

# The Circuiteer



News from the South Eastern Circuit

Issue 29 | Autumn 2009

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Fiona Jackson, Tanya Robinson,  
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# LEADER'S COLUMN

## A GREAT DEAL DONE; MUCH MORE TO DO

BY STEPHEN LESLIE QC



It has been nine months since I commenced my role as Leader of the SEC and whilst it has been unquestionably a very busy time, I have thoroughly enjoyed every moment of it. I am delighted to represent you and am pleased to say that our membership is up by 160 since the beginning of the year. The SEC is becoming more active and stronger by the day as we address problems of encroachment by others on our work and keep providing training to ensure we supply the best possible advocacy competitively. I would strongly encourage anyone within our jurisdiction reading this who is not already an SEC member to fill out the membership form on the back page and send it to us. As I never tire of saying, having borrowed this motto from Aesop, someone who has certainly stood the test of time: "United we stand, divided we fall."

I'd like to congratulate all of the new Silks on the SEC. They provide both an example of excellence within the profession, as well as being an important symbol of the continuity of high standards of advocacy in a new generation. I would like to assist the most able members of the SEC who are still juniors to take Silk and/or sit, should they aspire to, in order that quality within the profession is continually improved and acknowledged; to that end, we will be announcing a mentoring scheme in the New Year.

Our Annual Dinner held in June in the Lincoln's Inn Great Hall was a great success. The great and good of the SEC and the Judiciary enjoyed a marvellous evening of stimulation and revelry, which showcased the best that the legal world has to offer. Amidst the glamorous outfits, paraded in the balmy evening of Lincoln's Inn gardens, the chaps made sure that they were not outdone by the ladies. I wore the Leslie tartan trousers and waistcoat which are pictured

in these pages; this was certainly a first by a Leader and attracted comment! Some 300 people attended which is testament to the popularity of past Leader and great Circuiteer, Penry-Davey J. His outstanding after dinner-speech was so entertaining that following repeated requests for a copy, we have decided to re-print it in full in these pages; it brought the house down.

Many past Leaders attended, but in particular we missed much loved past Leader, Sir Anthony Hidden, who unfortunately could not attend but remains interested in the work of the SEC. He would be pleased to hear from members of the Circuit and those who would like to can forward emails to me. We have received lots of lovely messages, congratulating us on the success of the evening. This is in large part due to everyone who worked hard behind the scenes, the Recorder, Junior and in particular the 'dinner lady', Tracy Ayling QC of 2 Bedford Row, who assisted massively with all of the arrangements; if she is anything like as good an advocate as she an organiser, she must be a fabulous brief. Thank you to those who attended and to those whose input contributed to the evening being a truly memorable night – for all the right reasons!

The Circuit Committee and Executive have been very dynamic in dealing with all the issues facing us at present. My thanks to the outgoing members of the Executive Committee for their work and I would like to welcome the incoming Executive team for the next six months. Neil Saunders and Dee Connolly replace Sean Larkin and Jason Sugarman, and represent Elected Members; Sarah Forshaw QC replaces Karim Khalil QC, as Bar Mess Chairs representative; and Tanya Robinson and Jeremy Wainwright replace Kate Mallison and Matthew McDonagh, as Bar Mess Representatives. Please note these changes and contact the relevant people if

you have any matters you wish to raise.

At my request, Calvert-Smith J, Bean J and Saunders J, have attended Circuit Committee meetings with the same purpose that Messrs Pogson and Budgen, Directors for London and the South East respectively, and Baroness Prasher attended Executive Committee meetings: to answer questions on judicial selection and sittings, courts operation, QAA, and other significant issues. We will continue to ensure that matters important to the Bar are kept vibrant and alive by meeting with the relevant individuals and informing them of our views and concerns.

Our new-look SEC website is now up and running. It can be visited at [www.southeastcircuit.co.uk](http://www.southeastcircuit.co.uk) and it will bring you up-to-date on all matters Circuit-related. Many thanks to Faisal Osman for carrying out so much work on this. We strive to keep our news current and have reflected in our amended application form the position that employed barristers number amongst our members and are welcome. We have also had a marvellous response to the new-look Circuiteer, for which the Editorial Committee of Ali Bajwa, Fiona Jackson, Tanya Robinson, Tetteh Turkson and Emily Verity should be congratulated.

Turning to education, we have had a very successful Keble Advanced Advocacy Course in September. Lawyers from across the world, including Pakistan, Australia, Hong Kong, South Africa and the International Court at The Hague, attended both to teach and to learn. For those Judges and teachers of advocacy who enjoy great standing in their own jurisdictions, there was the recognition that Keble is a very special programme with a world-wide reputation for honing students' skills, while putting tutors through their paces. My attendance as tutor was quite an experience. I was truly



impressed by the standards of advocacy exhibited as well as interested in how many other jurisdictions viewed our own. Students left clearly energised, with one enthusiastic student telling me he had completely revised his tentative early retirement plans to run a village post office, having been invigorated in a way he had not experienced since pupillage. All who attended owe a very special thanks to Philip Brook Smith QC, the course director.

Both Florida visits in May and August and the Masters of Advocacy lectures by Michael Mansfield QC and Jonathan Sumption QC in June and September respectively were very well received. We are fortunate to be

able to launch next year's programme with the Fifth Dame Anne Ebsworth Memorial Lecture being delivered by Lord Hoffman in February. For those of you attended the lecture last year when Lord Bingham spoke on royal pardons and were lucky enough not to be turned away by making use of standing room at the back of the hall, do book early. Bookings will open in December.

I would like to welcome Martin Forde QC, who is our new co-chair of the SEC Equality and Diversity Group, together with Frances Oldham QC. They both have so much energy and an outstanding Committee to support them; I am sure they will achieve much. I have no doubt that we can pull together to

bring about the changes we want. For those who would like to help, please get in touch.

My meetings as Leader of the SEC are too many to detail here. Suffice it to say that I have 8 meetings a week, including at least two meetings that commence at 08.30. As well a lot of contact with the Chairman and Vice Chairman of the Bar, I have had a great deal of liaison with other Circuit Leaders, whom I meet, speak to and email regularly. They, like the Chairs of the specialist Bar Associations, with whom I am also often in contact, are extremely supportive.

SEC involvement in issues professional and social continues to grow. Much as I would like to detail all the kind invitations that have come my way, there is not the room here. However, I would like to give you a flavour of what my diary had included by listing the following engagements:

**April** – I attended a retirement dinner for HHJ Cedric Joseph in Sussex

**May** – I attended the Central London Bar Mess dinner, the Blackfriars Spring Party and chaired the Bar Remuneration Conference

**June** – On a very sad note, I attended a very moving and dignified ceremony for the former Resident Judge at Snaresbrook Crown Court, HH Andrew Brooks; fittingly held in Snaresbrook chapel

**July** – I attended the Midland Circuit Grand Day

**August** – I met with the Heads of the Legal Services

**September** – I attended a function to celebrate the work of the head of the CPS in London on her departure to pastures new. I also led discussions at the SEC's Kent Roadshow.

We are greatly looking forward to the SEC trip to Bruges in October. It provides us with a fabulous opportunity to mix, exchange ideas and forge friendships with one another as well as lawyers and Judges in another jurisdiction. Next year we are tentatively planning a trip to Malta and Gozo, and have already made contact with the Attorney General's department there to compare issues we are experiencing with their system; for those of you who are interested in coming along, please make your interest clear as early as possible.

So, to sum up – a great deal done; much more to do!

*Stephen Leslie QC*  
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Claire Algar is the  
Executive Director of Reprieve

# REPRIEVE: MORAL STANDARDS

BY CLARE ALGAR

*"States are not moral  
agents, people are, and can  
impose moral standards  
on powerful institutions."  
Noam Chomsky (1998)*

In his essay, *Moral Standards*, Noam Chomsky argued that a state's commitment to human rights does not transcend pragmatism, and that it is therefore the task of the individual to pursue these rights even when they seem to conflict with practical concerns. A year after Chomsky's essay was published, Clive Stafford Smith founded Reprieve, a non-profit organisation that investigates and litigates on behalf of prisoners around the world who face illegal detention, torture or execution and do not have access to proper legal representation. Ten years on, the work of individual moral agents at the vast coalface of state human rights abuses seems more crucial than ever.

Reprieve is a small but powerful organisation, consisting of only fifteen full-time staff, five Fellows in the US and one Fellow in Pakistan, plus countless volunteers. After Bush's 'War on Terror' began, our newly-assembled Guantánamo team worked tirelessly to penetrate the fog of silence, lies, obfuscation and rhetoric that hung over the Cuban detention facility, where, astonishingly, the official slogan is: 'Honour Bound to Defend Freedom'. Even after lawyers were finally permitted to enter the prison, the tales of violence and humiliation with which they came away were deemed matters of 'national security' and not fit for public consumption. Their clients were held on the basis of evidence that neither the accused nor their attorney was permitted to set eyes upon, again for reasons of 'national security'. Yet despite dozens of legal and practical impediments, Reprieve has thus far enabled the release of over fifty detainees from Guantánamo.

The prison at Guantánamo Bay is, however, the tip of the iceberg. The US currently operates an enormous international network

of secret prisons in which roughly 16,000 people are still detained in legal black holes, their identities and locations largely unknown. As a result of Reprieve's investigation into Bagram Air Base in Afghanistan, we know that many of them have been tortured, that conditions at secret prisons are generally miserable and that at least one innocent prisoner has been sadistically beaten to death. Reprieve is currently involved in further investigations of this network; we are particularly interested in the British government's complicity in the rendering of British nationals like Binyam Mohamed for torture in other countries by the US, and in the rendering of detainees through British territory, in particular the island of Diego Garcia. One of the more worrying facts about rendition that has come to light is that hundreds of the people captured in Pakistan and rendered to places like Guantánamo and Bagram were sold by Pakistani authorities to the US at a rate of \$5,000 per head; General Musharraf boasted about the huge profits of this practice in his memoirs.

In terms of our death penalty work, Reprieve's task is to attempt to enforce the rule of law on death rows worldwide, and we have clients in the US, Pakistan, China, Malaysia, Thailand, the Philippines, Vietnam and Laos. We act for British nationals so that we can bring the might of the British government to bear on these cases, as the Foreign Office will very often work with us to try to prevent the death penalty being carried out. As well as the stress of the possibility that our clients might be executed, our lawyers are often dealing with arbitrary and abusive judicial systems willing to admit evidence obtained by torture, deny consular assistance, detain people for years without charge and execute the mentally ill. Yet all over the world, it seems, the chasm between rhetoric and reality yawns as wide as it does at Guantánamo. Last October,

Iran announced a directive suggesting that the lives of 130 juveniles on death row would be spared by a change in law. Three days later, the small print arrived: the directive only applied to narcotics offences. No juvenile in Iran is awaiting execution, or has ever been executed, for a drug-related crime.

At Reprieve, we know from experience that people can effect real change in circumstances where the state is unable or unwilling to do so. We do not, however, believe that this excuses governments from their moral obligations towards their citizens, or towards foreign nationals within their borders or under their custody. That is why Reprieve is currently litigating on both sides of the Atlantic to obtain evidence of human rights abuses that the UK and US authorities want to withhold or destroy. We need full disclosure in order to move forward, towards a political environment in which 'national security' does not automatically trump human rights, and away from the circular Nixonian logic that dictates "when the president does it that means that it is not illegal".



Binyam Mohamed

### Ahmed Belbacha

Despite having been cleared for release in February 2007, Ahmed Belbacha remains in Guantánamo detention facility where he has been since March 2002. An Algerian national who lived and worked in England for two and a half years as an asylum seeker, Ahmed cannot return to Algeria for fear of death at the hands of the terrorist organisation Groupe Islamique Armé. While working at the Swallow Royal Hotel in 1999, Ahmed was in charge of cleaning Deputy Prime Minister John Prescott's room during the conference and received a personal thank you note and a healthy tip from Mr Prescott. He is keen to begin rebuilding his life in England or in any country willing to offer him a safe haven after over seven years of illegal and unwarranted detention.

*Write to your MP asking him or her to consider offering Ahmed a home in England*



### Linda Carty

After disastrous failures on the part of her court-appointed lawyer, Linda Carty was sentenced to death for her alleged involvement in the murder of Joana Rodriguez by a Texan court. Because she could not afford to pay for decent legal representation, Linda was defended by

Jerry Guerinot, 20, whose previous clients had ended up on death row. He failed to interview witnesses, to investigate key mitigating evidence, to spot obvious flaws and inconsistencies in the prosecution's case and to inform Linda of her right to British consular assistance. He did not meet Linda until almost immediately before the trial, and then for a total of fifteen minutes. Linda is currently at the final stage of the appeals process; this is the last chance for a court to prevent her execution.

*Write a letter of support to Linda at: Mountainview Unit, 2305 Ransom Rd, Gatesville, Texas 76528, USA. Letters must include a return address.*



### Naheem Hussain and Rehan Zaman

Naheem and Rehan have spent over five years without trial in Mirpur prison in Pakistan. They were tortured for two weeks until they capitulated and confessed to a crime they almost certainly did not commit. The prosecution's case rests on the confessions the police extracted using techniques including savage beatings, pulling out the men's fingernails, 'falaka', an excruciating beating of the soles of the feet with a rod or cane, and 'inverse strappado', in which the victim is hung by his wrists from a hook and kicked or punched repeatedly until the shoulders dislocate. When their case eventually comes to trial, Naheem and Rehan are extremely likely to be sentenced to death if the police's torture 'evidence' is admitted; Reprieve are currently campaigning to exclude it from the trial and thus, we hope, save two innocent lives.

*Sign the Downing Street petition in support of Naheem and Rehan at [www.petitions.number10.gov.uk/naheemandrehan](http://www.petitions.number10.gov.uk/naheemandrehan)*

**Please go to [www.reprieve.org.uk/donate](http://www.reprieve.org.uk/donate) to help bring hope and legal representation to those who need it most.**

**REPRIEVE**

#### What your donation can do:

- £500 purchases a flight for a lawyer to visit prisoners in Guantánamo Bay
- £200 keeps an investigator on the road for two days, uncovering the facts to save a life
- £100 buys an hour of professional translation of interviews with victims and witnesses of extraordinary renditions
- £50 pays for a medical examination for a prisoner exonerated and released from death row
- £5 pays for a single police report in a death penalty case

#### What a major gift could do:

- £50,000 pays for a full-time lawyer or investigator working in a death penalty jurisdiction in the US for two years
- £25,000 pays for a lawyer to work on death penalty cases in the US full-time for one year
- £1,000 buys a DNA test for a wrongfully convicted prisoner on death row
- You can donate online, by post or with payroll giving.



# ANNUAL DINNER, THE GREAT HALL, LINCOLN'S INN AFTER DINNER SPEECH

BY MR. JUSTICE PENRY-DAVEY



Mr Senior, whilst the young cry, "Who is Penry-Davey?" (or worse, "Who does he think he is?") a few of you, like the rose red city, half as old as time, may experience a hint of déjà vu in my speaking at this dinner. It was 17 years ago to the very day, 26 June 1992, that I first

spoke here and 15 years ago that I did so (as you and I believed) for the last time. What, I hear you cry, have we done to deserve this? Somewhere at those dinners in a dark corner of this hall was a young, ebullient, bouncy, thrusting and prematurely rotund junior. If you were against him, it was unwise

in advance of the case to disclose your home telephone number because he had comfortably the largest telephone bill on the Circuit. Though, in a sense, he glittered, even amongst the Circuit cognoscenti, there were few who dreamt that the glittering prize of the leadership of the circuit would



one day Stephen be yours. Indeed, I see from your recent Leader's Column in the Circuit magazine that you scarcely believe it yourself. Perhaps the electorate of the Circuit are the living embodiment of the old maxim, "There's nowt so queer as folk," but one thing is clear, Mr Senior: I lay entirely at your door the responsibility for the recycling of the pre-senile probably past it Parkinson's Penry, the poor person's Puisne, from the slim, serious, sensible, sentient, sensitively sexy, senior circuit Silk that I was all those years ago.

And so I rise, this time with considerable difficulty, to what used to be my feet more conscious than ever of the privilege of being guest of honour of the Circuit, of which

all my professional life I was a member and for which I have such great and enduring affection. Mr Senior, like your predecessors, you will sometimes feel the loneliness of the long distance Leader. When I set out, as the big waves rolled in, I had the rock of the support of my dear wife Judy; and she's still here. We also have assistance from our predecessors. I had help from Bob Seabrook, Tony Hidden, my oldest friend who, sadly, as you have heard cannot be here tonight, and most immediately of all, from Michael Wright. After that first dinner 17 years ago he came up to me and said in a kind and loving way, "David the last person to get a standing ovation at this dinner was Danny Brabin; and he died 4 weeks later." Michael, I am so sorry to have been a continuing disappointment to you. On the other hand, it is quite possible that you won't have to hang on for too much longer. In any event, your advice is a great encouragement to brevity.

I was of course succeeded as Leader by history in the making, the first Leaderene of the South Eastern Circuit, plain old Heather Hallett, as she then was. She followed me as Leader; she followed me as Chairman of the Bar; she followed me as a Puisne after I had the pleasure of trying her last case. I led and she followed, until a moment not so long ago when, in the twinkling of an eye, without so much as a 'How's Your Father', she overtook me at speed. Now, there she sits: the Right Honourable Dame in the middle, dishing it out. Complex, high grade, extempore judgments as if she had been doing it for years. And, on the wing, I sit there lost in admiration and wonderment, thinking to myself, "It just isn't fair."



Penry-Davey J and  
Ian Croxford QC

Mr. Leader Lawson, known to the in-crowd as "Whispering Mike", having enjoyed a successful time as Leader, took the shilling and went off to Maidstone. His recent transfer to Lewes, the Circuit magazine tells us, has broken the hearts of many in Kent. And so the luxurious green pastures of Lewes welcome Michael. He is making new friends but after just a few months there, he is still looking forward to meeting His Honour Judge Coltart. He has come to the tentative conclusion that Simon Coltart must work nights because he never seems to be there during the day. Michael should be reassured by the well established and ancient Lewes tradition of superbly well kept judicial gardens which complement the excellence of the adjacent green pastures.

*"the last person to get a standing ovation at this dinner was Danny Brabin; and he died 4 weeks later"*

Stephen Hockman – or Hockperson, as good gender neutral practice now requires him to be – worked hard for the Circuit and is now in some danger of becoming a media personality. He too went on from the Leadership to the Chairmanship of the Bar and was lucky enough (as he himself put it) to have the challenge both of Carter and Clementi during his year. One of the directories describes him as, "Keeping a firm hand on the tiller," though it doesn't actually identify the girl concerned (sorry, that's a joke for the over 50s). It goes on to describe him as having an acute perception of the mind of the court. That makes the profound and

probably unwarranted assumption both that the court has a mind and if it does, that the mind is capable of being made up.

Dazzling Dutton was another to follow the well worn path from Leader to Chairman. His services to advocacy training are enduring and unequalled. He worked tirelessly for Circuit and Bar. Indeed, his expenditure of energy became in itself a major threat to the worldwide carbon footprint movement and has prompted Hockperson to call for an international environmental court.

And so to Spens: calm, well prepared, full of aplomb, dedicated, industrious. It's quite hard to find a good word to say about the fellow. But he does have a marvellous sense of fun; something I have witnessed in the



Desmond Brown QC,  
Robin Tolson QC and  
Andrew Mitchell QC

shady courtyard of the beautiful Lisbon hotel where we met on a very jolly Circuit trip. I think it only fair to add that the general sense of fun was heightened by the attempts of the Circuit to reduce the size of the European wine lake. Enjoying that trip and assisting in that effort were yet another notable ex-

Leader and his wife, John and Patsy Alliott, who added a dash of elegance and style to our otherwise somewhat motley crew. Well, we all need moments of relaxation but seriously: why are these good men and women prepared to work their guts out for the Circuit and the Bar? It's actually, ladies and gentlemen, because of you. There was a time when you wanted to be a barrister. Perhaps you still do.

**So you do your LLB and you scrape the BVC  
You spurn the CPS and join the CBA  
Or if civil you're inclined to, it's PIBA, still OK  
You keep smiling at the LSB and watch the BSB  
And at last you're off to court in the hope that there's  
a fee  
If it's OCOF (that's 'one case one fee') it may just pay  
your way  
But with VHCC cases, it could well be sweet FA  
You size up your opponent, who's a proper HCA  
You humour the old boy in purple, he's an HHJ  
You tolerate the client, who's a first class SH one  
And after it's all over, you're well and truly done  
But cut and thrust for year on year is good for you,  
you see  
'Cos if you keep it up, you'll wow the JAC  
And you might even get Lewes  
Where there's honey still for tea.**

Why oh why do we do it? Forget the honey. It's because it matters. People matter. For those people, you matter. And so, whether

it's the new recruit going off to Thames Magistrates, you going off to Snarebrook, or Norwich, or Croydon, or the Bailey, or the County Court, or the High Court or, further afield, in the Hague, in death row cases across the Atlantic, maybe in the ICC or working for justice in countries where there is none through organisations like the Burma Justice Committee or the new African Court of Justice and Human Rights, or travelling to Russia, China, South America, Mexico, countries looking to set up independent courts and fair trial systems. It's because it matters. A group of us has been in Mexico several summers, showing how our criminal justice system works and putting on a mock murder trial. Some of you have heard me speak before about a marvellous man we met called Pedro Aragonese who was pioneering forensic science services in one of the Mexican states. Some months ago sitting in his car at traffic lights with his 16 year old son he was gunned down by hit men from one of the drugs cartels who felt he was in their way. He died for the rule of law. Despite Michael Wright, you won't be required to do that. But when you get your peanuts cheque or sometimes, nothing at all, take consolation from the importance of the job you are doing. At a time when faith in some of our institutions has descended to levels of farce, our democracy and the rule of law can do with plenty of the highest integrity,

resolution and fearlessness. My old grammar school song spelt it out in the anachronistic language of Empire but with sentiments that are perhaps timeless:

**Stick it out, the need is on you  
Days to come depend upon you  
And the torch is in your keeping  
All the way**

Ladies and gentlemen, even if you're a member of the CRAFT club (I can't remember what CRAFT stands for now because I can't remember an effing thing... Oh yes; that's what it stands for...) just remember please, even when you feel battered, beaten and rock bottom, those two words: It matters.



*The Hon. Mr. Justice Penry-Davey was guest of honour at the SEC Annual Dinner*







By kind permission of The Honourable Society of the Inner Temple

# Fifth Annual Dame Anne Ebsworth Memorial Lecture

**By Lord Hoffman**

TUESDAY 2nd FEBRUARY 2010 at 5.45PM

At the Inner Temple Hall, Inner Temple

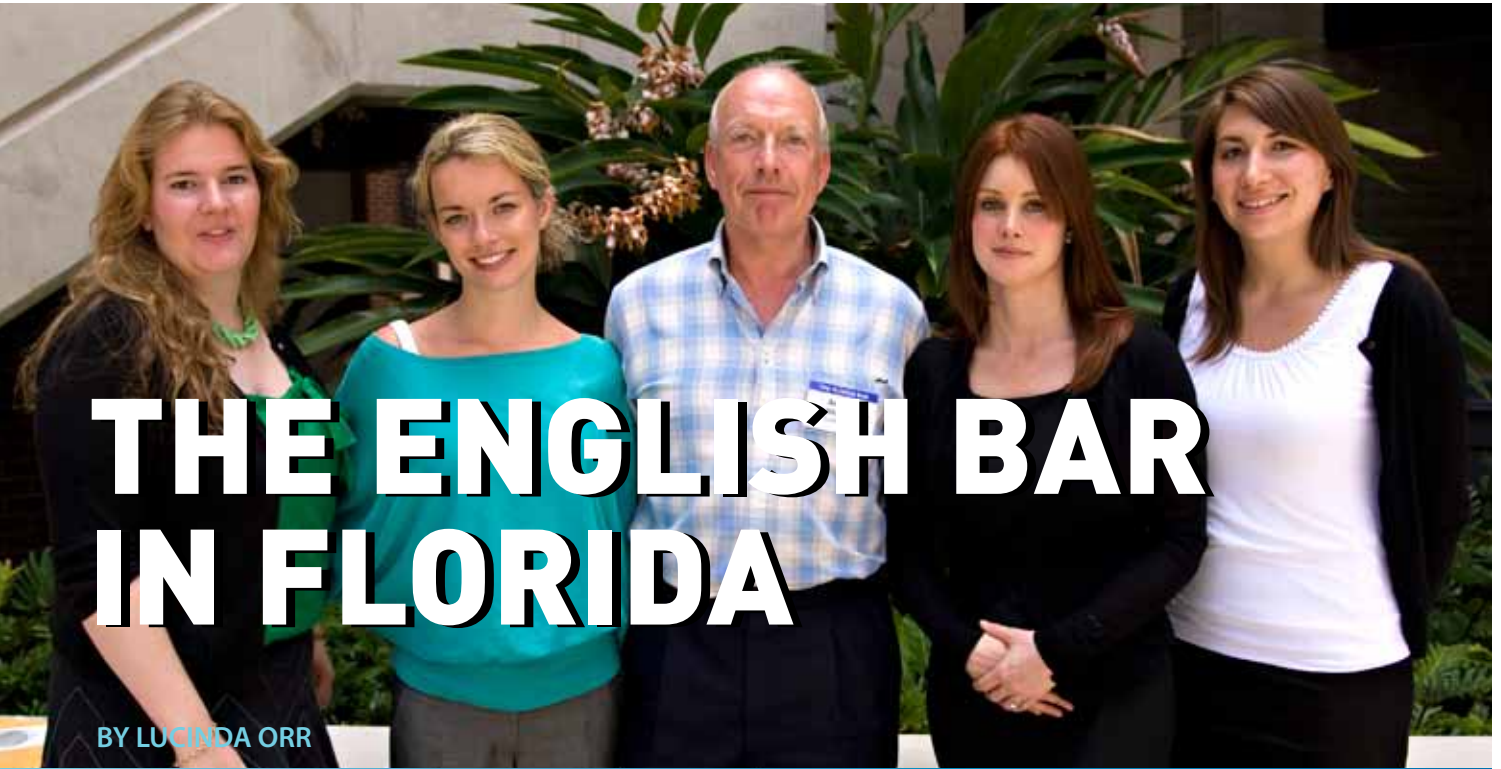
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## THE ENGLISH BAR IN FLORIDA

BY LUCINDA ORR

 Four of us – Niamh O'Reilly, Alice Sims, Abi Cohen and I – were delighted to have been given scholarships by the South Eastern Circuit to attend the civil advocacy program in Florida in May but were naturally a little apprehensive as to what to expect. The program involved progressing through a case study, inspired by a real-life personal injury case and also a medical malpractice case from the 1990s that had been “diabolically fused together”. In the case, a 17 year old boy broke his neck at a Fourth of July picnic, run by his father's employer, 'Z-Mart'. Alongside Z-Mart, the other defendants were the first surgeon who had treated the boy and the manufacturer who had produced the steel plate that had initially been inserted into the boy's neck.

We were separated out into 6 groups of 8 lawyers for the week for working group sessions but we all came together for demonstration sessions. The faculty teaching us over the course of the week consisted of various levels of Floridian Judges and senior trial lawyers, not to mention our very own Andrew Hochhauser QC flying the flag for the more experienced end of the English Bar.

It was truly fascinating to learn about another jurisdiction; in some ways so similar and in other ways so completely diametrically different from our own. There is no denying that having a six man jury for civil trials means that the advocacy needs to be completely stripped of legalese (Lord Woolf would be very pleased!) and complex ideas conveyed (as we were often reminded) so that a 'sixth

grader' could understand it. The presence of the jury also means that much more emotive language can be deployed – although striking the correct balance between overdosing on the saccharine and/or patronising the intelligence of the jury, is a precision art not to be underestimated.

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*This process undoubtedly helped us all refine and reach another level of sophistication with witness handling.*

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A vague memory of voir dire hearings on the admissibility of evidence from criminal procedural classes at Bar School turned out to be something completely different in Florida (and much more exciting!) – Jury selection. Ordinary members of the public from the local area were questioned and selected, with the added fascination that the faculty members involved in the demonstration, then went on to reveal to us their reasons for striking various people from the jury box. Reasons ranged from looking a little too “hippy-ish” to the fact that apparently the generation of 20-35 year olds don't make good jurors!

This jury was then filmed at the end of the week deliberating the outcome of the case. Suffice it to say no plaintiff lawyer in Florida will again leave a South African on a jury in a personal injury claim – the South African lady's contributions to the jury discussions knocked down the plaintiff's damages by several hundred thousand dollars!

Aside from the fascinating observations about the differing procedural rules of Florida, it was tremendously helpful to practise so much witness handling over the course of the week and can only be of benefit for our respective practices in this country. Furnished with real doctors, psychiatrists, metallurgists, as well as witnesses of fact who were excellently portrayed by actors, the error of the too-wide question, one question too many or simply not getting out of the witness what is needed was all thrown into sharp relief. It was also very helpful afterwards to go through a DVD of one's 'direct' (examination-in-chief) or cross-examination and to deconstruct with a faculty member the precise wording and timing of each question. This process undoubtedly helped us all refine and reach another level of sophistication with witness handling.

In conclusion, the week was a fantastic experience and we are all deeply grateful to the SEC for selecting us to attend. However we must also thank the Florida Bar and every judge and lawyer on the program; not only for putting up with our incessant questions and being far too complimentary on our advocacy because of our “lovely accents” but primarily for being so warm and welcoming of us. The week truly exceeded all of our expectations.

Now, the next time we do a closing speech in this country, we need to remember that the aim is no longer to make the judge cry...

*Lucinda Orr is an employed barrister at Skadden, Arps, Slate, Meagher & Flom (UK) LLP*



# KEBLE ADVANCED ADVOCACY COURSE



I stumbled through the narrow entrance to Keble College not really knowing what to expect from my week in Oxford. It was a little bit like my first day at university. I arrived far too early, looked lost for a good 20 minutes, eventually found my room, dumped my bag and introduced myself to people by asking the same predictable questions about where they were from etc. etc.! The similarities ended there because, unlike university, it was straight to work. We'd been provided with course materials a few months previously and I'd be lying if I said it didn't require preparation. It did. Indeed, the real benefit of a course like Keble is the opportunity to test your case analysis skills, advocacy and tactical judgment with some of the leading practitioners in your field. They know the papers inside out and it would definitely help if you did too!

Teaching takes place in groups of eight. My group was a real mix, with participants from the CPS, ICTY, the Army and overseas jurisdictions. It was great to see different

styles of advocacy. You stay in your groups for the week and practise witness handling, speeches and appellate advocacy, which all lead up to the final day when you'll conduct a mock trial before a jury of keen Oxford locals. The teaching itself is terrific. You'll be given a 'masterclass' demonstration before each exercise and if you're like me, you'll want to scribble down as much as possible to pass-off as your own at some future time and place! But seriously, it's a great opportunity to observe some great advocates and to see how they handle the issues in your case. Once in your groups, each exercise is filmed and a member of faculty provides instant feedback and a demonstration of how you might do something differently or otherwise improve. Your performance is then reviewed by another member of faculty before your second and fingers-crossed, improved, performance. It's a really useful exercise.

For me, the highlight of the week was the experts day. And yes, they are real experts. If, like me, you've had little exposure to expert

witnesses then this part of the course is worth its weight in gold. You'll conduct a conference with your expert, which is a great experience. It's quite frightening to realise just how little you know about something, especially when your conference is to prepare for your imminent cross-examination of your opponent's expert! And believe me; they'll make things as tricky for you as they possibly can, too. Sounds tough? It is!

It's that final point that really underlines the benefit of Keble. It's an opportunity to practise, to learn and above all, to make mistakes somewhere other than the courtroom.



*Duncan Milne*

The word most apt to describe the experience of participating in the SEC's International Advanced Advocacy course at Keble College is "intense"! A huge amount of teaching, learning, and socialising is crammed into the five days of the course. The course is pitched at a more advanced level than other advocacy courses I have attended and is more focused on specific practice areas, which makes the advocacy exercises both more relevant and useful. The expert witness day, where financial stream participants learn to deal with and (attempt to!) cross-examine expert accountants from Deloitte in particular provided a rare opportunity for a very junior commercial practitioner to acquire experience of that kind.

Another very rewarding aspect of the course

is the international perspective which both the faculty and the participants bring. The faculty are drawn from all over the common law world, including Australia, South Africa, the Caribbean and Pakistan, and the process of learning from highly experienced and talented practitioners from different backgrounds serves to highlight the extent to which advocacy skills transcend jurisdictional boundaries.

The collegiate atmosphere of the course, which is obviously enhanced by its setting at Keble, is also worth emphasising. This atmosphere extends not just amongst the participants themselves but between participants and faculty as well. It is not often that one has the chance to discuss the ethical rules governing lawyers before the International Criminal Tribunal for the former

Yugoslavia (ICTY) over a drink with a current ICTY prosecutor before debating the finer points of employment law (or the future of the Bar) with a High Court judge over dinner.

The course is certainly difficult and requires an awful lot of work, but I'm sure all of the participants felt by the end of the full trial on the last day that it had been well worth it.




*Adam Sher*

# A WOMAN FOR ALL SEASONS

## AN INTERVIEW WITH BARONESS PRASHAR

BY KALY KAUL

 **Baroness Prashar CBE is a cross bench member of the House of Lords. She has been the Chair of the Judicial Appointments Commission (JAC) since 2005 and has held many important posts in a long and successful career; these include Directorship of the Runnymede Trust, Chair of the Parole Board, member of the Royal Commission on Criminal Justice and First Civil Service Commissioner from 2000 to 2005. In July she was appointed to the Iraq Inquiry.**



### When you became head of the JAC, what were your main aims?

It is easy to forget sometimes how far we have come. Throughout the public and private sector, people are recruited through a fair, open and competitive recruitment process. Judges used to be an exception. There's no doubt that the old system created a judiciary of the highest quality but that system lacked openness and did little to encourage candidates from a diverse background. If the selection process was not perceived as fair and open it meant the judiciary risked being seen as remote and unrepresentative by the public. The JAC was established in April 2006 to change that anomaly. Parliament gave us statutory duties through the Constitutional Reform Act 2005 to select on merit and to "have regard to the need to encourage diversity in the range of persons available for selection for appointments", recognising that the

judiciary as it stood was far from reflecting society, or even the legal profession. My own aims as Chairman were to establish an organisation with strong foundations, which would have the confidence of all the interested parties and make high quality appointments on merit from as wide a pool as possible.

### What would you and your fellow Commissioners say were the main achievements of the JAC to date?

When we were established in 2006 there was a degree of scepticism about the wisdom of setting up an independent body to select judges. Why change? The old system had undoubtedly delivered many outstanding judges and there was little appetite for change in some quarters. I really think we have achieved a great deal and made a real difference. I believe we have gone a long way towards proving our critics wrong. The fact that the merits of the new appointments system have been acknowledged by others is one of our main achievements to date. The Lord Chief Justice, Lord Judge, was kind enough to say this year at a conference he hosted on "A Judiciary for the 21st Century" that, in his view, the debate over whether there should be a JAC and whether judges should be selected from open competition on merit is over. The JAC is here to stay. Indeed our initial task was to define merit; that is, what makes a good judge? We devised a set of core qualities and abilities for judicial office - the criteria candidates must meet. We have established, embedded and continuously reviewed our new selection processes,

which are designed to ensure that everyone who applies for a judicial post is treated fairly. We have made sure these processes are robust and they have all been examined by independent experts to ensure they are free of bias. On diversity we are making progress. In April 2008, there were only ten women High Court Judges. There are now 17. Five of the 22 recommendations we made for High Court appointments last year were women and only 11 women had applied. The experience necessary to serve in the High Court means the pool of people currently eligible to apply from the higher levels of the legal profession is only 20% women and 5% Black and Minority Ethnic (BME). The legal profession and judiciary are becoming more diverse. We expect the composition of the senior judiciary will gradually come to reflect those changes and reflect society more closely. The JAC's published selection exercise results for 2008-9 show that we are making selections in line with the pool of those eligible to apply. For example, for fee paid legally qualified posts, 35% of those eligible to apply were women, as were 34% of those who did apply and 30% of those selected. BME candidates made up 7% of the eligible pool and the same proportion of those selected. For salaried legally qualified posts, women made up 21% of the eligible pool, the same proportion applied and 24% of those selected were women. 5% of the eligible pool were BME candidates and 4% of those selected. We have also established a Diversity Forum to regularly bring together representatives from government, the judiciary and the legal profession to encourage greater co-operation and co-ordination of diversity initiatives. Despite the fact that the JAC is a relatively small organisation, the scale of our operation has been huge. In our first three years we launched more than 50 selection exercises, processed almost 7,000 applications and





made more than 900 recommendations to the Lord Chancellor. The organisation works well and we are dedicated to maintaining the independence of the Judiciary.

### How have you addressed diversity issues in your time at the JAC?

We have made strenuous efforts to ensure that our processes are robust and free of bias so that all who apply get a fair chance in open competition. We recognise that candidates from non-traditional backgrounds need to be encouraged to consider a judicial career and to be supported by their colleagues and leaders of their profession. We have held candidate seminars up and down the country, often targeted at under-represented groups, to help explain the selection process and the opportunities available. We held 9 candidate seminars last month alone. Our Diversity Forum enables those that are in a position to change the attitudes, policies and processes that inhibit progress in this important area to work together to bring about change. The Forum's success has been to deepen understanding of the issues, identify the barriers to greater diversity and encourage members to take ownership for action in their respective areas. This summer the JAC published the results of some research we commissioned, in partnership with the Bar Council and the Law Society, from the British Market Research Bureau. We wanted to find out what attracted lawyers to a judicial career or deterred them from applying. This research showed that equal numbers of men and women and more BME lawyers than white lawyers intend to apply to be judges in the future. At the same time, many solicitors do not feel they are

supported by their firms when they want to apply. The research also revealed some widely held myths about who can apply for appointment, concerns about judicial working patterns and culture and a lack of part-time working. Our Diversity Forum hosted a seminar in July to consider the results of this research with our partners and under-represented groups to discuss how we can speed up change. A joint action plan was agreed which includes a mentoring scheme, to be run by the Law Society, to support solicitors interested in judicial office, an extension of the Bar Council's Circuit mentoring scheme to focus more on candidates from a wider range of groups and a film of a role-play to help prepare candidates for the selection process, to be jointly funded by the JAC and the Law Society with the support of the Black Solicitors' Network. The arrival of the JAC has really highlighted where the blockages to greater diversity lie and encouraged, through our Diversity Forum in particular, those capable of making a difference to work together. There is clearly more to do but we are beginning to see results.

### Are there any areas about which you remain concerned?

I think there was an expectation that once you put in place a fairer, more open process to select judges, then the composition of the judiciary would automatically and quite quickly change so that it was less male, less white and generally from a more diverse professional background. I would like faster change on diversity but after 3½ years there is now a better recognition and a wider understanding that the barriers to achieving greater diversity are more complex and

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*We recognise that candidates from non-traditional backgrounds need to be encouraged to consider a judicial career and to be supported by their colleagues and leaders of their profession.*

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many of them are outside our control. We are making progress. We are concerned however that some of the 'non statutory criteria' imposed by the Lord Chancellor can often prove restrictive; for example his current policy that candidates for salaried posts should normally have gained fee paid experience. Reducing or removing these requirements will help many groups including women, solicitors and those in the employed Bar. The JAC would also like to see barriers to appointment for members of the Government Legal Service and the Crown Prosecution Service reduced. We have raised these issues with the Lord Chancellor and his Advisory Panel on Judicial Diversity.

### How has the judiciary reacted to your reforms?

Initially, there was scepticism but the judiciary is now engaged and some are even enthusiastic! The new system of appointments represents a huge culture change and I am pleased with the good working relationship we have developed with the judiciary at all levels.

## What are the main features of the selection processes?

The selection process is tailored to the individual requirements of the posts being advertised but there are common features. The process assesses merit against the following qualities and abilities: intellectual capacity, personal qualities, an ability to understand and deal fairly, authority, communication skills and efficiency. The written application form is the candidate's opportunity to demonstrate, with examples, how they possess these qualities. When completing the form, candidates are normally asked to nominate up to 3 referees, in some cases up to 6, who have direct knowledge of their work. In addition, the JAC may also seek references from people in relevant positions to provide a dispassionate appraisal. For a barrister, this will be their Head of Chambers or for a solicitor in a large firm, the senior partner. In most of the recent selection exercises, we have shortlisted by a written qualifying test, which requires candidates to analyse case studies, identify issues and apply the law. The tests are set and marked by those already serving within the particular jurisdiction and often quality assured by the JAC Advisory Group, on which the Bar Council and Law Society are represented, to ensure it is fit for purpose and a fair way of selecting candidates for interview. If shortlisting is by written test, references are only taken up for candidates who are selected for the second stage of the process. Candidates shortlisted for the selection day will have a formal interview and there may also be a role-play exercise. The role-play simulates a court or tribunal and the candidate is asked to take on the role of a judicial office-holder and respond to a simulated situation. This exercise allows candidates to demonstrate that they have the required qualities and abilities in a realistic situation and that they can maintain their performance under pressure. The interview is a further opportunity of providing evidence-based information to demonstrate the qualities needed for the post. The interview panel assesses all the information about each candidate before agreeing which candidates best meet the required criteria. The panel Chair then completes a report, which is presented to the Commissioners, who then make a final recommendation to the Lord Chancellor for appointment.

## Why do you think so many experienced and able barristers on the SEC failed the exam for the recent Recorder competition?

Candidates from less traditional backgrounds often felt that shortlisting based on self-assessment and references left them at a disadvantage. That was why, in late 2006, we introduced written tests as a means of shortlisting for the second stage of the selection process in most of our exercises. The written test is very good way to sift objectively and fairly against the qualities and abilities that make a good judge. There isn't a pass mark as such. The candidates who do best in the written test are invited to the second stage. Some of those who are unsuccessful are very able, and can and do become judges in future. But competition is fierce. It is important to note candidates taking the written exam are identified only by a reference number, not by name, gender, race or professional background. There are fewer than 7,000 judges, and only 2,000 salaried judges. The JAC selects around 500 each year. With a profession of more than 200,000 barristers, solicitors and legal executives, there are bound to be a lot of disappointed lawyers. They can't all become judges. In addition to this we received almost 40% more applications in 2008-9 than the previous year, for fewer posts. I would stress that preparation for the qualifying test is vital and some examples of previous tests can be found on our website for reference.

## I understand the JAC is to work with those who select Queens Counsel. What are your aims in relation to this?

The JAC has always been committed to partnership. We can achieve far more together than separately. One of the recommendations of the Fawcett Commission on Women in the Criminal Justice System was for the JAC to work together with the QC Appointments Selection Commission and I have recently written to its Chair, Professor Dame Joan Higgins, about how we might go about sharing best practice.

## Finally, can you tell us about your work with the SEC?

I am looking forward to speaking to the SEC Committee in October to explain our work in detail. I am delighted that the Bar and the SEC in particular are working towards an increasingly diverse profession. I also look forward to working with the diversity lead, Martin Forde QC, and the Diversity Mentors for the other Circuits. I hope that Circuit leaders and diversity mentors will work together to make sure the commitment turns into tangible practical advice and guidance for the profession, as well as increasing understanding of the issues. Diversity isn't an add-on. At the JAC it runs through everything we do. I hope the SEC will similarly see it as part of their role at every level to encourage and support talent, whether it comes from a similar background to their own or not. The pool from which we can select future judges will then be enhanced. In that way, merit and diversity will both be served.



*Kaly Kaul is a barrister at Dyers Chambers and Vice-President of the Association of Women Barristers*

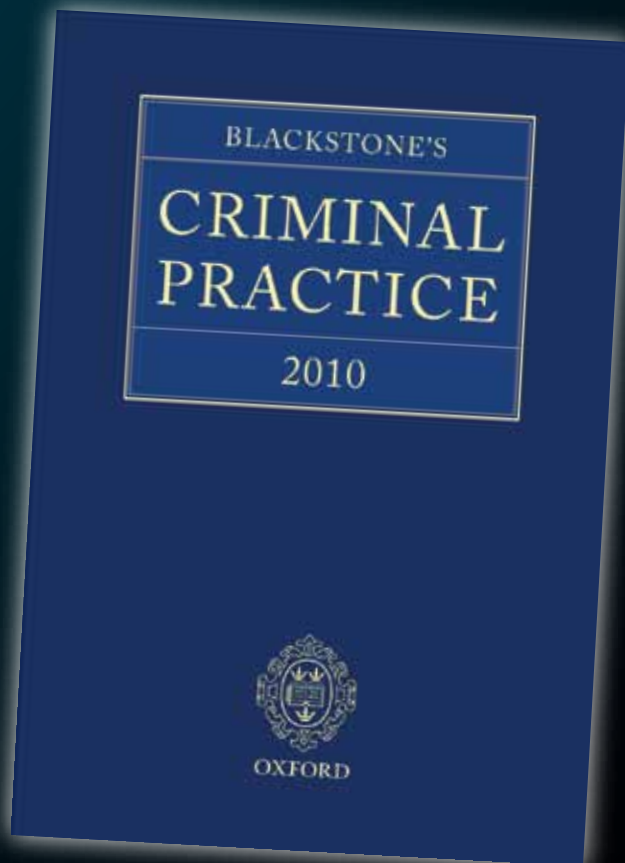


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# PREVIEW OF ANNUAL BAR CONFERENCE 2009

BY FIONA JACKSON



 The 24th Annual Bar Conference on Saturday 7th November, which takes as its theme 'Access to Justice – Justice for All?', provides an excellent opportunity for serious debate about domestic and international issues directly concerning the Bar and the wider community, an occasion to showcase all that is best about the Bar and demonstrate all that barristers do to promote the interests of justice. The programme offers all delegates up to 6 CPD points.

A broad selection of Circuits and Bar associations will unite at the Royal Lancaster Hotel in London to draw expert and high-profile speakers from home and abroad to a wide range of workshops debating core issues affecting the justice system and the profession. All self-employed and employed barristers, pupils, students and members of the judiciary will find something of interest as senior judges, leading members of the profession from our Circuit and other eminent speakers consider Access to Justice topics as varied as implications of cuts to family funding and the overhaul of costs rules for civil litigation, access to the Commercial Court, pro bono work, justice for witnesses and the victims of crime, the role, efficacy and jurisprudence of human rights courts throughout the world, the role of mediation and direct access, disciplinary proceedings, access to the profession and the treatment of women in the criminal justice system.

## Keynote Speaker and the Open Forum Panel

Sir Nicolas Bratza, Vice-President of the European Court of Human Rights, gives our Keynote speech in the morning and

will enlighten us with his thoughts on the Conference theme.

At the end of the day in the final plenary session, Daniel Sandford (Home Affairs correspondent at the BBC) will moderate an interactive Open Forum considering Access to Justice issues. Jonathan Faull, Diane Abbott MP, Lord Carlile of Berriew QC and Dominic Grieve QC MP form the panel and reflect on questions from the floor.

## The SEC Workshop

The SEC co-hosts a workshop with the Midland Circuit on 'Cultural Practices – Victims' Injustices', arranged for our Circuit by our Director of Education, Anesta Weekes QC. Attracting delegates from a variety of practice areas including family, civil and criminal law to an interactive forum with contributions from the floor, the workshop will interpret the Conference theme by debating the denial of access to justice for victims of crime both in this country and beyond through cultural practices which conflict with the law.

The panel includes Mukhtiar Singh (executive member of the Metropolitan Police Sikh Association), Jasvinder Sanghera (Director and founder of Karma Nirvana, a charity supporting victims of forced marriage and honour-based violence and those who experience language and cultural barriers), and Teertha Gupta of 4 Paper Buildings (a family law barrister with particular expertise in forced marriages and international abductions). Our workshop promises to be a thought-provoking and stimulating opportunity to learn and consider how cultural practices adversely affect victims of 'honour' based violence, forced marriages and corruption, and discuss ways in which

communities, lawyers and the whole justice system can better understand and prevent these injustices.

## Discounted Places

This year ticket prices have been frozen at the same levels for the fourth consecutive year through generous sponsorship by Circuits and Bar Associations, and early bird, loyalty and group booking discounts enable barristers to save up to 30%.

**In addition the SEC offers a further £100 each towards the delegate fees of the first 20 of its members who sign up for the Bar Conference. Interested members should confirm with the Circuit Assistant Treasurer, Giles Colin at 1 Crown Office Row Chambers (0207 797 7500) that a discounted place is still available, book a ticket and then apply to Giles for a refund of £100.**

Don't worry if you've missed the SEC offer: loyalty discounts for returning delegates and group discounts for 3 or more delegates booking together are offered up until the Conference. Pupils can even attend the Conference for as little as £25. The generosity of the Bar Scholarship Trust means that 50 pupils receive a £100 discount, offered on a first-come, first-served basis.

Full details of all ticket offers can be found at [www.barcouncil.org.uk/news/BarConference2009](http://www.barcouncil.org.uk/news/BarConference2009).

Please come along and support your Circuit, get 6 CPD points and contribute to the debate.

*Fiona Jackson is a barrister at 33 Chancery Lane and the Immediate Past Recorder of the SEC*



# RESTAURANT REVIEW

INN THE PARK,  
ST. JAMES'S PARK, LONDON



As autumn sets in, it probably seems wrong to review a restaurant set in a park. However the Oliver Peyton-owned Inn The Park is no ordinary park cafe, and not just because it is set beside the Buckingham Palace fountain in St James's Park. For a park cafe, the restaurant would be outrageously expensive. No starter was less than £7, no main less than £13.50 and all desserts were £6.50. At those prices you really would want more than standard park fayre. The situation probably explains this in part. However this is a proper restaurant and the menu is true to its word when it says "Inn The Park is dedicated to using seasonal produce from local specialist suppliers, rare breed farmers and artisan producers". The food is very much centred on good ingredients cooked without too much fuss.

I started the meal with "Smoked Eel, Crispy Pig Head & Dandelion". The dish was a slight disappointment. The pig's head was slightly tough rather than crispy but was lifted by the eel which was perfect. Just the right level of smokiness and the texture would have been the perfect complement to the pig head had they got the crispiness right. It was the first time I had seen dandelion on a menu, and having been brought up to believe it was poisonous, I was a little wary. Fortunately I have survived to recount that it is a bit like a more bitter or spicy version of rocket. It is very strong flavoured which is necessary to stand against the other strong flavours in the dish. Whilst it did not appear in the description, the dish was rounded off by a soft boiled egg, without which the dish might be a little too dry.

JC chose as her starter the "Freshwater Crayfish, Crisp Cos, Crayfish Mayonnaise & Tomato Jelly". This was a dish with no surprises, relying as it did on good quality

ingredients to carry the day. The crayfish tails were small but sweet and delicious, although there seemed to be little difference between the crayfish mayonnaise and ordinary mayonnaise. The tomato jelly was the undoubted star of the dish. It yielded under the slightest pressure of a knife and tasted really of distilled essence of tomato; a much cleaner flavour than the tomato juice one can buy.

The main courses were again good, if not spectacular or flashy. My lemon sole was just perfectly cooked and accompanied as promised by squid and capers. I used to think that squid was a tricky thing to get right, but so many restaurant chefs of even humble eateries now cook it perfectly. Here it was every bit as good as one would expect from a very expensive restaurant. JC's dish was a bit more of a posh restaurant dish, but again when each element is considered, the ingredients are allowed to speak for themselves. She described her "Braised Lamb Shoulder, Pea & Mint Broth & Mustard Crumbs" as "delicious". It came served in a bowl with the lamb place atop the pea and mint. Although "broth" conjures up the image of few vegetables with a lot of liquid, it had less liquid than and more peas. The peas were sweet and firm to the bite. The lamb was tender and succulent. The breadcrumbs mixed with mustard were very crispy and provided the important variety of texture. Unfortunately, but perhaps inevitably, the breadcrumbs got soggy as they fell into the drop but they weren't the mush that you might expect when they did. It was a really good dish well executed.

At £3.50 each, the side dishes were not cheap. I am pleased to say however that there was a good range, including "Marrow with Mrs Kirkham's Lancashire Cheddar". This was

a wonderful baked dish of slices of marrow topped with cheese. I cannot recommend it highly enough and it was worth every one of the extra pounds to taste it.

In our convivial lunch we decided against wine for drinks. There is a decent drinks list, encompassing cocktails, wine and 3 different ciders. We went for the ciders, which were very drinkable indeed and didn't overwhelm the food as is the risk with beer.

The only dish that we ordered that was a true disappointment was the apple pie with butterscotch ice cream. It was nice enough, but just a bit lazy and, having seen Peyton lambasting desserts in "The Great British Menu", I cannot believe that he would have been happy with it. In contrast, the poached "Apricot, Rosary Goats Curd, Heather Honey" was outstanding. I expected the combination of apricot and honey to be far too sweet and cloying but the goats curd leavened it. You could have any of the elements separately or in any combination and it still tasted delicious, which is mark of a really good dish.

The food may not be quite good enough to make it a destination purely for the culinary experience but overall, aided by the pretty setting and the helpful staff, I very much enjoyed Inn The Park

**Cost:** £27 + per person for 3 courses

**Verdict:** Inn The Park is very enjoyable

*Tetteh Turkson is a barrister at 23 Essex Street*

# MICHAEL MANSFIELD QC

## THE ELEMENTS OF A SKILFUL ADVOCATE

BY GEORGINA GIBBS



Michael Mansfield QC presented the first in a series of advocacy lectures provided by the SEC to help advocates improve their advocacy skills. If the message of his lecture was to engage the audience without reading from a script, then Mansfield demonstrated that perfectly in a succinct 30 minute talk, which he delivered without a single downward glance to any notes, if indeed he had any. There then followed an audience Q & A session chaired by Anesta Weekes QC during which more pearls of wisdom were distilled from an advocate of 42 years' experience, described by Leader of the Circuit, Stephen Leslie QC, as an advocate who is regarded as one of the finest of his generation. The central plank of Mansfield's lecture was that "the art of advocacy was to communicate a message about which one felt strongly." He highlighted a number of primary elements of a skilful advocate.

First, a sense of passion for the case or client on whose behalf the advocate fights. A passion which Mansfield suggested was easily extinguished if speeches or submissions were read out verbatim. Objectivity, whilst important in Court, was not necessarily to be extended to the relationship with the lay client, wherein very often what was required was for the advocate to demonstrate belief in them, best achieved by enabling the client to talk freely to build up a mutual trust.

Second, thoroughly knowing the brief, not simply to have all the relevant material at one's fingertips, but because judges and juries respected it. More significantly, witnesses respected it, such that if a witness was unsure just how much the advocate knew of their life and conduct, it gave the advocate the upper hand, thus enabling control of that witness. The capacity to

control a witness was plainly paramount.

Third, the delivery and presentation of advocacy, making direct but appropriate eye contact with the tribunal, changing pace or subject matter to keep the audience's attention and learning to read non-verbal signs were always useful skills.

Fourth, researching the tribunal in the case of a judge or appellate court could be very informative, either by sitting in and observing or asking the usher for helpful tips.

Fifth, having "grit between the teeth". In appropriate circumstances, it was essential to have the confidence to put one's foot down if the tribunal was being unreasonable or not listening. At the same time, it was imperative to keep one's anger in check and to perceive when a tribunal's frustration was due to repetitious and patronising submissions.

These five general aspects of advocacy aside, Mansfield suggested that a capable advocate was also one who was prepared for every eventuality, so in the event that a particular direction taken was not working, it could be revised whilst on one's feet without making it obvious to the audience. Oral development of written advocacy was more effective if it had a surprise element in its presentation. Articulating points in a different way to their presentation on paper, adding another dimension and not advancing all exemplifications in writing in advance was the best course as there would otherwise be nothing further to advocate or reveal.

It was beneficial to have a hypothesis about the case, identifying in advance what it was sought to be achieved and then looking for evidence to fit the hypothesis. Practically, to extract the relevant supporting points from that day's advocacy into a working document

which would ultimately become the closing speech would enable fewer points to be missed and would also save time at the end of a case. At this juncture, having the humility to examine critically one's own performance, to assess what went well but more importantly what did not was fundamental to improvement.

Mansfield recommended two books on advocacy: *The Old Devil* (about Clarence Darrow) by Donald McRae and *Six Great Advocates* by Lord Birkett, which an advocate seeking to improve might find constructive. Being a proficient advocate was ever more necessary post-Carter, particularly in light of incoming regime change. Mansfield acknowledged that it was currently much harder to make a living and that advocacy would be ever more important if the 'one case one fee' scheme were to be implemented.

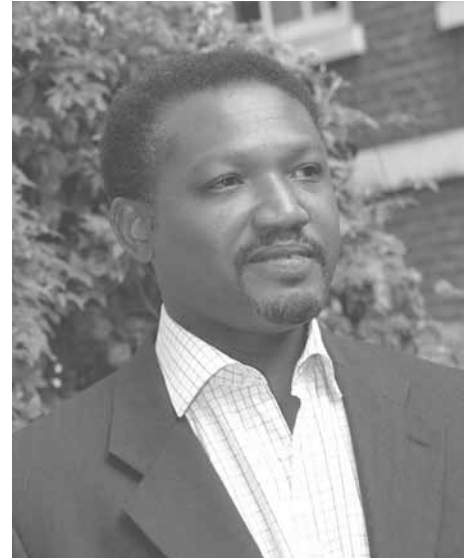
Having been a legal aid lawyer for the majority of his career, Mansfield spoke of his specialisation in forensic science and lamented the lack of training and education in that area for both the Bar and judiciary. He said it was important that people were not blinded by science and a return to basic principles was often required. The final message of his talk was that the criminal justice system had changed but not for the better. Fundamental principles had been undermined and the "role of the lawyer had become marginalised." In such times, good quality advocacy was therefore of the essence. We might all improve in this regard following this most constructive of lectures.

*Georgina Gibbs is a barrister at 1 Paper Buildings and the Second Assistant Junior of the SEC*



# WIDENING THE POOL

BY MARTIN FORDE QC



In July 2009, I was approached by Stephen Leslie QC, Leader of the SEC, to consider jointly chairing with Frances Oldham QC the Circuit's Minority Committee. Having understood it would involve building upon the work of David Spens QC and Mohammed Khamisa QC, I accepted with alacrity. I am delighted that The Circuiteer has given me an early opportunity to publicise the work of the Committee and the very real desire of the legal establishment to ensure that the Bar is representative of our vibrant, diverse and pluralist society.

The SEC has embarked upon a Circuit Diversity Mentor ("CDM") initiative designed to provide a network for identifying, encouraging and supporting those members of the Circuit, from diverse backgrounds, with sufficient talent to apply for judicial posts, Silk and government panels. Equally, those of such talent who maybe professionally isolated should be able to consult with such mentors. The aim is for each of the 11 Circuit Messes to appoint a mentor or mentors to fulfil this challenging role. It will be expected that each Mess will report to full Circuit meetings of progress made in this important area and any proposed initiatives, which could involve anything from organising events to school visits.

The aim is to make access to the profession and progress within the profession fairly based upon ability and nothing else. The independent Bar must be a meritocracy and so far as possible reflect the demography of the population as a whole. In fact the Bar has a very good record in terms of recruitment. Our aim is to help facilitate progression. Much can be done to encourage junior practitioners of ability to develop their career and appreciate the necessary experience and relevant stepping stones.

I am also keen that CDMs should be able to demystify application processes, help prepare candidates for appointment, where appropriate and be able to acquire, over time, the knowledge of and insight into the factors that affect decisions to apply for appointment. Mentoring has been recognised as the single most important tool in professional development and part of my role will be to encourage appropriate persons to apply to be mentors – it is a mutually rewarding role for mentor and mentee.

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*Mentoring has been recognised as the single most important tool in professional development*

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I will always endeavour to be available to any member of the Circuit, having found my informal mentoring over the years very rewarding. I was extremely fortunate that from the beginning of my time in Chambers I was encouraged by every senior member of Chambers, pupil supervisor and Head of Chambers to make the most of my abilities. I am personally indebted to all those who, even if they became members of the judiciary, kept a close personal interest in my career.

Not all of us at the Bar have that support network and that may be particularly the case for those of us who come from less conventional backgrounds. There is a huge desire on the part of the legal establishment to promote and establish diversity and I believe that the SEC can be in the vanguard of change. The Attorney General is determined to widen access to the Treasury Solicitor Panel and I recently attended an event, "Widening the Pool", which

emphasised that desire. Similarly, the Judicial Appointments Committee is determined to achieve an appropriate level of diversity. Again, I attended a JAC organised discussion at the Ministry of Justice where that desire was palpable. The specialist Bar Associations are all committed to improving access and encouraging diversity.

No discussion of this issue would be complete without emphasising the commitment of the Bar Council. Ingrid Stimmler QC, Chair of the Bar Council Equality Committee, which includes a disability sub-group, was passionate in her promotion of diversity and equal access at the recent "Widening the Pool" event. Both Pamela Bhalla and Angela Campbell, at the Bar Council, are an invaluable source of support and guidance and are committed to implementing the recommendations of the Neuberger Report.

I am also keen to promote, through the Circuit and the Inns, more diversity training on Circuit. Obviously the CDMs should have received such training but, having undergone some training myself, it is a remarkably complex area raising many ethical and practical problems. However a proper understanding of discrimination and diversity is vital to understanding the challenges we face if we are to have a representative, diverse and high quality Bar. Finally, I would like to conclude by urging those who wish to assist to contact me at [martin.forde@1cor.com](mailto:martin.forde@1cor.com).

*Martin Forde QC is a barrister at 1 Crown Office Row*

# CIRCUIT TOWN: READING



BY GARETH BRANSTON

*"The river is dirty and dismal here. One does not linger in the neighbourhood of Reading." Jerome K. Jerome, Three Men in a Boat (1888)*

The seventeenth largest settlement in England, resting place of Henry I and commercial capital of the Thames Valley, Reading is a hotbed of misconduct, reprehensible conduct and crime. As such, it provides a happy hunting ground for many hungry members of the South Eastern Circuit who linger aplenty in the neighbourhood.

Founded in the 8th Century, Reading became a place of pilgrimage with the building of the Abbey in 1121. The town played a prominent role in the English Civil War and later developed a reputation for bulbs, biscuits and brewing. It now boasts strong links to the IT and insurance industries.



Situated at the confluence of the Rivers Thames and Kennet, the town of Reading is perfectly placed at the midpoint of a crow's flight from Charing Cross to Swindon. The town enjoys excellent rail links with London

(Paddington, 25 minutes; Waterloo, 65 minutes) and with other parts of the country. Those who worry not about their carbon footprint will come via the M4; though beware the notorious inner distribution road and daily car park that is a Reading rush hour.

Reading Crown Court is to be found in the Old Shire Hall, from which Her Honour Judge Zoe Smith leads a crack commando unit of Circuit Judges in their never-ending quest to convict the guilty and acquit the innocent of the Royal County of Berkshire. Set out over six floors, six well equipped courts (though no lecterns – bring a box) fight admirably to cope with the huge amount of work sent up from the delightful yet heavily-burdened list office. One hundred and four steps can be counted to the top floor when the single public lift occasionally breaks down (usually for six months at a time).

As is well known, Oscar Wilde endured two years in Reading Gaol. Whether its staff members were as pleasant as those now found in the court cells goes unrecorded in his ballad. It is fair to say that the welcome from all parts of the Crown Court building is usually warm and friendly. It is far from distasteful to spend one's professional day at Reading Crown Court.

The Court sits just a four minute walk from the station in a pleasant location opposite the Forbury Gardens and next to the Abbey ruins. The Gardens provide a lovely lunchtime location in which to feast on homemade sandwiches whilst admiring the Maiwand Lion, commemorating the 1880 battle of the same name. Rumours of the inaccuracy of the lion's gait and resultant suicide of the sculptor are false, but its reputation as a piece of feline magnificence matched only in splendour by the Sphinx and the Trafalgar Square quartet is wholly deserved.

Those who forgot to pack a lunch will find Prêt, M & S and other sandwich suppliers close by. More expensive gastronomic opportunities are found next to the Court at Carluccio's (plus Wi-Fi) and Cerise. Further miscreants from the criminal bar can be found devouring spaghetti in Nino's bistro in Market Place, tasting oysters at the London Street Brasserie or downing sauvignon blanc in Chronicles in Valpy Street. Little Chef began its culinary journey in Reading in 1958 but, disappointingly, has disappeared from the area.

Reading Magistrates' Court is located at the other end of the town centre, close to the Hexagon Theatre, which was home to snooker's Grand Prix between 1984 and 1994.

Advocates with a private income will find luxury and convenient accommodation immediately next to the Crown Court in the Forbury Hotel. