

## **2018 – A Year of Anniversaries**

### **The 2018 Pankhurst Lecture, University of Manchester**

#### **Lady Hale, President of The Supreme Court**

**8 February 2018**

2018 marks the anniversary of some very important dates in the history of women's participation in public life.

We all know that 2018 is the 100<sup>th</sup> anniversary of women getting the vote, although not on same terms as men. Most of us probably know that it is also the 100<sup>th</sup> anniversary of women getting the right to stand as candidates and be elected to Parliament, this time on the same terms as men. Why the difference? I believe that there were two reasons why only some women got the vote. One was that the same Act of Parliament gave the vote to all men, irrespective of whether they had any property. Giving the vote effectively only to middle class women – those who either had property of their own or were married to men who did or who had University degrees – softened the effect of enfranchising the working-class men. Another was that in 1918, because of the slaughter of the First World War, there were more many more adult women than there were adult men – allowing them to vote on equal terms would have meant that they were in a majority. But there was no risk that more women than men would be elected to Parliament – the whole idea was laughable – so equality there would do no harm. Voting equality was achieved ten years later, in 1928. So we should celebrate 2018 as the 90<sup>th</sup> anniversary of women getting the

right to vote on equal terms with men and have an even bigger celebration in ten years' time. But that was just the House of Commons – women were not allowed to sit in the House of Lords until 1958. So we should also celebrate 2018 as the 60<sup>th</sup> anniversary of the Life Peerages Act 1958 which allowed them to do so. As will emerge, I also have another anniversary to celebrate in 2018.

In reflecting on how far we have come and how far we still have to go, I would like to tell you the stories of three remarkable women, one very famous, one rather less famous and one not famous at all.

First, of course, as this is the Pankhurst lecture, is Christabel Pankhurst. Not so much because of her suffragette activities – about which as a judge I have mixed feelings – but because of her links with the law. And I am cheating a bit because another woman played an even more important part than she did. Christabel's father was, of course, a radical Manchester barrister and ardent campaigner for women's suffrage. And she aspired to follow in his footsteps. Shortly after her mother Emmeline founded the Women's Social and Political Union in 1903, she embarked on a Law degree at Manchester University. In 1906, she graduated with first class honours. But in the meantime, in January 1904, she had applied for admission to Lincoln's Inn to read for the Bar and the Benchers there had turned her down. Their loss, you may think, was female suffrage's gain.

Surprisingly, when I looked earlier this week, Lincoln's Inn had nothing about her on its website – but I gather that that has just been rectified. So I turned to my own Inn, Gray's Inn, which has a whole section on 'Women of the Inn'. This tells in great detail the story of why Lincoln's Inn had to turn Miss Pankhurst down. It is the story of Bertha Cave, about whose background and education we know virtually nothing. What we do know comes from a county court case in December 1904, when she appeared (in a law student's cap and gown) in the City of London court to get a default judgment set aside and the re-trial of a claim against her father for the price of a bicycle which had been bought for her to ride. She wanted a reduction in the price because it was faulty. She succeeded in getting the re-trial. But she had ridden the bike to court, so the judge warned her that she had better not ride it to court on the next appearance – he advised her to lead it up rather than ride it (presumably an equestrian metaphor) – to loud laughter in court. She was less successful on the retrial and they were ordered to pay the full price, but by instalments. This is enough to identify her father, not as a barrister or a solicitor or any sort of professional man, but as a butler working away from home in grand houses – so how his daughter was educated or got the law bug we shall probably never know.

