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978-1-107-04302-2 - Aspects of Law Reform: An Insider's Perspective

Jack Straw

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ASPECTS OF LAW REFORM

The British justice system is an ancient one that has continually evolved to meet modern needs. In this set of three essays, originally presented as the Hamlyn Lectures in 2012, Jack Straw reviews some of the most important recent reforms to the system of British justice and suggests key areas in need of further reform. He focuses in particular on the criminal courts, human rights, judicial appointments and the relationship between the UK parliament, the domestic courts and the European Court of Human Rights. In all three cases, he argues that the British justice system is now in a healthier state than at any other point in his lifetime, but that there remains much room – and need – for improvement.

THE RT HON. JACK STRAW MP was the Lord High Chancellor of Great Britain and the Secretary of State for Justice from 2007 to 2010. He served as Home Secretary from 1997 to 2001, Foreign Secretary from 2001 to 2006 and Lord Privy Seal and Leader of the House of Commons from 2006 to 2007.

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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, and well versed in literature, music and art, and she loved 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.

The Trustees are to include the Vice-Chancellor of the University of Exeter, representatives of the Universities of London, Leeds, Glasgow, Belfast, and Wales, and persons co-opted. At present there are eight Trustees:

Professor Iwan R. Davies, Swansea University

Ms Clare Dyer

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Professor John Morison, Queen's University, Belfast

The Rt. Hon Lord Justice Stephen Sedley

Professor Avrom Sherr, University of London (Chair)

Professor Chantal Stebbings [representing the

Vice-Chancellor of the University of Exeter]

Clerk: Ms Eliza Boudier, University of London

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.

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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 ix to xii. In 2005 the Trustees decided to supplement the lectures with an annual 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 to a wider public understanding of the law.

This, the 64th series of lectures, was delivered by the Rt Hon. Jack Straw, MP. The first was held at the University of Leeds, his alma mater, on 6 November 2012 in the Moot Court Room of the new law building and chaired by Keir Starmer. The second was held on 13 November 2012 in the Alumni Auditorium of the University of Exeter and introduced by the Vice-Chancellor. The final lecture, chaired by Sir Stephen Sedley, was held at the Inner Temple Hall, London, on 4 December 2012. The Board of Trustees would like to record its appreciation to Jack Straw and to the two universities and their law schools, as well as the Inner Temple, who so generously hosted these Lectures.

AVROM SHERR
Chair of the Trustees
February 2013

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- 1975 The Land and the Development, or, The Turmoil and the Torment by Sir Desmond Heap
- 1976 The National Insurance Commissioners by Sir Robert Micklethwait
- 1977 The European Communities and the Rule of Law by Lord Mackenzie Stuart
- 1978 Liberty, Law and Justice by Professor Sir Norman Anderson
- 1979 Social History and Law Reform by Professor Lord McGregor of Durris
- 1980 Constitutional Fundamentals by Professor Sir William Wade

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From Lord Denning, who gave the first of this series of lectures in 1949, to Jeremy Waldron in 2011, those who had previously been asked to deliver these three annual lectures have without exception been lawyers distinguished by their practice, their academic study or both.

For the 2012 series, the Trustees asked me. I started life as a lawyer, but I earned my living at the Bar for just two years before I was diverted into the preoccupation of the rest of my adult life, politics.

Whilst some, maybe many, political careers lightly brush our legal system if there is any contact with it at all, mine has followed a different course. I've been fascinated by the interaction of the work of our courts with the processes of government and the body politic. Over a significant part of my ministerial career I was responsible for an extensive legislative programme, including the Human Rights Act 1998, which has become a new foundation of what passes as the constitution of the United Kingdom.

The final ministerial post I held, from 2007 to 2010, was as Lord Chancellor – the first in modern times to sit in the House of Commons. No longer is the Lord Chancellor head of the judiciary – that role properly falls to the Lord Chief Justice. But the Lord Chancellor is responsible (indeed he or she has a statutory duty in this regard) for upholding the independence of the judiciary. The job gave me an interesting

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insight at the intersection of the three branches of modern democratic government – executive, judicial and legislative.

In alighting on subjects for my three lectures, I tried to identify subject areas where I could draw on my experiences over many years, and hopefully better illuminate aspects of our system.

Thus, the first lecture was on ‘The future of the criminal courts’; the second on ‘the Human Rights Act and Europe’ and the third on ‘Judicial appointments’.

I hope you enjoy them. I am very grateful to the Trustees for the honour they paid me in asking me to undertake this series.

JACK STRAW