

**Welcome to the Chancery Bench for Mr Justice Fancourt  
By Jonathan Gaunt QC**

**(before the Lord Chief Justice , the Master of the Rolls, the Chancellor  
and other Justices of the High Court and the Court of Appeal).**

My Lords, as your Lordships will appreciate, the Bar is always delighted to join your Lordships in welcoming those who have been elevated to the High Court Bench. It is indeed a true privilege for me, on behalf of the Bar, to adopt what your Lordship has said and wish Mr Justice Fancourt well as he embarks on his new responsibilities.

I have only once before had the privilege of publicly celebrating the appointment of a member of my Chambers to the High Court Bench. That was over twenty years ago when Lord Neuberger (as he became) became a Judge and we gave a party for him in Lincoln's Inn Old Hall. Being a brash and then young(ish) barrister I made a rather unfortunate joke. I reminded the assembled company how, when a Roman general was awarded a Triumph, he was accompanied in his chariot by a slave who, to keep his master's feet on the ground, reminded him periodically – *"Remember, my Lord, you too must die"*. I suggested that the appropriate warning for a new Judge of the Chancery Division might be *"Remember, my Lord, that you are still alive."*

As the words fell from my lips, I realised that six Judges of the Chancery Division were standing at the front of the audience regarding me with a jaundiced eye and I contemplated the end of my career. The underlying implication was, of course, that the Judges of the Chancery Division were crusty old codgers whose main function was to put unexpected and technical obstacles in the path of us warriors for truth and justice.

It is wonderful how the passage of a mere quarter of a century has changed one's perspective. It now seems to me that Her Majesty's Judges are quite astonishingly youthful, energetic, vigorous, in their intellectual prime, at one with the Zeitgeist and, one may suppose, familiar with the latest trends in popular music. Such a one, undoubtedly, is Mr Justice Fancourt, subject to the qualification that he has a preference for grand opera.

It seems only a short time ago that he was briefly my pupil, in which capacity he has, rather unkindly I feel, claimed that I introduced him to the world of Soho nightclubs and prostitution. Lest that statement should be misinterpreted, I should explain. A pension fund wanted to forfeit the lease of a Soho establishment on the ground of immoral user. Our client, the Defendant, was very anxious that Counsel and the Judge should visit his blameless establishment and see for ourselves. We were quite sure that this would be a very bad idea indeed and persuaded him against it. After we had spent a week calling a succession of witnesses, including our client's 90 year old mother, to say what sweet, innocent and respectable creatures the ladies frequenting the establishment were, our client suddenly and without warning produced in the witness box a photograph of the interior of his club, of which he was inordinately proud. That proved, as we say in the trade, determinative. I later learnt that Millett J took it home to show his wife who took one look and declared – "*Good God, Peter, it's a brothel*"- and so his Lordship held. I have no doubt that that was an early invaluable lesson for the young Mr Fancourt about controlling one's client.

One realises, however, that a considerable time must have passed since those days when one reminds oneself what Mr Fancourt has achieved in the interim. He was one of the Counsel responsible for destroying the rent review industry, which provided a good income for many of us in the 1980s, by participating in an arbitration so long (78 days) and so expensive that it frightened almost the whole of the rest of the property world out of going anywhere near an arbitrator ever again.

He served on the Bar Council for five years and on the Bar Standards Board for another five. He led the Bar Standards Board's Working Group on the implementation of the Legal Services Act 2007 and he was Vice-Chairman of the Chancery Bar Association from 2010 to 2012 and its Chairman from 2012 to 2014. In that capacity he established and promoted the CLIPS Litigant in Person Support Scheme, for which I know the judiciary often has cause to be grateful. He is thus well known to the members of the Chancery Bar, who have reason to be grateful for his efforts on our behalf. He has also sat as a Recorder in the Criminal Courts and as a Deputy in the Chancery Division.

Mr Fancourt has also found time in a busy practice to be a prolific author, beginning with the assistance he gave to Sir Robert Megarry (not the easiest of collaborators) on his famous

book on the Rent Acts, and continuing with his authorship of the volume on Assured Tenancies and his recent editorship of Muir Watt and Moss on Agricultural Tenancies. His piece de resistance, however, is his Aga Saga – a literary genre usually involving the domestic peccadillos of the middle classes, often, I fear, Judges, - but in his case the AGA is not a cooker but an authorised guarantee agreement within the meaning of the Landlord and Tenant (Covenants) Act 1995.

He has also prepared for the rigours of judicial office in other ways. He has been a devoted member of that body of patriots and masochists known as the Barmy Army, in which capacity he has followed the English Cricket Team on three successive tours “down under” and thereby become accustomed to repeated humiliation and no doubt a deal of vile antipodean abuse. The thickness of skin thus developed will stand him in good stead when assailed by the slings and arrows of the Court of Appeal and the insults of the ignorant, which seem to be the staple of the social or, as I prefer to call them, anti-social media.

My Lord, when a Member of my Chambers is appointed to the High Court Bench it is a matter of both pride and a little regret. The judiciary’s gain is our loss. Indeed in the 25 years that I have been Head of Chambers, Her Majesty has laid her hand on the shoulder of one of my Silks every five years and I have wondered at times whether I was running a Barristers Chambers or a Judge factory. We do, however take great pride in our contribution to the judiciary and, on behalf of his erstwhile colleagues and of the Bar as a whole, I offer Mr Justice Fancourt our support and best wishes as he takes on his new role.