

# **VALEDICTORY CEREMONY ON THE RETIREMENT OF JUDGE OF APPEAL GEOFFREY TATTERSALL QC**

**Held in Court 3 on 21 September 2017**



## **Address by His Honour Deemster Doyle First Deemster and Clerk of the Rolls:**

Your Honours, Your Worships, Mr Attorney, Mr Clucas, ladies and gentlemen. This is an historic day of mixed emotions: principally sadness and joy. Sadness because we are saying goodbye to a true friend of the Island and joy because we can reflect upon Geoffrey's impressive contribution to this Island and we can congratulate him on a job extremely well done. We can also look forward with confidence to the future under our new full-time resident Judge of Appeal who we will warmly welcome in due course and who will significantly bolster the rule of law in this jurisdiction; but back now to the present.

This is the last High Court sitting in the Isle of Man of His Honour Judge of Appeal Geoffrey Frank Tattersall QC.

I welcome you all, especially Geoffrey's wife Hazel, and his daughters Victoria and Hannah, and Hannah's husband Josh. This is also an historical moment for Hannah because I understand that she was present as a young 12 year old when Geoffrey was sworn in as the Judge of Appeal all those years ago now. Judges and lawyers like continuity, but fortunately they are not very good mathematicians so they have not yet worked out your age Hannah! Your secret is safe. Without the love and support of his family all of Geoffrey's considerable achievements would not have been possible. It is very fitting that they are here to witness his departure from the courts and his return to the family. I thank them for allowing us to borrow Geoffrey from time to time over the last 20 years.

Geoffrey has made an outstanding contribution to the development of Manx law and jurisprudence at appellate level over all those years.

Geoffrey Frank Tattersall was sworn into office as the Island's Judge of Appeal on 4 November 1997 by virtue of his Commission issued by Her Majesty Queen Elizabeth the Second dated 15 September 1997. He succeeded Benet Alan Hytner QC who had been appointed in 1980 and whose term of office ended on 24 October 1997.

I have had the privilege, and it was a real privilege, and benefit of sitting with Geoffrey in the Island's Appeal Division since 2003 in many appeals dealing with a wide range of issues in civil, family and criminal matters. Whilst sitting with Geoffrey I have gained from our discussions. I have also always left the Appeal Court and walked down the judicial corridor to my room with the feeling that we had both, within our own respective human limitations, done our very best to deal with the appeals that came before us with fairness and justice.

Geoffrey Tattersall has been loyal to his judicial oath and administered justice in accordance with the laws of the Isle of Man as "indifferently as the herring backbone doth lie in the midst of the fish".

Geoffrey's love for the Island was plain from his judgments and on-Island activities, including excursions to the Manx Museum with Mike Kerruish to try out the TT simulator in his work suit and one of his many Manx ties. What a sight, you can envisage that now! I am just glad it was a simulator because he took some significant risks and he crashed many, many times, much to his delight. Geoffrey was also courageous enough to embark on adventurous trips up to Snaefell on the electric tram to show the Island off to visiting judges, and he coined the phrase "the man on the Douglas horse tram" rather than the English phrase "the man on the Clapham omnibus" when describing, for legal purposes, the hypothetical ordinary and reasonable person. Geoffrey was however far from ordinary.

In another jurisdiction and in another context Wall LJ, a good judge of character, summed up some of Geoffrey's fine qualities well when at paragraph 69 of his judgment in *A (A Child) v Ministry of Defence* [2004] EWCA Civ 641 he referred to "clarity, economy, realism and frankness".

### **Judge of Appeal Tattersall:**

And I lost.

### **Deemster Doyle:**

But the appellant's case could have been presented no better in the words of Wall LJ.

Geoffrey Tattersall was however so much more than "clarity, economy, realism and frankness".

In addition to his ability to deal with a very wide range of appeals, what Geoffrey possessed was an overriding sense of fairness and a desire to treat all those who came before the appeal court with great courtesy and patience. That was not always easy during busy and challenging Appeal Division sittings, but Geoffrey managed to achieve it much to my envy and admiration.

Geoffrey has been a good friend to the Island for many years and has, in his own remarkable way, made an impressive contribution to this yindyssagh, this wonderful Island, and we should acknowledge that and thank him for it.

Thank you Geoffrey. We shall miss you. The Manx judiciary wish you well in your retirement.

I call upon Her Majesty's Attorney General.

**Address by Her Majesty's Attorney General  
John Quinn QC:**



Your Honours, Your Worships, fellow members of the Manx Bar, ladies and gentlemen. Among my many functions as the Island's Attorney General I am head of the Manx Bar and as such ex officio member of the Council of the Isle of Man Law Society. It is in my capacity as Head of the Manx Bar that I have the pleasure in addressing this public valedictory address to Your Honour Judge of Appeal Geoffrey Tattersall QC.

With certainty I can also say that it is with mixed feelings that I too offer my best wishes to you on your retirement as Judge of Appeal. Those mixed feelings are in true Manx tradition of, firstly regret to see you step down, yet at the same time mixed with real gratitude and recognition for the exemplary service you have provided to this, our Island.

If I may please presume to drop the formality of your title Sir and speak of you:

Geoffrey is a Mancunian and a member of both Byrom Street Chambers in Manchester and 5 Essex Court in London. As a life-long 'Red' myself I hope I address a kindred spirit, if not a true Red, although regretful, I will not on this occasion let that rare error of judgement influence me or I beseech you, influence you the audience.

Geoffrey has served the Island with distinction as Judge of Appeal for 20 years. This is easily the longest tenure of the office since it was created in 1919. The only other person who came close by holding the office for more than 10 years was Geoffrey's immediate predecessor, Ben Hytner QC, who, as His Honour the First Deemster has said, was in post for 17 years. Geoffrey may fairly and undoubtedly be said, therefore, to have significantly more influence on the shape of Manx jurisprudence than any of his predecessors as Judge of Appeal. But as this audience knows, it has not just been the length of his tenure in office for which Geoffrey will be remembered, but rather for the many sound and well-reasoned judgments that he has handed down.

As has been reported to me, Geoffrey himself remarked at the Law Society valedictory dinner last week that his career in silk began in an unforgettable way. A lay client, whom he had never met, was hanged the same day that Geoffrey concluded his unsuccessful submissions to the Privy Council in *Reckley v Minister of Public Safety*. Fortunately Geoffrey

got over that disappointment but it was of small consolation to Mr Reckley when, 3 years after he had been hanged, their Lordships decided in the case of *Lewis and Others v The Attorney General of Jamaica* when Mr Lewis appealed to the Privy Council that the rule of law laid down in that *Reckley* case was not to be followed.

I have personally not had the privilege to have appeared before Geoffrey and I will leave it to my colleague from the Council of the Society, who will address you later, who will no doubt offer first hand salutations in this regard. With confidence I believe however that anyone who appeared before Geoffrey will know before the end of their case that they have had a fair hearing, and perhaps that is the highest accolade that can be paid to a retiring judge. I am told in addition that one of his memorable attributes has been that Geoffrey has always had time to chat, even occasionally to engage in unadulterated gossip, with members of the Bar but at the same time to offer encouragement and support. He graced our Society on many occasions during his time as Judge of Appeal at many of their social events and always, quite frankly, left his mark.

**Judge of Appeal Tattersall:**

Late!

**Attorney General John Quinn:**

Geoffrey, you have proved yourself to be a judge trusted by our legal profession which is no mean feat especially in our small jurisdiction where we are all subject to such focused scrutiny.

Geoffrey is however not just an appellate judge in this jurisdiction, he has also served the Island as its Vicar General since 2014. In this capacity he decided that he was not prepared to allow a Buddhist stupa in the graveyard at Maughold, and that a large wooden treble clef was inappropriate as a memorial because of its impact on the surrounding graves. Geoffrey commented in the Maughold case that the inscription - 'He wanted green dandelions' - was likely to be seen as risible. Such matters, ladies and gentlemen, clearly require great pastoral sensitivity which Geoffrey demonstrated when dealing with these cases involving, as they did, a careful balance between the interests of the petitioners and others affected.

The Island has been privileged to have attracted and retained for so long Geoffrey on our shores to undertake the role as our Judge of Appeal.

I would now please revert to the formality of addressing you perhaps more appropriately Sir:

Your Honour's retirement today has clearly been well-earned and you are, for the record, much respected. As leader of the Manx Bar I wish you all the very best for the future and thank you for your dedication to firstly the Island's community, then for your contribution to the development of Manx jurisprudence and finally for your unstinting service to the High Court of Justice Isle of Man's Staff of Government Division.

I bid you farewell as our Judge of Appeal. Your name has become synonymous with your office Sir.

