THE DENNING LECTURE
1983

Does the Law Stand Still?

by
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When one morning a few weeks ago I was sitting at my desk, cheerfully contemplating, as I was writing a judgment, my own undeniable infallibility, my telephone rang. I need hardly say it was your Chairman. He asked me, in an innocent voice, whether I knew Lord Denning was going into hospital in March. I affected some surprise but I did know. I thought that unhappy fact was then known only to comparatively few. Knowing your Chairman, I suspected a trap. I was right — there was a trap — and the trap was quickly sprung. Lord Denning was scheduled to give this lecture named after him. The lecture was to have been a great event. The media had been alerted. Reporters were busy buying all available copies of the Oxford Book of Quotations to make sure that those anticipated selections from Shakespeare and Wordsworth, Milton and Tennyson, would be accurately reported as soon as the words fell from Lord Denning's lips. One or two Lords of Appeal had been anxiously having their blood pressure taken lest their anxiety neuroses arising from the occasion might give rise to record diastolic readings. Now none of this was to be. And the trap that was sprung? Would I give the lecture instead? With that flow of insincere flattery, usually only employed by Ministers of the Crown when they want some senior judge to do a job that they can't find anyone else foolish enough to undertaken, "You are, of course, the one person, etc." which being interpreted means, "I have tried everyone else without success and". Mr Wheatley went through all the motions — and more. I said, "I cannot recite poetry and I haven't got any stories. Worse still, I have never been to Runnymede". "Never mind" he said "Think of something, anything will do, and say anything". Quickly, and without much thought, I said "Well, will 'Does the law stand still?' do?". He at once accepted. I made the suggestion because I thought it might perhaps afford an opportunity to recall at least a few of Lord Denning's many great contributions in the past, in his endeavour to see that the law did not stand still.

The practice of the law involves two real dangers. The first is that lawyers as a race are a very close corporation working very closely together. Like most close corporations, they suffer from a tendency to self-satisfaction and become resistant to change. The second, which in the biblical phrase, is like unto the first, is that lawyers do not see the law or themselves as others in the wider world outside see them and it. Let me just give you one example. Only the most enthusiastic lawyer could have been content with the system of divorce law which until well within my professional life-time because of our unreformed rules of evidence,

permitted courts unblushingly to reach the conclusion that Mrs A had committed adultery with Mr B but Mr B had not committed adultery with Mrs A. But I want to discuss the present, and perhaps the future, and not the past. I want to invite you to consider the answer to my question, by reference to perhaps four different branches of the law. First, administrative law; second, commercial law; thirdly, family law; and fourthly criminal law. I intend to discuss the first two at a little length, and the others rather more briefly if time permits.

For many years English lawyers deluded themselves, encouraged by writers like Dicey, to believe there was no such thing in this country as administrative law. They complacently thought how lucky they were not to be troubled as were those foreigners who lived beyond Calais and the other side of the channel, with bodies such as the Conseil d'Etat. And yet, lo and behold, in a period of some thirty years — almost within ten years — we have suddenly developed an entirely new system of administrative law, and in all but name, a form of control of the executive by a structure of administrative courts. How has this change, perhaps the most far-reaching in the last fifty years, been attained? Where do you find the statute which has been directly designed to effect this change? The answer is, of course, you will not. The change has been brought about almost entirely by the judiciary as I shall hope to show, and even more remarkable, it has been made not so much by changes in substantive law, as by changes in legal procedure. If what I say requires corroboration, let me call two witnesses of impeccable character. First the late lamented Professor de Smith. As long ago as 1973 he prophetically spoke of "The unusual but indisputable fact that . . . the most creative developments in the judicial sector of administrative law have been taking place in this country". He went on to speak of a "reurgence of judicial activism". The other, Professor Wade, now the Master of Gonville and Caius College, Cambridge, who will forgive me, I hope, if I describe him as not perhaps the most dangerously radical of academic lawyers, in his Hamlyn Lectures said much the same thing some seven years later — "The work of the judges has now rebuilt administrative law to the point where it can stand comparison with other legal systems and may, in some respects, claim the advantage." How nice, for a change, to have a few kind words said about the judiciary. How has this all happened? Some half-a-century ago, the late Lord Hewart — not perhaps the greatest or wisest of the successors of Coke and Mansfield — won much publicity and an undeserved measure of popularity by a book called *The New Despotism* which was, in truth, a grossly unfair attack on the then Civil Service. But during his twenty years as Lord Chief Justice was anything done by him through the judicial process to cure that alleged despotism of which he affected to complain? Nothing. The old prerogative writs were there but with all the traditional inhibitions upon their use elaborately preserved, lest otherwise some reforming Siegfried

