

13th May 2010

### EULOGY TO HIS HONOUR JUDGE ROGER SCOTT

**JUDGE BENSON:** Mr. Hyland, it is less than seven months since the Bradford legal community gathered here to pay tribute to the distinguished career of His Honour Judge Roger Scott, and also to wish him a long and happy retirement.

Sadly, the fates decreed that our heartfelt wish was not to be granted, and he was taken from us last Saturday after a short but pernicious illness.

I have had the privilege of knowing Roger since 1975, when I joined 38 Park Square, Leeds as Norman Jones' pupil, and where Roger was already a junior tenant. Roger had been educated at Mill Hill School in London and at St. Andrew's University, and as a young man he was an accomplished and enthusiastic sportsman, especially on the hockey field. I have very sadly to report that the fact that he was educated at the home of golf was not later reflected in the quality of his golf swing.

He was married to Diana Clarke, who together with Katie, his daughter, is with us today, in 1966, and he was called to the Bar by Lincoln's Inn in 1968. He became a pupil at 38 Park Square to Anthony Richardson.

He gained, did Roger, considerable fame if not notoriety by arriving to start his pupillage at the wheel of a brand new Rolls Royce. And for many years after he had a love of exotic cars. He had practised throughout his career at the Bar from Chambers in Leeds, first at No. 38 Park Square and then when Norman Jones led us to set up St. Paul's Chambers, at St. Paul's Chambers, where he became in due course an effective and popular Head of Chambers for some years.

In the early part of his career he was much in demand amongst Leeds solicitors as what would nowadays be known as a "Criminal defence barrister"; no such appellation, happily, existed then, but that is what he principally was. And he was a fearless cross-examiner of police officers, in the days before the Police and Criminal Evidence Act of 1984, when some of the practices of the CID bore close resemblance to those of Detective Chief Inspector Gene Hunt from the "Life on Mars" programme.

Roger had a little black book, and it contained the names of police officers whose activities he suspected to be less than honest and straightforward. And if he was called upon to cross-examine someone whose name was in the book, he would start the cross-examination by flourishing the volume and thereby disconcerting the witness, who felt that his malpractice had been catalogued. On one occasion, this technique proved so effective that a hard-bitten Detective Sergeant, confronted with this implied record of his wrongdoing, fainted in the witness box. (*Laughter*) Roger, as you will imagine, was immensely pleased with this effort, and greeted the collapse of the said police officer with a characteristic triumphant cackle. (*Laughter*)

Later, however, the poacher turned gamekeeper, and he built a substantial practice as a prosecutor, especially in the field of fraud and complex conspiracies. He excelled in this work, assisted by a high intelligence combined with a prodigious memory, and I always will hold him a special debt of gratitude for the fact that he took the time and trouble and patience to teach me at least some of his accomplished techniques at prosecuting such cases.

Parallel with his developing practice at the Bar, he sat successively as an Assistant Recorder, a Recorder, before being appointed to the Circuit Bench in 1995. He sat initially at Teesside and then here in Bradford, and in both centres he gained the affection of the staff and his colleagues as well as their respect for his abilities as a Judge.

Whatever Roger did, he did with a massive and infectious enthusiasm. Sometimes it led him into difficulties, not least in the famous episode of the Ming vase. Roger was defending a man charged with dishonestly receiving two very rare and valuable Ming vases. His defence was that they were so ordinary and scruffy-looking in appearance, he had no idea as to their true value when he bought them from a man in a pub for a fiver.

In making this point to the Jury, Roger seized one of these priceless articles and waved it in front of them, emphasising its ordinary appearance. Inevitably he lost his grip, the vase fell and shattered on the Bench. This provoked from the owner, who was sitting at the back of the Court, an audible moan of horror. Roger, undeterred and instantaneously said, "Well, that's a shame. But at least the remaining one's even more valuable now". (*Laughter*)

There are, of course, many similar stories of Roger and his delightful eccentricities. And when he retired, there were some in this building who, as well as missing him, missed his two dachshunds, Charlie and Millie. One of their characteristics, as well as barking loudly in the room next door to mine, was that they would inevitably attack any visiting High Court Judge. Roger was unapologetic about this and blamed the High Court Judges for having their robes trimmed with ermine, which he claimed was irresistible to the animals. But I always harboured perhaps an unworthy suspicion that he had actually trained them (*laughter*) to attack anything human wearing red. But there we are.

