Aberdeen Law Project's Annual Lecture – Wed 19 February 2014

Apprentice to Supreme Court Justice – reflections on the art of lawyering

It is a very real pleasure for me to have been invited back to Aberdeen for this occasion, to join you in celebrating what the Aberdeen Project has been doing during the past year and to have the privilege of delivering this annual lecture. When I was a student at Edinburgh University long ago, lectures – for such this is – were usually occasions we would most wish to avoid. There was no power point in those days, and there were no hand-outs. The equipment for that did not exist. We went to these lectures because we had to. We had to write things down, as much of what we were told could not be found in any current legal textbook. There was no access to material on the internet, as it had not yet been invented. And we had to sign our names on attendance sheets to vouch for our attendance. It was rumoured that failure to do so could have very unwelcome consequences. We were not willing to risk finding out what they were. There were also fortnightly class exams, when we had to reproduce what the lecturer had been telling us. I do hope therefore that on this occasion you have come here as volunteers and not as conscripts, and that this series of lectures – with or without power point, which I am unable to offer you – will prove to be an interesting and enjoyable part of the Project's annual calendar.

It has been suggested that I might tell you something about my experience of life in the law at the various stages of my career, from traineeship to becoming a Justice of the UK Supreme Court. To give some structure to what could be quite a long story, I was asked to concentrate on what I learned along the way – what it takes to succeed, what makes a good lawyer and what one should always try to do. It is, of course, true that the value of any attempt I may make to answer those questions is best seen against the background of my own career. I

must, however, warn you that my recollections will concentrate on advocacy, as that is the branch of the profession that I joined when I got my degree. Also, the way my career has worked out was quite unplanned by me. And the course that it took is, in the conditions of today, quite incapable of being repeated. All sorts of obstacles to progress that exist today to improve standards and public confidence in what we do were not there for me. You can look at it like a series of level crossings across a railway. I managed to get across the level crossing each time just before the gates closed or the barriers came down behind me. It will be for you to judge whether, given my background, having had that advantage time and time again and been so very fortunate, I really am in the best position to advise you on the way to make the best of your own careers.

That journey began, of course, with my course of study in the Faculty of Law at Edinburgh University which I was hinting at a moment ago. The title of "Law School" had not yet been invented, nor had the modern fashion of amalgamating law into other disciplines to form an enlarged faculty whose Dean was not necessarily a lawyer. Nor, strange to relate, had the idea of treating law as an honours degree subject. Steps were in progress for that to happen as I arrived at the university but – to follow the level crossing analogy – I got through the system before they took effect. So mine was a three year course for the ordinary degree. As I have already indicated, much of it was taken up with learning the details by rote on which we were examined frequently to check that we were paying attention. There was almost no attempt at intellectual analysis. European law and human rights law were not taught at all, nor were things like health and safety, employment law or consumer affairs – ideas that, in their current form at least, had not yet been invented. We were still not part of the EEC, as it then was, when I took my degree in 1965. We were decades away from the incorporation into our law of the Convention rights by the Scotland Act and the Human Rights Act, not to

mention the Scotland Act 1998. We had few books that we could turn to except Gloag and Henderson. Much of the teaching of Scots law at Edinburgh consisted of reading out chapters from that book, word for word. There was no diploma system, so the practical aspects of procedure and the laws of evidence and conveyancing had to be taught as part of the law degree – mostly by part-time lecturers who were in practice as advocates or solicitors.

