

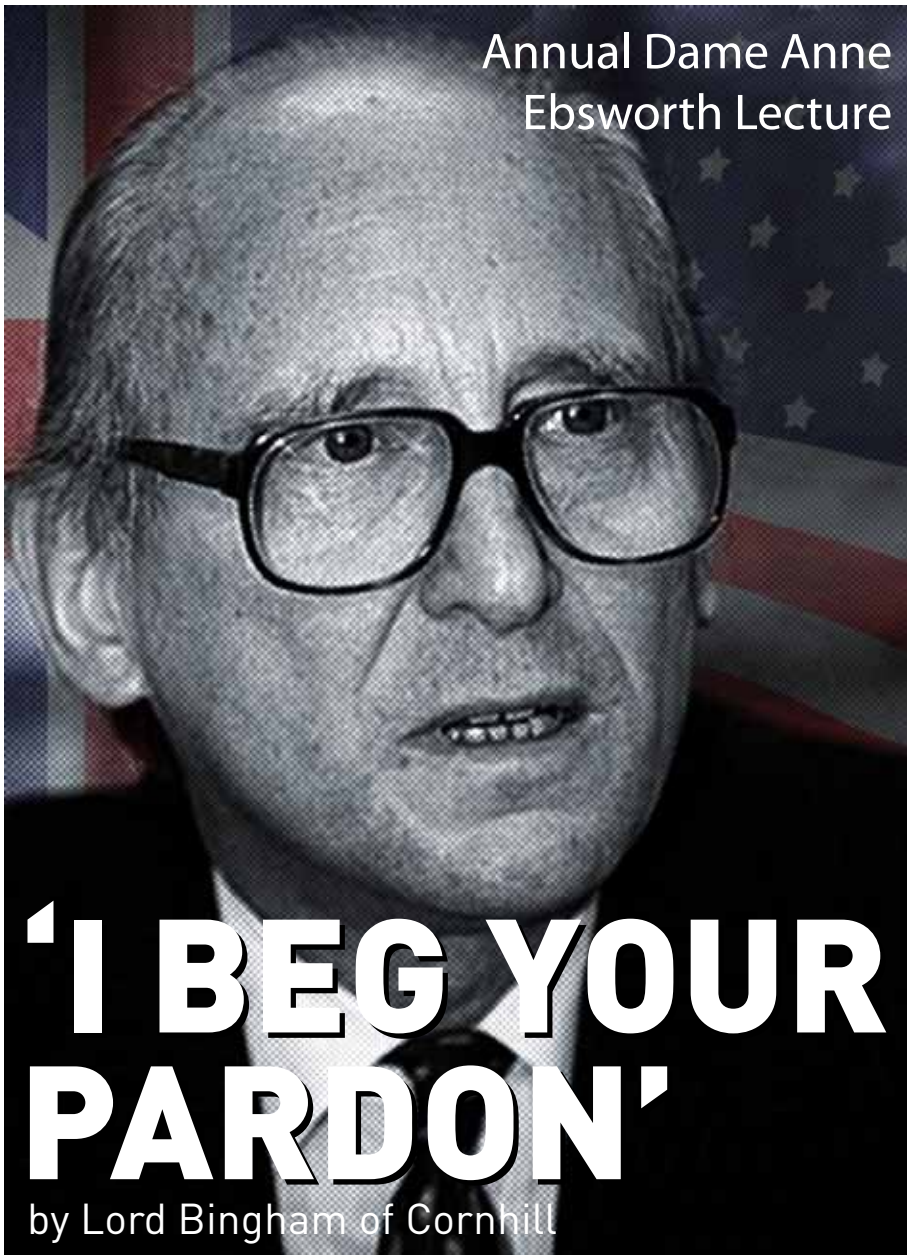
# The Circuiteer



News from the South Eastern Circuit

Issue 28 | Summer 2009

Annual Dame Anne  
Ebsworth Lecture



# 'I BEG YOUR PARDON'

by Lord Bingham of Cornhill



**Lord Bingham reviews the history and application of the power of pardon in Britain and the USA.**

## INSIDE THE CIRCUITEER...

### Leader's Column

by Stephen Leslie QC

2



**A Thank You to Past Leader, David Spens QC**  
by Rosina Cottage

10

**An Interview with Senior Presiding Judge, Mr. Justice Calvert-Smith**

by Sebastian Gardiner



12

**QAA Pilot: The Art of Advocacy?**

by Monica Stevenson

16



**Circuit Town: Lewes**

by Marcus Fletcher

20

**Bar Mess Reports**

21

**Editorial Committee:**

Ali Naseem Bajwa (Editor),  
Fiona Jackson, Tanya Robinson,  
Tetteh Turkson and Emily Verity.

# LEADER'S COLUMN

## I Don't Believe It



BY STEPHEN LESLIE QC



Four months in and occasionally I still have to pinch myself to believe that I have been fortunate enough to be elected as Leader of the South Eastern Circuit. I am thrilled at my appointment and consider it a great honour. Despite not coming from a family of lawyers, since the age of a six, I have dreamt of becoming a barrister and shared this ambition with everyone who would listen to me. Aged seven, my father presented me of a wig which embodied

this ambition and I am pleased to tell you that I still wear it today!

Bridging tradition and innovation, I hope all my years of experience make me well placed to understand and represent a wide variety of perspectives. Although I currently practice in crime, I have 12 years experience of a mixed practice and appeared in courts all over the Circuit. This, combined with the work I have done since 1991 in advising and appearing for people and groups over fee matters, means

that I am acutely aware of many of the Circuit's concerns. New issues arise all the time and in order to negotiate most effectively on your behalf, I would be assisted in receiving your first-hand experiences and ideas, rather than relying on anecdotal evidence. Accordingly, please get in touch if you have information and views to share.

It is important to me that membership of the Circuit should be greatly increased, representing all areas of practice. The reason for desiring

membership expansion is simply because increased numbers will bring greater benefits and greater influence, in making us both a representative voice and a force to be reckoned

with. There are many areas that affect us all where the Circuit's influence is already being brought to bear. The issue of fees - both publicly and privately funded - in particular, but not exclusively, in family and criminal practices, including VHCCs and Graduated Fees, is an area where further negotiation is essential. In preserving the position of the self-employed Bar and the referral Bar as a whole, our relationship with the CPS (and, in particular, the role of HCAs), Legal Services Commission and the Ministry of Justice needs careful management. Responding to various and diverse consultations such as the remit of the BSB, (in particular Alternative Business Structures), Quality Assurance for Advocates and means testing in the Crown Court will benefit from your views, so please make them known so I can reflect them.

The review of the Queen's Counsel appointment system has been completed and while no significant changes have been recommended, I am keen to ensure that the system attracts and appoints

the best candidates. Where you have concerns, either on a personal level or across the board, please let me know. The latest round of Recorder Competition on the South East Circuit is continuing. Anyone with feedback for me should also get in touch. For all of us on the Circuit, it is our responsibility to share ideas on these topics and others that can be taken forward to the Chairman of the Bar, the Ministry of Justice, the CPS and other relevant parties.

Since January I have been extremely busy in attending regular meetings on behalf of the Circuit. Such meetings are with the Chairman of the Bar, members of Bar Council, Circuit Leaders, senior members of the judiciary, Resident Judges, Bar Messes and SBA Chairs, DPP and senior members of the CPS and the MoJ.

The Circuit has recently hosted a number of highly successful events since the beginning of the year. The first, 'Against the Odds', was in fact arranged by David Spens QC as the previous Leader, ably assisted by Mohammed Khamisa QC. This was an event that celebrated diversity and the key speaker was the Attorney General. It was a tremendous success with 400 attendees and was testament to the joint working of many sets of chambers who lent their financial support. The next event was: 'I Beg Your Pardon', the Fourth Annual Lecture in honour of Dame Anne Ebsworth where Lord Bingham spoke eloquently about pardons and contrasted the systems and use of the same in the U.S. and U.K. Both CD and transcript of this lecture are available to circuit members and attract 1 CPD point. At the end of March, we held a dinner for David Spens QC to thank him for his time as Leader, presenting him with a set of decanters, and also took this opportunity to thank David Wurtzel for his outstanding contribution as Editor for 4 years of this publication, which he took from strength to strength.