might appear and in the course of awaking this sleeping Brunnhilde secure some gainful employment for her. Brunnhilde's awakening begins as late as 1951 in the well-known *Northumberland* case, with, if lovers of Wagner's *Ring* will forgive the metaphor, two Siegfrieds, Lord Goddard and the then Lord Justice Denning, brandishing two Nothungs or perhaps I should say, both brandishing the same sword, and, not without some alarm in Whitehall, the writ of *certiorari* was at last restored to its rightful position. That was just the beginning. The next move came with the Tribunals and Inquiries Act 1958, the architects of which were Lord Franks and, in particular, as I am sure Lord Franks would be the first to accept, the then Lord Justice Parker. That statute not only insisted upon most statutory tribunals giving their reasons, but struck down many acts of Parliament which contained what had politely become known as the "no *certiorari*" clause and less politely as the "anti-Denning" clause.

Three landmarks stand out in the judicial decisions of the next decade, *Ridge* v *Baldwin* in 1964, *Padfield* in 1968 and *Anisminic* in 1969, Lord Reid's three great contributions in this field. But great as these advances were, they in their turn were nothing like enough. The establishment of the Law Commission in 1965, suggested the possibility of a wide review of the whole field of administrative law. But in view of the then current development of the distinction in substantive law beween public and private law, wiser counsels led to the conclusion that it was not the substantive law which was then seriously at fault, but forms of legal procedure. Thus was what became Order 53 first conceived, and then after a period of gestation, considerably longer than that of the elephant, born in 1977. This is now section 31 of the Supreme Court Act 1981, but that section did little more than ratify what had already been achieved by judicial decision and rule of court.

The benefit of Order 53 to those seeking redress against the executive has been immeasurable. Look at the Law Report page of *The Times* on any day of the week you like to choose. You will see a vast increase in the number of cases where judicial review has either been refused or granted. First, of course, leave was required to seek judicial review for this was an essential feature of the new scheme, designed to protect the executive in all its manifestations against the flood of hopeless and unmeritorious claims. However much some people may dislike this and claim that it is an unjust restriction upon the right of a citizen to have unrestricted access to the Courts an interest had to be shown, and full and complete disclosure was required upon which the relief sought was claimed. And the relief, if leave were granted, could be obtained, not after many months or years of delay, but in almost days. Issues of fact could be tried, discovery obtained, and damages awarded in a proper case. Order 53, and now its statutory counterpart, had arrived. But would the courts be able to handle the anticipated resulting burden of work? The answer from the Lord Chief Justice, Lord Lane, was

an emphatic "yes". No longer the lamentable delays which up to 1980 had allowed a backlog of some seven hundred cases to build up in the Divisional Court. Lord Lane developed the idea of a single or two-judge court. A single judge could deal with applications for leave.

A two-judge court was all that was needed for most judicial review cases, and for some, a single judge would suffice. The phenomenal reduction of the arrears in the Divisional Court achieved by the present Master of the Rolls, then Lord Justice Donaldson, in 1980 and 1981, was followed by Lord Lane allocating judges, some with special experience of administrative law, to deal with these Order 53 cases. These two events, and especially the last, have done more in three years to re-shape administrative law in this country than has been achieved in the last fifty, or some might say, a hundred years, and if anyone dares to say in this field that the law stands still, then, in the famous phrase "The truth is not in him".

I read some time ago in a newspaper the statement that there is to-day no real liberty for the individual, and that the judiciary no longer really care for liberty and the freedom under the law was a lawyer's lie. Lord Goddard once said of jurors in a certain county, that nothing would deprive them of their inalienable right to return perverse verdicts. Nothing will deprive some people of their inalienable right to make perverse and, some might say, stupid statements. It is an unfortunate but sad fact of life that the more perverse, perhaps the more stupid the statement, the more likely it is to obtain publicity. Just as dog bites man is not news but man bites dog is, so sense is not news but, unhappily, nonsense too often is.

The courts have come under some criticism of late for failing adequately to protect our immigrant population from supposedly arbitrary decisions of immigration officers. It would be quite wrong for me to enter into that controversy here, but if the criticism ever had justification, I find it difficult to believe that it can survive the recent decision of five of my colleagues in two immigration cases which greatly widened the scope of Order 53 for the protection of immigrants and the redress of their grievances be they real or imagined.

