

THE CIRCUITEER

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FOR CHARITY

Celebrity stars Craig Revel-Horwood, Denise van Outen, Janette and Aliajz brought their special mix of glamour and entertainment to help raise over £30,000 for Breast Cancer Care.

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WHAT ARE THE
ROLES AND
FUNCTIONS OF
THE PRESIDERS?

The South Eastern is by far the largest Circuit. It encompasses two HMCTS regions (London and the South East), almost half the judiciary in England & Wales (below the High Court), and courts throughout London, East Anglia, Kent, Surrey and Sussex and the Thames Valley.

Section 72(1) of the Courts and Legal Services Act 1990 provides that, for each of the Circuits, there shall be at least two Presiding Judges, appointed from amongst the judges of the High Court.

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Mr Justice Sweeney

LEADER'S
REPORT

After the justifiable turmoil of Spring 2014, when the criminal Bar stood and fought for survival, Spring 2015 has been an uncertain time. None of us, including the pundits and the pollsters, knew who might win the General Election.

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Max Hill QC

EDITOR'S COLUMN



Karim Khalil QC

One of Sarah Forshaw QC's final acts as Leader of the Circuit was to use her considerable powers of persuasion to 'invite' Adam Morgan and me to take over as sub-editor and Editor respectively of The Circuiteer – time shows that we were hopelessly outmanoeuvred.

This master class revealed skills that she deployed so ably during her time as Leader of the Circuit – I know that we owe her a significant debt of gratitude for taking over at such short notice from her predecessor (now moving so swiftly up the Judicial ladder) and at a time of such political turbulence.

Having accepted the posts we garnered some reassurance from the fact that Natasha White-Foy, whose contribution to the SEC has been both invaluable and unquantifiable, would be there to assist with the transition. Unfortunately, shortly thereafter she was the subject of a late bid in the transfer window and decided that the time had come for a new challenge: you will know that she left the SEC to follow 'her Leader' to 5 KBW. There is no doubt that those chambers will benefit from her formidable skills but she left behind an administrative void. We wish her well in her new venture and thank her for the immense contribution that she made to Circuit administration during her term of office.

Consequently, although the Circuiteer was handed over to us in good health, we were swiftly confronted with challenges unseen: perhaps having a 'clean slate' has its advantages as we have been allowed a little more leeway with print timings and design than might otherwise have been the case.

The landscape of the Bar is changing and the publicly funded Bar continues to be the focus of attack by the Government. Despite criminal practitioners dominating the present membership of the SEC, we hope that the SEC and the Circuiteer can be used as vehicles to celebrate and express the views of the Bar as a whole. We are always looking for a wide range of contributors, so please don't be shy in sending us an article that may be of interest to others.

Alison Padfield Q.C has made a number of contributions from the Commercial/Civil Bar but we need more voices. We hope

to allow space for more, shorter articles, thus reducing the burden on any single contributor. We are making a particular effort to seek contributors beyond the traditional demographic, including having regular contributions from Presiding Judges and Resident Judges – if you are one of the latter, please feel free to get in touch before we contact you, it really will be less painful that way!

Those who have supplied articles for this edition have all responded to 'inviting' emails/phone calls with typical good grace and efficiency. Their assistance and contributions are gratefully received.

Some fall into the 'regular' articles, such as the Leader's Column – our thanks to Max Hill QC for his patience and forbearance as his article required regular updating as the print date was pushed back ever further.

Our Presider's came swiftly to the fore in the form of Mr. Justice Sweeney – we hope that his informative explanation of the role of the Presiders will help many to understand better the varied functions that they perform. Anyone who thinks that getting to the top of that particular tree means taking it easy might need to think again. We will have a regular Presider's article to keep us informed of developments across the range of Judicial initiatives.

Equality, Diversity and Training take increasing prominence in all that we do – some of that rich tapestry is reflected in articles inside this edition, including a short report by Angela Rafferty QC on the work of the Rook Committee into training for advocates involved in cases with vulnerable witnesses. This will be a huge issue for many, so do take a look.

We have also gone a little 'off piste' and invited a member of another Circuiteer (!) to provide an inside view on the Silk selection process – we anticipate that this is a topic that will be of real interest to many senior Juniors and we hope Shaun Smith QC manages to dispel some widely held myths.

Of course we have the Bar Mess Reports and some reflections arising from the significant lectures/events that have occurred across the Circuit since the last publication – please let us know if there is something that might be interesting to cover – either send in a precursor article to 'drum up interest' or simply inform our readership after the event.

What else does our readership want? We know that there is an almost insatiable demand for photographs and occasional gossip – whilst we shall resist trying to take the Circuiteer to the 'top shelf', we are happy to showcase some lighthearted reflections on the success of the glitter and glamour that surrounded Strictly Furnival and the worthy cause that was supported by so many.

Aaron Dolan has now been appointed to help with preparation of The Circuiteer. His help has already been invaluable whilst his ever-expanding job titles fail to diminish his efficiency and enthusiasm for every task at hand. He is to be applauded.

Our thanks to our former editor, Ali Bajwa Q.C. and his team of contributors – he was good enough to pass on a CD of every previous edition of The Circuiteer: it contains many political history lessons as the vicissitudes of former times seem to come around in ever decreasing circles.

We hope that you enjoy the new design and format, courtesy of Sam Sullivan at Newington Design – he has been exceptionally patient when confronted by the dilatoriness of your editor. His enthusiasm has led him to offer us a cost saving by posting The Circuiteer without charging for the packaging, thereby saving us all a few bob to spend on the yachts and planes that the public knows we all cherish so much. Now, Adam, where's that glass of champagne ...

Karim Khalil QC
One Paper Buildings

Editor *The Circuiteer*



Max Hill QC

LEADER'S REPORT JULY 2015

Continued from page 1

None of us engaged in Bar politics knew whether the national political scene promised significant change, or more of the same. I have been able to delay writing these words long enough to know the unexpected outcome on 8th May, and long enough to know that the new all-Conservative administration means changes in Ministerial positions. I write in the knowledge that we have just received a Ministerial Statement announcing that there will be no further cut to AGFS for the time being. This is a welcome acknowledgement that previous rounds of cuts to our fees have gone far enough. I say they have gone too far, and shall take every opportunity to make that point. However, we await the full views of the new Secretary of State on the future of the publicly-funded legal professions, both the Bar and solicitors. The Minister is reading his brief. He does so alongside a concerted effort by the Circuit Leaders, together with the CBA and the Bar Council leadership, extolling him to reach the right conclusions, in our case by backing a robust independent publicly-funded Bar.

Having spent years doing what I can for the criminal Bar, including my term as CBA Chairman 2011-12, it has been a pleasure to return to the South Eastern Circuit Committee, knowing that our brief is wider than criminal practice. I often wonder what our colleagues at the civil Bar – in the broadest sense of the word – make of the existential struggle of those appearing in the criminal courts. The answer is twofold. Firstly, many at the civil Bar experience the same difficulty, as successive Government initiatives (the Legal Aid, Sentencing and Punishment of Offenders Act 2012 being the most notorious example) have squeezed and reduced the provision of legal aid to those who cannot afford to pay for a lawyer. There are now far

too many areas in which legal aid has been withdrawn altogether, or made so difficult to achieve through 'exceptional funding' that few manage to break through the red tape. There has been, in short, a sustained onslaught on access to justice, pursued by Government in the guise of financial adversity measures and efficiency savings.

This leads directly to the second answer to my question whether the civil Bar have a role to play. They do, and they show their commitment to the principle of access to justice in many ways, from supporting the criminal Bar (the Family Law Bar Association have been a great support, in particular, and we owe them our thanks) to engaging in the argument for the retention of One Bar, an independent profession to serve in every practice area.

As in all walks of life, we are stronger when there is a meeting of minds on a key issue. That is why I have decided to set up the South Eastern Circuit Access to Justice Working Group, with the help of Committee member Alison Padfield who will serve as the first Chair. The Working Group will be a standing committee within the SEC, able to respond to consultations or legislation touching on access to justice in whatever field. There is much for the Group to do. I hope that this initiative will indeed be the 'meeting of minds' between civil and criminal Bar, and will strengthen the voice of the SEC.

I hope this message is clear. The SEC will thrive by acting for all members of the Bar within our geographical borders. We have a strong national association for the criminal Bar, and we join with them in much of their activity, but the Circuit has a broader remit and I am very keen to diversify our membership as well as to bring new interests and skills to the Circuit Committee table.

As you know we are the largest Circuit, by a considerable margin. Not only that, we have a large Bar Mess structure with outposts in every corner of the Circuit. One of my first actions was to engage with (and where necessary to encourage and revive) the Messes, through their Chairmen. I am pleased that we have such a strong group of Chairmen. The Circuit will continue to support local events whenever we can. Our Resident Judges came together for a most enjoyable evening reception in Lincoln's Inn recently, and many of them are reviving Court User Groups where they have fallen into disuse. Further, current Bar Council

Chairman Alistair MacDonald QC is making his way around each of the Bar Messes and court centres, seeking discussion and views on any matters of concern. This is all to be encouraged, and it makes our Circuit stronger.