But we do know that in March 1903 she wrote to the Benchers of Gray's Inn asking to be admitted as a student, with a view to being called to the Bar. This was the first time that an Inn of Court had been called upon to decide whether they could admit a woman for that purpose. At a meeting of Pension – the governing body of the Inn over which as Treasurer I had the privilege of presiding last year – it was proposed and seconded that she be admitted. But the opponents urged caution and, as so often happens, employed the delaying tactic of persuading Pension to refer it to a special committee. The committee rejected her application on two grounds. First, that it was not in the power of a single Inn of Court to admit a woman – their

power to admit students and call them to the Bar was delegated to them by the Judges and subject to their control (*R v Benchers of Gray's Inn, ex parte Hart* (1780) 1 Doug KB 353, (1780) 99 ER 227). And second, that according to two well-known Scottish cases, women were not 'persons' within the meaning of the statutes of the University of Edinburgh (*Jex-Blake v Senatus of the University of Edinburgh*, 1873 M 784) or the Law Agents (Scotland) Act 1873 (*Hall v Incorporated Society of Law Agents*, 1901 F 1059, 1901 9 SLT 150). So any apparently gender neutral terms in texts relating to membership of the Inns should be read as male only.

Nothing daunted, Miss Cave appealed to the Judges, and appeared before the Lord Chancellor and other Judges in the House of Lords in December 1903. The *New York Times* for 5 December (for which reference I am indebted to the Hon Michael Beloff QC) described the proceedings thus:

'Clad in a navy blue walking suit with a bolero of the same material trimmed in white, and balancing a rather piquant black hat on her head, she carried her comely self into the presence of the august Judges. She deposited a purse and a package that looked like corsets on the table, and then pleaded her case. There was no question of ability raised, it was solely a matter of sex. So she told the Judges what other countries were doing for women who desired to practice law.

The Judges listened smilingly, and when Miss Cave was through promptly advised her that there was no precedent for admitting women students at any of the Inns of Court, and that they did not feel justified in creating one. "I wish your lordships good

morning.” said the little woman frigidly, and picking up her purse and her corsets she quitted the judicial presence and went out in the cold, cold world.’

You may think that account a tad condescending despite its sympathetic tone. But the decision meant that it was inevitable that Miss Pankhurst’s application would be turned down by Lincoln’s Inn the next month. Later that month, the Union Society of London (a debating society founded in 1835 by members of the Oxford and Cambridge Unions) held its annual ladies’ night debate in Lincoln’s Inn old hall. The motion (proposed by Mr Edward Atkin, a former stipendiary magistrate in West Africa, who was not called to the Bar himself until 1913) ‘that this house rejoices in the decision of the Lord High Chancellor of England protecting the Inns of Court from invasion by the gentler sex, and records its belief that ladies ought not to be allowed to practise at the Common Law Bar or to hold judicial office’ (see *The Times*, 21 January 1904). Both Bertha Cave and Christabel Pankhurst spoke against the motion – apparently Christabel was the better speaker, which is no surprise as she was to become a notable orator. Her main point was that women witnesses should not have to be cross-examined always by a man. At all events, the motion was defeated by 103 votes to 85, but of course it changed nothing.

By then, women had been studying in the Universities for decades and had also been allowed to practise medicine and surgery, so what possible objection could there be to their practising law? In the United States women had at first been turned down because, as the Chief Justice explained in the case of Lavinia Goodell, who applied to join the Bar of Wisconsin in 1875:

‘[Our profession] has essentially and habitually to do with all that is selfish and malicious, knavish and criminal, coarse and brutal, repulsive and obscene in human life. It would be revolting to all female sense of the innocence and sanctity of their sex, shocking to man's reverence for womanhood and faith in women, on which hinge all the better affections and humanities of life, that women should be permitted to mix professionally in all the nastiness of the world which finds its way into the courts of justice . . . This is bad enough for men. . .’

But the Gray's Inn archives suggest another reason: that qualifying for the Bar involved eating a great many dinners – 36 when I was called – and it was thought unseemly that men and women should take their meals together – either because the men would vie for the honour of sitting at a woman students' mess or because they would resent the women's presence. That attitude prevailed long after women were in fact allowed to join the Inns and become barristers. When I joined the Northern Circuit in 1969 women were still not members of the barristers' mess and could only dine on especially decorous ladies' nights. I well remember the passionate debate about whether we should become full members of the mess and be able to dine on Grand Nights, when apparently the men behaved in ways their mothers would disapprove of. Our supporters would have compromised and let the men continue to behave badly on Grand Nights, but the opponents of women pressed for a postal vote. But this time the delaying tactic back-fired, because the sensible people who were too busy to come to the meeting voted to let us become full members.