You may well think that not having had the benefit of a full honours law degree was a disadvantage. That, however, was we not how we saw it at the time. By the end of our three years we did know quite a lot of law and, more important perhaps, we knew where to look for it if we needed to remind ourselves of the detail. Furthermore, neither branch of the profession expected us to have an honours degree. A pass was all we needed. And for those us who had already done an arts degree before starting on law as I had done, and who had had to do two years National Service too as I had done as well, the fact we had to do only three years to get an acceptable law degree was a real help to getting into practice to earn some much needed money as soon as possible. I received my law degree on a Wednesday in late July 1965, and I was admitted to the Faculty of Advocates on the Friday of the same week. I had been able to do my one year's unpaid devilling while in the third year of my law degree as the lectures in that year – on evidence and procedure and conveyancing – were at 9 am and 5 pm. I had been able to work as a trainee (also unpaid) in a solicitor's office during the holidays, there being no requirement in those days for a fixed time to be spent doing that before devilling. Traineeships of that kind were designed for those who like me had already decided to become advocates. The firms to which you went had to have a Court of Session practice if they were to be of use to you. But there were many of them, and places were not hard to find. Steps that under today's rules would take several years were completed, in my case, within a matter of months.

Of course, the result was that I was hardly in a fit state to practice when I was admitted, put my wig on and started appearing in court. You were expected to learn on the job, and by watching others perform the kind of work that you hoped might eventually come your way. It was a slow process. As you were paid only for the work you did and usually only long after you had done it, it was not easy to generate a stable source of income. But gradually bits and pieces started to come in. Divorce actions still had to go to the Court of Session in those days, and as evidence had to be led they always had to be dealt with orally. Much of that business was concentrated in a few hands, and there were only a few crumbs that went to the beginner. But at least there was a start here, and it got you into court examining witnesses before a judge – not all of whom were easy to appear before.

If you were very lucky, and the firm which you had gone to as a trainee was kind to you, you were instructed to appear as junior to a QC in a reparation case. There was still a lot of heavy industry in Scotland when I entered practice – in the shipyards and coal mines, especially. Safety standards were not what they are today, so I am afraid that there were a lot of accidents and many of these cases went to court. Some went to civil jury trial, and in some my earliest cases I found myself on my feet opening the pursuer's case by making an address to the jury. This was because, following a practice which we adopted from England, each side was expected to make an opening statement before the evidence was led. This was a risky business, as you were tied to your pleadings and you had to assume that the pursuer would say the same thing in the witness box as he – it was almost always he in these industrial accident cases – had said when being precognosced. Defence counsel were always quick to pounce on any discrepancy. But, provided that you were not too precise in your description of what had happened, you usually got away with it. So long as any discrepancies

between the pleadings and the evidence were not too fundamental, juries were usually quite sympathetic to the pursuer. For that reason, and because jury awards of damages tended to be more generous, much of the defence effort was directed to avoiding cases going to jury trial at all. This was possible if the defence could show what was called "special cause" for denying the pursuer his right to have his case heard by a jury. This was done by arguing the point before a judge at a preliminary hearing on the procedure roll, at which the pursuer's pleadings were subjected to minute scrutiny in order to expose an inconsistency or a point of doubtful relevancy. As the junior you were expected to speak first for your side in these debates, in reply to all the criticisms of your pleadings that had just been made by your opponent, of which you had had no notice other than the fact that there was a plea to the relevancy in the defences. At first this was a depressing business, as the flaws in your pleadings were exposed one by one. But it was in fact an excellent way of learning how to do your job. You soon grasped how pleadings should be framed to avoid the obvious pitfalls, and you learned quickly how to get your points across to a judge.

Pausing there just for a moment, it was now becoming clear to me that understanding and presenting the facts of the case were just as important as understanding the law. Indeed, as the law in divorce and reparation cases was rarely in doubt, the decision in each case was likely to turn almost entirely on the facts. You had to get to the bottom of the facts before you began to set out your written pleadings, and you had to keep them under review at each stage as the case was being prepared for court. Then you had to get them out in evidence in the right way by careful and accurate questioning. With juries the order of presentation of your evidence was important too – setting the scene first through the words of a reliable witness was always best, if you could do that. Careful preparation too was essential. You had to have things worked out in your head as well as on paper. Searching for details among

your papers in a moment of crisis was unlikely to give you the answer quickly enough. You had to be quick on your feet – confident that you knew the facts better than the judge, who was new to the case, and hopefully better than your opponent too. As the junior in a case that went to proof or jury trial you had the opportunity of watching the seniors as they performed the task of oral advocacy – many of whom were masters in the art. You were learning on the job all the time. And you had to keep yourself up to date on matters of law as well as of procedure. So you kept a careful watch for measures of law reform that in any healthy system go on all the time. Sometimes there was an opportunity to write an article or to help with the editing of a textbook – and excellent way of keeping oneself up to date, which was never to be turned down.