Let me make one thing clear. In the recent reforms it has not been sought, and never ought to be sought, to establish a system of appeals to the courts from administrative decisions. Administration belongs to Government and not to the courts. Judges must not affect to be administrators or to think that they can govern though perhaps one or two might wish it were otherwise. They cannot and are not qualified to govern, and must never attempt to do so. Judicial review is not an appeal from an administrative decision. In truth it is not an appeal at all. It is a review by the courts of the manner in which, and the process by which, a particular decision was reached. Whitehall and Westminster and not the Strand is the place for those who wish to govern. The judges' task is to see that those who are administrators do their task — and it is difficult enough in all conscience

for them — within the confines of the law which entrusts wide powers to them.

This field of work grows all the time. I cannot give you statistics, but a glance at the cause list will tell its own tale. At one time, personal injury work was the staple diet of the Queen's Bench judge. I may be wrong, but I should not be surprised if over the next ten or twenty years, when some of us may be looking down but more of us, perhaps, will be looking up, if that staple diet became a veritable banquet not of personal injury cases but of applications for judicial review.

Some ninety years ago because of the extreme dissatisfaction which the business community felt with judicial ignorance of business affairs, the Commercial Court was founded with specialist judges. Lord Lane has, whether consciously or not I do not know, evolved similar specialisation in the field of administrative law. There are some who may regret that a Lord Chief Justice can no longer now leave his personal imprint upon administrative law, such as Lord Goddard and Lord Parker did, by presiding day after day in the Divisional Court. But to-day no holder of that over-burdened office could for one moment hope to deal personally with every case of judicial review which comes along. Lord Lane's imprint will, I do not doubt, be as firm as that of his great predecessors in this field by his decision himself to sit from time to time in the Court of Appeal to deal with appeals in judicial review cases, especially now the Court of Appeal also includes among its members some with special experience in this field.

No, the judiciary receives a good deal of flak from many quarters. Some of it may or may not be deserved but of our achievement in this field, I venture to say, we can justly be proud and I do not doubt that there will be many more developments to come in this field over the next few years. Lord Denning, though not directly responsible for the most recent events, can indeed be proud of that particular torch which he helped to light over thirty years ago, and which is still being caused to burn even more brightly than it did. One has only to glance at three recent decisions in the House of Lords to which I can without impropriety refer since I was a party to none of them. *O'Reilly, Cox* v *Thanet District Council,* and the Scottish case of *Hamilton District Council* v. *Brown,* to see what I mean when I talk of future developments in this field.

So much then for the first of my four topics. Let me turn, for the next few minutes, to the field of commercial law. I have long taken the view that those concerned in the higher courts with the development of commercial law have a double duty to fulfil. The first is to see that so far as is judicially possible the law is certain. My test of whether law is certain is the ability of counsel when asked to advise at 2.30 what is the proper and irrevocable decision for the client to take at 3.00, to give an answer which is both legally right and commercially sensible. Many years ago, an Austrian businessman came to see me for advice. His business had nothing whatever to do with

England but he always insisted on his contracts being governed by English law with an English jurisdiction clause. Curious to know why, I one day asked him. His answer was, "Because your law is certain. you do not look for what people call 'the merits'". It is because in some quarters recently there has appeared a tendency to subordinate certainty to subjective views of what seems to be "just" in some particular case, that there has been a very real danger of commercial law being thrown off its proper course, and the task of my practitioner at 2.30 being made not only difficult but sometimes impossible. Happily, the House of Lords has recently re-asserted the need for certainty, and in no uncertain terms. I trust this has undone some of the serious danger, which at least in the field of commercial law, was being done because of this subjective view of what is just and right. Let me give you one quotation only on this topic from a recent speech of Lord Bridge of Harwich: "The ideal at which the court should aim is to produce a result such as in any given situation both parties seeking legal advice as to their rights and obligations can expect the same clear and confident answer from their advisers and neither will be tempted to embark on long and expensive litigation in the belief that victory depends upon winning the sympathy of the court. This ideal may never be fully attainable but we shall certainly never even approximate to it unless we strive to follow clear and consistent principles and steadfastly refuse to be blown off course by the supposed merits of individual cases."

