to schools'. And Alice said, 'Wendy, no'. 'But,' she said, 'if you could write more like this, about what it is really like in court, I can find you a publisher'.

Well over the next weeks I thought about that. I thought that if the kids don't understand how the criminal courts work, perhaps their parents, their aunts and uncles and the other adults in their lives don't either. Perhaps our society doesn't get it. And that is a real shame because the criminal courts are there to protect that society, the criminal laws primarily made by those whom that society has elected to represent them, the prosecutions brought in the name of that society, the people who make the big decision guilty or not guilty members of that society. So maybe, I thought, there was some mileage in writing for those people. In saying to them, "Come and sit beside me on the Bench and see what it's like to look into the eyes of a 16 year old and send him to prison for life. Come and shift your gaze from the dock to the bereaved parents whose child the one in the dock has killed".

The more I thought about it, the more I thought there was a book to be written. But of course, no one still sitting could do it. And I was still sitting. But I wouldn't be for much longer because I was already then 68 and I knew – or thought I knew – the retirement age for judges was 70. So I wrote the book and Alice was as good as her word and found me publishers, and in that summer of 2021, I suddenly found I was an author. At nearly 70 I was right back where I had wanted to be when I was 7. But I was still a judge. So I told Penguin I would retire the following March (2022) and that there could be no publicity and no mention of my name till then. They agreed. I signed a contract. They paid me some money. I spent quite a lot of it. And shortly afterwards I got a communication from those who look down from on high saying that in the light of an expected rise in the retirement age of judges to 75, I was being given an extension to see me over any hump between my 70th birthday and the new legislation coming into force. The implication was obvious. With the backlog of cases to be tried post-Covid, and the huge numbers awaiting their trials for murder, I should jolly well do my bit. And if they had got in before I had signed the contract and spent the money, I undoubtedly would have done. And none what followed, would have happened. So, *My Lovelies*, the transition from judge to author was just as fortuitous as was my original decision to read Law rather than Land Management in Turkestan.

The final Lovely Thought was 'Reflections on the state of the criminal trial and courts. Well I've left the courtroom, but when you stand back from things, sometimes you see them more clearly. And what is clear is that the system is under threat root and branch, from the media, from the treasury, and from well-meaning and less-well-meaning people. Even the jury is caught in their sights. I don't suppose there's anyone here who would want to put an end to jury trials – but the discussion as to whether a jury is fit to cope with complex fraud, has now been joined by the question of whether it is fit to try rape ... and that, one might think, is the thin end of a very thick wedge.

Still I suppose one must accept that the jury system is a strange one. We call on twelve ordinary and random people, of greater or lesser education, intelligence and bias. We make them come to court day after day to hear evidence, knowing some will be listening more carefully than others. Then we send them off to the privacy of a jury room to make decisions that fundamentally affect the lives of others. We ask them to do it without any training, utterly unsupervised, with no come-back or way of reviewing their process. If we were starting from scratch and I suggested this as a system, you'd drum me out of the Brownies. And yet, and yet, it works. It is slow, cumbersome, expensive – and yet it works. To my mind there's something magical and moving about watching twelve strangers leave behind their own problems and settle down for weeks, even months, working together to solve the problems of others. You can criticise the system – but show me a better one.

The criminal justice system as a whole does, however, I respectfully venture to suggest, have its limitations. It's the nature of the thing because in a criminal court you can't do justice. At least you can't put things right. You can't undead a dead body. You can't unviolate a raped child. You can punish, try to deter, hope to rehabilitate, but you can't put things right. So in courts like the Old Bailey the word justice has a strange meaning. You see it in the faces of the bereaved family when the verdict of 'guilty of murder' is returned – their moment is of triumph and, when the inevitable sentence of life imprisonment is passed, their moment is of vengeance, and then you see the blankness as the realisation dawns on them that nothing is any better. That their child is still dead and nothing in the universe will undo it. You see it in the fury of those who demand that defendants stand pilloried in the dock and publicly listen to the pain that their wickedness has inflicted on the innocent. They ask for justice, but what they mean is 'make him suffer like my dead boy suffered, make his family suffer as we the bereaved are suffering.' And it's what most of us would feel, isn't it? Individually we can entirely empathise with that position. But is it what we want as a society?

It's easy of course to knock the system – the funding that stops and starts, the failures to join things up so people slip through the cracks, all manner of short-comings to set against the progress we have undoubtedly made. But ultimately, I would be the first to say we're lucky to have what we have.

It's a privilege to have been able to work in it. It's a privilege to speak about it. And it's a pleasure to have been able to talk to you tonight.

Diolch yn fawr.