**Elizabeth Lane**

*Judith Bourne and Frances Burton*

Elizabeth Lane (1905-88) was the first woman to be appointed as a County Court Judge and as a High Court judge in England and Wales. In 1945 Sybil Campbell had become the first judge of a lower court[[1]](#footnote-1) – a stipendiary magistrate – but the higher courts remained wholly male until Lane’s appointment to the High Court in 1965.

**Life**[[2]](#footnote-2)

Ellizabeth Lane (nee Coulborn) was born in 1905, to (as she described it) an upper middle-class family. She had a conventional, if rather old-fashioned, education for a girl of her class, being educated at home by a governess until she was 11 or 12 years old before being sent to Twizzletwig School in Hindhead. At 15 she attended Malvern School for two years, where her only ‘interest in life’ was hockey. Having passed the ‘Higher Oxford’ (an examination that allowed entry into UK universities), she gave up on education, determined to ‘have a good time’. Thus, she never went to university. In 1924 she journeyed to Canada to keep house for her brother and it was there she met her future husband, (Henry Jerrold) Randall Lane. They married in 1926. When her husband decided to study for the Bar, he suggested that she join him. At the time, a university degree was not a prerequisite for becoming a lawyer. She was convinced, she said, that she would never pass, and that if she did, it would be a ‘miracle’ and that she would be ‘no good’ at it. However, she did and she was.

She was called to the Bar in 1940. A pupillage was arranged with Geoffrey Howard (who would also become a county court judge). She was told in no uncertain terms that she would not be able to remain in Howard’s chambers after her pupillage (although they would be able to find a tenancy for her elsewhere) as the Clerk would not wish to have a woman in chambers and as women were not considered a good ‘financial proposition’. In the event, however she was asked to stay on. Immediately she joined the Midland Circuit and, encouraged by Paul Sandlands KC, a Bencher at Inner Temple, who had arranged her pupillage, set to work as a barrister. The Midlands circuit was seen as a launch pad for any barristers who did not think they were likely to be able to make a career at the Bar in London, but it also suited her, coming as she did from Cheshire. Like others who have taken that route she took any work that was available, such as poor prisoners’ defences, divorces, and other basic poorly paid work, but quickly built up a practice.

Her first official appointment came in 1948 as a member of the Home Office Committee of Enquiry into the Use of Depositions in Criminal Cases. She applied to become QC in 1959 and on her second attempt, in 1960, she was appointed. This was testament to her work ethic, energy and drive as it was unusual even for men to be appointed so quickly. She was only the third woman Silk in England, the other two being **Helena Normanton** and **Rose Heilbron**, both appointed KC in 1949. This ethic can be seen in her work not just as a barrister but her roles as Chairman of the new Mental Health Tribunals (1960) and Commissioner of the Crown at Manchester (1961), the equivalent of today’s Deputy High Court Judges. At the end of 1961 she was appointed Recorder of Derby.

In 1965 she was appointed to the Division of Probate, Divorce & Admiralty of the High Court where most of the work was in Family Law, clear evidence of gender stereotyping as was an expert in criminal law. In February 1971 she chaired the review of the working of the **Abortion Act 1967**. Somewhat to everyone’s surprise, the working group’s report on this controversial topic offered the legislation unanimous support.[[3]](#footnote-3)

On her appointment to the High Court, Lane became a Dame of the Order of the British Empire and, after some discussion about her admissibility because of her sex, a Bencher of Inner Temple, which made her one of the select group of senior leading a member of the Inn which governs the Inn’s affairs. She retired in 1978 and died in Winchester in 1988.[[4]](#footnote-4)

**Context**

Mrs Justice Lane’s appointment in 1965 came in a decade of social change for both men and women. Precedent for women judges was limited: apart from Sybil Campbell, the only women judges of any kind were Dorothy Dix,[[5]](#footnote-5) who as deputy Recorder of Deal became the first woman to preside over a jury trial in 1946, and Rose Heilbron, who became the Recorder of Burnley in 1956.[[6]](#footnote-6)

Since the Judicature Acts of 1873-5, the High Court had been considered the first rung of the higher courts’ judicial ladder in the then new Supreme Court of Judicature. It was, and still is, actually quite unusual for a High Court judge to be appointed first to the county court. The usual route for advancement was via a part-time Recorder appointment and/or a deputy High Court judicial appointment (then called a ‘Commissioner of the Crown’). Lane had taken on both of these roles in 1961, so the county court appointment in 1962 marked a diversion from the usual route. Patrick Polden suggests that the county court role may have been made so that the Lord Chancellor’s officials, who dominated appointment processes, could see how she would handle a level of civil justice above her existing Recorder’s experience in small civil cases. In any event, her elevation was clearly an experiment since no woman had attained such an appointment before. Lane had won the admiration of George Coldstream, the Lord Chancellor’s Department’s permanent secretary, who wrote of her to the Lord Chancellor (Lord Gardiner) that ‘she was so inherently capable that she would do almost any second row judicial job thoroughly competently’.[[7]](#footnote-7) He apparently rated her above Rose Heilbron, who then waited rather longer for her appointment. Polden speculates as to whether, in these circumstances, Gardiner made a personal decision on her appointment to the High Court, or whether that too was also the outcome of the usual process which was heavily influenced by the permanent staff[[8]](#footnote-8).