## **Deemster Doyle:**

I now call upon Peter Clucas, Isle of Man Law Society Council member.

## **Judge of Appeal Tattersall:**

Now go easy Mr Clucas, I still have some jurisdiction in this Island.

## **Address by Peter Clucas Isle of Man Law Society Council member**

Your Honours, Your Worships,  
learned friends, ladies and  
gentlemen.

I have been asked by the  
President and Council of the  
Isle of Man Law Society to say  
a few words on behalf of the  
Society and its members in  
thanking His Honour Judge of  
Appeal Tattersall on this, his  
valedictory court hearing as  
Judge of Appeal for the Isle of  
Man.



During the last 20 years the  
Society has grown and matured and this has carried with it a greater emphasis on oversight and examination of the skills of advocates, both those wishing to enter the profession and those in practice.

These developments within the Bar have coincided with the recognition of the Island as a respected international centre for offshore business. Perhaps not surprisingly, this in turn has led to an increasing number of disputes from all parts of the world being resolved in the courts in this building, whilst at the same time the requirement for our judiciary to administer the day-to-day justice of our domestic court customers (as I believe we are now meant to refer to our clients) goes on.

The variety of work which now comes before the Isle of Man Courts is now truly international and makes it an exciting and challenging time to be a member of this profession. In meeting this challenge, members of the Society have, to a large extent, found it necessary to specialise within narrower fields of expertise.

The role of Judge of Appeal allows no such luxury. Anyone who cares to read Judge of Appeal Tattersall's website profile will see that he has his own specialist areas of law when practising as a distinguished Queen's Counsel. However, when sitting in our Courts, he must sit in determination of appeals which cover the full gambit of the legal profession. This requires a profound knowledge of all areas of law and an ability to manage an ever increasing case load. In such circumstances, and on behalf of the Bar, I wish to mark this occasion by thanking Your Honour for your unstinting dedication to the role of Judge of Appeal and to commend you upon the quality of the judgments which you have delivered in

relation to the many and often complex appeals that you have heard. This is a testament to your undoubted legal dexterity and intellect, as keen today as when I first appeared before you, I think, in 1999.

Having rightly acknowledged your abilities as a lawyer and a judge, I believe that members of the Society will not forgive me if I do not also acknowledge with equal gratitude your qualities as a person.

Throughout all the challenges presented by the variety of your case load as Judge of Appeal, I speak from experience in saying that you have always treated litigants and counsel with courtesy, warmth and in no small measure humour. Whether this is putting an inexperienced advocate at ease or in allowing a litigant in person the time to make their case, you have allowed justice to be administered with a human face and you have our sincerest thanks for that.

Mr Attorney has noted your contribution and the significant influences that you have had on Manx jurisprudence, and I echo that. I need look no further than to the increasing number of reported Staff of Government decisions which you have delivered during your tenure, which will provide an invaluable source of legal precedent for the Society members and the public at large well into the future.

I wish also to thank you for the support and friendship which you have extended to the Isle of Man Law Society throughout your term of office. You have been an unfailing supporter of the Society's events and many members of the Society will cherish the times that they spent with you at those events, particularly after the formalities of the evening had been concluded.

More formally, I conclude by expressing to you the sincerest gratitude of the Society and its members, both past and present, for your dedicated public service.

### **Address by His Honour Judge of Appeal Tattersall QC:**



Well, I am frankly overwhelmed by these remarks from the Deemster, the Attorney General and Mr Clucas. Their capacity to exaggerate seems endless, but I am genuinely touched and honoured by all this, and really quite astonished to see how many of you have come here today. I can only think that you are making sure that I really do leave.

As you all know, retirement is defined on Wikipedia as either (1) the action of ceasing work completely, (2) the withdrawal of a jury from a court room or (3) seclusion. I am not sure which one of these will prove appropriate for me, but we shall see.

The first time I sat in this court, this very court, was on 4 November 1997, almost 20 years ago. Jack Corrin was the First Deemster and the Attorney General was then a young Mike Kerruish, and my wife and my then 12 year old daughter were here. My other daughter has since complained that she was packed off to university and was not allowed to come, so I'm very glad that they can both be here today with my wife and son-in-law.