As I have said, Roger had his eccentricities, and he could at times shoot from the hip and say something that he might later have regretted saying. But he was never hurtful out of malice, and whatever he said or did, he always said or did from the highest possible motive. And that was his desire, to see justice done, and to see that it should be done as transparently as possible. The proper practice of the criminal law and the doing of justice were the hallmarks of his professional life.

There are many credits to the professional life of Roger Scott, but in particular here in Bradford we remember two achievements. The first is that when he first

came to sit here, the Court had a large backlog of uncleared cases, and Roger set to with characteristic robustness and cleared that backlog, I will not say singlehandedly, but almost so, and so set the Court back on an even keel. And the other particular area of achievement was, in partnership with His Honour Judge Gullick and His Honour Judge Grant and others, he dealt sensitively, efficiently and professionally with the aftermath of the Bradford riots, and that was no easy task for any of those involved.

Of course, there was more to Roger than the lawyer and the Judge. He was keen on cricket and keen on watching Leeds United, and it is sad that he passed away too early on Saturday to see them promoted. In his time he played hockey, squash and golf with great competitive enthusiasm, as Judge McCallum will testify, and he lists walking and the theatre amongst his interests in Who's Who.

In recent years, he and Diana have travelled extensively to exotic locations in the Middle and Far East and to South America, and they were looking forward to many more years of doing so, and sadly that is not to be. Roger was immensely proud of his family and their achievements. He was married to Diana for over 40 years and was the proud father of Martin, Andrew and Katherine - Katie, who is here with us today. A proud grandfather of Oliver, Philip, Georgie and Milo. Our hearts go out to them at this very difficult time, as we share in their great loss.

Roger's life and work touched many people, and as the number of people here today testify, this contact enriched the lives of all those who were privileged to know him. As we say goodbye to Roger, we shall remember and miss a fine advocate, a wise Judge and above all, a good and true friend.

**MR. HYLAND:** Thank you very much, your Honour. I recognise that for you, being one of Roger's closest professional and personal friends for many years, that this occasion is a particularly poignant one, shared I know by all your colleagues on the Bench, many of whom grew up with him in Chambers in Leeds. I say immediately on behalf of the Bar, not only here in Bradford and Leeds but throughout the circuit, that we unreservedly associate ourselves with your kind and moving remarks.

It is undoubtedly a matter of sadness to us all that Judge Scott shall be lost to those who knew him professionally, but vastly more so to Diana and her family, that he shall be tragically taken from them so soon after his well-earned and richly-deserved retirement.

I have had the pleasure of knowing Roger Scott since coming to the Bar on this circuit in 1978. Thus, I knew him as a barrister, Judge and friend for 32 years. Upon his retirement in October last year, my Chambers hosted a private dinner for him at the Bradford Club, an establishment of which he was a great supporter. The fact that we did so is, I hope, an indication of the respect and affection in which he was held. We did not invite you or your brethren, for the simple reason that we wanted the occasion to be a personal one for him, and one which gave me the

opportunity to thank him for the kindness and support that he had given to my Chambers since he came to sit in Bradford.

This dinner was attended not only by the criminal practitioners but by some civil and family practitioners who had never appeared before him in their lives. Why, you may ask. Well, because they came to know him through meeting him at the club. They enjoyed his company and appreciated the fact that he showed a genuine interest in their practices. And in the cases of the younger members, their blossoming careers.

Roger's kindness, support and encouragement to the young Bar, as barrister and Circuit Judge, was a feature of his personality that I respected gratefully, for I had good reason to do so. As I believe I said in October in response to the Recorder of Bradford, Roger prosecuted me in my first Jury trial in the old Bradford Crown Court. He knew it was my first trial and he was consummately fair, never seeking to take a bad point, nor taking advantage of my inexperience.