We hosted the Annual Remuneration Conference in May and held the Resident Judges' Reception in the same month. We are also finalising the details of the Circuit trip for this autumn, which we hope will be a Eurostar ride away, and are canvassing bids for our 2010 trip - so far the most popular is Malta in May. We are also holding our Annual Dinner on 26 June. Please support this event and you will be rewarded by hearing from a truly great Circuiteer, Mr. Justice Penry-Davy, a past Leader who has kindly consented to be our guest speaker. In addition to our usual advocacy courses in Florida and Keble, Anesta Weekes QC and Anne Cotcher

QC are arranging a series of advocacy lectures. Precise details of time and venue will be released shortly but the first speaker will be Michael Mansfield QC, followed by other distinguished 'masters of advocacy'. I have already met with Herts & Beds, Thames Valley, Central London and Sussex Bar Messes and will continue to visit as many Messes as possible. I am resurrecting the Circuit Roadshows that used to be held in years gone by. I hope this will give me an opportunity to become acquainted with many of you and allow you to put any questions you may have to me directly in person. The first such roadshow will be in Kent this summer.

We bid farewell to Mr. Justice Gross as our Senior Presider. We are very grateful for the support and help he has given us. He is replaced by Mr. Justice Calvert-Smith who I have been working on many issues affecting the Circuit with in recent months. Our other Presiders are Mr. Justice Bean and Mr. Justice Cooke who have been joined by our new Presider, Mr. Justice Saunders, who was Recorder of Birmingham prior to his elevation to the High Court Bench. I have already begun working and liaising with them on your behalf.

Invidious as it may be for a Leader indebted to so many people to single out any particular person for mention, I do want to say a word regarding my predecessor, David Spens QC. He acted tirelessly and effectively on our behalf and he did a magnificent job in advancing our interests. For this, we are indebted to him.

Over the next two years on my watch, I urge each of you, members old and new, to come to me with any concerns you have. If there is anything you would like me to take up on your behalf, please bring it to my attention. Under my leadership, I will do my utmost to make the Circuit grow and prosper. You can hold me to that promise.

*Stephen Leslie QC*  
[sleslie@furnivallaw.co.uk](mailto:sleslie@furnivallaw.co.uk)



# BARRISTERS' BENEVOLENT ASSOCIATION

BY FRED FERGUSON



The Barristers' Benevolent Association (BBA) was founded as a charity in January 1873.

A limited company was formed in November 2004. The BBA exists to provide help to past and present practising members of the Bar in England and Wales, including the judiciary, and their families and dependants. Assistance is available to applicants who are in need, in distress or in difficulties. The aim is, wherever possible, to overcome the problem and rebuild the applicant's life and career. During the recent past, the BBA has helped barristers and their families on every circuit, often saving, not only dignity, but careers.

Unexpected financial problems may be due to circumstances beyond the beneficiary's control and may be encountered before a full practice has been established or with the onset of old age. Reasons for needing help cover a wide range and include; serious long-term or terminal illness, shorter term health scares or accidents affecting income for weeks or months.

The BBA does not offer specific advice but can point people towards those who can, particularly in cases of financial need. The BBA's staff are also happy to be a contact on the phone, for a reassuring chat. In appropriate cases the BBA can offer financial help, in the form of a grant or a secured or unsecured loan. Some beneficiaries receive regular grants to top up DSS benefits as well as other specific occasional help. Single parents have been helped with paying for school

uniforms, new shoes or a birthday treat. In exceptional circumstances, if children are at a vital stage of their education, help has been given to enable them to remain at their chosen school. Examples of cases where special help has been given include; funding a much-needed holiday break, providing a computer, paying telephone bills and mending or replacing home equipment. Every case is unique and every application is considered on its own merits and circumstances. If all else fails, help can be given with IVAs and bankruptcies.

The BBA believes that it is not as well-known in the profession as it ought to be and that there may be people who qualify for help but who either are not aware of the existence of the BBA or believe that assistance is restricted e.g. to those who have made contributions to the BBA. The BBA is funded by donation from the Bar and the judiciary and from sponsored events. It is felt also that there are other people who would be willing to contribute to the welfare of their less fortunate colleagues but who are also unaware of the BBA. Donations are welcome at any time and need not form part of a regular commitment.

In addition to the officers and committee members of the BBA, the BBA has circuit representatives who form a link with the profession, promote awareness of the BBA and assist in fundraising. If you know someone, or are someone, who is, or has been, in practice and is, or might be, in difficult financial circumstances, please contact the BBA, either directly



or through your circuit representative, who will be happy to pass on the details of your situation.

The BBA, through its officers, committee members and circuit representatives honour a code of strict confidentiality. The BBA operates on the basis that financial misfortune can happen to anyone. The BBA is not judgemental of the current circumstances of applicants, or potential applicants, and always looks to be pragmatic and constructive in its approach, whatever the background leading to the application.

## The current BBA Circuit Representatives are:

**Wales and Chester (South):** His Honour Judge David Morris

**Midland:** Stephan Linehan QC and Simon Readhead QC

**North East:** Julian Goose QC and Mark Styles

**Northern:** Ian Whitehouse and David Kenny

**Western:** Ruth Vincent and Frank Abbot

**Chancery Rep. Manchester:** Charles Machin

**Chancery Rep. Liverpool:** Nicholas Orr

Further information can be obtained from the BBA website: [www.the-bba.com](http://www.the-bba.com)

*Fred Ferguson is a barrister at 9 Gough Square and the BBA Representative for the SEC*



# THE SOUTH EASTERN CIRCUIT ANNUAL DINNER 2009

GREAT HALL, LINCOLN'S INN  
FRIDAY 26 JUNE at 7.00 FOR 7:30PM



GUEST OF HONOUR:  
**THE HON. MR JUSTICE PENRY-DAVEY**

SILKS **£90**

JUNIORS **£70**

UNDER 7 YEARS' CALL **£45**

JUDICIAL MEMBERS **£70**

JUDICIAL NON-MEMBERS **£90**

Dresscode: **Black Tie**

All applications with payment must be received by  
Friday 19 June 2009

Application forms available on SEC website

TEL: 0207 242 1289 FAX: 0207 831 7144

EMAIL: [ibonner@barcouncil.org.uk](mailto:ibonner@barcouncil.org.uk)

[www.southeastcircuit.org.uk](http://www.southeastcircuit.org.uk)

Inge Bonner  
South Eastern Circuit  
Administration Office  
289-293 High Holborn, London  
WC1V 7HZ  
DX 240 LDE



# ANNUAL DAME ANNE EBSWORTH MEMORIAL LECTURE



BY LORD BINGHAM  
OF CORNHILL

## I Beg Your Pardon

Tim Dutton QC and Stephen Leslie QC



The practice of recent American presidents, in absolving criminal defendants and suspects from the penal consequences of their offending and remitting sentences, has, I think, been viewed by many British and some American observers with a mixture of incredulity and bewilderment. During the Nixon administration, and again during that of the first Bush, serious consideration was given to

the question whether the president could lawfully pardon himself. In the event, neither president adopted this course, but not (it would seem) on advice that he lacked the power to do so. Consideration of this narrative prompts two questions, both easily answered. First, what is the source of the presidential power of pardon? The answer is: article 11, section 2, clause 1 of the Constitution, which provides: "... and he [the President] shall have

Power to grant Reprieves and Pardons for Offences against the United States, except in cases of Impeachment".

The second question is: what is the provenance of this provision? The answer is: the law of England. Authority has made this clear from the earliest days. Thus, in the first case to reach the Supreme Court on the scope of the clause, Chief Justice Marshall, for a unanimous court, said: "As this



power had been exercised from time immemorial by the executive of that nation whose language is our language, and to whose judicial institutions ours bear a close resemblance; we adopt their principles respecting the operation and effect of a pardon, and look into their books for the rules prescribing the manner in which it is to be used by the person who would avail himself of it."