Whilst awaiting the views of the Secretary of State on our future, there is much that we can do for ourselves. After three significant Reports on the future of the Bar and the justice system in general (Leveson, Jeffrey and Rivlin), we are all engaged in making our courtrooms and our practice as efficient as possible. We are going with the flow when it comes to modernization. Virtual ('common') platforms hold no fears for the Bar, provided they and other measures are not deployed cynically to extract more work from harried publicly-funded practitioners who already work far longer hours than most civil servants, for meagre net fees and with no security for the future. We can appear by laptop in one court for a mention or PCMH, then shut down and walk into another court to conduct the main trial business of the day. We will do all of that, but not if the extra burden of the common platform hearings cuts into the vital trial preparation we do every day, and which our judges expect to be completed the minute they want to sit in court.

A measure of understanding, and some negotiation, is needed in these areas. Let nobody say the Bar cannot move with the times, but do not use and abuse our goodwill and dedication to the profession.

The goodwill felt by those of us who are established at the Bar has been stretched, sometimes too far, in recent years. However, the next generation cannot be expected to create that goodwill unless more is done to nurture their emerging talent. Under the supervision of HH Geoffrey Rivlin, to whom we all owe great thanks for his splendid and selfless efforts on behalf of the independent Bar through his Report which I mentioned above, I recently attended a meeting at the SFO at which 50 members of the Bar explained why they were on secondment to the SFO, or (still worse, from the perspective of the Bar's survival) have taken contracts of employment.

Don't get me wrong. Secondments, both short and long, are part of the answer for our survival. Under an enlightened policy by David Green CMG QC, the Director, members of the Bar can come and go whenever possible, adding value to SFO investigations whilst maintaining their place in chambers and at the Bar. This is no poaching exercise by the SFO. This is a blueprint for others, most importantly the CPS to follow.

During the early years in practice, time away from chambers learning how to put a case together can only be a good thing. It can only strengthen the prospects of the junior barrister on return to the Bar, where they will be far more likely to be briefed by the SFO/CPS or whomever provided their secondment.

Equally, there will always be some seasoned members of the Bar who go into employment, for example as Case Controllers with the SFO. They do an excellent job, and they too are in a position to brief the Bar which they have left behind.

The important point is that the 'secondment generation' will not achieve excellence in advocacy unless they return

to the Bar. The CPS, for all that it performs a vital task as nationwide litigator of prosecution casework, now recognizes that it cannot become the home for nationwide prosecution advocacy. Only the independent Bar can do that. On this understanding, I support and encourage the initiative by Alison Saunders CB, the DPP, to roll out secondments more widely than before, placing junior barristers in casework teams for a spell before they return to the Bar.

But there remains one significant problem. Looking around the room at the SFO recently, I saw 50 of the brightest and best at the criminal Bar, all wondering whether they could or should return to chambers. The uncertainty caused by years of financial starvation under successive legal aid consultations has taken its toll. At the top end, the Bar are flocking onto the Bench whenever they can, seeking financial security. In the middle years, far too many live in genuine fear of defaulting on their mortgages and failing to support their own family. And at the bottom end, a real 'brain drain' will threaten our survival unless those in positions of power wake up to the need for a properly funded legal profession in this, the 800th year of the sealing of Magna Carta in a nearby field.

So we remain embattled. Those who forced King John to add his seal in 1215 were probably wearing chain mail. We may yet need to buckle on our swords again.

My time as Circuit Leader has been busy, but also a welcome return to the Circuit Committee on which I served under successive Leaders from Heather Hallett onwards. It is of course the greatest honour, having been Heather's Circuit Junior, to return twenty years later as Leader. I have found the Circuit Committee in good heart, with many new faces, and one or two old ones still keeping the show on the road. What would we do without Oscar del Fabbro as Treasurer? The Officers group is committed as ever, and I am hugely grateful to Natasha Wong as Recorder, with Simon Walters and Heather Oliver as Junior and Assistant Junior respectively.

We have an exuberant Director of Education in Iain Morley QC, who has constructed an excellent programme of speakers at our various lectures, seminars and other engagements throughout the year. The Ebsworth lecture is being given by Ambassador Stephen Rapp, and our Annual Dinner speaker Tino Bere comes from Harare in Zimbabwe, where legal practice is a challenge to health as well as wealth. We welcome and thank all of our speakers.

In place of the splendid Natasha Foy who departed at the beginning of the year, I am delighted that Aaron Dolan joins us as Circuit Administrator. Aaron and I have worked together before. Circuit administration is in safe hands with Aaron at the keyboard.

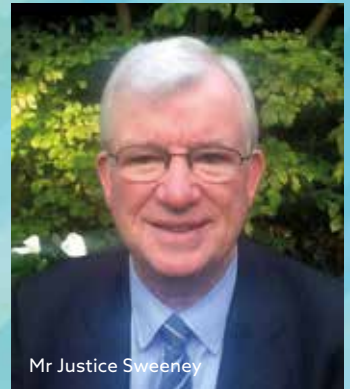
My thanks to Karim Khalil QC for taking on the herculean task of generating enough copy to fill the Circuiteer. And finally to my PA, Tana Wollen. If you want to speak to me about any aspect of SEC business, please get in touch via tana.wollen@18rlc.co.uk

With best wishes for the summer. Max

Max Hill QC
Red Lion Chambers
Leader, South Eastern Circuit

AN INTRODUCTION TO THE ROLE AND RESPONSIBILITIES OF THE PRESIDING JUDGES

Continued from page 1



Whilst the other Circuits each have two Presiding Judges the South Eastern, because of its size, has four. All Presiding Judges are appointed by the Lord Chief Justice, with the concurrence of the Lord Chancellor, for a period of four years. Thus, on the South Eastern Circuit, a new appointment is made every year, and takes effect from 1 January of the following year

The duties and powers of the Presiding Judges derive ultimately from the role of the Lord Chief Justice who, as the head of the judiciary, delegates them through the Senior Presiding Judge to the Presiding Judges. In general terms, we are responsible for the leadership and management of the judiciary on the Circuit.

The current members of the team, and their principal individual areas of responsibility, are: Nigel Sweeney (Lead Presiding Judge – London Region Crown Courts); Rabinder Singh (South East Region Crown Courts); Robin Spencer (Magistrates); Jeremy Stuart-Smith (Civil & Family). Jeremy thus works closely with the Family Division Liaison Judges – Anna Pauffley (London & Thames Valley), Judith Parker (East Anglia) and Lucy Theis (Kent, Surrey & Sussex).

Against the background of the seminal changes made by the Constitutional Reform Act 2005; the creation in April 2011 of HM Courts and Tribunals Service as an agency of the Ministry of Justice operating on the basis of a

partnership between the Lord Chancellor and the Lord Chief Justice, under the Leadership of the HMCTS Board (which includes three judges – one of whom is the Senior Presiding Judge) and with the aim of running an efficient and effective courts and tribunals system; the challenges posed by the financial crisis, the consequent cuts in funding; the upturn in work in the criminal courts; and the opportunities provided by the current proposed modernisation and reform programmes, the work of the Presiding Judges has increased exponentially in recent years and now covers a far wider spectrum than it used to.

At the beginning of, and around halfway through, each term we take part in a formal meeting of all the Presiding Judges with the Senior Presiding Judge, as well as other ad hoc meetings as and when necessary. We are in constant liaison with, and work closely with, the Senior Presiding Judge's office, the Judicial Office, the Delivery Directors of the London and South East Regions of HMCTS, the Heads of Crime and Heads of Civil, Family and Tribunals from both Regions, the South Eastern Circuit Secretariat and the South Eastern Circuit Regional Listing Co-ordinator.

We have overall responsibility for putting in bids, based on critical business need, for the number of new appointments at each level below the High Court to be made to the South Eastern Circuit by the Judicial Appointments Commission in their forthcoming competitions. The Judicial Complement Group considers the bids and then advises the Lord Chancellor as to the number of new appointments that he should approve.

We assist the Senior Presiding Judge at the statutory consultation stage in relation to potential appointments by the Judicial Appointments Commission of Senior Circuit Judges as Resident Judges (Crown Courts), Designated Civil Judges (County Courts) and Designated Family Judges (Family Courts). We hold Expressions of Interest exercises in relation to non Senior Circuit Judge appointments to such posts, interview the applicants, and make a recommendation for appointment to the Senior Presiding Judge. We take part, as members of Judicial Appointments Commission panels, in the interviewing of candidates for appointment

as Circuit Judges. We assist the Senior Presiding Judge, at the Statutory Consultation stage, in relation to potential appointments by the Judicial Appointments Commission as Circuit Judges, District Judges, Deputy District Judges and Recorders. We make recommendations to the Senior Presiding Judge and the Lord Chief Justice, when a strong business case can be demonstrated, for the appointment of retired judges as Deputies. We also deal with numerous other requests from the Senior Presiding Judge's office for action and/or information.

We have formal all day meetings each quarter with the Circuit's key HMCTS staff. These meetings include, in rotation, attendance in the afternoons by the Resident Judges or the Designated Civil and Family Judges. There are also numerous ad hoc meetings with HMCTS staff during the year. Two of us attend the residential meetings of the Resident Judges and of the Designated Civil and Family Judges that are held each year (usually at Warwick University).

Between us, we work closely throughout the year with the Resident Judges, the Designated Civil Judges and the Designated Family Judges – particularly in relation to performance issues (now, for example, including formal discussions with each Resident Judge every 6-8 weeks, the results of which are passed on, via the Senior Presiding Judge, to the Judicial Executive Board).

