

ADVOCACY

Lord Pannick celebrates advocacy: that controversial legal issues are decided in court after reasoned argument in which the participants refrain (usually) from shouting, personal insults or threats, and the points on each side of the debate are tested for their relevance, their accuracy, and their strength. The book seeks to identify the central characteristics of good and bad advocacy with the aid of examples from courtrooms in the UK and abroad. Lord Pannick also examines the morality of advocacy – that the advocate sets out views to which he does not necessarily subscribe, on behalf of clients for whom she may feel admiration, indifference or contempt. Lord Pannick seeks to answer the question he is often asked – more by friends than by judges – “How can you act for such terrible people?” Finally, he addresses the future of advocacy, arguing it should and will survive pressures for efficiency and technological developments.

LORD DAVID PANNICK KC has been a practising barrister since 1980. His most famous case was arguing for Gina Miller in persuading the Supreme Court that it was unlawful for Prime Minister Boris Johnson to advise the Queen to suspend parliament in 2019 because of his wish to “get Brexit done”. Lord Pannick has appeared in more than 125 cases in the Supreme Court and its predecessor the Appellate Committee of the House of Lords. He is also a crossbench member of the House of Lords and a Fellow of All Souls College, Oxford.

ADVOCACY

LORD DAVID PANNICK KC

Blackstone Chambers

Fellow of All Souls College, Oxford

Crossbench Peer in the House of Lords



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To Nathalie

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THE HAMLYN TRUST

The Hamlyn Trust owes its existence today to the will of the late Miss Emma Warburton Hamlyn of Torquay, who died in 1941 at the age of eighty. She came of an old and well-known Devon family. Her father, William Bussell Hamlyn, practised in Torquay as a solicitor and JP for many years, and it seems likely that Miss Hamlyn founded the trust in his memory. Emma Hamlyn was a woman of strong character, intelligent and cultured, well-versed in literature, music and art, and a lover of her country. She travelled extensively in Europe and Egypt, and apparently took considerable interest in the law and ethnology of the countries and cultures that she visited. An account of Miss Hamlyn by Professor Chantal Stebbings of the University of Exeter may be found, under the title “The Hamlyn Legacy”, in volume 42 of the published lectures.

Miss Hamlyn bequeathed the residue of her estate on trust in terms which it seems were her own. The wording was thought to be vague, and the will was taken to the Chancery Division of the High Court, which in November 1948 approved a Scheme for the administration of the trust. Paragraph 3 of the Scheme, which follows Miss Hamlyn’s own wording, is as follows:

The object of the charity is the furtherance by lectures or otherwise among the Common People of the United Kingdom of Great Britain and Northern Ireland of the

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knowledge of the Comparative Jurisprudence and Ethnology of the Chief European countries including the United Kingdom, and the circumstances of the growth of such jurisprudence to the Intent that the Common People of the United Kingdom may realise the privileges which in law and custom they enjoy in comparison with other European Peoples and realising and appreciating such privileges may recognise the responsibilities and obligations attaching to them.

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From the outset it was decided that the objects of the Trust could be best achieved by means of an annual course of public lectures of outstanding interest and quality by eminent lecturers, and by their subsequent publication and distribution to a wider audience. The first of the Lectures were delivered by the Rt Hon. Lord Justice Denning (as he then was) in 1949. Since then there has been an unbroken series of annual Lectures published until 2005 by Sweet & Maxwell and from 2006 by Cambridge University Press. A complete list of the Lectures may be found on pages xi–xv. In 2005 the Trustees decided to supplement the Lectures with an annual

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Hamlyn Seminar, normally held at the Institute of Advanced Legal Studies in the University of London, to mark the publication of the Lectures in printed book form. The Trustees have also, from time to time, provided financial support for a variety of projects which, in various ways, have disseminated knowledge or have promoted a wider public understanding of the law.

This, the seventy-second series of lectures, was delivered by Lord David Pannick KC at Grays Inn Hall, London, the Senedd Building, Cardiff, and the Gulbenkian Theatre at the University of Oxford. The Board of Trustees would like to record its appreciation to David Pannick and also to the three institutions which generously hosted these Lectures.

Avrom Sherr
Chair of the Trustees

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PREFACE AND ACKNOWLEDGEMENTS

The three chapters of this book are expanded versions of the Hamlyn Lectures 2021. I gave the lectures on 9 November 2021 in Gray's Inn Hall, London, on 10 November 2021 in the Senedd Building, Cardiff, and on 11 November 2021 in the Gulbenkian Lecture Theatre in the St Cross Building, Oxford. There was also a very large remote audience watching and listening online.

I have added some references to developments after the delivery of the Lectures.

I am very grateful to Avrom Sherr, the Chair of the Hamlyn Trustees, for inviting me to give these Lectures and for his patience, good humour and organisational skills.

A number of friends and colleagues commented on drafts of the Lectures, pointing out some of my errors, exaggerations and stupidities. None of them is responsible for those that remain. Thank you, in particular, to Michael Beloff, Abraham Chan, Jeffrey Elkinson, Cécile Fabre, Bryan Garner, Tony Grabiner, Guy Pratte, Joshua Rozenberg and Richard Susskind.

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PREFACE AND ACKNOWLEDGEMENTS

I have on my desk the copy of Sir Malcolm Hilbery's *Duty and Art in Advocacy* (1959, written in 1946) presented to me by Leonard Caplan QC, the Treasurer of Gray's Inn, on my call to the Bar on 26 July 1979. I shall be very disappointed if my lectures are not more stimulating and entertaining for students, lawyers and others interested in advocacy.