It was several months before I found myself in a criminal case. My first appearance was in the then Burgh Court in Edinburgh. I had been instructed to appear for a youth who had been caught red-handed attempting, with others, to steal lead from a roof. They had all pled guilty, including my client. My task was to say something on his behalf in mitigation of sentence. I said that he had been misled by the others, who were older and bigger than he was. "Stand up", ordered the magistrate. It was obvious, as soon as they all stood up, that my client was the tallest of them all. That was bad preparation on my part and it was a stupid mistake not to have checked my facts beforehand. Things were not much better when I had another plea in mitigation in the sheriff court in Haddington. My client was a rather grand lady who had been caught while driving well over the speed limit – not for the first time, unfortunately. The issue was whether she should now be disqualified and, if so for how long. There was almost nothing I could say. The sheriff had, of course, heard it all before. I said that she was in hurry to get to an engagement where she was to perform some charitable work to do with the Girl Guides, and that, as she lived in the country and her husband was unable to drive –

he too had been caught speeding, as it happened – there would be hardship. It was no use, of course. There really was nothing that I could have said to avoid the inevitable penalty of six months disqualification. But she wanted her day in court.

The next appearance in a criminal court was altogether a more serious affair. I was instructed to appear in the High Court of Justiciary in Glasgow for the second accused in a case of assault to severe injury. This was in an era before legal aid was generally available, when members of the bar were expected to appear on the poor's roll for nothing. Representation can be done pro bono nowadays. But that is a voluntary system. The poor's roll was subject to the cab rank rule – as an advocate, if you were free, you had to accept instructions. In this case there had been an almost complete lack of preparation, by the solicitor as well as myself. I had virtually no information as to my client's defence, if indeed he had any defence at all. I was not unduly worried about this as I travelled through on the train to Glasgow, as I expected the lead in cross-examining the Crown's witnesses to be taken by counsel for the first accused, who was more senior and more experienced than I was. But this comforting aspect of the case vanished as soon as we reached Glasgow, as we were told that the first accused had decided to plead guilty. The case was to proceed against the second accused on his own – and, of course, I was to be on my own too. I had never cross-examined anyone before, and had never addressed a jury at the end of a criminal trial either. I found it difficult to think of anything useful to say at all. The case was soon over, with a unanimous verdict of guilty. I did not feel that I had let my client down, as the evidence against him was really overwhelming. But I had certainly let myself down. I had taken a chance, by assuming that my work would be done for me by the first accused's counsel. That was no excuse for not have prepared my own case as thoroughly as possible before setting off for Glasgow. You

can never predict how things will turn out when a case goes to court. You must always be one step ahead and be prepared for the unexpected.

Gradually as time went on the standard of work that I was asked to do improved, and I began to get on top of the game. One thing I had to fight quite hard against was nerves – stage-fright, I suppose it was. It was all very well sitting at home or in the Advocate's Library preparing a summons or a set of defences or working up an opinion. But every so often you had to go into court. As a junior this was most often on what was called the motion roll in the Outer House or on the single bills in the Inner House at the start of the day's business. These were often about matters of procedure or, in family cases, about money or contact with the children before or after a divorce. You had to queue up at the door of the court to wait your turn, and then move to address the judge while those behind in the queue you looked on. I did not find this easy to do. I knew what to say, but far too often I found myself really struggling to say it as my nerves got the better of me. The simpler the point was – the less I really had to concentrate on what I was saying – the more likely this was. I used to try to combat the problem by digging the end of a pencil into my thumb – in the hope that the discomfort would act as a diversion. Not infrequently I would puncture the skin and get spots of blood on my papers, which was rather embarrassing. On the other hand the more complex the point – and the more I had to say – the less this affliction troubled me. I used to marvel at my ability to put my nerves behind when I had something really important to do, like opening an appeal in the Inner House.