In the course of the summing up, I could not understand why His Honour Judge Dean was making all the good defence points that I had so lamentably failed to make. It was only after the inevitable conviction and sentence that I learned through the Court Clerk that prior to the Jury being empanelled, Roger had passed a note through to His Honour, informing him that I was making my debut in the Crown Court. Thus it was that in an utterly hopeless defence case, which in other circumstances would have sorely tried the patience of His Honour Judge Dean, I was given a degree of tolerance and latitude which I probably did not deserve.

I will not pretend that His Honour Judge Scott did not have his judicial eccentricities or idiosyncrasies. That he did have them is not a criticism of him, but rather an indication that Roger was very much his own man. I shall, if I may, give two examples. His approach to pupils in Court. Whenever he noticed a fresh-faced pupil sitting behind his or her pupil-master, he would address the pupil directly and say, "Who are you?" The pupil, slightly alarmed, would respond, to be comforted by His Honour Judge Scott telling him or her that, "You have now spoken in the Crown Court. It will be easier next time". A very good example, I believe, of his kindness.

Secondly, he was less kindly to those Defendants who appeared in front of him in breach of a Community Order which he had passed only months before. Looking them in the eyes and recognising his or her name, he would say "I know you". There then followed a frantic pressing of the laptop button (*laughter*) which revealed that any breach of the order would result in 18 months' imprisonment, which was invariably duly passed.

It has been said that His Honour Judge Roger Scott courted publicity in the local and indeed national press, particularly at the time when he was having to deal, along with others here, with the Bradford riot cases. Court publicity he did not, but boy, did he enjoy it. (*Laughter*)

At lunch-time I would often enquire of the manager of the Bradford Club, Mr. Townsend, as to where were the copies of the Bradford Telegraph and Argos and the Yorkshire Post. I was met with a response from the manager that, and I quote, "I think you will find Judge Scott has them". True enough, I would venture to a corner of the room to see Roger's gleaming smile as he looked upon the front pages of both papers, which featured in glorious technicolour his judicial mug-shot, alongside a report of the savage sentence he had passed the day before.

Such individual traits coming from the man that he was, were never allowed to impede upon the conduct and performance of his judicial office, for Roger possessed all the characteristics of a very fine Circuit Judge. Fairness to both sides, and a desire to ensure that justice was done. Hard work, conscientiousness and preparation. Like His Honour Judge Dean, whom he admired enormously, he always read his papers in advance, thus enabling him to dispose of an enormous workload with efficiency and alacrity. When required to be firm in sentence, and he was often so required, he was. But equally he was fair and compassionate when the case demanded it.

He was a Judge who expected the highest standards from all those who appeared before him. If those standards were not attained, he did not shrink from openly criticising the advocate involved. Contrary to belief, that criticism was not confined to those who were not practising members of the Bar. It extended, when appropriate, to very young members of the Bar, to juniors, senior juniors and in my experience, to silks, be they appearing on behalf of the Prosecution or the Defence.

Only in October last year did I say that upon his retirement he would be greatly missed by friends and colleagues on the Bench here in Bradford and throughout the North-Eastern Circuit, by the advocates who appeared before him and by the Court staff here who worked with him. Our sadness then is today heightened by his grossly premature and cruel passing. We extend to Diana and her family our most sincere and heartfelt sympathy.

**JUDGE BENSON:** Thank you very much indeed, Mr. Hyland. Mr. Franklin?

**MR. FRANKLIN:** Your Honour, I appear today to speak on behalf of the Crown Prosecution Service, obviously, but also on my own behalf. I have known Roger a long time. I think it goes back to the early 1970s when I worked for the late Jack Levy who used to instruct Roger a great deal, and very quickly our common love of Leeds United bonded us together to some considerable degree. I left the area not long afterwards, and therefore my contact with Roger for some time was considerably less, but obviously resumed very strongly some ten or eleven years ago.