Rebuffed by the Bar, Christabel Pankhurst went on to make history as chief organiser and strategist of the Women's Social and Political Union - and was dubbed the Suffragette Portia by the press. There is a view that their increasingly militant tactics set back rather than advanced the

cause of women's suffrage and of course any judge has to have reservations about deliberate law-breaking as a political strategy, even if all that most of them did was throw stones and break windows and set a few mostly innocuous fires. But their courage and self-sacrifice cannot be doubted. There can be no reservations about the alternative movement for women's suffrage – the suffragists, led by Millicent Fawcett, elder sister of Elizabeth Garrett Anderson, the first woman to qualify and practise medicine in England. But I won't say much about them in this Pankhurst lecture because I shall be delivering the Fawcett Society lecture later this year.

My second remarkable woman, therefore, is another Women's Social and Political Union stalwart who continued to be politically active after women had won the vote in 1918 (and Christabel Pankhurst had gone to pursue other causes in America). She was Margaret Mackworth, Viscountess Rhondda. Her father was David Thomas, a prominent liberal politician and industrialist, so she was even higher up the social scale than the Pankhursts. She 'came out' and endured three London seasons before escaping to Somerville College Oxford. But she soon gave that up too and married a local grandee close to her parents' home in South Wales, Humphrey Mackworth, who was heir to a baronetcy. But within a fortnight she had discovered the militant women's suffrage movement. She and her mother went on the great procession to Hyde Park in July 1908 and shortly afterwards she joined the WSPU and set up its Newport branch. She threw herself into their activities with gusto – even going so far as to commit arson in 1913 when she set fire to a pillar box, was arrested, tried, convicted and sent to prison, where she went on hunger strike, but she was not force fed and was released after five days.

But the more remarkable thing about her was that during the first world war she took over the running of her father's many business enterprises. Soon after her marriage, he had recruited her as his assistant – a cross between 'a highly confidential secretary and a right-hand man' – at the huge salary of £1000 a year. 'She acquired a knowledge of finance, of the workings of the coal and newspaper industries, and learned the arts of negotiation and bluffing'. By mid-1914 her father had passed his newspaper interests to her and she took more and more responsibility for all his businesses as the war progressed.

She also played her part in the war effort, appointed as commissioner of women's national service in Wales. She was committed to the idea that women should remain an integral part of the post war workforce and set up the Women's Industrial League in 1918 to campaign for the rights of women workers.

Her father died in 1918 and left her an extremely wealthy woman. She inherited his property and his business interests – in 1919 she was listed as a director of 33 companies, 28 inherited from her father, and chairman or vice-chairman of 16 of these. But my main interest in her stems from something else which she inherited from her father. He was already a member of the peerage, as Baron Rhondda, but very shortly before his death was promoted to become Viscount Rhondda. The new peerage was granted to him and 'the heirs male of his body lawfully begotten and in default of such issue his daughter Margaret Haig Mackworth and after her death to the heirs male of her body lawfully begotten'. The peerage was obviously deliberately designed to benefit Margaret – albeit only her male and not her female descendants – as it was by then clear that her father had no male heirs. The monarch also professed himself willing that Viscount



Rhondda, his male heirs and his daughter's male heirs 'may have, hold and possess a seat, voice and vote in the Parliaments, public assemblies and council of us, our heirs and successors within the United Kingdom'.

So she became Viscountess Rhondda. Then in 1919, Parliament passed the Sex Disqualification (Removal) Act. This provided that a person was

'not to be disqualified by sex or marriage from the exercise of any public function, or from being appointed to or holding any civil or judicial office or post, or from entering or assuming or carrying on any civil profession or vocation, or from admission to any incorporated society . . . '

At long last women could join those learned professions and hold those public offices from which they had been barred, even eventually becoming judges. So Viscountess Rhondda petitioned for a writ of summons to the House of Lords. This was first heard before the Committee of Privileges in March 1922. The then Attorney General, Sir Gordon Hewart KC, did not oppose it and the committee reported in favour to the House. Then, by what Deirdre Beddoe in the Oxford Dictionary of National Biography terms 'a remarkable piece of skulduggery', the Lord Chancellor, Lord Birkenhead, moved that it be referred back to the committee. This is all very puzzling, because Lord Birkenhead had actually declared the government's support for the 1919 Act when it was introduced, but I suspect that his heart was not really in it.