As listing is a judicial function, the Criminal Practice Direction requires certain categories of case to be referred by Resident Judges to the Presiding Judges for decision as to who should try them. The categories include, for example, all murder and attempted murder cases, and all other cases that may attract significant publicity. The relevant Presiding Judge decides whether the case can be released to a suitably ticketed judge



chosen by the Resident Judge; released to a named Judge; retained and tried by a Presiding Judge; or retained to be tried by another High Court Judge. In the latter event we are responsible for making a bid to the President of the Queen's Bench Division for a High Court Judge to try the case. We are also responsible for the transfer of cases within the Circuit, and to and from other Circuits (which also requires the consent of the Presiding Judges of the relevant Circuit). These responsibilities (and decisions in relation to terrorist cases) involve working in very close liaison with the Regional Listing Co-ordinator.

We are responsible for the deployment of new judges; requests by judges to transfer within the Circuit; requests by judges to transfer to other Circuits (which requires approval by the Senior Presiding Judge); the general leadership and management of all judges and Recorders – including (working in conjunction with the Secretariat and Judicial HR) all issues in relation to welfare, health, safety, equality, disability, mentoring, career development, succession planning, efficiency, giving advice when requested to do so, conduct and discipline (below official complaints to the Judicial Conduct Investigations Office); judicial itineraries and leave (including applications to carry forward leave); applications for Salaried Part Time Working; delayed judgments; requests to attend Conferences / Seminars; requests to perform non judicial duties; sabbaticals and special leave; requests to stand down from Judicial College Seminars; the organisation and running of ten Saturday Circuit Seminars each year; dispensation requests by Recorders and Deputy District Judges; nominations for tickets – including murder (which requires the approval of the Lord Chief Justice) and serious sex (which requires the approval of the Senior Presiding Judge); the membership of the Panel of Recorders authorised to sit at the Central Criminal Court; nomination of those with s.9 tickets to fill notified sitting vacancies in the Queen's Bench Division; nominations for committees; authorisations (which require the approval of the Senior Presiding Judge) for the attendance of armed Police Officers at a court; issues in connection with the late delivery of prisoners; issues in relation to the estate and its maintenance; judges lodgings on the Circuit; liaising with High Sheriffs and attendance at Justice Services; general Magistrates work; the deployment of Magistrates – including District Judges (Magistrates Court); appeals from decisions made by Magistrates Liaison Judges in relation to disputes; rape cases in the Youth Courts; and general liaison with the Tribunals.

As part of dealing with current issues and of planning for the future we have established a working group as to the implementation of the Leveson



Mr Justice Jeremy Stuart-Smith

Recommendations and liaise generally, as necessary, with (amongst others) the Chief Crown Prosecutors, the Police, the National Probation Service, the Witness Service, the Council of Her Majesty's Circuit Judges, the Association of District Judges, the Magistrates' Association, the Chief Magistrate and his Deputy, and the Leader of the Circuit.

As Presiding Judges we are also expected to do a full day's work each day as a High Court Judge. The only formal concession to our workload as Presiding Judges is that we are not required to do applications for permission to appeal against conviction but only, when not sitting in the Court of Appeal (Criminal Division) or the Administrative Court, to do ten applications for permission to appeal against sentence each month.

As the Lead Presiding Judge my time will be up on 31 December this year. I currently expect to deal with around 60-100 emails per day, and to spend (including meetings) around 3-4 hours or more per day dealing with Circuit issues. The work is demanding and unrelenting, but also extremely interesting and rewarding to be involved in - particularly working so closely with such a high quality team at this vital time when modernisation and reform are on the immediate horizon and the future of the justice system is bound up in their success.

Mr Justice Sweeney

Annual Dinner 2015

This year's Annual Dinner was held at Gray's Inn on 26 June, with guest of honour Tino Bere, Former President of the Zimbabwe Law Society.





THE RESIDENT JUDGES' RECEPTION WAS A GREAT SUCCESS

On 19 May 2015 the Leader of the Circuit, Max Hill QC, welcomed a large number of judges and committee members to Lincoln's Inn for the annual Resident Judges' Reception. In total, 30 members of the judiciary were present along with a number of Circuit officers, Bar Mess Chairs and others. The judges had travelled from all over the Circuit to attend the reception, and it was especially pleasing to see Gross LJ and Singh J in attendance despite their rather shorter journeys!

The reception provided a great opportunity for the judiciary and the Bar to meet on a more informal footing than normal, with many catching up with old friends whilst also making new acquaintances. At the outset Max Hill QC addressed the reception and impressed upon those present the need to ensure that effective avenues of communication remain open between the judiciary and the Circuit, particularly through the Bar Messes.

In the climate with which we are all sadly familiar the Leader expressed his strong hope that the judiciary will continue to support the Bar in its aims of protecting the future of the Bar and ensuring that advocacy standards are maintained, while also working with the Ministry of Justice to implement the efficiencies we all recognise need to be made. Equally, those members of the judiciary who were present were reminded, where it was necessary, that the Circuit remains as committed as ever to supporting the judiciary as it seeks to deal effectively with an ever changing workload.

That is not to say that the attendees at the reception were purely from criminal courts or chambers: the Circuit was very pleased to welcome civil and family judges to the reception along with members of the Circuit from those backgrounds.



Issues both local and national were discussed during the event in the picturesque surroundings of Lincoln's Inn across a spectrum of practice areas.

So many members of the judiciary attended the reception that some of those who arrived late were perhaps a little disappointed to find out that the canapés had been devoured by the time they reached the reception. However, the bubbles continued to flow long into the evening until it was time for all to disperse back

to their respective corners of the South East. The Circuit received feedback from a large number of judges who expressed their thanks and gratitude to the Circuit for what proved to be a widely enjoyed evening. I am sure that those members of the Circuit who were present would agree that it was both a successful and highly valuable evening.

Simon Walters

News from the Fens

With the (re)opening of two Crown Court rooms in Huntingdon, little Cambridgeshire is now sumptuously provided with a total of eight such Palaces of Justice. Some Judicial Office holders will be relieved at the reduction of time needed to be spent defying death on the A14. Solicitor colleagues in Cambridge find the partial closure of their Magistrates' Court, apparently in order to provide the new(ish) Huntingdon Magistrates with a sufficiency of work, somewhat less convenient. Undoubtedly the value of property in Central Cambridge has no influence on MoJ thinking. It is saddening to watch our colleagues drift further into despair over the Duty Provider Scheme etc.

On a happier note we have been delighted to welcome HHJ Tina Landale to Peterborough. She acquired an appreciative audience of members of the Bar whilst dealing courteously with one of the "Freemen on the land" (as a result your correspondent was intrigued enough to find *Meads v. Meads* [2012 ABQB 571]: who knew that Canadian Chief Justices could be so entertaining?). HHJ Landale has even been allowed to graduate from Court 7 (aka the Court of Toytown).

We have lost HHJ Madge, which means that our knowledge of the more esoteric qualities of the Criminal Procedure Rules may begin to fade. However his name shall not be forgotten (assuredly tall local Counsel with 'royal' hair will never permit that).

"Drained Fen"

THE 2015 EBSWORTH LECTURE

On the evening of 15 June 2015 members of the South Eastern Circuit gathered in Inner Temple Hall with a range of guests for the 10th annual lecture in memory of Dame Ann Ebsworth. As always the lecture was very well attended. This year the Ebsworth lecture, which is normally held in February of each year, was moved to this very specific date in June, it being the 800th anniversary of the signing the Magna Carta by King John. The anniversary gave special resonance to the day and the lecture.



This year the Circuit welcomed Stephen Rapp, US Ambassador for Global Criminal Justice to Inner Temple to deliver the lecture. Whilst he is now a part of the Obama administration, Ambassador Rapp has had a long and distinguished career as a lawyer. In particular he was the prosecutor for the special court for Sierra Leone and was senior trial counsel in trials relating to the Rwandan genocide. He was therefore uniquely placed to address the assembled audience in relation to Magna Carta and specifically the way it has expanded, with heads of state now prosecuted for atrocities committed under their regimes.

Those present were treated to a lecture which explained the journey the powers in Magna Carta have taken over the last 800 years, but most pertinently in the last 200 years. Ambassador Rapp explained how action was taken against heads of state, including the exile of Napoleon, which was never contemplated by King John and the Barons when Magna Carta was first drawn up. In particular and quite understandably given the links between the UK and US, the Ambassador explained the effect the two world wars had on global criminal justice.

Whilst the initial stance taken by the Allies after the Second World War had been to persuade Nazi figures to outline their involvement in various aspects of the Third Reich before Allied leaders decided on their punishment, this stance softened and full and open justice followed. The trials held at Nuremberg, explained Ambassador Rapp, set a very important precedent given the amount of publicity afforded to those trials across the globe. In the decades since, the International Criminal Court has been established, along with the many special courts set

up in relation to specific conflicts in Europe, Africa and beyond. Perhaps unsurprisingly, given his history, Ambassador Rapp spoke positively of the work done by these courts, in bringing leaders to account for abuses against their people, especially where those people were incapable of bringing such action themselves. This was a power never considered in the original Magna Carta but which had developed with time and experience.