But insistence on certainty as we try to do, does not mean rigidity. The second duty of those responsible in the higher courts, is to see that the state of the law can respond to the changing needs of the commercial community. Thirty years ago, Lord Simonds would have regarded this as dangerous heresy and indeed did. The rigid doctrine of consideration was allowed to rule with all the inflexibility of the last century, notwithstanding that north of the Tweed it has never been found necessary to resort to that dcotrine. Yet in England it has been made to appear like the law of Medes and Persians which altereth not. Why, I ask, should two people not be allowed to say in a manner effective in law that they will do their business together on terms which include mutual promises that neither will seek redress from a third party whose participation in their joint adventure is the subject of mutual agreement and is absolutely essential to its success, when that third party, either himself or by his servants, unfortunately falls for a moment below his usual standard of care? I have always regarded the *Midlands Silicones* decision, and indeed the earlier decision in *Adler* v *Dickson,* as commercially disastrous. Happily, wiser counsels have now prevailed, and the wisdom of the Privy Council in the *Eurymedon* and in a later case, and its acceptance of the efficacy of the so-called *Himalaya* clause, has found a way round the inflexibility of this particular doctrine so beloved by Lord Simonds. And what would he have said of judgments given in foreign currencies and of the Mareva injunction, the former a reform effected solely by judicial decision

to meet the problems arising from an ever depreciating pound, and the latter at least one weapon against the ever increasing profitability of commercial fraud.

Let me just say a word or two more about judgments being given in foreign currencies, a matter of crucial importance to the business community. Less than twenty-five years ago, Lord Denning declared in ringing tones "If there is one thing that is certain in our law, it is that the claim must be made in sterling and the judgment given in sterling". Yet within fifteen years the House of Lords went completely into reverse. The law was once again judge-made. Lord Wilberforce, who had been counsel in the 1960 case, said "It is entirely within the House's duty in the course of administering justice to give the law a new direction in particular cases where on principles and on reasons it appears right to do so." Thus, at a time when unhappily sterling is again depreciating, the contract breaker can no longer add to the innocent party's loss by casting upon him an exchange loss as well. Another change is to encourage bringing arbitration to this country as, for example, by the abolition of the notoriously abused special case. This abuse applied especially in the commodity trades, where there was a possibility, and indeed from time to time an all too painful reality, of no less than four successive tribunals hearing appeals on simple points of construction. The present strongly restricted system of appeals is, I venture to think, as good a compromise as one is likely to get between the needs of securing finality in arbitration and the necessity to present so far as possible the risk, however remote it may be in this country, of arbitral decisions that are utterly perverse.

It would be strange if individual judicial decisions were not, from time to time, the subject of criticism. They may be none the worse for that, but I hope it is not a sign of self satisfaction to say that whereas fifteen or even ten years ago, one judge could easily cope single-handed, with all the work in the Commercial Court, to-day it is not uncommon for four or five judges to be employed in that court on a single day. This hardly suggests dissatisfaction with that court or with its judges or with English legal procedure among the world's trading community who use that court since the greater number of those who do use it have little or nothing to do with this country.

I want to turn now for the remaining few minutes available to me, to mention two other subjects. Both perhaps more controversial than those I have just dealt with. The first is family law, and the second, a small corner of the criminal law.

As regards family law, I am impenitent in regarding the changes wrought by the 1969 and 1970 Divorce and Family Property legislation as socially immensely beneficial. As regards divorce, the strict view that marriage is immutable and indissoluble save by death, and in the words of the book of Common Prayer "Those whom God has joined together let no man put asunder" is entitled to deep respect, but in the imperfect modern

secular world, I cannot but ask whether that can ever be more than a pious hope, however often one may still hear those words uttered in churches. I doubt whether a return to the pre-1969 law of the concept of divorce only for a matrimonial offence, would to-day command the smallest measure of support in the community at large. The idea of returning to a system of law which required as a foundation for divorce adultery which often, in fact, never took place, and never stopped to enquire where the responsibility for the breakdown of the marriage and any adultery which understandably, and perhaps inevitably followed from that breakdown, lay, is I think to-day repellent. It is worth remembering that those changes though ultimately effected by statute were largely judicially inspired, first by the late Lord Justice Phillimore, who was the principal architect of the report of the Archbishop's Commission entitled, *Putting Asunder,* and later by Lord Scarman, who though his name never appeared in the document, was, the author of that remarkable Law Commission paper, *The Field of Choice,* on the remedies available where marriages have broken down. Divorce law can never be perfect but modern society demands facilities for divorce and I doubt whether the principles underlying the 1969 Act are likely to be capable of great improvement. Some say it makes divorce too easy. Others say divorce is still too difficult. The latter usually are those who take the view that marriage is an outmoded social concept. I do not believe that the society in which, whatever the outward appearances, puritanism — old-fashioned puritanism — still plays a surprisingly large part, would accept a system under which you bought your divorce across the counter of a post office.

