



**REFLECTIONS ON LORD BURNETT'S PILGRIM FATHERS
LECTURE 2019:
'WHAT'S IN A NAME? THE HIGH COURT AND ITS DIVISIONS'**

Holly Parker¹

The Pilgrim Fathers Lecture & Lord Burnett

The Annual Pilgrim Fathers Lecture is a celebrated event hosted by the University of Plymouth, Plymouth Law Society and Plymouth City Council. It is one of the most prestigious events in the West Country calendar, which I am grateful to be able to attend each year as a law student.



Ian Burnett, Baron Burnett of Maldon, and Lord Chief Justice of England and Wales.

This year's lecture was presented by the incumbent Lord Chief Justice of England and Wales, Lord Burnett of Maldon. Lord Burnett studied law at Pembroke College, Oxford and was called to the Bar at Middle Temple in 1980. He began by practising in common and public law, and later mainly in public and administrative law.

In 1988 Lord Burnett was appointed as Queen's Counsel. From 2011 to 2014 he sat as a High Court Judge on the Western Circuit, which includes Plymouth. Since then, his career has, sadly for us, taken him away from Plymouth when he was promoted to the Court of Appeal in 2014. In 2017 he was appointed Lord Chief Justice and awarded a life peerage.

Major Cases

Lord Burnett was involved in the inquiry into the convictions of the Guildford Four and Maguire Seven – notorious miscarriage of justice cases. The Guildford Four were convicted for the Guildford pub bombings in 1974, and the Maguire Seven for the handling of explosives, found during the investigation into the bombings. Both groups' convictions were eventually overturned by the Court of Appeal after they had served 15 years in prison.

¹ Holly is a second-year law student at Plymouth School of Law, Criminology and Government.

Lord Burnett was leading counsel in the inquiries into the tragic Southall and Ladbroke Grove rail crashes of 1997 and 1999 respectively. Both were incidents where two trains collided because an automatic warning system was incorrectly used which could have warned of the danger, resulting in the deaths of seven people in the Southall crash and thirty-one people in the Ladbroke Grove collision.

Lord Burnett was also counsel in the inquest into the deaths of Diana, Princess of Wales, and Dodi Fayed in 1997.

What's in a Name? The High Court and Its Divisions

Lord Burnett's lecture began with the origins of the High Court, dating back to 1066 and the Norman Conquest. He outlined the gradual development of the legal system, such as in the Case of Prohibitions in 1607 establishing the principle of justice being done by those with legal training, i.e. the judiciary and not the monarch.

Lord Burnett summarised the three legal traditions which had evolved over time: common law, equity law and civilian law. These jurisdictions, involving six separate courts, competed with one another for prestige and money, and had developed a complex range of practices and opposing principles. By the nineteenth century the justice system was in a lamentable condition: cumbersome, expensive, unintelligible to the casual observer and simply a mess.

Under the Judicature Acts of 1873 and 1875 the creation of the High Court as a single judicial body with five divisions: Queen's Bench, Common Pleas, Exchequer, Chancery and Probate, and Divorce and Admiralty, was a radical reform of the legal system into a more cohesive structure. Each division was given specific jurisdictions for different areas of law. For the first time, the justice system had a single court which had the authority to adjudicate in all areas of the law, meaning that the complexities and differences that had grown out of the competing courts would be greatly reduced over time, as the decisions of the High Court smoothed over the previous inconsistencies.

As this reform was profound, there was some resistance and concern regarding the changes that were being made. Common law judges feared the High Court would be a new Court of Chancery with a new name, because aspects of common law were replaced by elements from Chancery, such as judges now sat together and there were no jurors. In an attempt to assuage

concerns over the radical nature of the reforms, the High Court divisions reflected significant differences between the previous courts.

Lord Burnett concluded by noting that the system we currently have is not perfect - no system ever truly is - but the judiciary can and have made changes to the High Court and the judicial system since the 1870s. He made the point that despite its faults, there is no dire need to make more changes to the justice system on that grand a scale, and the temporary arrangements put in place in 1873 have served us well. Lord Burnett commented after the lecture that the only likely changes he could reasonably foresee is the expansion of more specialist lists.

Signs of modernity

In October 2017 Lord Burnett was recognised as the youngest holder of office Lord Chief Justice since 1958. Slowly but surely, the judicial system is becoming more modern, with less emphasis placed upon judges being from the older generation. For example, in 2015 Alex Hyne became Britain's youngest magistrate at the age of 18.

Another area of development that Lord Burnett remarked upon in his lecture was the specialist lists within the High Court. There has been a recent use of this system to mix High Court Divisions together to better meet the needs of the area of law in question, by providing more specialist adjudication. The creation of the media and communication list is one example of this.

The roles of legal practitioners have also changed. Previously, solicitors acted in equity courts, attorneys in the common courts and the barristers were the advocates. This was a very strict approach; the roles were inflexible and did not overlap, whereas today we have barristers, solicitors and legal executives with more flexible roles. Furthermore, these roles are beginning to overlap, as solicitors can now advocate in the higher courts, whereas barristers can now offer legal advice and representation directly to members of the public.

In his role as Lord Chief Justice, Lord Burnett is an advocate of modernisation, arguing that the legal system should find ways to make it more accessible in the online era. For example, he is interested in the concept of digital justice where the use of digital technology could allow litigants to access court services through their smartphones, rather than being required to attend court in person. This would be a way of making the justice system far more accessible and convenient to the ordinary citizen.

A student's perspective

As a law student, we learn about the hierarchy of courts in England and Wales, so it was interesting to find out about the three divisions of the High Court and how they are a product of long and continuous evolution, which I personally was ignorant of before the lecture.

Lord Burnett also discussed the difference between legal and equitable rights, which is very important to students studying either Land Law or Equity and Trusts in their second and third years.

All the students that attended the lecture had the privilege of being able to talk afterwards to Lord Burnett, who gave us very useful advice that I would urge not just any student but anyone to take on: do what you enjoy!



Students from the University of Plymouth Law Society, and others discussing with Lord Burnett after the lecture. Unfortunately, I was cut out on the far left and didn't make it into the photo, but nonetheless it was a lovely group photo taken with Lord Burnett.