Roger, as you have said yourself, developed a formidable reputation as a criminal advocate, and initially as a defence advocate, subsequently as a very strong prosecutor. As a Judge he earned a well-deserved reputation for cutting to the quick and sorting cases out very efficiently but justly. You yourself have referred to the

backlog of trials that we had in Bradford some ten or eleven years ago. And Roger's way of dealing with this was - I will not say necessarily unique, but it was certainly very distinctive and hugely effective. I responded to the initiative by insisting that we field an experienced lawyer to sit at the back of the Court - this was before we were doing Crown advocacy in-house - and Roger very quickly realised that I was deploying somebody in Court who knew about the case and was accountable for it. That rapidly led, I am afraid, to the counsel instructed by the Crown having something of a bit part, because the dialogue was straight over counsel's head and directly with whichever lawyer was deployed in Court at that time.

He reflected a similar approach indeed when dealing with Narey prelim guilty pleas. Clearly, you will recall when these were introduced, the idea was that we would field a lawyer, deal with the prelim, and if the case was a guilty plea, the case would be put in another Court perhaps and dealt with in accordance with what would normally be regarded as protocol. That was not for Roger, and I remember a rather flustered prosecutor coming in to see me, did not have rights of audience, and said, "I've just had this most remarkable experience. We'd got a guilty plea at the prelim before His Honour Judge Scott, and the Judge said 'Right, we're going to proceed to sentence now'. I pointed out that I didn't have rights of audience, and the Judge said, 'Well, what's that got to do with it? You're here, you know the facts of the case, you've got the previous convictions. Let's get on with it'". And that, I think, was typically Roger. Never mind the bureaucracy, never mind the protocol, let's get things sorted out.

As CPS developed its in-house advocacy strategy, Roger became an increasingly important figure in the lives of our Bradford-based Crown advocates. It is fair to say that appearances before him, for them, were something of a white-knuckle ride, as he could be searingly critical of CPS, and given that he invariably had a full command of the issues in his cases, as you have indicated yourself, your Honour, he was able to challenge prosecutors robustly, invariably reminding them that as CPS employees, their degree of personal accountability was far higher than that of counsel.

However, Crown advocates quickly learned to love him, because he engaged with them so effectively, so genuinely. He was never slow to recognise ability, knowledge, commitment, a willingness to learn. Early on, summonses to see him in Chambers were initially dreaded, but ultimately offered nothing more unpleasant than the over-zealous attentions of one of Roger's dogs.

Roger's pragmatism, which I have referred to, manifested itself in other ways, such as engaging directly with victims to obtain information, as ever cutting out the intermediaries, and just ever so occasionally, playing to the gallery in the process.

I asked Crown advocates to provide me with "Roger stories", and it is fair to say I was inundated. I think the one that perhaps sums him up so well relates to a lady barrister from London, who was told by Roger, "We don't like counsel from London up here. We never know what they're talking about. But you are prettier

than most, though, so I'll listen to what you have to say". *(Laughter)*

You will gather that Roger was loved by Crown advocates, and those in CPS who were not Crown advocates and dealt with him regularly. The Crown advocates in particular felt privileged to appear before him. They learned a great deal from him. They valued the interest that he showed in them. And it is fair to say that when we in CPS received this news, there was a great sense of shock and a continuing sense of sadness that such an outstanding man has been cut down so early in his prime, at a time when he had just begun to enjoy the joys of his retirement.

Roger and I last met before this illness became apparent. He was in great form, he regaled me with stories of his taxi experiences; of course, this was something he had always wanted to do in his retirement. He was clearly at that stage enjoying retirement to the full and looking forward to so much.

His sudden and fatal illness, as I say, has taken many of us by surprise, and I think all of us, our hearts go out to his family for what they have had to suffer. In life he was full of energy and enthusiasm. He was passionate about the things he cared for, he was passionate about the people he cared for. But he had a massive passion for justice and the work of the Crown Court, and that will never be forgotten by those with whom he worked.

**JUDGE BENSON:** Thank you very much indeed, Mr. Franklin.

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