Much more difficult is the question of the redistribution of property after the marriage has broken down. Here the 1970 Act, and its successors, have come under strong criticism, and reforms have recently been suggested which unhappily, as I make bold enough to think, some politicians seem to have shelved when they ought not to have done so. Perhaps it was too much to expect otherwise as a general election approaches. But I do hope that whatever the colour of the next Government, whether it be red or blue or just dull grey it will grapple with this problem. One purpose of the 1970 legislation was to stop the courts having to make moral judgments, often wrong ones, and then redistributing property on the basis of such a judgment. The concept of conduct, good, bad or indifferent, is not readily to be quantified in monetary terms. I had better admit that I was a party to the *Wachtel* v. *Wachtel* decision though the thinking behind it was largely that of Lord Justice Phillimore. I can still recognise the bits of the judgment which each member of the court concerned wrote. The real problem is not the law but the blindingly obvious fact that just as no man can serve two masters, so one income will not, save in extremely rare cases, serve two families. There is the rub — the trouble is financial and not legal. I know one reads of many complaints of husbands being required to support the indolent boyfriends of former wives. I also have come across cases of wives unable to extract money

from allegedly impecunious husbands when they are living comfortably on the assets of a newly-acquired girlfriend. No system will be perfect and the present absence of a single family court under the overall direction of the President of the Family Division, just as the Crown Court and the Queen's Bench Division are both under the overall direction of the Lord Chief Justice may occasionally lead to idiosyncratic decisions which it is not always easy to correct on appeal. But if, as is now proposed, we can get a unified family court I think many of the complaints should disappear. But, Lord Chancellor please note, I would like to see the admirable work done by domestic panels of magistrates' courts, and the non-criminal work, such as care work, of juvenile courts, brought under the same overall judicial control. As always with legal reforms, they cost money, and money is not given away as freely by the Treasury as criticism is given away by those who claim to be discontented with the existing system. But the law has not stood still in the last decade in this field, though I think it now needs a strong push once again from behind. That it has not been given is not the fault of the courts. It took many years for Parliament to achieve the 1969-70 reforms. Let us hope that the next move will come more quickly.

Let me end with a few words about one problem in the criminal law. Here, I am bound to say, I think we are open to a good deal of criticism. I intend no disrespect to those who work in this field if I say that they seem more resistant to change and reform than they should be. I fully understand and wholly share their anxiety that there should be every possible safeguard against the conviction of the innocent, and that that must be the main objective of the administration of criminal justice. But that philosophy must not be allowed positively to obstruct the conviction of the obviously guilty. I had occasion recently to re-read some speeches which were made when the Bill which became the Criminal Justice Act 1967, was before Parliament. You will remember that it was proposed in that Bill to introduce majority verdicts, which had existed for many years previously in Scotland without the slightest difficulty; on the contrary, they had contributed greatly to the efficient administration of criminal law in that country. That change in our law was, of course, effected and is, I think, to-day accepted as part of the natural order of things. Indeed it is something without which the Crown Court system would come even nearer to breaking-point than it has. But I hope I shall not cause offence if I gently recall some of the speeches made which represented the contemporary views of the Bar Council and the Law Society and which, I suspect, might, if I were to read them out and name their makers, bring a few pink blushes to some cheeks if not some darker hues to a few faces, if they recall what had then been said. One saw similar resistance recently to the long-awaited reform to abolish the unsworn statement from the dock, which nobody who has had recent experience either or criminal trials or of appellate criminal work, can doubt being sadly and grievously abused.