At the end of his lecture questions were invited from the floor and the audience benefited from what amounted to three further mini-lectures. Given his role within President Obama's administration, Ambassador Rapp was asked about the continued use of the facilities at Guantanamo Bay. He explained continuing attempts to close the camp and the way in which the administration viewed different classes of prisoner, based on knowledge of how involved they were in hostilities, their country of origin and the extent of any evidence against them. There followed further questions about the failure to prevent Omar al-Bashir leaving South Africa to return to the Sudan on the day of the lecture and the extent to which special courts could continue to be viewed as successful given their use of resources which could potentially be invested in the internal justice systems of the countries affected by civil wars or human right abuses.

After the lecture there followed a drinks reception in the Hall which gave everyone present the opportunity to discuss and digest the lecture. All those to whom your writer spoke agreed that it had been a thought provoking, thorough and enjoyable analysis of the evolution of the Magna Carta powers.

Simon Walters
One Paper Buildings

Junior to the South Eastern Circuit



CENTRAL LONDON BAR MESS

The courts, Judges and practitioners in the Mess have had a busy year working within the relative calm between the action of last year and changes looming with dual contracts and further financial constraints this year. Following the Rivlin and Levenson reports, practical efforts to use court time effectively and cost efficiently by the use of digital working have been put in place. Each of the Resident Judges has plans locally or being piloted by the MOJ to promote efficiency in court time. The year has also been dominated by complaints about catering facilities, however, improvements are being made!

Southwark Crown Court is to be a pilot court for the use of the "common platform". The start date is imminent and will require flexibility in working practices and a willingness to work with the court to make the best use of the equipment. Any feedback, both good and bad will be essential. Please contact the

Mess representative Roger Smart roger.smart@qebhw.co.uk or myself rosina.cottage@18rlc.co.uk with comments or suggestions.

At Woolwich Crown Court celebrated its 20th anniversary last October and the Resident Judge, HHJ Kinch QC has been instrumental at bringing improvements not only to the lot of practitioners, but also lay clients and witnesses. The hazard tape has been removed from the bar dining room and new caterers have started. Communication with and suggestions to them are welcomed. The introduction of WIFI has begun. There have been some initial teething troubles but all professional court users with a BT mobile account or a CJSM account should be able to use it. Users must register ahead of time in order to obtain a username and password. Again, all feedback would be gratefully received. As far as case management is concerned; there is a move towards a single pre-trial hearing

three weeks from sending that will be a combined preliminary and plea and case management hearing. Full credit for a guilty plea will be available at this hearing.

The Bar Mess catering facilities have been reopened at Inner London. If they are not used they will not remain open. Any comments would be welcome to improve the service.

There is no specific news from Blackfriars Crown Court or Central London County Court. Efforts are being made to restart Court Users meetings with the attendance of Mess Reps. Pip Page is the rep for Blackfriars and would be happy for any matters that need to be raised to be e-mailed to her p.page@argentschambers.co.uk as would Robert McAllister rmcallister@9goughsquare.co.uk the new rep for the Central London County Court.



Angela Rafferty QC

ADVOCACY AND THE VULNERABLE

INSIGHT INTO THE WORK OF THE ROOK COMMITTEE

In late 2013 HHJ Peter Rook QC was invited by The Advocacy Training Council (ATC) to devise a pan-profession training course for all advocates who undertake cases involving the vulnerable. The main objective is to ensure consistently high standards for all advocates in all jurisdictions who deal with such cases.

- 1** The professions have fallen short in the past in relation to the treatment at court of those with vulnerabilities. The results have been well publicized. The lack of simple, appropriate communication and questioning techniques has been highlighted in a number of groundbreaking authorities from the Court of Appeal.
- 2** HHJ Rook has said the following in respect of the changes required in this field; *"History is full of examples of society turning the proverbial blind-eye to phenomena that were manifestly wrong. We now appreciate the flawed approach of the past in respect of the treatment of the vulnerable in court. Most people acknowledge that it will only be a matter of time before every criminal and family law advocate will have to acquire the specialist skill of handling the vulnerable as part of their basic training. In the meantime current advocates need to make up ground as rapidly as possible and to embrace the sea-change."*
- 3** The codes of conduct of Bar and Solicitor's professions and procedural rules of court make it clear that developmentally appropriate questioning must be used in cases involving those with vulnerabilities. Whilst this is a specialist skill it can be learned relatively easily with the correct training. It will be the aim of our training to ensure high practical standards in all our courts.
- 4** Many advocates will have already either seen or taken part in Ground Rules hearings, which should now be held in all appropriate cases. (See *Lubemba and JP* [2015] EWCA and the Criminal Procedure Rules 2015 at Rule 3.9 (7) (Annex C). Preparation for and conduct of these vital hearings should now form part of the advocates' tools. The ATC publishes a variety of "Toolkits" to assist those preparing to question witnesses who are young or who have particular vulnerabilities.
- 5** The Rook Committee is in the process of developing a range of courses: the first is designed to ensure that all advocates are trained in the key principles, which inform best practice. Other advanced courses will follow.
- 6** The training is aimed at all advocates and is not just for those who have specialist practices in relation to certain offences or clients. The goal is to include advocates in the process in order to attain the high standards we all want when dealing with vulnerable people.

- 7 The training falls into 3 parts. Each trainee must (i) read and understand pre-course materials (ii) undertake the pre-course on-line training and (iii) attend and participate in an interactive advocacy training course.
- 8 In February 2015 we held a tutor-training course at the Old Bailey. This has provided us with a base of trainers who can assist with the course "roll out".
- 9 The pilot course will be held at University College London on Saturday 26th September 2015. Observers will be invited.
- 10 This course will involve online preparation prior to the day. There will be a series of short lectures and 'talking heads' from judges, practitioners, legal academics, child psychologists and psychiatrists as well as those who have been caught up in the court system. The authorities from the Court of Appeal and all the appropriate legal materials will be part of this pre-course preparation pack. Trainees will also be required to watch a filmed 'ground rules' hearing with a ruling and be asked to prepare in advance appropriate questions in line with this.
- 11 On the day of the course there will be various interactive sessions involving examination-in-chief and cross-examination with actors playing the roles of vulnerable/child witnesses. All the key principles and messages will be relied on during these sessions. Constructive feedback will be given.
- 12 It is hoped that very soon the flawed approach to the vulnerable seen in newspaper headlines and reported cases alike will be consigned to history. It is hoped that every advocate in England and Wales will have this specialist skill from an early stage in their careers.

Angela Rafferty QC
One Paper Buildings

ESSEX BAR MESS NEWS

The three-year tenure of Richard Christie QC and Sasha Bailey as guardians of our Mess drew to a close in December. Each has served us exceedingly well in exceptionally difficult times.

We remember Richard's powerful address to the TV cameras on the steps of Chelmsford Crown Court during the 2014 protest action. He is renowned for his boundless energy: consolidating a prolific silk practice and sitting as Costs Judge and Recorder, he led the Mess while negotiating the merger of 2 Pump Court with 187 Fleet Street.

Sasha focussed on the social side, somehow managing to drum up buoyant support for memorable dinners despite the austerity of the times. For her swansong she took us back to the Andaz Hotel, conveniently placed for London and Essex based colleagues alike. Judge Ian Graham cast aside his natural reserve to give a hilariously lively and risqué speech, climaxed by his breaking into song – the eyebrows of visiting dignitaries had scarcely returned to normal levels by Monday morning.

The junior reins are now in the sure hands of Laura Kenyon, who has always offered sterling support to her predecessors and will do us proud. Our new leader is the

universally adored Gerard Pounder. As we welcome them to their roles we extend our warmest thanks to RCQC and Sasha.

Not content with providing both new Mess officials, 18 Red Lion Chambers has supplied two recruits to the Circuit Bench, each long-standing Essex stalwarts: Samantha Leigh to Basildon and Martyn Levett to the neighbouring outpost in Ipswich. We pause only to congratulate and wish them well before scrapping over the briefs released by their departures.

Another notable appointment is that of Sarah Vine as secretary of the Criminal Bar Association. At some stage there may be a meeting with the new Lord Chancellor. No doubt Sarah will be politeness personified.

News of a wholly different complexion arrived in March when we were stunned by the sudden death of Frances Coles-Harrington, aged just 41. For the past decade Fran had appeared regularly in the Essex courts and also at neighbouring Snaresbrook. She was highly respected. Fran was everyone's first choice as a stand-in or for covering returned briefs. She never forgot her early struggles to become established before finding a professional home at the old 2 Pump Court and she repaid her fellow tenants with devoted loyalty. A notable theme among the many tributes to Fran was the deep impression

she made on new colleagues in the few months since chambers' merger with 187 Fleet Street.

Fran gave tirelessly of her time for the benefit of the junior Bar. She was a fervent advocacy trainer for Lincoln's Inn and she was always the quickest to volunteer for projects such as the Social Mobility Foundation's Bar Placement Scheme.

Fran's passing was marked by very moving tribute ceremonies held in packed courts at Chelmsford and Basildon, the latter attended by her family. HHJ Lodge said: "our grief is but a drop in the ocean alongside theirs. As we recall our friend and colleague, we must recall she was a daughter, sister, cousin and aunt. We hold her family in our hearts and in our prayers. May Frances rest in peace and rise in glory."