I did not know whether I was the only one of my contemporaries to suffer in this way. To me it seemed that they were always supremely confident, in a way I could never hope to achieve. Gradually, however, the problem began to go away. The more senior I became the less often

I had to appear on the motion roll, and I hardly ever had to do this after I had taken silk. I still found it difficult to speak in public – at meetings of the Faculty of Advocates, for example, where one was expected from time to time to present reports or make motions of one kind or another from the floor. But then two things happened to me which had the effect of driving the problem away by the sheer force of necessity. I suppose that I might have given up before I reached that stage and let my nerves get the better of me. I hope that the fact that I did not do so may offer some encouragement to those of you who may suffer – or may expect to suffer – in the same way. "Keep calm and carry on" is easy to say. But in the end it may it may well the best thing to do. It may just work for you too.

The first of the two things that helped me get over this problem was an invitation from the Lord Advocate that I should accept appointment an advocate depute. This was in 1978, just after I had taken silk. In those days the Lord Advocate was responsible for a whole range of appointments, including appointments to the bench. It was never wise to turn down his invitation. To do so might prejudice your whole career. I had received an invitation from him a few months earlier to act as a prosecutor in the Maze Prison during the troubles in Northern Ireland. This was to involve being transported to and from the prison by helicopter to avoid being seen, and to conduct a prosecution in which the entire proceedings were to be conducted anonymously before a judge sitting without a jury: "Diplock Courts", they were called, which had been established in 1973 to deal with crimes committed in Northern Ireland which were related to terrorism. It was acknowledged to be a rather dangerous business because of the risk of reprisals if you could be traced, but – as the invitation came from the Lord Advocate – I had to say yes. I went home that evening to tell my wife, who was as alarmed I was at what I had agreed to do. But when we switched on the news on television that evening we saw that that the Maze Prison was in flames. So the whole thing was off. I

never went to the Maze Prison after all. I could, however, reflect on the fact that I had at least avoided blotting my copy book by saying yes. Had I said no, the much more important offer to become an advocate depute might not have come my way. The lesson I learned from this part of my career was never to turn down an opportunity. You can never tell what it may lead to, of course. But it is better to positive rather than negative in these matters as you develop your career.

In 1978 the Crown Office was staffed by a team of 12 ADs, all of whom were members of the Faculty of Advocates. Some were juniors, but four of them were members of the senior Bar as I now was. The work was shared equally by all, but the seniors tended to appear more often in the Appeal Court. This was to prove especially helpful to me at a later stage in my career. It was supposed to be a part time job, but it was quite difficult to sustain a civil practice at the same time. Criminal work had to be given priority and the timing of work devoted to criminal trials is inherently certain. So predicting where you would be on a given date to appear in a civil case was rather difficult. Fortunately I had by now developed a substantial opinion practice, advising on matters of law which were not tied to proceedings in court – or, if they were, to hearings of a kind that could be fitted in to my life as an AD without too much difficulty. This was helpful, as it enabled me to keep in touch with developments across a wide range of issues. It also meant that when, after four years in the Crown Office, I had to return to civil practice full time I did actually have a practice that I could return to.