This time, the new Attorney General, Sir Ernest Pollock, did oppose it. So, of course, did the Lord Chancellor. In his opinion, a peeress in her own right could not receive a writ of summons, not because she was disqualified from receiving one, but because she had no right to one in the first place. A minor could grow up, a felon could be pardoned and a bankrupt could achieve his discharge,

‘but a person who is a female must remain a female till she dies. Apart from a change in the law she could not before 1919 both be a woman and participate in the legislative proceedings of the House of Lords. By her sex she is not – except in a wholly loose and colloquial sense – disqualified from the exercise of this right . . . ?’

Some of us might find this distinction between a permanent incapacity and a disqualification too nice to understand – especially as women had similarly been permanently debarred from entering some professions and public offices before the 1919 Act had removed this ‘disqualification’.

This time, the committee voted by 22 votes to four to reject the petition. Among the dissenters was Lord Haldane, a former liberal Lord Chancellor and later to become Lord Chancellor in the first Labour government in 1923 (and a predecessor of mine as Chancellor of the University of Bristol). This was a clearly political decision.

Margaret’s campaign to enter the Lords was part of the general feminist campaign which she continued throughout her life. In 1921 she founded the Six Point Group and the magazine *Time*

*and Tide* to promote the cause of women's equality. The original six points were: satisfactory legislation on child assault; satisfactory legislation for the widowed mother; satisfactory legislation for the unmarried mother and her child; equal rights of guardianship for married parents (not achieved until 1973); equal pay for teachers; and equal opportunities for men and women in the civil service. These later became six dimensions of equality for women – political, occupational, moral, social, economic and legal.

In 1926 she organised a rally from Embankment to Hyde Park, in keeping with great pre-First World War tradition of suffrage processions, involving 3000 women, including Emmeline Pankhurst and Millicent Fawcett, in the campaign for equal political rights. Equal voting rights were achieved not long afterwards in the 1928 Act. But it was not until the Life Peerages Act 1958 that women were first allowed to sit in the House of Lords. That Act received royal assent on 20 April and Margaret died on 20 July, so at least she lived to see that day – but not the Peerages Act 1963 which allowed women hereditary peers in their own right, like her, to take their seats in the Lords.

She may very well have known that including women in the 1958 Act was vehemently opposed by the young Earl Ferrers, whose speech against it has become famous. He declared (3 December 1957) that *'it would be an unmitigated disaster to have women in this House'*. He explained why:

‘Frankly, I find women in politics highly distasteful. In general, they are organising, they are pushing and they are commanding. Some of them do not even know where loyalty to their country lies. . . . It is generally accepted that the man should bear the major responsibility in life. It is generally accepted, for better or worse, that a man’s judgment is generally more logical and less tempestuous than that of a woman. . . . Shall we in a few years’ time be referring to ‘the noble and learned Lady, the Lady Chancellor?’ I find that a horrifying thought. . . . Will our judges, for whom we have so rich and well-deserved respect, be drawn from the serried ranks of the ladies?’

He suggested that ‘these examples may sound a little excessive’ and concluded that nine out of ten noble Lords would share his feelings: ‘we like women; we admire them; we may even grow fond of them; but we do not like them here’.

Nine out ten noble Lords did not agree with him. An amendment to exclude women was defeated by 134 votes to 30.

The third story I want to tell is my own mother’s. She was not prominent or famous. But she exemplified the first generation of women to have the vote and the transition during their lifetimes from a presumption of dependence to the possibility of independence – a transition which could scarcely have happened without the vote.

