

# DAVID VAUGHAN Q.C.

## A TRIBUTE

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DAVID ANDERSON Q.C.

All of us at the Bar are asked from time to time to advise on the chances of winning a case. For the fainter hearts among us, this is an exercise either in studied equivocation or if pressed, the use of percentages within touching distance of 50. Not so for David Vaughan. His advice came in just two variants: “I should think bound to lose” or, rather more frequently, “Pretty much bound to win”. Clients liked the absence of tiresome uncertainties, and the fact that their counsel was prepared to stand up and be counted.

Among those clients were the Spanish Fishermen who came 30 years ago to David for advice, their livelihoods threatened by a brand new Act of Parliament. The forces ranged against them were immense, and implacable. As a Chief Justice put it more than 300 years ago, in a turn of phrase worthy of David himself, “An Act of Parliament may do no wrong, though it may do several things that are pretty odd.” To escape this one would require a constitutional revolution.

Yet David did not hesitate in predicting victory. Others saw legal difficulties. He saw *fishermen*, respected if not in England then at least in Milford Haven, where they had constructed an ice plant and taught Welsh boys the delicate art of long-lining. He saw *hard work and enterprise*, threatened by mean-mindedness. Above all he saw *injustice*, to which for him there could only ever be one response: to fight.

Twelve years later, after three visits to the House of Lords and three to the European Court of Justice, David’s fishermen had won on all counts. A constitutional revolution had been *declared* – by Professor Wade, no less. For Lord *Denning*, who had once compared European Law to an incoming tide, it

was now “a tidal wave .. flowing inland over our fields and houses – to the dismay of all”.

The bronze statue dedicated to David in the fishing port of La Coruña, the hem of its gown rubbed to a shine by the ministrations of the devout, was never more than a *fantasy* – though one that greatly tickled its subject. But the original Spanish Fisherman, John Couceiro, spoke *truly* when he credited David for leading him on “a journey that I would not have missed for the world”.

More even than his many other celebrated cases, *Factortame* showed everything that David was about. A keen interest in fishing. A convivial love of Europe and its peoples – in this case, the Galicians and Basques whom he considered honorary Welshmen. Scepticism of government, whether here or in Brussels: he was never one to put his trust in princes. Utter fearlessness. An instinct for fairness and decency, with which he could prick the conscience and spur the courage of even the driest tribunal.

And central to it all, a boundless generosity of spirit that bubbled over into fun, for himself and all around him, in everything he did.

These qualities are all the more remarkable because David’s upbringing, on paper at least, was highly conventional. He was born in Datchet, his father a naval officer who promptly walked across the fields to put him down for Eton. Spells in Edinburgh and in Bath, prep school in Hampshire, then after Eton, national service in the 14<sup>th</sup>/20<sup>th</sup> Hussars, law at Trinity College Cambridge, London and the Bar.

But David prized the *unconventional* – not least in his own family history, as you have just heard from Kitty.

And the instinct for *fun* was a regular theme of his early life. A sporting highlight often recalled was the British Army cricket tour of Denmark, for which David was selected as reserve umpire and, one suspects, master of ceremonies. At Cambridge he was a hard worker: he is remembered perambulating the Great Court reciting cases before his Finals. But his passion

was reserved for the Trinity Foot Beagles, where as a whipper-in, he was described as “the glue that held us all together”.

Then there was Europe: the youthful drive to Portugal and back, featuring dinners at both Taylors and Sandemans, and in the summer after Cambridge, a Grand Tour worthy of Patrick Leigh Fermor himself: sports cars on the Grossglockner Pass, the foot race at Olympia, a stay in Florence with Stanley Spencer’s brother, the cooking of Roman Snails in San Marino and – most exciting of all – the discovery in Norway of a novel fishing technique, reminiscent of minesweeping.

But David was no dilettante. After pupillage with Brian Neill, he buckled down to a common law practice at the Bar. And it was at this stage that he first demonstrated another abiding theme of his life: a remarkable ability to spot talent in others. So it was that both Robert Alexander and Nicholas Phillips were attracted by David to join 1 Brick Court, as it then was: the three of them largely responsible, in their different ways, for its later renown.

David’s first marriage, to Philippa, sadly did not last. But then he met Leslie. Their mutual love of fishing developed into a deep love for each other which was undiminished to the end, and perfectly obvious to anyone who met them. As David pioneered the practice of European law, he and Leslie brought energy, glamour and sparkle to the legal soirees of the Continent. They were just as unfailingly sociable in deepest Wales. And central to their life together was their large and happy home in Oxford Gardens, where passing colleagues might find themselves helping to wash a dachshund, and innumerable European students found a welcoming berth in London.