Thus the English provenance of the presidential pardoning power is clear. There is indeed only one express departure from the English model: whereas the Act of Settlement 1701 precluded the grant of a pardon before impeachment but permitted such a grant afterwards, the US Constitution precluded the grant of a pardon in any case of impeachment.

Recognition of an extra-judicial power to pardon or commute sentences has been a feature of every, or almost every, society since ancient times. It may indeed be said that the more primitive and unsophisticated a society's criminal law and practice, the greater the need for an extra-judicial power to alleviate the injustices that will inevitably arise. This is amply demonstrated in our own early history. Killing was a capital felony unless in execution of a lawful sentence of a court or in the arrest of an outlaw or manifest thief or (a statutory addition) involved the killing of a trespasser by a forester or parker

in the course of attempting to make an arrest. It was not in these early days a ground of defence that the killing was the result of misadventure or accident, or that the killing was in self-defence, or that the killer was of unsound mind at the time of the killing or that the killer was a child. The examples quoted in the books of pardons granted to child killers before formal recognition of an age of criminal responsibility are particularly telling.

It would be misleading to suggest that all pardons and commutations in former times were calculated to further the interests of justice. They were regularly sold, were obtainable by private solicitation and pressure, and in times of emergency were used to man the armed services, particularly the navy. In earlier days, pardons were also granted by authorities other than the Crown, a practice ended by statute in 1535 when Henry VIII obtained sole and exclusive authority "to pardon or remit any treasons, murders, manslaughters or any kinds of felonies."

By the time of the American Revolution, there were four features of the



David Spens QC and Faisal Osman

royal prerogative of pardon which deserve mention. First, the reigning monarch, George III, exercised the power personally and conscientiously. Secondly, while the royal power of pardon was very wide, it was not unlimited. As already mentioned, a pardon could not be pleaded in bar of impeachment. The Habeas Corpus Amendment Act 1679 had earlier imposed a further restriction: when Parliament in that Act prohibited the sending of prisoners to places where the writ of habeas corpus did not run - a provision which made sure there could henceforth be no British Guantanamo - it also provided that no pardon could be relied on to defeat a charge under the Act. It was further accepted that a pardon could not be granted to defeat the private right of a third party. Thirdly, it was accepted that a commutation of sentence could be offered subject to a condition which the defendant was free to accept or not. The most usual condition was that the defendant be transported overseas and not executed, a condition to which most defendants, unsurprisingly, consented. This was a practice adopted before transportation was recognised by statute as an available sentence in 1717. Fourthly, it was accepted that even a full pardon did not do more than free a guilty person from the legal consequences of his illegal act. It did not give rise to a fiction that the person had committed no offence.

Consistently with the authority I have already cited, the Americans after independence interpreted article 11, section 2, of the Constitution very



Inge Bonner, Christopher McNicholas and Nathalie Hyams

much in accord with English principles. It was held that a pardon exempted from punishment but did not expunge guilt, and that acceptance of a pardon carried with it an imputation of guilt. It was established that the president could commute a sentence of death on condition that the defendant served a sentence of life imprisonment. But perhaps most significant for present purposes is the emphasis laid on the breadth of the power and on the unfettered nature of the president's discretion. It was described in 1871 as a power granted "without limit". Reflecting a 1974 Supreme Court

As will be apparent, I see very little scope for the royal prerogative of mercy in Britain today. Even the early release of prisoners to relieve problems of prison overcrowding is governed by statute, as it should be. The contrast between our law and that of the United States, as they now respectively stand, appears to be stark.

---

*"the President is free to exercise the pardoning power for good reason, bad reason or no reason at all."*

---

The contrast prompts three comparative reflections, with which I close. First, the American approach to the presidential pardon power, as expounded even in the most recent cases, highlights the tenacity with which the courts have adhered to an originalist view of the Constitution. There is no trace in this context of the "living instrument", "living tree" approach to constitutional interpretation, allowing for organic development over time.

Secondly, the comparison highlights the literalness with which American lawyers tend to interpret their Constitution. The view that the president can lawfully exercise the power to pardon himself depends on the absence, in the text, of anything to suggest that he may not. If Tony Blair had procured an exercise of the royal

authority, a learned commentator has opined that "the President is free to exercise the pardoning power for good reason, bad reason or no reason at all."

In light of changes made in law of England and Wales over the last 200 years [including the ability since 1907 to appeal against conviction or sentence, the establishment in 1995 of the CCRC, the introduction of a system of parole, the establishment of the CPS, authoritative recognition that the sentencing of convicted defendants is a matter for decision by independent judicial bodies and not the executive, broad acceptance of the principle that public decision makers should give reasons for their decisions and the susceptibility of applications for clemency and almost all prerogative powers, including mercy, to judicial review] I am prompted to ask what need there now is in this country for exercise of the prerogative power of pardon or mercy.



Lord Bingham of Cornhill and Adaku Aragwu

prerogative to pardon him for selling honours, the suggestion that this was a lawful exercise of power would be laughed out of court.

Thirdly, and perhaps anomalously, the British law on this subject would seem to be much closer than the American to the ideals which inspired the American Revolution. The colonists then rejected what they saw as the overweening, unaccountable, all but absolute, power of the English king, replacing it with a republican democracy governed by law. Yet whereas here the royal prerogative of pardon has virtually withered away, the presidential power survives apparently intact.

*This, abridged, Fourth Dame Anne Ebsworth Memorial Lecture was delivered by Lord Bingham on 9 February 2009. Dame Ann Ebsworth (1937-2002) was the sixth female High Court judge to be appointed and the first to be assigned to the QBD. She left a lasting impression on the legal world and the SEC benefited enormously from her involvement over many years.*



Neil Saunders and Stephen Leslie QC



# RESTAURANT REVIEW

## Galvin at Windows, Park Lane, London

BY TETTEH TURKSON



When David Spens QC says to a humble Circuiteer reporter “You must go to Galvins”, what is to be done but to comply? It is for that reason I found myself taking JC to Galvin at Windows. This restaurant is on the 28th floor of the Hilton Hotel in Park Lane and the proprietors, the Galvin brothers, have chosen Andre Garrett as Head Chef.

The restaurant is quite large however it doesn't feel empty and soulless as some hotel dining rooms. That may be due to the panoramic views. The room has windows on three sides with one side looking east towards the city. Even the lesser view to the west is attractive. We chose the tasting menu with matched wines – at a slightly eye watering £110 each (which doesn't come out of Circuit coffers!) – and we did not regret it for a moment. We were naturally concerned that with eight courses and seven wines we would end up both very drunk and uncomfortably full but, so well judged were the amounts, neither was the case.

The meal opened with the veloute of chestnut, mushroom brioche and truffle. It was absolutely flawless. The veloute was truly velvety and the mushroom brioche and truffle butter the perfect companions. Equally perfect in concept but perhaps not so flawless in execution was the slow cooked duck egg with sweet potato puree & marinated autumn vegetables. Whilst

absolutely delicious, I thought this dish could do with a little more of the puree. The soft yielding egg was a delight of egg jelly. The marinated autumn vegetables were basically pickles but provided a welcome contrast with the egg. Perhaps the height of praise was that this was a dish I enjoyed despite not liking poached or boiled eggs.

The third dish was probably my favourite. The “warm Lincolnshire smoked eel, seared foie gras, quince, hazelnut and pickled pineapple” was very simple but its trusting of the ingredients was for me what made it excellent. The balance of smokiness in the eel was perfect and the foie gras melted in the mouth. The quince and pineapple cut through the luxuriant quality of the eel and foie gras so the dish still felt quite light.

The eel's chief competition was the venison. A loin of venison as tender as one could imagine was served with what was almost a miniature little cottage pie of braised venison. Served with parsnip and Savoy cabbage, this was the most traditional of dishes given a bit of a twist. The sauce was a red wine reduction with cocoa. Again the combinations were just beautiful.