This is the 110<sup>th</sup> anniversary of her birth in 1908. So she was 10 when women first got the vote and 20 when it was extended to all women – the flappers of whom she was certainly one. So she was eligible to vote in the 1929 general election. She was much more than a flapper – she told me how her father used to take her on walks and explain to her how important it was that she studied at school, passed her school certificate and went on to train as a teacher. He was a school teacher himself and must have been a very far sighted man – not only did she train as a teacher but she trained in the educational theories and methods pioneered by Friedrich Froebel, training which had only formally begun in England in 1892. Froebel is famous for having introduced the kindergarten, the concept of child-centred learning, and the importance of learning through play and other activities – he devised all sorts of educational toys which are still with us today. One of his principles was that the starting point of education is what the child *can* do, rather than what she cannot do. My mother certainly employed these principles in bringing up her own children.

In the early thirties, she embarked on a teaching career, in the preparatory department at Birkenhead High School for Girls, one of the pioneering schools established by the Girls Public Day School Trust (as it then was) to give girls a good education which would fit them for something other than being a good wife and mother if they chose. I gather that her mother, who was a strong-minded woman in the old school, was opposed to her leaving the family home in Leeds to do this. But she did it anyway. And there she met my father, who was teaching at Birkenhead Grammar School. They married on New Year's Day, 1936. I gather that my grandmother was not pleased about this either, as my grandfather had died the previous year and she thought that it was too soon. My mother compromised by wearing a midnight blue velvet dress for her wedding.

But these were the days of the ‘Geddes axe’ – the swingeing cuts in public spending made as a result of the reports of the Committee on Public Expenditure chaired by Sir William Geddes in 1922 (Cmd 1581, Cmd 1582, and Cmd 1589). As a result the rule was introduced that women had to give up teaching if they married, so my mother, in common with many others, had to give up her job. But my father was also a far-sighted man. He always insisted that some of the money he paid her was for herself and not for the housekeeping – he understood the importance for everyone of having some money, however little, of one’s own to spend as one wishes.

They had three daughters – my elder sister, born in 1937, me, born after a long gap in 1945, and my younger sister, born in 1946. It was taken for granted throughout our childhood that we would do well at school and go to University – preferably Oxford, where my father had read Spanish, or Cambridge, where my mother’s father had read History. In 1948, my father became head master of a small independent boys’ grammar school in a village near Richmond in North Yorkshire, while my mother ran the boarding house and did some teaching. In due course all three daughters went to Richmond High School for Girls.

Then, in 1958, disaster struck. My father died very suddenly at the age of 49. They were not well off. Few teachers are. They had put what savings they had into the school. So what was my mother to do, with daughters aged 12 and 13 still at school? She was under great pressure from her own mother to return to live with her and my aunt in Leeds. She resisted. She dusted off her Froebel certificate and returned to teaching, as head teacher in the village primary school. This meant that my sister and I could stay at the High School and eventually go on to University as

planned, at a time when only around 6 per cent of the population did so. We didn't realise it at the time, but what a great role model she was for us both!

So much for my three – actually four – great women pioneers and role models of the past. Owing to them, and others like them, we have the vote, we can become members of Parliament, we can become members of the House of Lords, we can join the civil service and the legal profession, we can become judges and we can do all these and have a family. But how far on are we? Let's take each of those in turn.

I am relieved to find that there is no statistical difference between the voting rates of women and men. Women are using their vote as much as men are using theirs. The only significant difference is that the Electoral Commission found that in the 2001 election women were significantly more likely than men to cast their votes in seats where a woman MP was elected (The Electoral Commission, Research Report, *Gender and Political Participation*, April 2004).

Women were also far less interested in the campaign in seats where a man was elected and much more likely to agree that 'Government benefits people like me' if they had a woman MP. The authors comment that this suggests that *'the election of women is important – not just symbolically for the legitimacy of governing bodies nor even substantively for their impact on public policy – but also for encouraging participation by women as citizens in democratic processes'* (para 4.55).