When William and Kitty entered his life, David’s joy was complete. He was the most attentive of fathers, keen to show them the right way. So even as toddlers, his children were taken to see the Lord Mayor’s Show from David’s room in Chambers overlooking Fleet Street, and taught to react appropriately to the various floats. “Milk Marketing Board – boo, Kitty. William, cheer for ICI!” And nor was he bound by old-fashioned gender stereotypes. He is still

remembered for his decisive role in a mothers and daughters netball match and as “one of the more popular mothers” attending lunches at Lady Eden’s. As a friend of Kitty’s wrote to her: “The wonderful thing about dads like David is you can’t shake them off.”

That is very much how we feel in Chambers. He cared so very much about us. And working on a case with David, as one colleague has put it, was more a lifestyle choice than a junior brief. There were the fact-finding trips to coal mines, to dairy farms or – in a case about betting – to the Windsor evening races. The popping down to the junior’s room every five minutes to ask “How’s it going?” and see how his manuscript changes looked on the screen. And to prepare for David’s frequent appearances in the European Court in Luxembourg, the days spent working in the modest auberge of Gaichel, ending with a high-spirited meal and evening walk to the defunct customs post on the Belgian border.

Then there was the unforgettable year of Sunday Trading – a guerrilla campaign fought for B&Q in a series of largely rural magistrates’ courts. In the village of Gowerton, near Swansea, David was in his element – explaining European Law to their Worships, and indignantly demanding of the other side’s expert economist why he had chosen to affirm rather than swearing on the Bible. Then to cap the morning’s triumph, leading the way into the pub next door and promptly ordering steaks for his large supporting cast. Though that episode did not end well. Resuming at 2 o’clock, David expressed the hope that the Bench too had enjoyed a good lunch. The Chairman’s response was wintry: “Cold ham salad, Mr. Vaughan.” There duly followed a rare defeat.

David loved to join in – as a worshipper at this Temple Church, as a member of the Courts of Appeal of Guernsey and Jersey, whose collegiate nature gave him so much pleasure, at the Notting Hill Carnival, or at the Welsh Pony Club events where, not trusted with the ponies, he was happy to serve as lavatory attendant.

More unusually for a barrister, he was a founder of institutions. If David was the father of European law in this country, it is not just because he was one of the first practitioners to see its significance. It is because he understood instinctively that its essence was to be found not only in books, but in travel, in exchange and in friendship across borders. And because he knew that if the young were to be tempted into a discipline often perceived as tedious, sinister or both, it had to be fun.

So his two great creations, the Bar European Group and the European Circuit, have for many years met not just in London but in congenial and cosmopolitan surroundings across the continent. His conference on “Wine, Beer and Spirits in European Law”, which in a strategic masterstroke he decided to hold in Bordeaux, is remembered almost 30 years on for its combination of learning, jollity and gastronomic delight. For the bolder traveller there is the Slynn Foundation, which during the period of David’s influence exported European Law, English and Welsh style, to countless judges, lawyers and – especially – students in the new democracies to the east. London became, with Brussels, the chief global centre of European law, with David its star practitioner. And attracted to his orbit were future judicial talents as distinguished as David Lloyd Jones, Gerald Barling and Nicholas Green.

David would never have been so presumptuous as to speak of the mark he left on the law. But what a mark it was. *Factortame* was only the start. With B&Q, he not only prepared the way for Sunday Trading, but set the European law of free movement of goods on to a wiser and more sustainable path. For ICI, and the whistleblower Stanley Adams, he secured enduring rights for those unlucky enough to get the wrong side of the European Commission. *Crehan* established the principles for compensating victims of market abuse. *Kadi* gave rise to nothing less than a new layer of due process in the United Nations. And as the People’s Mujahideen of Iran, for whom David fought alongside Gordon Slynn, wrote to Leslie: “Your husband stood with us in the darkest

days of our history, and defended justice.” No lawyer could hope for a better epitaph.

I don't know whether Vaughan the young cavalry officer had the same qualities as Vaughan QC. If so, we must imagine him not in an immaculately drilled squadron, manoeuvring on the plain, but on a daring mountain raid with his band of irregulars: approaching at a wild gallop, gleefully scattering his enemies, then feasting with much merriment by the fire.

To borrow a phrase used recently by Oliver Sells of our colleague Jonathan Hirst, David was given much in the lottery of life, but returned it, with interest, to all those whose lives he touched. He was my father in *the* law, the best I could have had. He was the finest of men: and all of us are a little finer for having known him.