After a plate of cheeses without biscuits (whether this was through oversight or by design, it was in fact welcome) we continued to desserts. The tasting menu had one chocolate and one



“trifle”. Trifle was first. As with most things described by restaurants as trifle, this was a layered dessert rather than the thing that you might recall from childhood. The English cider element was what I can only describe as a fizzy apple jelly. The texture to the dish was provided by granita rather than trifle sponge and the custard replaced by mascarpone. I don't see how anyone could not love it and had it been served by the bucket, I'm sure I could have found room. Although I don't adore chocolate the way many do, the bitter chocolate ganache with textures of pear was fun. The pear came in sorbet, puree, dried slice and cubed. The chocolate cream had a little salt for contrast with its bitterness which, as an aficionado of mixed popcorn at the cinema, I knew worked well.

**Cost:** £110 per head (or £58 for 3 courses).


**Verdict:** Galvin at Windows is well worth a visit.

*Tetteh Turkson is a barrister at 23 Essex Street*



# A THANK YOU TO PAST LEADER, DAVID SPENS QC

BY ROSINA COTTAGE

 In January 2007, David Spens QC, recently elected Leader of the South-Eastern Circuit, was taking on a huge task. Criminal fees and problems for the Bar in the crown courts were uppermost and in March the government started a similar process in relation to family fees despite Lord Carter's view that there was no need for changes to the family graduated fee structure. David was on his feet and learning fast. Morning, afternoon and evening meetings and a continual stream of e-mail correspondence were to be the shape of things for the next two years. As ever, he was calm, well-prepared for any

---

*"David was on his feet and learning fast..."*

---

eventuality and with Fiona Jackson his brilliant Recorder to assist, ready to take on anything!

## Diversity

Day to day demands of the Circuit, the crises of the Criminal Bar and the seemingly endless consultation papers from the BSB were handled with

aplomb. The imperative of diversity, realised in his practice, was extended into David's role as Leader. As soon as he was elected he worked towards encouraging participation in the Circuit's activities from its wide and diverse membership. He appointed Mohammed Khamisa QC to help with strategies to stimulate participation on Committees to promote change and encourage those who would not otherwise be involved to join in the challenges faced. There was also to be a scheme for those who would seek to apply for Silk or Judicial appointment, a scheme which has now become a reality with Mohammed Khamisa QC and Frances Oldham QC in position for current and future applicants. His view is that if the public is to have confidence in the justice system, it needs to see itself reflected in the system. The event to launch the scheme, "Against the Odds - A Celebration of Equality and Diversity" was attended by a huge number of supporters of the Circuit and those who David wanted to see more involved. Hundreds of people attended to hear the Attorney-General Baroness Scotland QC, Mr Justice Fulford and Rabinder Singh QC speak to celebrate achievements and promote a more inclusive future. The evening was a huge success, due in no small part to

David's drive and enthusiasm for the project and Mohammed Khamisa QC's team, including Alex Price-Marmion, first as Assistant Junior and then Junior, who did an enormous amount of work.

## Fees

The new graduated fees rates for smaller cases came into effect on 1 May 2007. The controversial VHCC regulations came into force and, whilst progress was made, the issue was unresolved during David's tenure. The controversy about whether to sign the contracts for the rates of remuneration proposed caused no little debate and a media circus. Through it all, David remained calm and continued to work closely and effectively with Tim Dutton QC and other Circuit Leaders. Those of us on the Executive Committee know how difficult these days were and how much pressure there was from the LSC and Ministry of Justice upon those representing the Bar.

## HCA's

As a former Treasury Counsel and an outstanding defence advocate in Silk, David was uniquely qualified to understand how the self-employed Criminal Bar felt about the

developments of both prosecution and defence work in the Crown Court. He could not fail to as daily e-mails from concerned members of the Bar reminded him of diminishing work, deeply-held concerns about the quality of representation and the future of the junior Bar. He felt a long view and a steady nerve was required to take us through this period. However, his cautionary advice was and remains that the independent bar has to remain on top of its game in relation to quality of service and advocacy. Regular meetings with the senior judiciary and close liaison with the Bar Council and the Law Society in relation to this issue was a feature of David's tenure, and remains so under the new Leader, Stephen Leslie QC.

As for CPS London External Advocate Grading and the Rape List, David was instrumental in steering the Criminal Bar through what were very choppy waters. With the help of Nicholas Hilliard QC, a workable scheme was negotiated in very difficult conditions for Grading. After sensitive and time consuming negotiations, the Rape List was re-opened. These negotiations were carried on out of the public eye and the efforts to promote the independent Bar's interests were not always recognised by those involved in applying for the schemes.

## Education

With the concerns of HCAs and the future in mind, David clearly recognised that the educational side of the Circuit was of paramount importance in maintaining the highest standards at the Bar. Joanna Korner QC, Neil Saunders and I organised Bar Conference workshops, the Serious Sexual Offences Seminar in January 2009, and the Jesus College Advanced Advocacy courses. Philip Brook-Smith QC agreed to take on the role of running the Keble College Advanced Advocacy Course in 2007; still regarded as the finest advanced advocacy course in the world.

The high quality Annual Dame Anne Ebsworth lectures continued with the excellent Mr Justice Louis Harms, one of

South Africa's most distinguished judges. The following year, Justice Antonin Scalia, Associate Justice of the Supreme Court of the United States, spoke to a packed and charged audience in the Inner Temple Hall.



Continuing the intellectual challenge at the Bar Conference November 2007 with the workshop 'International Tribunals: Justice or a Propaganda Exercise', there were high profile guests of whom Ramsay Clarke, a former Attorney-General of the United States, was a fascinating and eloquent speaker. The challenge continued in 2008 with one of the most highly attended workshops, 'English and Religious Law: Synergy or Conflict?' moderated by Lord Justice Moses.

## Circuit Membership

Circuit Membership was a priority to David. Membership was extended to the Judiciary of which membership continues to increase. The first honorary members of the Circuit were made in 2007: Sir Michael Wright, Sir John Alliot and Sir Anthony Hidden, each of whom is more than worthy of the thanks of the Circuit for their support over so many years. David also encouraged Circuit membership through the Bar Messes, which flourished and continue to be a strong voice for the Bar on the Circuit.

David was not all work and no play. He is not averse to travel and parties. Circuit trips were strongly supported

and well attended. In 2007 the Circuit visited Istanbul. Among boat trips along the Bosphorus, the diamond trading of Elizabeth Marsh QC and Kim Hollis QC in the Grand Bazaar and the beauty of the Blue Mosque, there was

time for education and an exchange of views and experiences between two very different jurisdictions. In Lisbon in 2008, a shaded and beautiful courtyard provided time to sip wine and share views with the locals, and of course the local Bar.

The Circuit Dinners were addressed by redoubtable and formidable speakers. In 2007, the Right Honourable Sir Anthony Clarke, Master of the Rolls and Head of Civil Justice, and in 2008 the soon-to-be Lord Chief Justice Igor Judge, then President of the Queen's Bench Division and Head of Criminal Justice. They were also graced by wonderful speeches from Nicola Shannon and Alex Price-Marmion, David's wonderful Juniors.

Those of us who worked with David saw his marvellous sense of fun, dedication and industry. We all of us have a profound respect and admiration for the leadership, patience and skill he displayed through what were a highly successful two years at the helm. The Circuit and the Bar in general owe him a great debt of gratitude.

*Rosina Cottage is a barrister at 9 Gough Square and the current Recorder of the SEC*



# AN INTERVIEW WITH MR. JUSTICE CALVERT- SMITH

BY SEBASTIAN GARDINER



Sebastian Gardiner recently caught up with Mr. Justice Calvert-Smith, the Senior Presiding Judge for the SEC, to ask him a few questions.

## Can you explain some of the work of a Presiding Judge?



There are a number of key responsibilities. They include decisions on where and at what level of judge cases should be tried, deployment of judges and oversight of the deployment of District Judges. It is a very demanding job these days because of the increased involvement of the judiciary in the running of the criminal justice system and the courts in particular as compared with only a few years ago. A great deal of time when I'm not actually sitting in court is taken up with presiding duties. We're closely

involved in the welfare of judges, any problems they have, sickness problems or alike, their annual leave, their requests to go abroad on conferences. Applications for "tickets" take up a huge amount of time. There is almost always a competition running with which we are more or less concerned whether QCs, DDJs and DJs, Recorders, CJs and SCJ.

## How are 'tickets' decided?

We take soundings from, in particular, Resident Judges and, in the case of Recorders, if they don't sit at the same court all the time, more than

one Resident Judge. We also receive recommendations from the Leader of the Circuit or anybody else, such as a Head of Chambers. If anybody wants to put in a good word for someone, it's welcome. The Presiding Judges also grant appeal tickets and authorisations to sit at the Central Criminal Court. We recommend rape tickets to the Senior Presiding Judge, currently Lord Justice Leveson. We also recommend murder and attempted murder tickets to him and they're, as it were, signed off by the Lord Chief Justice. There were 243 'ticket' applications of various kinds this year.

## **Do you think the judiciary in general has changed significantly during your tenure as the Presiding Judge?**

I think that it is changing slowly. If one looks at the District Bench and perhaps even more so at the Deputy District Bench, it is far more gender and race representative than it was. The change has been very slow at Circuit Bench, let alone High Court Bench level, but it is changing.

## **How do you think that the change at the Crown Court level can be accelerated?**

Well, I think it's very difficult. One way will be for younger judges, to be appointed than hitherto because the profession has a different balance both gender and race wise, the younger it gets so to speak. The younger your pool of judges the more diverse it is likely to be. On the other hand, I am bound to say, that if you become a judge, particularly a Circuit Judge very young, you're pretty well stuck with it. The experience of many judges is that 15-20 years is as long as you really want to do a job, which is a fairly isolated, and, even at Crown Court level, a fairly repetitive job and one which you could easily lose enthusiasm for if you had to do it for a lifetime. You don't jump from court to court, prosecution to defence, to doing a bit of civil or tribunal work. You just turn up at the same court each day. Another way to effect change is by aggressive campaigning to get people to apply in the first place. The third way, which I think is gradually coming in, is to make it a more flexible job, i.e. more opportunities for part-time working, which encourage more carers, i.e. more women, by and large, to do it and so on.

## **Do you still enjoy being a judge?**

I love being a judge but then I've only been doing it for a few years. I was only appointed in 2005. I have the privilege of: a) not sitting in the same court all the time and b) by and large, trying interesting cases in which the calibre of the advocates before me is of the highest class.

## **In the last article you did for The Circuiteer you said that you wanted to sit in all the different courts. Have you managed to do that and do you have a favourite?**

I've sat at almost all the London courts but not as yet at Croydon. I have sat at most but not all the courts outside London. I have visited all the Courts on the circuit. For historical reasons, because it's where I did much of my sitting when I was an Assistant Recorder in the early 1980s, I rather enjoy going to Inner London. Sitting at the Old Bailey is enormously exciting. I've done some interesting trials there.

## **The atmosphere at the Old Bailey seems the most relaxed of all the courts.**

I can see why that might be the case. I think the Central Criminal Court, if it is measured by the statistical measures that are applied to all the other courts in the land, really without exception, might be thought to be performing extremely badly. Cases take an awful lot longer to come to trial, etc. But the fact is they are the most important and difficult criminal cases, certainly in the South East. So they are dealing with, by and large, a rather different

animal. Because the cases are toward the upper end of seriousness, the advocates concerned tend to be the more experienced advocates, the ones who need the least chivvying.

## **What major pieces of legislation do you feel have the most impact since you became a presiding judge?**

The 2003 Act was obviously huge. Hearsay, bad character, etc. has had an enormous effect. I think the ECHR/ Human Rights Act has now settled down. I don't think it had quite the dramatic effect it was predicted to, in crime at any rate, although it's something we all think about when we're making applications or deciding them. I think POCA has had quite an effect. Courts like Southwark are finding that an awful lot of their time is being spent post-conviction on confiscation and so on.

## **What about terrorist offences?**

Those are very, very new and some of them are very different to the sorts of offences we've been used to prosecuting and defending over the years. I think there is still some way to go before the scope of those offences settles down because clearly some of them are very widely drafted. A combination no doubt of prosecutorial discretion and judicial interference is already beginning to confine some of these offences within acceptable limits.

## What are your views on the increasing presence of HCAs in the Crown Courts?

On the general topic, the judiciary and this bit of the judiciary in particular, is not concerned with who the advocate is, whether he or she is a solicitor, barrister, employed or self-employed. All we are concerned with is that they do a proper job, that they only do work for which they are qualified and that they put in the necessary preparation so that the case can be presented as efficiently and speedily as is consistent with justice. Their background is really of nil importance. To the judge, all that we are concerned with is getting justice done properly. As someone who believes that his own abilities and those of his contemporaries were enhanced by the experience of both prosecuting and defending I would deplore a polarisation of the profession into prosecutors and defenders. What we haven't got at the moment, but I know is in the pipeline, is a system of quality assurance. If you except things like Silk, which is clearly a mark of quality achieved after a very rigorous process, and at the other end if you except call to the Bar or admission as a solicitor with higher court rights where you must be taken to have achieved a basic level of competence, within those two extremes Carter recommended that there should be as well as best value assurance, keeping the costs to the tax payer down but at the same time trying to ensure that the cost didn't actually eliminate quality. I am a strong supporter, I think we all are in the judiciary at my level, of a workable quality assurance scheme which will enable a system, principally run by the judges, who are the best people in my judgment to make these assessments, to ensure that people aren't performing at a level they shouldn't be so that the tax payer is funding a economic and high quality service.

## Do you think that there is a sense among the judiciary that standards have slipped?

I think there's always going to be in a judiciary, the majority of which is in its 50s and 60s, a feeling that things aren't as good as they were in the old days. But perhaps that is without an appreciation of how much more difficult it is now, with disclosure, hearsay and bad character applications which never had to be made before. And of course a welter of new legislation on evidence, substantive law and sentence. Life hasn't been made any easier for the practitioner. I don't think that there's really too much cause for concern. I do think that there have been occasions and they are frequently reported to me, where people are doing work which is clearly beyond their capability or in the alternative, where some people are doing work without having properly prepared for it even though they have the ability. That has always been the case. Some judges in some courts think that's more of a problem now than it was.

## Finally, are there any significant changes you anticipate in the next few years? Anything you think will be a real feature in the court or the trial process in the coming months?

I think that there is a risk that the huge financial pressures that the system will come under over the next few years combined with no perceptible dip in the amount of work that needs to be done in the courts - I'm including all the courts here: criminal, civil and family - may ultimately mean that in order to get the business done there will have

to be changes in the way we do the business because we simply will not be able to afford to do it in the way we currently are. Whether that will reflect in the Crown Court, the County Court or in the way family matters are dealt with, or a combination of all three, I don't know but I think that is a real concern. We will simply not be able to go on making it slightly more efficient here and slightly more efficient there if we're to achieve the savings that are going to be necessary to stay within an ever-reducing budget. One fear (and the possibility has been there for some time) is for jury trials to be reduced, not as has historically been the case, by making more and more offences summary only or either way, but at the top end, with the serious fraud and the "jury nobbling" provisions, there may be a trend towards cases being tried by judge alone. That would be a very significant change because I fear that, once the wedge is driven in, it will be easier to bang it in a bit further every so often, than to pull it out.



*Sebastian Gardiner is a barrister at 25 Bedford Row*



1st-7th  
AUG 2009

A black and white portrait of a man with a mustache, wearing a white wig and a dark coat with a white cravat. He is looking slightly upwards and to the left.

## THE SOUTH EASTERN CIRCUIT

Invites applications to attend the  
**Criminal Florida Advocacy Course**

### University of Florida Gainesville

The SEC seeks 4 scholars of up to 5 years' call to attend this year's Florida Advocacy Course. The course is accredited by the Bar Standards Board (9 hrs advocacy, 3 hrs ethics, 33 hrs CPD) , and comes highly recommended by previous invitees.

The course fees and accommodation are all funded by way of scholarship. Flights are not provided.

If you are interested in attending, please send a CV and covering letter to [smagee@2bedfordrow.co.uk](mailto:smagee@2bedfordrow.co.uk)





# QAA PILOT: THE ART OF ADVOCACY?

BY MONICA STEVENSON



On 26 February 2009 a briefing organised by the South Eastern Circuit and chaired by Stephen Leslie QC was held at Inner London Crown Court on the Quality Assurance for Advocates (QAA) pilot. A panel made up of representatives from the Bar Council, CBA, Legal Services Commission (LSC), senior Judiciary and Cardiff Law School (the latter having been contracted to oversee the project) was on hand to explain how the pilot will work and to address any concerns/questions.

The idea for a quality assurance scheme for advocates was first put forward by Lord Carter as part of his recommendations for legal aid review, following which it became the subject of a working group and consultation paper ("Creating a Quality Assurance Scheme for Publicly Funded Criminal Defence Advocates", July 2007). Over the past two years, a venture by the Legal Services Commission and Ministry of Justice has overseen the design of a pilot that will involve testing the assessment components of a QAA system.

The political thinking behind the proposal is to ensure public confidence in the ability of advocates to manage their cases effectively and, as one panel member noted, to protect against the risk of "best value tendering based solely on the question of price, irrespective of the quality of advocate". The QAA system will also seek to address the problem of some

advocates taking on cases outside their professional competence (including "straw juniors").

Whilst the pilot looks set to focus on the assessment of criminal defence advocates, it is expected that any final scheme will apply in time to all advocates (i.e. prosecutors and defence, employed and self-employed, barristers and solicitors). At the briefing it was confirmed that the current DPP, Keir Starmer QC, has expressed some support for the pilot scheme and it is anticipated that some employed prosecutors will be taking part.

The focus of the QAA pilot is to identify the best means of assessing the skills of advocates and "establish whether the proposed instruments of assessment do in fact work". The objective is therefore to test the methodology of assessment rather than participants themselves. If, at the end of the pilot, some of the assessment methods prove unworkable or unfair, they will not survive the final QAA agenda. The findings of the pilot will result in proposals for public consultation prior to the implementation of a final scheme.

## Methods of Assessment

Participants in the pilot will be assessed in some or all of the following ways (the first three taking place at an attendance

centre on a single date):

- i. **Multiple choice tests** (on topics of law)
- ii. **Portfolio examination** (describing two active cases)
- iii. **Simulated advocacy** (fictitious advocacy exercise in front of a team of assessors)
- iv. **Judicial evaluation** (written feedback from trial judge concerning the performance of an advocate over the course of a trial at a designated court)

The assessors, all of whom have received some form of assessment training, will include practising barristers, solicitor advocates, QCs and Recorders. Amongst their number will also be persons experienced in assessment and evaluation. Feedback on performance will remain confidential and be disclosed only to the researchers at Cardiff Law School; however participants may well be permitted to use positive feedback in support of future applications for grading.

## Participating in the Pilot

Full details of the pilot can be found in the QAA circular issued by the LSC on 4 February 2009, a copy of which has been distributed by e-mail. An Expression of Interest Form must be completed and sent to the LSC. Anyone

taking part in the pilot will receive a more detailed guide in due course.

The Legal Services Commission has made it clear that one of its priorities is to aim for a good demographic balance amongst the pilot participants (women, black and minority ethnic groups etc.) in order to test the impact of the assessment criteria on different groups of advocate.

---

*"The Legal Services Commission has made it clear that one of its priorities is to aim for a good demographic balance..."*

---

The pilot will see up to 250 advocates being assessed at several different crown courts (Winchester, Cardiff, Birmingham and Inner London), with assessments carried out in four stages, according to the complexity of work undertaken; for example, advocates covering "standard" crown court cases will be assessed at Level 2 in April-May 2009 and Level 4 advocates (including QCs) covering "the most complex crown court cases and appeals" will be assessed in June-July 2009.

### Judicial Evaluation

As far as possible, each volunteer will be assessed over the course of a single trial at a designated court, with written feedback being provided by the trial judge. The trial will need to be

listed during the nominated time for assessment (e.g. April-May for Level 2). At the briefing, opinion on the merits of this part of the assessment process was mixed. Some were of the view that judges are in the best position to assess differing standards of advocacy whilst others raised concerns about the potential for such an option to temper the robustness of advocates (to the detriment of the lay client). Mr. Justice Calvert-Smith spoke of the judiciary's concerns about the potential for such a scheme to "open up a rift between the Bench and professions" and said that judges were alive to the problem of "catching someone on a bad day".

Another concern aired at the briefing related to the fairness of assessing advocates' conduct at trial when, for reasons of client confidentiality, a judge may not appreciate the reason(s) for a particular decision or case strategy. The panel was asked how such matters will be taken into account in the course of any assessment. A representative from Cardiff Law School sought to allay these concerns by saying that advocates could "explain any decisions taken at trial in their portfolios", although it was pointed out by the Chairman of the CBA, Peter Lodder QC, that this risks breaching professional privilege. It was accepted by the professional development team members of Cardiff Law School that previous advocacy assessments have not been especially trial-focused. This may therefore prove to be one of the more challenging aspects of the process however the validity of these and other concerns will not be fully realised until the pilot is complete.

### Summary

The panel were keen to emphasise the importance of ensuring that the final scheme is both workable and fair. Keeping assessments simple and to a minimum is also said to be a priority. Mr. Justice Calvert-Smith, speaking on behalf of the senior judiciary, noted that the QAA pilot will provide an opportunity to develop a clearer scheme than the one currently in force for prosecutors. He also said that judges are keen for a single system applicable to all advocates.

The Chairman of the Bar, Desmond Browne QC, said that those representing the Bar are alive to the perception of 'Big Brother' meddling but that collective interest in the pilot provides the best means of avoiding a system being "imposed from on high". He also pointed out that being seen to be fearful of assessment will do little for public confidence in the profession. The general consensus was that such a development is inevitable and to this end, it is only right that the Bar play an active role in the formation of an effective and fair QAA scheme. The advice of the panel and the mood of the meeting was that participation in the pilot was to be encouraged.

*Monica Stevenson is a barrister at 25 Bedford Row*

## AGAINST THE ODDS...

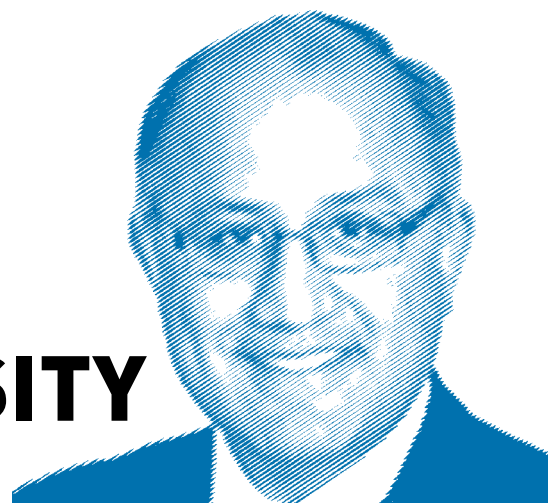
see following page >





# AGAINST THE ODDS: A CELEBRATION OF EQUALITY AND DIVERSITY

BY MOHAMMED KHAMISA QC



On 20 January 2009 400 guests and Circuiteers packed the Middle Temple Hall to hear a number of prominent speakers talk frankly about their experiences as they broke the mould in name of equality and diversity.

First to speak was David Spens QC, the immediate past leader of the Circuit and the architect of the event entitled 'Against the Odds: A Celebration of Equality and Diversity'. David pointed out that the SEC was the most diverse of all the Circuits in terms of background, race, colour, religion, gender, sexual orientation, disability and age and that the Bar compares favourably with other professions, particularly with regard to the ethnicity and gender balance at the Junior Bar. However, David said that the SEC can and should play an active part and should exert positive influence to make change happen in order to alter the mix of judges. He said, "The judiciary will only flourish and retain the public's confidence if it attracts people – regardless of gender - from all socio-economic and ethnic backgrounds." David announced a new initiative by the SEC to set up an Appointments Advisory Panel (APP) to support those who wish to apply for judicial office and Silk but who feel they need advice and guidance in making their applications. David's message was, "This is an inclusive Circuit. It is 'one Circuit' as it is 'one Bar': If you participate in the Circuit's activities you will see your involvement, your investment, make a

difference, not just to your future but to the future of the profession and those who follow you."

The main speaker was Attorney General, Baroness Scotland of Asthal, QC the first black cabinet minister and woman to

---

*"All our public institutions need to step up to that challenge."*

---

occupy the office of Attorney. She spoke about the very many achievements of the various government agencies in meeting targets in this area. She said that, "The experience of the CPS has shown that overdue, genuine change can be achieved if there is commitment, imagination, ambition and drive. All our public institutions need to step up to that challenge." Baroness Scotland went on to say, "All my life, I have striven to be part of the solution, not the problem; to play my role in the shaping of our public institutions and, through that, to become part of well-needed and overdue change in those institutions."

Sir Adrian Fulford, Britain's first openly gay judge, described his "bizarre and depressing" experience of applying for judicial appointment. He said that his first application to be an assistant Recorder in 1994 "caused real consternation" but since then, "we have come a long way." Sir Adrian said, "My personal experience has been

that times really do change - indeed at an accelerating rate, and I urge you not to give up and tell your friends not to give up . . . and you will ensure that the judiciary is truly open to all those who, on merit alone, deserve to be appointed." He predicted that the judiciary would soon reflect more realistically the composition of the legal professions, which in turn was undergoing radical transformation. With a little courage, he said, seismic change was possible.

Rabinder Singh QC spoke positively about his experiences and his own career. Rabinder has developed a formidable reputation in human rights law and sits as a Deputy High Court Judge. He gave encouragement to those who were thinking of applying for government lists by his own experience of what could be achieved.

Stephen Leslie QC, the new Leader of the SEC, spoke of the need to continue the good work which had been done, to which end he announced the appointment of a second SEC Equality and Diversity Mentor, Frances Oldham QC. The Leader emphasized the need for the whole of the Circuit to act as a united team

The evening proved to be a huge success and very many positive responses have been received.

*Mohammed Khamisa QC is a barrister at Charter Chambers and the SEC Equality and Diversity Officer*



# THE SOUTH EASTERN CIRCUIT BAR MESS FOUNDATION Advanced Advocacy Course

## Keble College, Oxford

### Tuesday 1st – Saturday 5th September 2009

The Circuit runs this advanced course for practitioners in both civil and crime who are interested in refining their advocacy skills. This course provides 45 hours of the CPD requirements of the New Practitioners' Programme, including 9 hours advocacy and 3 hours ethics.

Prices: £995 for criminal course, £1,335 for civil course, £1,990 Non-SEC member, £2,115 Solicitor (all plus VAT). Family practitioners refer to Inge as necessary.

Open to members and non-members of the Circuit.  
Please visit [www.southeasterncircuit.org.uk](http://www.southeasterncircuit.org.uk) for further information.

Alternatively, contact **Inge Bonner** on **020 7242 1289**  
or email: [ibonner@barcouncil.org.uk](mailto:ibonner@barcouncil.org.uk)





# CIRCUIT TOWN: LEWES

BY MARCUS FLETCHER



Lewes is a beautiful county town enclosed within the heart of the South Downs and set beside the navigable river Ouse. It is served well by public transport (trains run every 30 minutes from/to Victoria) and is just a short walk from the station. From the station you turn right, proceed up Station Street and once you have reached the High Street, the crown court is in front of you.

A short walk along the High Street from the court is the majestic Lewes Castle. It dominates the Townscape and is well worth a visit if time permits. What makes Lewes such an interesting town, however, is the range and variety of independent shops found amongst its many twittens and alleys. Bonne Bouche Confectionery is a must if there is someone who needs to be spoilt. They sell the finest Belgian chocolates, are very reasonably priced and can be found off the High Street in St Martin's Lane. Another useful outlet is the Vintage Shirt Company whose apparel includes collar studs and court shirts. They are located behind the court in Mount Place.

Lewes boasts one of the finest crown courts on the South Eastern Circuit. It is housed in an impressive Victorian building of both historical and



architectural distinction. It formerly housed the county council debating chamber but reverted to exclusive court use when the council moved to Pelham House. Curiously, the number of tiled Victorian toilets seems to arouse the greatest interest on court open days. Although the building is old it has the convenience of all the modern facilities one would expect of a modern crown court. If you are lucky enough to visit you will appreciate the friendly staff and the benefits of the court café (all profits go to charity).

Lewes is the first tier crown court centre for the whole of Sussex and is presided over by the Senior Circuit and Resident Judge HHJ Richard Brown DL who also holds the title of Honorary Recorder of Brighton & Hove. There are four Crown courts at Lewes and a further four at Hove and two in Brighton, making it a ten crown court centre. Cases of note tried at Lewes include the trial of John Haigh, a Crawley man who committed the grisly acid bath murders in the 1940s. John Bodkin Adams was committed from Lewes. He was an Irish-born British general practitioner,

convicted fraudster and suspected serial killer. Between the years 1946-1956, more than 160 of his patients died under suspicious circumstances. Of these, 132 left him money or items in their will. He was later acquitted of murder. More recently, the first Sion Jenkins murder trial was held at Lewes Crown Court in 1998.

If it's lunch you're after, there is Fillers sandwich bar in Market Street. For a sandwich or focaccia of distinction you can do no better than Beckworths, which is on the High Street. A more substantial meal may be had at the Pelham House Hotel or the White Hart Hotel (also convenient if you need to stay the night). For the real ale enthusiasts, the Lewes Arms is a must. Indeed, it is a favourite amongst most of the Sussex Bar. Harveys Beer is on tap and since the Brewery is a stone's throw away, you may notice the smell of hops waft across the town on brewing days.

*Marcus Fletcher is a barrister at 1 King's Bench Walk and Junior of the Sussex Bar Mess*





# BAR MESS REPORTS

## CENTRAL LONDON BAR MESS



All change at the CLBM: after years of loyal service to the Mess (and indeed the circuit)

Joanna Korner QC, always so ably assisted by Gareth Patterson, gave way – after a hotly contested election – to circuit blondeshell, Sarah Forshaw QC. Forshaw took little time in imprisoning some of the more ‘respectable’ judiciary at the Tower of London for the CLBM annual dinner. Guests of honour included a welcome breath of fresh air from up North (Birmingham is up north, isn't it?) - The Hon Mr. Justice Saunders - who became Presider of the Circuit

---

*“...we can confirm he is clearly a party animal”*

---

(taking over from Gross J) in January of this year: very much an introductory occasion as between Saunders J and the CLBM. But we can confirm he is clearly a party animal - thoroughly good company and devoid of all airs and graces. We have no doubt he will become an essential invitee to all of the best dinners. Ex-presiding judge, The Hon Mr. Justice Penry-Davey, was also invited because we just could not permit him to fall off our guest list. And he can always be relied upon (so it seems) to respond to very last minute calls that he entertain us all with a version of Grace. Also present and on cracking form most of our resident judges: Chapple (v. late stayer), Rivlin, Byers and Collins.

Meanwhile, at Newington Causeway, genuine affection and a huge turnout was shown by the Mess at HHJ Campbell's valedictory. Before throwing his wig into the well of the court (to be replaced by a stylish baseball cap),

Quentin treated the Bar and Judges to champagne and canapés, all served by the other HHJ Campbell (from Reading) and offspring: a great sendoff for a much-loved judge.

Quite what Judge Campbell, a former solicitor, would have thought of the QAA pilot scheme at Inner London and Blackfriars may never be known... Mess members are encouraged to participate and send any constructive feedback to the Mess. [jonathan.polnay@5kbw.co.uk](mailto:jonathan.polnay@5kbw.co.uk) will ensure your views are faithfully recorded.

*Jonathan Polnay*

## CAMBRIDGE & PETERBOROUGH BAR MESS

The fast winds of change have blown through our Courts with the appointment of three new Judges, HHJ Bate in Cambridge and HHJs Enwright and Maloney in Peterborough, and the retirement of two, HHJs Sennitt and Blomfield – both much loved by all practitioners who are sorry to see their great humanity and humility leaving the Bench. HHJ Hawkesworth has been appointed Resident Judge at Cambridge, with many thanks going to HHJ Haworth (who remains in Cambridge) and who held the position for as long as many of the Juniors can remember (he oversaw the “hurrah” of the new Court building). A very successful dinner was held to recognise the retirements and new appointments – many thanks to all who attended.

New electronic “Trial Readiness Forms” are being piloted in Peterborough and have caused immense difficulties for practitioners – this is a topic of frequent discussion between practitioners and the local Judiciary ... watch this space as we are told that it, or something similar, is to be rolled-out countrywide.

We need to ensure that the Bar does not get told to do yet another job for no pay when there is a system of “Case Progression Officers” within the beloved Criminal Procedure Rules – at last we may find an ally in the ‘small print’?

Election fever struck: Georgina Gibbs was elected to become the 2nd Assistant Junior to the S.E. Circuit Committee – huge congratulations to ‘Georgie’ as the first member of 1 Paper Buildings whom we can recall securing such an elected post. She has already made a big impact on the Committee, being involved particularly in the drive to increase membership and regularly attending the meetings of the S.E Circuit Executive Committee. Well done to Azza Brown, who was elected to take Georgie's place on the Mess Committee as the Junior Circuit Rep. Azza has already attended Circuit Meetings on behalf of the Mess.

Looking ahead, apart from the summer drinks party and sunny welcome to the Higher Judiciary who visit our little haven. The highlight is likely to be the mock trial which the Mess is organising with the students of a local school – thanks to HHJ Hawkesworth and the court staff for agreeing that we can use one of the court rooms. Pupils will act as counsel, witnesses, defendant, jurors and court staff. The Mess Chair will act as Judge whilst members of the Mess have agreed to act as mentors to the pupils involved. It promises to be a pretty lively occasion!

*Karim S. Khalil QC*

## SUSSEX BAR MESS

The Sussex Bar Mess Annual dinner had Judge Cedric Joseph and his wife as their guests of honour to mark the retirement of Judge Joseph from the Bench. The dinner was on the 17th April at the Hotel du Vin in Brighton. Members of the Mess, local judiciary

and the Circuit Leader attended. Stephen Leslie QC proposed the toast to the Judge and we were then entertained by a reflective speech by Judge Joseph. To the credit of the Junior, the evening proved a great success and showed the continuing good relationship between the Bar and Bench in Sussex.

Two calendar dates: The Mess AGM at Westgate Chambers, Lewes at 6pm on 18 June and the Annual Garden Party this year returns to the delightful home of Judges Coates and Tanzer on Sunday 12 July. It will no doubt be the usual fun family occasion. Marcus Fletcher, Mess Junior will circulate forms soon. Please contact him if you don't get a form, but wish to go.

Finally, we welcome Michael Lawson QC, who has now crossed the Weald to become a permanent Judge in Sussex.

*Jeremy Wainwright*

## HERTFORDSHIRE & BEDFORDSHIRE BAR MESS

Recent events have included a Quiz Night organised by the staff at Luton

Crown Court which was well supported by the Bar and by local solicitors. The table including HHJ Bright QC and Andrew Jeffries QC impressed with its knowledge of nursery rhymes and Formula 1, if not the Italian language, despite having a member with Italian roots. The evening was a success, with the proceeds going to charity.

The Mess is in the process of amending its constitution and will be holding a meeting shortly to discuss and approve the draft.

*Fred Ferguson*

## KENT BAR MESS

Another year brings another turn of the judicial merry-go-round in Kent. 'Whispering Mike' Lawson has broken the hearts of many by leaving us for Sussex, though we are extremely fortunate that Philip 'The Saint' St. John-Stevens has stepped up to replace him. The Mess wishes Judge Lawson the very best on his move to the west, and congratulates Judge St. John-Stevens on an appointment richly deserved. As I write, there are rumours of other members of the Mess about to be swathed in purple though, of course, no-one will actually confirm or deny. In

the meantime we avidly scan The Times Register for the judicial equivalent of papal smoke.

Congratulations go also to Alan Kent on taking silk. A man of such stature they named the county after him (well almost), we hope that his elevation to the Olympian heights will not prevent the occasional visit to Maidstone. Such was the demand for him as a prosecutor, it is said that he hasn't defended anyone since the turn of the century; with luck he will rediscover that exquisite joy in one of our own courts, mad socks and all.

This year the Circuit Committee is planning a series of 'roadshows' around the courts, with Maidstone pencilled in for late July; further details will be posted in the robing rooms as they become available. One date already carved in stone is the Mess Annual Dinner on Friday 27th November, in Lincoln's Inn Old Hall. Tickets are heavily subsidised for those under 5 year's call; the Junior will be pleased to provide further details to those who would like them.

*N. Victor*

## 24th Annual Bar Conference Access to Justice – Justice for All?



Saturday 7th November 2009, Royal Lancaster Hotel, London

The Conference will feature:

- Keynote speech by Sir Nicolas Bratza, Vice-President of the European Court of Human Rights
- Choice of 11 workshops organised by various SBAs, Circuits and Committees including one organised jointly by South Eastern and Midland Circuits: "Cultural Practices in Conflict with the Law"
- Full exhibition of products and services of interest to members of the Bar
- Ever-popular Open Forum Debate

Plus up to 6 CPD points available for all attendees.

The SEC has announced that it will pay £100 towards the delegate fees of each of the first 20 of its members who sign up for the Bar Conference. When booking opens (in June), SEC members should register for the Conference and apply for a £100 refund by sending a copy of the completed Conference Registration form to the Circuit Assistant Treasurer, Giles Colin at 1 Crown Office Row Chambers (0207 797 7500). Refunds will be offered on a first-come, first-served basis.

A limited number of grants are available to subsidise attendance by pupils.

For further details visit [www.barcouncil.org.uk](http://www.barcouncil.org.uk) or contact Judy Lane Consulting tel: 01202 699488 email: [office@judylaneconsulting.com](mailto:office@judylaneconsulting.com)  
The full programme will be available from mid-June 2009.



*Instruction to your  
Bank or Building Society  
to pay by Direct Debit*

*Please fill in the whole form using  
a ball point pen and send it to:*

**Inge Bonner**  
**The General Council of the Bar**  
**289-293 High Holborn**  
**London WC1V 7HZ**  
**DX 240 LDE CH LANE**

*Name(s) of Account Holder(s)*


*Bank/Building Society account number*

--	--	--	--	--	--	--	--

*Bank/Building Society account number*

--	--	--	--	--	--

*Name and full postal address of your Bank or Building Society*

<i>To: The Manager</i>	<i>Bank/Building Society</i>
<i>Address</i>	
<i>Postcode</i>	

*Originator's Identification Number*

8	3	0	7	5	7
---	---	---	---	---	---

*Originator's Identification Number*

O	C	T																	
---	---	---	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

**Instruction to your Bank or Building Society**

*Please pay The South Eastern Circuit Bar Mess Direct Debits from the account detailed in this Instruction subject to the safeguards assured by the Direct Debit Guarantee. I understand that this Instruction may remain with South Eastern Circuit Bar Mess and, if so, details will be passed electronically to my Bank/Building Society.*

*Signature(s)*

*Date*

Banks and Building Societies may not accept Direct Debit Instructions from some types of account







## MEMBERSHIP FORM

### MEMBERSHIP FEES

*Silk* **£75** ☐

*Over 5 years call* **£50** ☐

*Under 5 years call* **£25** ☐

### YOUR DETAILS

I am an self-employed/employed practising member of the Bar of England and Wales and desire to become a member of the South Eastern Circuit Bar Mess

<i>Name</i>	
<i>Address [Business]</i>	
<i>DX</i>	
<i>Email [Business]</i>	
<i>Address [Home]</i>	
<i>Inn of Court</i>	
<i>Admission Date</i>	
<i>Call</i>	
<i>Pupillage (1st six)</i>	
<i>Pupillage (2nd six)</i>	
<i>Signature</i>	
<i>Date</i>	

### PROPOSER

Must be a paid up member of the SEC

<i>Name</i>	
<i>Signature</i>	