But there is still a large discrepancy in the numbers of women elected to Parliament. Until the 1997 election, it was under 10% and had for many years after the Second World War hovered

around 4%. There was a leap to 18% in 1997, to 22% in 2010, and now to over 30% (208 out of 650). In 2016, for the first time, there were as many women MPs *ever* as there were men MPs *then* in the House of Commons. A large part of the reason for this leap is the adoption of women-only shortlists in some winnable constituencies. Labour did this in the 1990s until it was ruled unlawful sex discrimination in 1996 (it is just as unlawful to favour a woman over a man as it is to favour a man over a woman). But it was expressly permitted under the Sex Discrimination (Election Candidates) Act 2002 until 2015 and now under the Equality Act 2010 until 2030. Until the 1990s when Labour began to adopt this policy, there was not much difference between the two main parties in the numbers of women elected, but Labour leapt ahead then and now has more women MPs than all the other parties put together.

This is a rare example where positive discrimination is allowed by law – and there are sophisticated arguments for permitting this exception to gender neutrality in a democracy where each member of the electorate should be entitled to equal representation. There is, as we shall see, another example in appointments to the House of Lords. Otherwise it is not generally permitted – choosing a woman in preference to a man is only allowed where there are of ‘equal merit’.

The gender balance in the House of Lords is not much worse than the Commons - in 2015 there were 199 women out of a total of 826 peers, ie 24%. There are five ways of becoming a member of the House of Lords.



- (i) Cross bench peers are chosen by the House of Lords Appointments Commission (chaired by Lord Kakkar, who also chairs the Judicial Appointments Commission). Their published criteria are based on merit alone, although the government has asked them to reflect the diversity of the people of the United Kingdom. Between 2000, when it was established, and 2015, 63 appointments had resulted from the Commission's nominations, of which 23, or 36%, were women.
- (ii) Party political appointments are recommended by the Prime Minister, taking into account the recommendations of the other party leaders. Between 1958 and 2015, there were 1006 party appointments, of whom 219 were women. As these peerages tend to be a reward for service in the House of Commons, it is not surprising that women were not well-represented. But the proportions of women appointed by Tony Blair, Gordon Brown and David Cameron were higher than before (20%, 30% and 33% respectively), which some have attributed to an element of positive discrimination on their part.
- (iii) Under the House of Lords Act 1999, all but 92 hereditary peers were excluded from the House. Of those 92, two are ex officio, 15 are elected by the whole House and 75 are elected by their party groups. There were five women among the original peers selected to remain, but only one of those has survived (the other four have died or retired and no woman has put herself forward at a by-election).
- (iv) There are 26 places reserved for Church of England bishops – the Archbishops of Canterbury and York and the Bishops of London, Durham and Winchester automatically and the remaining 21 by seniority. Women bishops have only been allowed since 2014,

but there has been positive discrimination in appointments to the Lords. The Lords Spiritual (Women) Act 2015 provided that a vacancy among the 21 will be filled by a woman diocesan bishop (if there is one) ahead of a man for the next ten years. There are currently two female bishops in the House, who will soon be joined by the new bishop of London.

- (v) Until 2009, the Law Lords were given life peerages which meant that they could remain members of the House even after they retired from sitting as a judge. Since the Supreme Court was created in 2009 there have been no more Law Lords and the assurance given at the time that retired Supreme Court Justices would be given peerages has not yet borne fruit. There are only three remaining Justices who are also members of the House of Lords and can return there when we retire. I am one of those, having been, regrettably, the only woman ever appointed to the now abolished office of Lord of Appeal in Ordinary (whether or not as a result of positive discrimination it is not for me to say).

Which brings me to the judiciary, where progress was also slow until the 21<sup>st</sup> century.

The 1919 Act meant that women could become lay magistrates and by 1947 there were about 3700 of them. But professional judges were another matter. The first women were called to the Bar and admitted as solicitors in 1922 but their numbers were very low: in the 1920s eight or nine women a year were admitted as solicitors and in the 1930s the average was 16 a year; an

average of 13 women were called to the Bar during those same decades. This meant that by the end of the second world war there were a few women qualified to hold judicial office.