Working as an AD was an entirely new experience for me. I had seldom been inside a criminal court since my rather unsatisfactory experiences at the start of my career. The law itself was not too difficult. We had been well taught when I did my degree course at

Edinburgh, and most of the work in the High Court was concentrated on the most serious of all crimes – murder, rape and assault to severe injury – where the law really is quite simple. What mattered were the facts. Controlled drugs of the kind that were later to lead to so many trials, the law about which is a bit more complicated, were only just starting to arrive here during my time. What was new to me was the art of presenting a case to a jury, and of course all the procedural aspects of a criminal trial. Here once again I had to learn on the job – picking it up as I went along. No rehearsals in matters of this kind are really possible. You learn by watching others and from your own mistakes. I was fortunate in having the guidance of one my own devils – as pupils at the Bar are called, who came with me for my first very arduous four-week circuit in Glasgow. With his help I was able at least to sit in the right place and to avoid making too many obvious mistakes. The sheer pressure of the job meant that I learned quickly how to get the best of the material that was given to me.

The standard of preparation conducted by the procurator fiscal service for cases to be presented in the High Court was very high. So one was not short of information as to what had to be proved. The unknown quantity was how the witnesses would perform once they reached the witness box. I found that careful planning was the secret. You had to work out the order of appearance of the witnesses for best effect, and where the corroboration was to come from – and keep a check on this as the case went on. You had to work out how best to approach each witness as he or she gave evidence, especially if they were likely to be reluctant to say what they knew because of fear of reprisals from a rival gang or if they were vulnerable. The manner of your questioning of the Crown witnesses was important too – not too fast, always sensitive to the needs or fears of the witness. You had to be sensitive to the feelings of the jury as well, beside whom you stood as you were putting your questions. You had to maintain their interest and you had to be sure at each stage that they understood what

was going on. Some of the evidence was very unpleasant, but it had to be led. It was best taken gently. Some of the questions in rape or other sexual assault cases were necessarily of the most intimate kind. They had to be put too, but with a careful setting of the scene and a step by step approach it was possible help the witness to face up to what had to be said. I was astonished to find myself conducting an intimate conversation in public on matters of this kind with someone I had never met before – as all the precognitions were taken by others. Maintaining eye contact throughout was an essential part of winning the witness's confidence.

Cross-examination of the witnesses for the defence was part of the job too. It was usually quite a simple exercise. A defence of alibi never, in my experience, stood up to a moment's examination, and it was quite usual for the accused to decline to give evidence. The art of cross-examination in cases of this kind was to be brisk, matter of fact and, above all, not too long. A prolonged, hectoring approach would be likely to risk losing the support of the jury, most of whom had probably made their minds up by the end of the Crown case. You had, of course, to challenge the witness on the main points where there was a disagreement. But it was usually enough to put the point so that the witness had a fair opportunity to respond to it. An expert witness might require a more concentrated approach, but it was surprising how rare it was for the defence to resort to the leading of evidence of that kind.

It was far better, if the layout of the court allowed for this, for one to stand beside the jury while questioning the witnesses. You had to leave the table where most of your papers were, and you were separated from your junior if you had one. But the advantages were greater than the disadvantages. Your view of the witness was the same as that of the jury. If the witness maintained eye contact with you, this ensured that the jury had almost as much eye

contact with the witness as you did. You could also hear any sotto-voce reactions, as the jury formed views about the credibility or otherwise of the witnesses. If, as sometimes happened, a Crown witness was trying to cover up or to avoid giving incriminating evidence, mutterings of scorn or disbelief could be a boost to your morale – or a warning, depending on how the case was going. Counsel of the defence no doubt felt that it was helpful to stand beside the jury too for the same reasons. Not all courts, of course, have a layout that allows for this practice to be adopted. It was never adopted in a civil case, but these cases are almost without exception heard by a judge, or sheriff, sitting alone. The best place in cases of that kind to be is in a position where you are facing the judge and can keep an eye on what he or she is doing or how he or she is reacting to what is going on.