On 14th April Fran's close friend and colleague Matt Morgan gave a beautiful eulogy at her Requiem Mass at which the attendance was so great that dozens had to stand.

"Southend Pierre"

Florida Civil Bar Course 2015



As the dust settled on the General Election, four juniors and a silk, Chris Melton QC, flew to Florida for the annual SEC advanced advocacy visit.

Our wonderful hosts for much of the week, as with many previous contingents of barristers from over the Pond, were Woodson ('Woody') and Claudia Isom, a lawyer and judge couple, whose warmth and hospitality made us all feel immediately at home.

We first assembled on the Monday morning in the Andalusian-styling of the Stetson law school, Florida's oldest college of law and the only one to have a working court room as part of the facilities. A posse of Second District Court of Appeal judges then took us through their work as the first tier of appeal for the western half of the Floridian peninsula. Faculty and students at the law school joined us for a tour of the law school and a working lunch.

The most striking observations were the startling burden of debt that US law students accrue (an order of magnitude more than in the UK), and the openness of the judges in explaining the composition and practice of the appeal court.

Monday afternoon brought a visit to the Federal court in Tampa, where Judge Virginia Covington kindly hosted us in the jury box in her courtroom. Counsel from both sides generously took turns to explain their client's cases to us in a summary judgment motion not dissimilar to an English application, and a motion in limine to exclude evidence.

Apart from the spacious judicial chambers and the stunning view offered over Tampa Bay, we observed the most important difference between a Federal judge and a High Court Judge. At any one time, up to three law clerks - newly-minted lawyers, competitively chosen and from the best law schools - assist with legal research, assessing evidence, and drafting judgments. The effect this had on judicial productivity was said to be very significant. The judges could

not believe that their English counterparts had no similar facility.

An arduous day deserved refreshment. That evening, the Isoms invited judges, state and local bar association representatives, including some from the Young Lawyers Section, to their home for a Hispanic-themed buffet dinner.

On Tuesday morning we visited Judge Isom's State court in Tampa, part of the Thirteenth Judicial District, meeting with the Chief Judge, other judges, court officials and counsel. A whistle-stop tour of the civil and criminal courts was eye-opening, and we were invited to discuss cases with judges who paused, mid-hearing, to explain the proceedings and compare and contrast with our own experiences.

After lunch with some more junior lawyers from the Tampa area, it was time for proper work, and we headed up the interstate to Gainesville and the University of Florida. Chris had the Queen's standards to uphold, and appropriately led the way in his rental car, a red Corvette Stingray.

Previous participants have written in detail about the advanced trial advocacy course, co-hosted by the Florida Bar Association at the University of Florida. The Circuit's own Keble course is modelled on the style: take a case (here, a complicated personal injury claim with clinical negligence and product liability) and then dissect the elements of the trial over five days.

All of us enjoyed the rhetorical style employed when addressing a jury, and the ever-present need to break down fact and law into simpler, more digestible mouthfuls. The insights of jury consultants and a jury selection demonstration (so-called voir dire) showed the challenges and pitfalls of a system oriented to trial by peers.

The week is arduous but great fun and very rewarding. The day starts at 8am and ends at six with only a short break for lunch (even then, almost every meal had a concurrent lecture). Evening presentations take place after supper. All the advocates on the course, aged between 30 and 45 for the most part, worked hard on

their assessed presentations and seemingly took it in turns to keep us in drinks at the bar until the early hours.

For the Friday night's closing dinner, Chris scripted a hilarious tale of chivalry and valour, after which the attending advocates had to vote on which elements of English legal practice they would like to adopt over their own. A tip for all future spondees: take a wig and gown. As much as the local lawyers loved the juniors' crisp lounge suits and our silk's sense of smart casual dress, they were disappointed that none of us came attired as Rumpole. Incidentally, the advocates were against abolishing the election of judges, civil jury trials, and a 'loser pays' system for the awarding of

costs; the only practice they wanted to import was the wearing of wigs and gowns!.

In all, the five of us thoroughly enjoyed the week, and came home with many thoughts on the merits of our comparative systems of justice.

We thoroughly recommend the exchange to all junior barristers and silks on the SEC, and thank the SEC Committee and Giles Powell for facilitating the visit.

Thank you also to the Isoms and Tom Bishop, the organiser of the course, for making us so welcome.

Christopher Melton QC, Byrom Street Chambers and Crown Office Chambers

James Kinman, Maitland Chambers
Tom Gibson, Outer Temple Chambers
Jonathan Taylor, East Anglian Chambers
Peter Smith, Carter-Ruck

Peter Smith

Herts and Beds Bar Mess

HHJ Stephen Gullick retired and had a valedictory in St Albans Crown Court on 6th February. His retirement dinner was held at Grays Inn on the 27th March and was regarded as a fitting farewell to a hugely popular and able member of the Bench. HHJ Carroll will be replacing HHJ Gullick and he will no doubt receive a warm welcome from the local bar.

The resident Judge of St Albans Andrew Bright QC continues to organise and host various events at the Crown Court, which included the annual St Albans Crown Court Charity Quiz night on the 20th March. Please note that the resident Judge of Luton Crown Court, HHJ Foster is hosting a charity Garden Opera "The Marriage of Figaro" on the 5th July in aid of the Luton Keech Hospice, those interested in attending can email the organisers at westend.house@hotmail.com.

You will all know that this year marks the 800th centenary of Magna Carta. To mark this HHJ Bright QC has gathered together a committee which reflects all those who use the Crown Court, to organise a Magna Carta themed "open day" on Saturday the 13th June. The day will include tours, talks and advocacy presentations. St Albans place in the history of Magna Carta is well documented as it was of course a venue for one of the earliest meetings chaired by the Archbishop of Canterbury, to discuss the many grievances against King John. Both the Church and the then powerful barons discussed how they could combat the greed and cruelty of the King. King John had of course no monopoly on cruelty in the medieval period, however when he plundered the wealth of the Church and the barons he soon found he was met with resistance. It was this right to challenge the King and to hold him accountable for his actions that was at the heart conflict between these competing groups. Those students of history amongst you will know that King John nearly bankrupted the country in his attempts to regain lost territories in France, hence his desire to help himself to the wealth of his subjects. This meeting was the beginning of a series of meetings which led eventually to the signing of Magna Carta in 1215.

The Herts and Beds Bar Mess is involved in the organising of this event and will support the day itself by providing advocate volunteers.

The Bar Mess arranged for the Chairman of the Bar, Alistair McDonald QC to visit Luton Crown Court with Max Hill QC, the meeting was a great success and the attendance of various court users was much appreciated. Another guest to Luton was Jeremy Wright the Attorney General.



Kerim Fuad QC

As the result of an initiative from within the Bar Mess, both Luton and St Albans crown courts have agreed in principle to establish a small library of books in the cell area. It is hoped that with the appropriate departmental support, those defendants who are so inclined will be able to access books whilst they wait in the cells, often for many hours at a time without anything to do. If the initiative proves a success it is hoped other court centres will provide a similar service.

Meanwhile both court centres remain very busy, Luton Crown Court itself has many cases generated by the unenviable statistic that suggests Bedfordshire has the highest homicide rate per capita in the UK. Practitioners should note that the much criticised "trial readiness" hearings have been replaced at Luton by a simple form from the defence and a phone conference between the case progression officer and the CPS. Those who have time to watch TV during the week will have spotted that Luton Police Station featured in the much-watched "24 Hours in Police Custody" which turned out to be essential viewing for many, especially the local judiciary!

Finally, the Mess is grateful for the continued support of the resident Judges, HHJ Foster (Luton) and HHJ Bright QC (St Albans).

Kevin Molloy
Church Court Chambers

Opportunities in International Criminal Law

On 31 March, I was honoured to deliver a talk for the Circuit at Middle Temple on opportunities in international criminal law (icl). This was followed on 15 June by the tenth annual Ebsworth Memorial Lecture in Inner Temple delivered by my friend Stephen Rapp, US Ambassador-at-large for Global Criminal Justice, who spoke on advances in holding the most powerful to account, which seemed a fitting subject on Magna Carta day, 800 years since King John surrendered some of his personal sovereignty to an early perception of the rule of law. I have been asked to write up an icl overview, which I hope is reasonably accurate and will offer it in two parts, for Circuit Members who may be interested in pursuing work on the international circuit, where I was particularly active for eight years, 2004-12.

There are six mainline, active, icl tribunals, with UN support, dealing with war crimes, crimes against humanity, genocide and international terrorism, which have come into existence in the following order: 1993, in The Hague, Netherlands, the UN International Criminal Tribunal for the former Yugoslavia (ICTY); 1994, in Arusha, Tanzania, the UN International Criminal Tribunal for Rwanda (ICTR); 1997, in Phnom Penh, Cambodia, the Extraordinary Chambers in the Courts of Cambodia (ECCC); 2000, in Freetown, Sierra Leone and in The Hague, the Special Court for Sierra Leone (SCSL); 2002, in The Hague, the International Criminal Court (ICC); and 2007, in The Hague, the Special Tribunal for Lebanon (STL).



Iain Morley QC

Some Background

Historically, icl began as war crimes in the days of Rome, being developed particularly during the era of Napoleon, though WWI, with the Hague Conventions which followed in the 1920s. The Peace Palace in The Hague was a first international court. Following WWII, there was the universal declaration of human rights in 1948, but attempts to create an international criminal court, after the Nuremberg and Tokyo trials of 1946-8, to try genocide and crimes against humanity and other breaches of what became the 1948 Geneva Conventions, were frustrated by the Cold War, which ended in 1989-91.

The invasion of Kuwait in 1991 permitted a new world order, so that events in Yugoslavia 1991-1999, and in Rwanda 1994, allowed the creation of the two UN tribunals of the ICTY and the ICTR, and the others followed.

In tandem, the Rome Statute was set in motion for a permanent court from 1994, and became a treaty on 1 July 2002, thereby creating the ICC in The Hague.

The UN tribunals have been expensive, costing £100m annually, and have taken a longer than expected to try cases. To date, they have cost about \$3.5bn, which nevertheless has been calculated by Ambassador Rapp to be less than 4% of the annual cost of conflict worldwide, which in such terms may suggest the money is well spent, and it needs to be remembered, there has been no existing

infrastructure, of police, courts, civil servants, jurists, and academics.

However in light of the cost the trend since the turn of the millennium has been to create hybrid courts, like the ECCC, SCSL, and STL, blending domestic law with features of icl, most often on modes of liability and participation, usually sitting domestically, with international judges alongside domestic judges, funded by voluntary donation in an effort to control cost and spur efficiency.

Furthermore, there is a growing trend for even greater domestic control over trials, with diminishing but persisting international input, as can be seen by how icl is now being tried, from under the shadow of the international tribunals, directly in Rwanda, Bosnia, Croatia, Serbia, and Kosovo.

Some countries have experimented cautiously with features of 'universal jurisdiction', notably UK, Canada, Belgium, Spain, and Norway.

In addition, there is a growing trend for arguably 'rogue' trials to arise domestically, clothed with the imprimatur of international norms, though they are of questionable fairness, most notably the Special Iraqi Military Tribunal (SIMT), International Criminal Tribunal for Bangladesh (ICTB), and arguably the Guantanamo Military Commission (GMC).

The ad hoc Tribunals

The ad hoc tribunals are those convened to deal with particular events, and are supposed to close after, which has not always been easy to achieve.

The ICTY was created by UNSC res827 in May 1993, to deal primarily with war crimes, in three wars, has completed 97 trials, concerning 161 defendants, with 17 acquittals, and 23 contempt hearings, leading to prison sentences being served in 17 countries. The first trial, Tadic, was in 1996, and made ground-breaking decisions about the jurisdiction of icl. There have been five prosecutors, the most famous of whom has been Carla Del Ponte. It should close within the next five years, once the trials of Mladic and Karadzic and various appeals conclude. I was privileged to help Steven Kay QC on the Milosevic defence for five months from late 2004, for which I will always be indebted to him.

The ICTR was created by UNSC res955 in November 1994, to deal primarily with genocide, has completed 50 trials, of 95 indictees, with 4 fugitives, and 12 acquittals, the first trial being Akayesu, in which rape was determined to be a crime of genocide, while in the case of Karemera et al, where I appeared, it was established judicially that events in Rwanda were legally and unarguably a genocide. Carla Del Ponte was the first prosecutor, now Hassan Jallow of Gambia. It should close within the next two years. In sum, I was a trial advocate in four trials concerning six defendants, 2005-9.

The SCSL was created by UNSC res1315 in August 2000, to deal with offences after November 1996, prosecuting those who bear the greatest responsibility for serious violations of international humanitarian law (ihl) and the laws of Sierra Leone – notably murder, rape, torture, enslavement, sexual slavery, extermination, deportation, and child-soldiering. It has been funded by voluntary donations from 40 countries, and the new court building which opened in 2004 held three trials – concerning the RUF, CDF, and AFRC, relating to 22 indictees, there being one acquittal. Charles Taylor, former President of Liberia was tried in The Hague, alternately in the ICC building or in the STL building, owing to security issues in Freetown, and in 2012 was convicted and then sentenced to 50 years. It has closed, though a 'residual mechanism' is in place for potential further litigation, for example over parole or release owing to illness.

The ECCC was created in 2003, to try breaches of Cambodian law, and of ihl, during the years of the Khmer Rouge 1975-79, and is funded by voluntary donation, though has received subvention from the UN on three occasions, there being 7 international judges, and 30 local judges, who sit in the majority. It has conducted two trials, of now very elderly defendants, and there is considerable political intrigue and criticism domestically whether there will be two further trials, which look likely, and if so, it will not close for at least five years.

The STL opened in The Hague in 2009 to try the assassins of the Lebanese PM Rafik Hariri in 2005, for terrorism and murder, under Lebanese law, but with international norms. The defendants are said to belong to Hezbollah, which means in practice that no one will be arrested, and there is currently a trial in absentia, at a cost of \$90m annually, funded 49% by Lebanon and the remainder by voluntary donation. There is disquiet the tribunal should continue, as there are no defendants, and owing to political sensitivities in Lebanon the government has twice fallen over whether to continue its funding. Assuming it will run unhindered, it is thought the current trial will continue for at least three years. I was the primary architect of the indictment, approved in 2011.

So far, these tribunals have been rated successful by jurists, though with one arguable exception, being the Special Panels of the Dili District Court (SPDDC) in East Timor. It was created in 2000, following independence from Indonesia, and sat until 2006, with international judges, conducting 55 trials, of 88 accused, though its work was frustrated by Indonesia not surrendering suspects, so that there are 514 outstanding cases relating to 823 murders.

International Criminal Court

The court was founded by treaty, being the Rome Statute, which took effect in July 2002, is not event or time limited, and has 123 members, with roughly half Africa, though not inter alia Russia, China, India, US, and Israel. It began in draft in the 1950s but was thwarted by the Cold War, until the International Law Commission presented to the UNGA a draft in 1994, which led to the statute being adopted by 120 votes to 7 in 1998. Like a 'child', it is of the UN, but not part of it. It is a permanent court, not ad hoc, with a new dedicated court building planned in Scheveningen, to deal with genocide, crimes against humanity, and war crimes. From 2017, it may deal with aggression. It has excluded drugs and terrorism. Its budget is \$120m annually.

The remit and reach of the ICC is growing, with an industry of academics in support, and readers are encouraged to study the website at www.icc-tpi.int.

Future Work

Future tribunals are under consideration for Syria, Libya, Ukraine, South Sudan, Kosovo, Sri Lanka, North Korea, Georgia, Chad, and possibly Gaza. There is in addition the growing Justice Rapid Response project, operating out of Geneva, which deploys investigation and legal experts to war crimes sites to preserve evidence.

There is clearly much further work in icl. Predicting how long a tribunal will remain open, or what will come next, is difficult, and in the next article I will review how to get involved, how the tribunals are structured for work, and what to monitor.

Iain Morley QC
23 Essex St

SEC Director of Education 2015

QC APPOINTMENTS – A SURVIVORS GUIDE

The present QC system has now been in operation since 2006. With almost 1000 silks having been appointed under that system, that amounts to over half of the silks still in active practice.

I am a graduate of the present system myself having been appointed in 2008 and the first graduate of that system to become a member of the Selection Panel. How do I view that system and what would I advise those thinking about applying?

In so far as the system is concerned, having participated as an applicant I must confess I was and remained somewhat sceptical about the whole process – a position I fear is adopted by many who are good potential candidates.

Having participated in the process as a member of the selection panel can I put that previously held scepticism and any fears a prospective applicant may have to rest.

Yes the process is a rigorous one, but given that a process of selection is necessary I can assure any potential applicant that I am heartened that the one that is in place is as good and fair as it can possibly be. That is not to say that we rest upon our laurels far from it. At the end of each competition we not only critically self assess our own process but seek feedback from a wide variety of the participants in it in order to see whether any improvements can be made. It is and continues to be, an ever evolving and hopefully improving system by which appointments are made.

What do I advise those thinking about applying?

First, please do not think there is a London bias in the system. Three of the five legal members and three of the five lay members are based outside London. Even those members based in London are perfectly able to assess fairly applications from those who practise elsewhere! Appointments are made on the basis of demonstrated excellence in advocacy in cases of substance in the higher courts, so if you think your practice enables you to demonstrate that, apply.

Secondly, do not worry if few, if any, of your cases have been heard by High Court

judges. Each year, a number of applicants – 14 last year – are appointed without having any assessments from High Court or more senior judges. Of course, all things being equal, oral advocacy in a substantial case before a High Court judge is very useful – but it is far from essential.

Thirdly, do not worry if most of your cases settle. The Selection Panel is well aware that in some specialisms even the most substantial cases generally settle. Evidence can nevertheless be gathered about advocacy skills in negotiations from practitioner assessors in those cases. In specialisms where contested trials are a rarity, the Selection Panel will as a rule generally give more weight to written advocacy.

Fourthly, do remember that the process is evidence-based. The Selection Panel needs evidence (starting from your self-assessment, continuing through the assessments from judges, practitioners and clients which we collect, and finishing with the interview) of your demonstration of excellence on each of the competencies. You should read the Competency Framework carefully; it sets out what the Selection Panel is looking for. And do read the Selection Panel's report to the Lord Chancellor – published on our website – which describes the way the Selection Panel approaches its task.