She was the only women High Court judge for nine years until Heilbron’s appointment in 1974. Lane was never promoted to the Court of Appeal. Perhaps this was a step too far for the establishment, but (as was usual for men who retired from the High Court Bench) she occasionally sat there after her retirement.

**What happened next**

Lane’s appointment appeared to represent the beginning of equality in the legal profession. However, the 2016 statistics on judicial diversity show that 50 years after Lane became the first woman on the High Court Bench women’s progression in the judiciary has been slow. Only 8 of the 39 Court of Appeal Judges are women; twenty two out of 106 High Court Judges are women; 26 per cent of Circuit Judges are women.[[9]](#footnote-9) Currently there are only two women Supreme Court Justices. Of those judges who declared their ethnicity, the percentage who identify as Black, Asian and Minority Ethnic is six per cent.[[10]](#footnote-10) The 2012 House of Lords Constitution Committee, looking at diversity in judicial appointments lamented: ‘the stereotypical judge inhabiting a court room was white, male, and from a narrow social background’.[[11]](#footnote-11)

**Significance**

Elizabeth Lane is important as the first woman High Court judge and as Chair of the 1971 committee to examine the working of the 1967 abortion law. But her significance is much greater than this: she represents a woman’s distinctive contribution to ‘justice’ or, rather (in view of the statistics), the lack thereof. We know very little about her motivations or approach to judging, perhaps because she feared accusations of self-publicising (a disciplinary offence for barristers). Her autobiography relates that she did not intend to be a pioneer of any sort, unlike many other women of her time in the law who set out to cut ice, crack (or preferably breach) glass ceilings, and generally to push the boundaries of what women could do. She claimed only to be a fairly ordinary upper middle-class girl from Cheshire who stumbled into a legal career because she married a lawyer. She suggested that her success at the Bar was down to good health and stamina, a capacity for hard work, a good temper, her ability to conceal her true feelings, not becoming emotionally involved, a pleasing voice, and good luck.[[12]](#footnote-12) But there must have been more to it than that.

**Further reading**

Hilary Heilbron, *Rose Heilbron: The Story of England’s first woman Queen’s Counsel and Judge* Hart 2012.

Elizabeth Lane, *Hear the other side: Audi alteram partem: The autobiography of England’s first woman judge,* Butterworth 1985.

Patrick Polden, ‘Portia's progress: women at the Bar in England, 1919–1939’, (2005) 12/3 International Journal of the Legal Profession, 293–338

1. Sybil Oldfield, ‘Campbell, Sybil (1889–1977)’, *Oxford Dictionary of National Biography*, Oxford University Press, 2004 [↑](#footnote-ref-1)
2. Details of her life are taken from her autobiography, Elizabeth Lane, *Hear the Other Side* (Butterworths, 1985). [↑](#footnote-ref-2)
3. National Archives SA/ALR Papers of the Committee on the Working of the Abortion Act (The Lane Committee), 1971-1974. [↑](#footnote-ref-3)
4. Elizabeth Butler-Sloss, ‘Lane , Dame Elizabeth Kathleen (1905–1988)’, rev. *Oxford Dictionary of National Biography*, Oxford University Press, 2004. [↑](#footnote-ref-4)
5. Patrick Polden, ‘Portia's progress: women at the Bar in England, 1919–1939’, (2005) 12 International Journal of the Legal Profession, 293–338. [↑](#footnote-ref-5)
6. Brenda Hale, ‘Heilbron, Dame Rose (1914-2005)’, *Oxford Dictionary of National Biography*, Oxford University Press, Jan 2009; Hilary Heilbron, *Rose Heilbron: The Story of England’s First Woman Queen’s Counsel and Judge,* (Hart, 2012). [↑](#footnote-ref-6)
7. P. Polden, n.5, at p 305. [↑](#footnote-ref-7)
8. P.Polden, n.5, at pp305-6. [↑](#footnote-ref-8)
9. https://www.judiciary.gov.uk/about-the-judiciary/who-are-the-judiciary/diversity/judicial-diversity-statistics-2016/ [↑](#footnote-ref-9)
10. https://www.judiciary.gov.uk/about-the-judiciary/who-are-the-judiciary/diversity/judicial-diversity-statistics-2016/ [↑](#footnote-ref-10)
11. ibid. [↑](#footnote-ref-11)
12. Lane (n.1) pp 60-62. [↑](#footnote-ref-12)