Two years after I arrived here I sat with Deemster Nugee on a case about the Villa Marina, (we are staying at the Mannin Hotel so we can see the Villa Marina) and Mr Callin was for Douglas Corporation and the Second Deemster was for the Attorney General, and the issue was whether Douglas Corporation held the Villa Marina on a charitable trust. Now, I am not sure that I knew then what charitable trusts were, but fortunately Deemster Nugee did and so he educated me. It was also a very good case to learn something about the Isle of Man because it was all about the fortunes of Henry Bloom Noble who had come to the Island, as I then discovered, as a penniless teenager, acquired a very large fortune from his interests in the Great Laxey Mine, the Douglas Gas Light Company, the Isle of Man Steam Packet Company and the Isle of Man Bank, and his most successful acquisition was a controlling interest in the Douglas Waterworks, which eventually he sold to the Corporation. But he required the price, a mere £144,000, to be handed over in cash to his bank as he had little confidence in the Corporation's bank. So money trundled through the streets of Douglas.

This was a situation to be repeated many, many times over the years. Numerous cases came about which I knew precious little and I learnt, and it really has been a privilege to hold this office, and really I am very lucky to be allowed to stay here so long, especially when the first Judge of Appeal, as you heard, was appointed in 1919 and in the next 62 years there were no less than 16 Judges of Appeal over that 62 years. So you will understand that I am beginning to feel that I may have over-stayed my welcome.

As a mere come-over I do know, as I was reminded by the President of the Law Society last week, that the boat for the adjacent isle goes every morning, but also I know now of course, that it comes back every night, and so it is that I shall return metamorphosed as the Vicar General in eight days, but there it is!

Now, I hope you will forgive me if I do not attempt to give a summary of how Manx law has been affected by my judicial ramblings, and I hope you will also agree that this is neither the time nor the place to offer penetrating or other insights to my successors or those who remain as to what the future ought to bring for this jurisdiction.

Of course it is a day of mixed emotions for me, obviously. I do not really know where the last 20 years have gone, but there it is, and I do remember with enormous affection Jack Corrin, William Cain and Mike, but age eventually catches up with you and I realised this 18 months ago when I was given an iPad by the court. It was so that I could more readily communicate and answer emails from Deemster Doyle. So I asked what the password number was and Stephen told me that my password for the computer is 21.09.17. I think they did not want me to forget the day I was going to retire!

But I could not really have survived here without the help of a lot of people and I really must thank them. First of all my judicial colleagues. They really are quite a good bunch, honest, even though they are all pretty juvenile compared to me, and of course I mean juvenile in terms of age, nothing else. I will miss their company. I will miss their conviviality. I will probably not miss the fact that on occasions, having written the judgment of the court, they have sought to persuade me, sometimes successfully, to reach the opposite conclusion, and for that I think I have to thank Deemster Corlett on two occasions.

Well, in my judgments I have tried to adopt succinctness, certainly to try and avoid readers losing the will to live. My successor will add great distinction to the team and I wish him well, and I hope he enjoys this wonderful Island as much as I have, and I am sure that he will. However, I did note that the job specification for my successor involves an ambassadorial role. So I hope that he fares better than I did when in the summer I went to Strasburg, and having been to the European Parliament I thought that I would nip across the way to go to the European Court of Human Rights, and I did, and the door was closed, and I rang the buzzer and I said 'can I come in and visit' and they said 'no'. So that was that. That's Manx jurisprudence for you.

Secondly, I want to thank the advocates. I have actually learnt a lot from you. You are a rewarding and stimulating lot to be with. I have never believed that intellectual rigour and friendliness cannot co-exist. I have always believed that humour is not inconsistent with serious endeavour, although I think you have to keep it within bounds.

Thirdly, I want to thank the court staff who, in their different ways, have worked so hard to support me and the other judges and to make the courts work efficiently, and I remember with affection my clerks over the years. Without all their dedicated efforts these courts would simply not exist and not function.

Finally, I want to thank my family to whom my debt is huge. They have let me absent myself from home whenever I wanted to in the misguided belief that by coming here I was boosting the family fortunes, when in fact I was merely following a wish to enjoy myself. Moreover gentlemen, whatever you may have said about my courtesy and patience, my wife will tell you that however I might appear in court I am not an easy person to live with, so she says. Recently people have said to me that my wife will have a long list of jobs she wants doing at home. Well, there is no such list. My wife already knows the limits of my practical skills.



So finally, I hope that in pursuing my love affair with this wonderful Island I have not caused too much damage to Manx jurisprudence, and as I shuffle off this mortal coil, or this judicial coil I should say, I thank you all.

So I will say for the last time 'this court is now adjourned and we will retire', or at least, I will.