Where I venture to think that drastic reforms are now required and a lot of hard re-thinking is necessary, is in the trial of cases of alleged commercial fraud. I am not to-day concerned with whether this conviction or that acquittal is or was right or wrong. I am simply concerned with the appalling expenditure — some might call it waste of public time and money which is involved in securing whatever result is ultimately reached. The nine or six-month trial or even the three-month trial in a commercial fraud case is a modern phenomenon. It never took place fifty years ago. Look back to the great fraud cases of the early part of this century — *Whittaker Wright, Gerald Lee Bevan, Bottomley, Kylsant* and many others of that ilk. A week or two sufficed at the most. The great fraud cases between the two wars were short causes compared to to-day's fraud trials. These mammoth trials are unfair on the accused upon whom the strain must be appalling. They are unfair on juries who are unaccustomed to sitting in one position day in and day out and listening. They are unfair on the trial judge, who, as any one who has tried these cases as a trial judge knows, has to carry the most enormous burden. They are unfair on counsel. They are unfair on the taxpayer who ultimately usually foots the bill on both sides, win lose or draw. A few months ago I read a newspaper article by a journalist who apparently had visited the Central Criminal Court during one of these mammoth fraud trials. If my memory is right, he described the atmosphere as one of "incompetent boredom". The boredom was, I think, because of the unending length of the case. The charge of incompetence, whether justified or not, seemed to have been because of what the article said was a total lack of understanding of the real issues involved — it was strongly hinted both by the judge and by all counsel in the case. This is a harsh judgment. It may or may not have been justified, but the problem is there and it will not go away. I have been wondering whether whatever the protests may be from the traditionalists we have not now reached the stage when these cases should be taken out of the ordinary system of criminal justice, where they are blocking the ordinary course of its administration, and be tried in a special court. It is I think now forgotten that until after the last war, the Queen's Bench Division still had power to try criminal cases in banc, as indeed, Casement was tried during the First World War. That procedure was, I believe, invoked in the *Whittaker Wright* case to which I have already referred. Hence Wright was tried in what used to be Queen's Bench Court 4, the court at the end of that long corridor in which many of us have either appeared as counsel or sat as judges. Indeed, it was because he was so tried there, that security was lax and in the end he was able to poison himself in the consultation room opposite the court. It was tried by one of the leading commercial judges of the time, Mr Justice Bigham, the future Lord Mersey, with a special jury, and, if you look at the reports, it did not take all that long. It was an intensely complicated case. It must be enormous help to the understanding of a big alleged commercial fraud if the trial judge has some knowledge of the

markets, be it the insurance market, the commodity market, or any other market in which fraud is alleged to have been perpetrated. Lord Kylsant was, it is true, tried at the Central Criminal Court but the notable Lord Wright, then the leading commercial judge was specially sent down to try him. Ninety years ago the Commercial Court was set up because the commercial community complained of the ignorance of the then Queen's Bench judges of commercial and business matters. Ever since, the commercial judges have been well accustomed to trying issues of fraud in commercial cases. Scuttling, fraudulent fires, sales of stolen cargoes, and a score of other cases where exactly the same issues arise as in criminal trials arise in these cases, tried as civil cases. Would it be too revolutionary a proposal to shift these cases away from the Central Criminal Court who, I am sure, would be delighted to be rid of them, to the Commercial Court, and give this Court an extended criminal jurisdiction not unlike that previously from time to time exercised by the old Queen's Bench Division sitting in banc? Perhaps a modified version of the old City of London Special Jury might be revived, provided a proper system of selection could be devised since today most City ratepayers are what was once called 'God-fearing limited liability companies', or there might be a large panel of assessors from whom to choose. I shall not take your time canvassing all the various possibilities, for they are many. What I am concerned is that this problem should be faced and faced now, so that the present winter of discontent in so many quarters can be brought to an end. It would be idle to pretend that one did not know that the present system has come under criticism not only in the media, but in other very high and well-informed places indeed.

I am afraid I have tried your patience for too long. My attempt has been to show that the law does not stand still, and that there is much of which we lawyers can be proud. Lawyers will never be popular. Plato disliked them. The Gospels say unkind things about them. The mediaevalists used to say, you will recall, that archdeacons could never be saved. I hope lawyers are not in the same category. But I suspect that they can only have a reasonable hope of salvation if they try, however inadequately, to serve the community of which they are an important part, and try and see that they, too, have feet of clay.

I said that, unlike Lord Denning, I had no poetry, I was not perhaps strictly truthful. For the other day I came across this. Perhaps you all know it but it was new to me:

"The law the lawyer knows about is property and land
But why the leaves are on the trees and why the waves disturb the seas
Why honey is the food of bees, why horses have such tender knees
Why winters come and rivers freeze, why faith is more than what one sees
And hope survives the worst disease and charity is more than these
They do not understand."

A reproach — perhaps a deserved reproach — but it is one that we can only avoid if all of us make it our task to see that the law does not stand still.