The first woman to do so was the little-known Sybil Campbell, appointed a Metropolitan Stipendiary Magistrate - what we would now call a District Judge (Magistrates' Courts) – in 1945. She was one of the first women called to the Bar in 1922 and had practised in chambers thereafter, without any great success, but she served on the predecessor of what are now social security tribunals and during the second world war she became 'Britain's No 1 food detective' tracking down the black marketeers. Metropolitan Stipendiary Magistrates, unlike the rest of the judiciary, were appointed by the Home Secretary and Herbert Morrison was keen to appoint her. Critics queried whether she was qualified, as she had not taken a brief for many years, though remaining a member of chambers, and also whether it was appropriate to appoint a former civil servant. Maybe this was a smokescreen for what by then could not be said – that she was a woman. But it almost certainly could have been said that there were better qualified candidates available and that Morrison had practised some positive discrimination in her favour. Her lack of court experience may be the reason why her sentencing of first offenders was rather heavier than was then the norm. She certainly did not fit the stereotype of the kindly and lenient woman, perhaps because she sat at Tower Bridge Magistrates courts where all the crime from the docks was heard. There were newspaper and trade union campaigns, even a march, against her. But she survived them all and served until she reached statutory retirement age in 1961.

The first woman to sit as a Recorder in jury trials was Dorothy Knight Dix, who was appointed deputy recorder of Deal in January 1946. The first woman to sit in the county courts was Edith

Hesling, a Manchester graduate who was the first woman to be called to the Bar by Gray's Inn. She sat as a deputy county court judge in March 1946 and taught in the Law School in Manchester for some years. But these were ad hoc, part time appointments, largely in the gift of the judge for whom they were deputising, rather than regular judicial appointments.

Hence Hilary Heilbron QC can rightly claim that her mother, Rose Heilbron, was the first woman to hold regular judicial office when she was appointed Recorder of Burnley in 1956. Rose Heilbron graduated with first class honours in Law from Liverpool University, was called to the Bar in 1939 and was one of the first two women to take silk in 1949. During the 1950s she was probably the most famous barrister in the country, appearing in many notorious murder trials. But the first woman to be appointed a full-time judge was Elizabeth Lane, who became the first woman county court judge in 1962 – the year before I went to University to read law – and was promoted to the High Court in 1965. Rose Heilbron joined her there in 1974. Both were assigned to what is now the Family Division, despite having had Queen's Bench Division practices at the Bar. It took until 1992 for Ann Ebsworth to become the first woman in the Queen's Bench Division and 1993 for Mary Arden to become the first woman in the Chancery Division. When I joined them in 1994, five out of the six then serving women High Court judges were from the Northern Circuit and the other was the daughter of a Liverpool solicitor.

Those were the days when all judicial appointments at the higher levels depended upon a 'tap on the shoulder' from the Lord Chancellor. I benefitted from that, partly in the way that everyone then benefitted, but maybe partly because the Lord Chancellor was on the look-out for

appointable women. The politicians knew then, as they do now, that the existing gender imbalance was not acceptable.

Things have changed a good deal since then. We now have an open, transparent and politically independent system of judicial appointments. The pace of change has quickened. The High Court and Court of Appeal are getting close to a quarter women – nowhere like enough but much better than it was a decade ago. The Circuit bench is over a quarter and the District bench has reached 38%. But we still have a long way to go before the numbers of women gaining judicial appointments, especially at the higher levels, match the numbers of women entering the professions. I do not think that the answer lies in positive discrimination – because everyone, and that includes the women who are appointed, must feel confident that the best candidates have been chosen. But we do need a system which is capable of attracting the best from many different places, not just those from which the judiciary has traditionally been appointed, and has good tools for assessing their quality and potential. Then everyone can know that they have been appointed on merit and not because they are a ‘diversity statistic’. This is much more difficult than assessing merit in places where it has traditionally been found. But we must not give up the struggle.

The women’s suffrage movement, which we are here to celebrate today, knew that women deserved equality. We should share that conviction with them and continue to work hard to achieve it.