The second thing that helped me to get over my nervousness of speaking in public was my election as Dean of the Faculty of Advocates. I had wondered where it was wise of me to stand for election, as I doubted my ability to do the job which was bound to involve a lot of public speaking. But I was persuaded to do so by various members of the Faculty and when the vote came I was successful, albeit by a very small margin. Somehow the mantle of responsibility that then fell on me overcame my self-consciousness. I was often nervous, of course, before I had to conduct a difficult meeting or to make a speech. Nervousness of that kind is usually a good thing, as it makes you take that much more care in preparing for the occasion. But I never had the same feelings of stage fright that I had when having to appear on the motion roll. Here was another example of the benefit of the lesson I mentioned earlier, of never turning down an opportunity. I might have given in to my doubts and fears and declined to stand for election, but I did not. And in my case the election as Dean meant that I was in the right place at the right time when, three years later, Lord Emslie retired as Lord President in 1989. I was persuaded to allow my name to go forward as one of three

candidates for consideration by the Prime Minister, as was the practice in those days, as to who was to succeed him and the Prime Minister – Mrs Thatcher – chose me. Then, after seven years as Lord President and Lord Justice General, I was invited to go to London where I remained for the rest of my judicial career.

My civil practice, which had developed after I ceased to be an AD, continued while I was Dean. Many of the cases I dealt with when I was in practice turned simply on their facts. But from time to time the case turned on what the law was. These cases usually came to me for an opinion, with a narrative of what the facts were understood to be – set out in what was called a memorial. My task was to find out what the law was and say how, on those facts, the question should be answered. For the most part the law was beyond challenge because it was obviously well settled. Once I had worked out what the law was, the answer was then quite simple. Of course, if the law is against you, you cannot do anything about it except to have another look at the facts to see if the settled law can be distinguished. But sometimes the law is not so certain – because the point has not arisen before, or because it seems to be out of date or because there is a conflict in the authorities. These cases were more difficult to deal with, as I had to assess what the prospects of persuading the court to make a finding in law that was in my favour. First instance judges – sheriffs and those in the Outer House of the Court of Session – tend to be rather cautious in venturing beyond what is already known and settled. That is understandable, because their judgments are open to appeal and because it is really for the appeal courts, including the UK Supreme Court since 2009, to develop the law where it is in need of correction or improvement. From time to time, however, cases do arise where it is worth presenting an argument to the court as to how the law may be developed, revised or re-discovered, in the hope that the judges may feel able to solve the problem in your case. The legislatures have a responsibility in the area too, but it is only in the most

exceptional case that legislation can operate retrospectively – which is what would need to happen if your client was to get the desired remedy.

So you need to keep an open mind when you are looking at what the law tells you. I remember one of my tutors at Edinburgh chiding me for assuming, as he thought I was doing, that what a judge said was always right. Judges are not infallible. It was once said of the House of Lords judges that they could never make a mistake, and that if it seemed that they had made a mistake this was "only a seeming". It was our frail vision that was at fault. But those days are over, and even the UK Supreme Court may be open to persuasion that one of its own decisions may need to be corrected, or at least modified, to fit a situation that has not been encountered before. I am sure that there will be ample room for exploring points such as this in an honours course. But you should not stop thinking about the law when you leave here and go into practice. Thinking about the law should go on all the time, and of course it is a feature of the law that it keeps changing. You have to keep your ears and eyes open for that. As I look back to times when I was at the bar as well as on the bench, I can recall quite a lot of cases where the accepted law was worth challenging and where, with skilled advocacy, it was indeed developed further or even changed.

My opinion practice was not without its hazards. A few weeks after I had sent in one of my opinions to my instructing solicitors I got a polite letter back telling me, with regret, that they had lost my opinion. Would I be good enough to let them have it again, they asked. So I looked at the papers again, wrote another opinion for them and sent it in. A few weeks later another polite letter arrived from my instructing solicitors. They told me that they had found my first opinion after all, but that something appeared to have gone wrong. The opinion I gave on the second occasion had arrived a conclusion which was the reverse of what I had

said on the first occasion only a few weeks earlier. "Which is right?", they asked. It was a not unreasonable question, but for me it was rather embarrassing. I cannot remember now I got out of that one, but I do remember resolving from then on always to keep a copy of all my opinions. This may not seem a very remarkable thing to do these days, when everything can be kept on file, stored indefinitely on one's computer and retrieved almost immediately. But when this happened to me we were still working on paper. Although audio typing was just becoming available, photocopying was in its infancy. There was nothing for it but for me to write these opinions out by hand in a notebook, from which I dictated onto a tape which I gave to my secretary. This episode taught me the lesson which had long been learned by every responsible solicitor – how important it was to keep a record of what you have said or done, and to ensure that it is filed in a way that can be accessed at any time without difficulty.