Fifthly and above all – as every advocate must already know – prepare. Think carefully about which cases and which assessors will best enable you to demonstrate excellence. If you are invited to interview, ensure you are familiar with the Competency Framework – think about how will you demonstrate that you rapidly assimilate new areas of law, how you will show your leadership ability, and your active demonstration of excellence in diversity. Talking to professional colleagues who have been through the interview process in the last year or two may be particularly useful.

Finally, do be sure before you apply that you actually want to be appointed. Applying for appointment as QC requires a significant investment of both money and (especially) time. Furthermore, taking silk – although a wonderful professional achievement – is no longer a licence to print money, if it ever was.

Ultimately only you can decide whether you want to apply but if you feel you have the ability I encourage you to do so and ask that you are not put off by out-dated or misguided myths about the system.

**Shaun Smith QC
(A survivor and convert).**



Shaun Smith QC

Lewes and 'the Lewes Combined Court Centre'

A very brief history

Set in heart of the beautiful Sussex countryside is the ancient Saxon town of Lewes. Founded in the 6th Century, the town together with a swathe of land along the River Ouse was given to William de Warenne, 1st Earl of Surrey by William the Conqueror as a reward for his actions in the Eleventh Century.

By 1148 the town was granted a charter by King Stephen.

Also the site of the Battle of Lewes between the forces of Henry III and Simon de Monfort in the Second Baron's War in 1264, the end of which de Montfort's forces were victorious.

Famous son's of Lewes include Tom Paine, the English/American political activist, philosopher, political theorist and revolutionary of the 18 century and the palaeontologist Gideon Mantell.

Lewes has hosted a court since Norman times. Initially, the 'lords court' was held every three weeks and was the court for the surrounding area of Sussex. Two rolls of this court, described as 'curia castri de Lewes' still exist.

The three weekly court presumably fell gradually into disuse. By 1833 it could be observed that there were no courts on record peculiar to the borough, while in 1880 it was specifically stated that the administration of justice was done exclusively by the magistrates of the county, at petty sessions, held by them in Lewes weekly.

The delightful building which is now the Lewes Combined Court Centre and situated in the High Street was designed by the architect John Johnson and was completed in 1812 (three years before the end of the Napoleonic Wars). It was originally built as East Sussex County Hall at a cost of less than £15,000.

The court has hosted many well-known cases, including R v Mancini (The Brighton Trunk Murder), in which a rather unpleasant smell was found emanating

from an unclaimed trunk at Brighton Railway station. When opened the dismembered torso of a woman was found. When other stations were alerted a suitcase located at Kings Cross Station was found to contain the limbs of the poor deceased soul.

Also heard was the notorious case of John George Haigh, better known as the 'acid bath murderer'. John Haigh was a serial killer from the 1940's and reportedly murdered 6 people after which he disposed of the bodies by placing them in baths of concentrated sulphuric acid. Unfortunately for Mr Haigh, he misunderstood the meaning of 'corpus delicti' as being there could be no conviction for murder without a body. The jury found Mr Haigh guilty within minutes of retiring. Following his conviction, Mr Haigh reportedly asked one of the prison guards whether it was possible to have a trial-run of his hanging to ensure everything ran smoothly on the day. Mr Haigh was hanged on the 10 August 1949.

More recent high profile cases have included Roy Whiting (convicted of the murder of Sarah Payne, Graham Coutts (convicted of the murder of schoolteacher Jane Longhurst) and Andrew Wragg (manslaughter of a seriously ill child of the family).

In January 1995, a two year, £4 million refurbishment of the court was completed and the Lord Chancellor formally re-opened the Grade II listed building. The work involved improvements to the courtroom and offices, as well as the renovation of the buildings historic features.

In 2013, the present Resident Judge, Her Honour Judge Shani Barnes took over the reins from His Honour Judge Richard Brown DL, who had sat in Lewes since the early 1990's.

Commenting once on the presence of the Meridian Line running through the heart of Lewes, Judge Brown is reported to have said that the line ran straight through his chair in court three. This he uttered was why he never knew quite which side of the line he was on!

In April 2011 the New Sussex Opera Group were permitted to perform the Gilbert and Sullivan opera 'Trial by Jury' in Court number one. The organiser, and one of the star performers, was former Judge Michael Kennedy QC.



Tim Bergin

The Advocacy Training Council

The Advocacy Training Council (ATC) is responsible for providing leadership, guidance and coordination in relation to the pursuit of excellence in advocacy. It was established by the Council of the Inns of Court (COIC) and consists of barristers, judges and others drawn from the Inns of Court, Circuits, the Bar Council of England Wales, Specialist Bar Associations and from other representative bodies and organisations. The ATC's primary role is to oversee the development and delivery of advocacy training for the Bar of England and Wales and is also often asked to assist overseas.

During 2015 the ATC has been involved in creation of training films on Appellate Advocacy and Skeleton arguments. These have proven to be a useful resource for the Inns of Courts and Circuits, where they have been used as part of the New Practitioner advocacy training. The Appeal advocacy film includes talks on the principles of appeal advocacy from a judge, civil practitioner and criminal practitioner, followed by demonstrations of both civil and criminal appeals. The Skeleton Argument film similarly provides guidance on the drafting and use of Skeleton Arguments in both Criminal and Civil Cases.

The ATC also embarked upon a project to research the effective use of foreign languages in courts and the use of interpreters. This was undertaken by the Research and Development Committee. A training film was created to raise awareness of the communication challenges

for an advocate working through an Interpreter. The scenario used a Romanian language speaker witnessing a crime and subsequently summoned to court to give evidence. The film details the three way process of using an interpreter and provides guidance surrounding the techniques of examining a witness through such a medium. The film conveys some key messages as to how advocates can work effectively with interpreters in court, from maintaining eye contact to putting your case in a straight forward manner avoiding the use of acronyms. The ATC incorporated the training film as part of a pilot training day. The day provided participants with the opportunity to practice the examination, cross examination and re-examination of the foreign language speakers, using three newly developed exercises; Family with a Turkish Witness, Criminal with a Polish Witness and Civil with a Mandarin Witness. The foreign language speakers were played by bilingual interpreters under the supervision of experienced advocacy

and interpreting trainers. The day was deemed to be a great success.

The Advocate's Gateway success has continued as it carries on its work in researching the skills required to address the needs a vulnerable

person in the justice system. The Advocate's Gateway website provides free access to practical, evidence-based guidance on vulnerable witnesses and defendants. There are now 16 toolkits readily available to all on the website, which identify common issues encountered when examining vulnerable witnesses and defendants together with proposed solutions. Other toolkits are in the process of being drafted and the ATC has been working with family law practitioners and judges on developing toolkits for use in the family courts.

During the 2015 Review on Efficiency in Criminal Proceedings, The Rt Hon Sir Brian Leveson, President of the Queen's Bench Division, referred to the 'excellent work of the Advocacy Training Council' and 'the importance of the Advocate's Gateway'. In addition, the work of the ATC and The Advocate's Gateway has also been endorsed by the Court of Appeal and in the Criminal Practice Directions. This confirms the instrumental success of "The Gateway."

The Advocate's Gateway inaugural International Conference on "Addressing Vulnerability in Justice Systems" was held at The Law Society on Saturday 20th June. About 150 individuals attended from various professional backgrounds, including: members of the judiciary, legal practitioners and advocates, academics, police, intermediaries and charity workers.



Foreign Languages in Court and the Effective Use of Interpreters
www.advocacytrainingcouncil.org/interpreters

Delegates came from various jurisdictions including Australia, New Zealand, Singapore, Ireland and Scotland.

The Conference facilitated the exchange of perspectives, ideas and strategies between countries, regions and sectors, and focused on; defining vulnerability case management, principles for planning and questioning vulnerable adults and children and using technology to create a fairer justice system. During the course of the day a variety of keynote addresses, panel sessions and breakout sessions discussed the importance of the topic of vulnerability. Key speakers included, Sir James Munby (President of the Family Division), Professor Penny Cooper (Chairman of the Advocate's Gateway Committee), HHJ Peter Rook QC, Professor David Omerod and Mr Justice Green (Chairman of the Advocacy Training Council).



Advocacy Training in Islamabad. Left to right: Mrs Justice Maura McGowan, Sarah Clarke and Amber Darr ASC

The ATC is committed to assisting overseas Bars, particularly in the developing worlds, where improving standards of advocacy training helps help to maintain the rule of law. The ATC adopts a 'seed corn' approach, whereby Inn and Circuit accredited trainers work alongside local members of the legal profession to develop and implement their own advocacy training provision. A great example is that of Zimbabwe. The ATC has a long standing relationship with the Law Society of Zimbabwe, and has delivered five rounds of training in the country between 2011 and 2015. The series

of training, consistent of a programme of advocacy training followed by training the trainer training, reflects the success of international training. During the initial rounds of training, local practitioners were selected, based on their enthusiasm, skills and natural flare for advocacy, to become suitable candidates to assist the UK trainers in the delivery of the later rounds of training. The most recent round of training delivered in Zimbabwe in 2015 completes the success story of the jurisdiction. The Law Society of Zimbabwe now has its own pool of trainers as a result of the training programme delivered by the ATC. It was agreed that moving forward only two ATC trainers would need to attend to oversee and monitor the training, as the training there is effectively now self-sufficient. This year the ATC is delivering training in such varied jurisdictions as Trinidad, Ghana and The Hague, Singapore, Pakistan, Ireland and Poland.

