

## **Hewart, Gordon, first Viscount Hewart (1870–1943), judge by Robert Stevens**

**Hewart, Gordon**, first Viscount Hewart (1870–1943), judge, was born at Bury, Lancashire, on 7 January 1870, the eldest son of Giles Hewart, draper, and his wife, Annie Elizabeth Jones. Hewart was educated at Manchester grammar school and University College, Oxford, where he won an open classical scholarship. He obtained a second class in classical moderations (1889) and in *literae humaniores* (1891). He was married on 5 October 1892 to Sara Wood (*d.* 1933), daughter of Joseph Hacking Riley, engineer and machinist, of Bury. They had one daughter and two sons, the elder of whom was killed in the First World War.

Hewart early fixed on the law as his career, but in order to supplement a meagre income he joined the parliamentary reporting staff of the *Manchester Guardian* and subsequently became principal leader writer on the *Morning Leader*. Pressure of journalistic work delayed his call to the bar (Inner Temple) until 1902. Then, however, he joined the northern circuit, where his name was known, and his rise was rapid. Only ten years later, in 1912, he took silk, and in 1913 was elected Liberal member of parliament for Leicester (sitting for the East division of Leicester from 1918 to 1922).

Hewart was an effective advocate in court and a skilled debater in the House of Commons. He was thought of as an 'advanced' Liberal in politics, and was in favour of votes for women and home rule for Ireland. By the time he achieved office in 1916, the Liberal government of Asquith was giving way to the Lloyd George coalition and he moved steadily to the right, in line with changing government policy. In 1916 he became solicitor-general (and was knighted); he was made a member of the privy council in 1918; and he became attorney-general in 1919, with a seat in the cabinet from 1921. During these years he was offered both the Irish secretaryship and the home secretaryship. He stayed on as attorney-general since, at the time, it was presumed to give a right of reverter to the lord chief justiceship, and that latter office had always been his goal.

Hewart had wanted to become chief in 1921 when Lord Reading resigned. Lloyd George, however, was reluctant to lose his services. An unattractive device was resorted to under which A. T. Lawrence was created lord chief justice (Lord Trevethin) and required to furnish an undated letter of resignation. Even Lord Birkenhead—not a stranger to dubious intrigue—regarded the plan as 'illegal' and the judges were so offended they refused to attend Lord Reading's farewell ceremony. In 1922, as the government fell, Lord Trevethin read of his resignation in *The Times*.

Hewart was created Baron Hewart of Bury on 24 March 1922. His period as lord chief justice was not distinguished. It is true that, in the area of criminal law, he took a keen interest in the jury and in the nature of criminal prosecutions. Unfortunately, his behaviour as a judge lacked many basic judicial qualities. He made up his mind early and was frequently boorish and rude to counsel. Out of court, he extended his discourtesy to fellow members of the bench and to the lord chancellor and the members of his office. Hewart may well have been disappointed to discover how little power the lord chief justice actually had, but his feuds during the 1920s and 1930s became famous, as did his frequent changes in politics.

During the First World War, Hewart had been responsible for passing many functions to the executive which had previously belonged to the judiciary. As chief justice he sought to recover those powers. That was not all bad, as the judges of the 1980s and 1990s have shown. The problem was that Hewart lacked political judgement. Thus Sir Claud Schuster, permanent secretary to the Lord Chancellor's Office, wrote a memorandum to the Conservative lord chancellor Lord Hailsham in 1929 warning that:

it is not too much to say that, in recent years, the weight of prejudice against the State in the minds of many members of the Court of Appeal and Judges of the High Court has been such as seriously to affect the Administration of Justice.

The more public political debates had begun a year earlier when Hewart had described as 'petty larceny' the government's refusal to create two more king's bench judges (Stevens, 30). In 1929 Hewart published a book, *The New Despotism*, vigorously attacking the growth of delegated legislation and quasi-judicial decision-making by the civil service. The government attempted to blunt the force of the book by establishing the Scott–Donoughmore committee which produced a politically powerful, albeit intellectually indefensible, report. While later in the century the book's arguments might have had the better of the day, its tone and the impact on the England of the day were almost wholly negative.

The atmosphere was not helped by Hewart's public utterances. Hewart took personally the establishment of the commission on the dispatch of business at the common law in 1934, claiming he had not been consulted. In fact, it appears, he had failed to read the appropriate correspondence. He took even greater umbrage with the Supreme Court of Judicature Bill of the same year. While it created new High Court judgeships, he felt parliament had been left with too much power in deciding when they might be filled. He also was upset, with more reason, by the arrangement for a presiding judge in the new panel of the Court of Appeal, but the reaction was again inappropriate. After a hastily called meeting of the judges, Hewart delivered an unprecedented speech in the House of Lords attacking the lord chancellor's permanent secretary and making a more veiled attack on Lord Chancellor Sankey. In addition to the litany of complaints, Hewart

added the ministry of justice (which had not been seriously talked about since Haldane's day) as further evidence of the executive's plan to take over the judiciary. In a delayed debate Hailsham elegantly and Sankey (less so) defended the traditional view that, while ministers may be attacked, civil servants may not. The substantive arguments were also rejected. The whole episode was, however, sadly, typical of Hewart's infelicitous lack of judgement (Stevens, 35–9).

In the latter half of the 1930s Hewart was less publicly involved in controversy, partly because his health was poor, and partly because he was considering a return to politics. It was typical of his lack of good sense that he was surprised by the outcry when he was appointed as a member of a Liberal Party committee. After the death of his first wife the previous year, on 29 December 1934 he married Jean, daughter of James Reid Stewart of Wanganui, New Zealand; they had no children. In 1936 Hewart was busy plotting with Lloyd George about the Liberal return to power. By this time, he had decided that *The New Despotism* had been a mistake and, for the welfare state to succeed, civil servants needed wider discretion. Ironically, his undistinguished term, somewhat like that of his predecessor, came to an end in 1940 when he received a telephone call from 10 Downing Street asking for his resignation. The end says much about the England of the inter-war years.

Despite the judgement of history, Hewart was showered with honours in his day. Honorary degrees were conferred on him by the universities of Manchester (1922), Oxford (1926), Toronto, Sheffield (1927), Birmingham (1928), and Witwatersrand (1936). He was elected an honorary fellow of his college in 1922. He became a bencher of the Inner Temple in 1917 and was treasurer in 1938. He died at his home, Garden Hill, Totteridge, Hertfordshire, on 5 May 1943. He had been advanced to a viscountcy on 1 November 1940, in which title he was succeeded by his surviving son, Hugh Vaughan Hewart (*b.* 1896).

ROBERT STEVENS

## Sources

R. Jackson, *The chief: the biography of Gordon Hewart, lord chief justice of England, 1922–40* (1959) □ R. F. V. Heuston, *Lives of the lord chancellors, 1885–1940* (1964) □ R. Stevens, *The independence of the judiciary: the view from the lord chancellor's office* (1993) □ Burke, *Peerage* (1959) □ *DNB* □ *CGPLA Eng. & Wales* (1943)

## Archives

JRL, letters to *Manchester Guardian* □ TNA: PRO, lord chancellor's office papers | Bodl. Oxf., letters to Lord Hanworth □ Bodl. Oxf., corresp. with Lord Sankey □ Parl. Arch., corresp. with David Lloyd George

## Likenesses

J. St H. Lander, oils, c.1925, University College, Oxford □ O. Birley, oils, 1935, NPG [see *illus.*] □ G. C. Jennis, drawing, sketch, V&A □ D. Low, cartoons, pencil drawings, NPG

## Wealth at death

£150,947 4s. 2d.: probate, 11 June 1943, *CGPLA Eng. & Wales*

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