Opinion writing quite often led to a meeting with the client to discuss the advice which you had given. I had no training in how to deal with these encounters, but I soon learned that it was as important to be tactful to the solicitor who was instructing you as it was to be intelligible by the client. You had to avoid suggesting to the client that his solicitor was not doing his or her job properly even if this was what you thought, as that was bad for business. A word in private before or after the meeting was the best way of dealing with any problems of that kind. Preparation was as necessary on these occasions as it was when going into court. You did not want your client to think that you were not on top of the facts, although you could of course ask questions to check that your information was right. Often these meetings took place after a busy day in court, and it was quite difficult to move within a matter of moments from the one environment the other. There was no time on such occasions to prepare. Any preparation for them had to be done the night before, along with the preparation you were doing for the work in court. One senior member of the Bar with

whom I often shared such after-court meetings used arrive in the consultation room straight from court with his bundle of papers, as I was only too well aware, unopened. "What can I do for you today", he used to ask, with a disarming smile. This usually led to just enough of a reaction to remind him of what the point was. But it was a high risk strategy. I tried very hard to avoid being placed in that difficulty, but in what became a very busy life this was far from easy.

In 1989, after 24 years in practice, I became a judge and went onto the bench. I am not going to go over that part of my career, which I am sure is of much less interest to you than my experiences when in practice. But it is perhaps worth mentioning that there are a wide variety of part-time judicial appointments which any court practitioner, solicitor or advocate, should keep an eye on as he or she rises up the ranks of the profession. The tribunal system offers a variety of opportunities for work of this kind, and when vacancies occur they have to be filled. I sat as a legal chairman on two of them while I was still at the Bar – the medical appeal tribunals, which deals with claims for social security benefits, and the pension appeal tribunal, which deals with claims for compensation by injured servicemen. So, when you feel that you may have reached this stage, look out for the advertisements and grasp the opportunity. The obvious full-time appointments, to the sheriff court or Court of Session bench, are also advertised. In my day you had to wait to be asked. Now it is for you to make the first move. Our judicial appointments system, which seeks to develop a more diverse and representative bench at all levels, depends on people having the courage to put themselves forward. Please do not be shy if you feel that you may have something to offer, when the time comes. A great deal of effort is being put into improving diversity in the making of judicial appointments, both as to gender and as to ethnic background. But this can only be

done if those parts of society which are under-represented are willing to put themselves forward.

What, then, are the lessons that I can pass on to you as look back over what happened to me? I think that I can summarise my own experience in seven simple propositions:

a. First, know your law – or at least know where to find it.

b. Second, facts matter. They can make all the difference to the result. So make sure that you know your facts, and that you have got them right.

c. Third, do not assume that what the law is said to be is always right. There may be cases where it can be shown to have been wrongly stated and in need of correction, or where it is open to development and being brought up to date to meet your case.

d. Fourth, preparation, preparation, preparation.

e. Fifth, the golden rule of all advocacy: respect, and adapt to the needs of, your audience. That applies as much to written as to oral advocacy. Whatever you say or write should always be clear, simple and accessible. Keep your sentences short, and use short paragraphs.

f. Sixth, do not give up just because you feel nervous.

g. Seventh, do not turn down an opportunity.

I believe that, if you can bear all these points in mind, you are unlikely to go far wrong. Whatever stage you may have reached, I wish you every success in what lies ahead of you.

David Hope 19 February 2014