The ATC looks forward to expanding and evolving into the Inns of Court Advocacy College (ICAC).

EAST ANGLIAN BAR MESS

It has been quite a few months up here in Norfolk and Suffolk. 2014 started off with our industrial action and a good turnout outside Norwich Crown Court in January was followed by a live studio interview on Look East by our Chairman, Simon Spence QC, which received much publicity and favourable comment and would have been viewed by 500,000 viewers.

He hit the national headlines (front page of the Law Gazette, no less!) again in March when he represented the only barrister in the country to be threatened with a Wasted Costs Order arising out of the implementation of the 'No Returns' policy. A mis-judged effort by the recently retired resident judge at Norwich was thwarted and the barrister in question totally exonerated. A further appearance for a member of the Mess in another successful resisting of a WCO is adding to our Chairman's expertise in such matters!

The Mess awaits the future discussions between the profession's leaders and the new Lord Chancellor with anticipation and trepidation. But its resolve is undimmed to do all it can in the furthest reaches of the Circuit to protect our profession. We are greatly aided in this by a strong and close relationship with both courts and resident judges in the Mess' area.

Turning to more pleasant matters, a small but highly enjoyable dinner was held in May 2015, the first fixed date Annual Dinner for the Mess. It will alternate each year between Norfolk and Suffolk, as well as a more casual Christmas drinks each year in the county not hosting the annual dinner. It is very much hoped that these events will become popular and well-supported fixtures in the Mess' social calendar.

We mark a number of appointments and retirements: Martyn Levett brings his idiosyncratic energy and intelligence to the Suffolk Circuit bench, whilst at the same time a farewell is bid to

John Holt, a veteran of both the County and Crown Courts. His lupine smile will I am sure be missed! In Norfolk, it is a clean sweep for the ladies with the arrival of Katharine Moore, Liza Gordon-Saker and Maureen Bacon QC, an especially welcome appointment for our Chairman, who was at university with her and took silk in the same year. As the ladies arrive, the gentlemen depart. We bid farewell to Nick Coleman (the founding editor of the Circuiteer all those years ago) and Philip Curl from the Circuit bench and Martyn Royall and Robert Sparrow from the District bench. All will be missed and we wish them well.

We also bid a tearful farewell as Mess Junior to John Morgans, who has held the post for more years than anyone cares to remember. I suspect he is the longest serving junior on the circuit and we all wish him well for the future as he hopes to focus on work rather than social matters! He is ably replaced by Matt Sorel-Cameron, recently moved from East Anglian Chambers to Red Lion Chambers.

We live in interesting times. The Mess is here to support all practitioners, employed or self-employed, with connections in Norfolk and Suffolk. One matter the Chairman is particularly keen to deal with in the next few months is the ongoing claim by the LAA of a 'local bar' enabling them to refuse travel payments to London counsel. The landscape as to the presence of criminal practitioners in the area and their chambers has changed significantly over recent years, which some local chambers focussing much more on other work. With the re-opening of King's Lynn as a Crown Court, this is now an iniquity that needs resolving.



Simon Spence

"Norma L Fornorfolk"

North London Bar Mess

It is with great sadness that we learned of the death of two of our retired Snaresbrook Judges, HHJ Khayat QC and HHJ Medawar QC. Both will be remembered by all those who knew them both at the bar and on the bench. The recent appointment of our very own HHJ Grace Amakye to Snaresbrook can only serve to cheer everyone up. We wish her a long and happy career on the bench.

There has been much movement in the recent past, Wood Green has lost HHJ Carr to Truro and HHJ May QC to Southwark, Snaresbrook has lost HHJ Lamb QC to Kingston Crown Court and recently we have learned that HHJ Korner CMG QC will be going to Southwark, in addition HHJ Donne RD QC is now at Inner London. Another recent appointment North East of Snaresbrook entertained us all when her exercise phone app went off at a Warwick Lecture, couch to 5k is very good! can't possibly reveal her name. I have been inspired to download it to my phone which is about as far as it is likely to get!!!

Our re launch party was very enjoyable, on a sunny terrace of 23 Essex St. Thanks to Simon Russell-Flint QC, Sonya Saul and everyone at 23. It was well attended by present and past North London judges, and Singh J and Fulford LJ, we were honoured. We were also joined by Baljit Ubhey (CCP London), Jaswant Narwal (CCP Sussex Kent and Surrey) and the chair of the bar and chair elect, as well as our own circuit leader. Much prosecco and wonderful food.

We have lost many valued court staff at each of our courts. It will be difficult to replace those with such a wealth of experience. Our buildings have fallen into disrepair and require attention. The lift situation at wood green continues to be dire. The defendants lift still isn't working and recently the jury lift also failed, resulting in a walk of 4 floors if they are in court 10! Work is continuing but is behind schedule, even with HHJ Lyons CBE at the helm. If only the 'overriding objective' could apply to lift engineers... catering remains an endless topic of conversation! Wood Green has

retained dedicated catering for judges and jury, and there was a tasting on the 23rd of June, beef cheeks, salmon and risotto. Delicious! HHJ Kennedy did a brilliant job at securing excellent caterers at Snaresbrook although rumour has it that the same firm perform less well at Inner London. Perhaps a court inspired reality show with court catering starring Jamie Oliver.

HHJ Dean from Wood Green won Masterchef some years ago could lead a team and we could have our own reality show!

Speaking of the talented and intrepid HHJ Dean, she had to conduct a case in the car park with the defendant in the prison van as Wood Green entering his plea and being sentenced. (WG is not able to accept wheelchair bound defendants). Her actions saved an adjournment and costs.

Reduced hours in relation to prison visits affecting the rate of cracked trials. We are pleased to note that monies are being invested in the improvement of internet and link facilities generally but at the end of the day, if we cannot see our clients without taking a day out of court it will result in more waste and cracked trials. We cannot understand why prison officers, like GP surgeries should not be obliged to have late evenings for two days a week and on Saturday mornings for cases approaching PCMH or trial.

On a happier note, HHJ Dean has kindly agreed to assist the mess in the advocacy lectures/workshops we are organising for the autumn, HHJ Barklem will help organise Harrow's and we are aiming ourselves at a popular Snaresbrook judge but he doesn't know it yet! Sue Williams (DJ Highbury) is going to help Pam Oon (DDJ) organise some magistrates court events too. We will be ready whatever shape QASA takes.



Kaly Kaul QC

Kaly Kaul QC - Chair
Rhiannon Sadler

THE KENT BAR MESS

REMAINS VERY ACTIVE THIS SUMMER

Christopher May

On Saturday 13th June 2015 the Canterbury Crown Court held an Open Day to which members of the Mess made substantial contributions. The event included mock trials with members of the Mess conducting the advocacy, drug dogs displays, a debate, tours of the cells and presentations by agencies involved in the criminal justice system. The event was very well attended and was rounded off with a 10k Kent Legal Walk/run to raise money on behalf of the Kent Law Campaign.

The Mess retains close channels of communication with the local Judiciary, to which HHJ Smith, late of the North Eastern Circuit is a welcome addition.

Various topical seminars and training events are planned.

The Mess welcomed the Chairman of the Bar to a working lunch in the Mess followed by coffee with the Judges.

The Mess was saddened by the retirements of HHJ Murdoch, District Judge Nigel Jackson and Alistair Keith, a stalwart of the Mess for many years and wishes all of them well for the future.

The Mess Dinner will be held this year on 27th November. HHJ Charles Macdonald QC has been invited to make the guest speech.

STRICTLY FURNIVAL GOES RETRO



On 22nd May 2015 disco-fever hit the Grosvenor House Hotel as 1000 members of the Judiciary, the Bar, solicitors and their guests gathered for 'Strictly Furnival Goes Retro'. This was the third incarnation of the event, established in memory of former member of chambers Joanna McEgan, who lost her brave battle with cancer in 2013. As ever, the evening was a fabulous opportunity for members of the profession to let their hair down in support of a worthy cause. Over £30,000 was raised for this year's charity, Breast Cancer Care.



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STRICTLY FURNIVAL GOES RETRO

The show was once again hosted by Heads of Chambers Sally O'Neill QC and Oliver Blunt QC (surely soon to be head-hunted by the BBC to take over as the new Tess and Bruce!). Proceedings were opened by a show-stopping routine from organiser Stephen Moses and previous winner Charlotte O'Connor. They teamed up with professional couple Aljaz Skorjanec and Janette Manrara to set the tone for a fantastic evening of entertainment.

The star-studded judging panel of Craig Revel-Horwood, Denise Van Outen, Janette and Aljaz put dancers through the same rigorous scrutiny as the celebrity competitors on the show. HHJ Francis Sheridan ensured that each critique had a personal touch! Nick Corsellis and Rebecca Meads were deserving winners, dazzling the crowd with a cheeky samba to the disco hit 'Car Wash'.

A huge thank you from Chambers to all those brave enough to dance for our entertainment, those who generously donated auction prizes and everyone who attended in support and kindly contributed to the charity. Keep Dancing!!

Stella Hayden
Furnival Chambers

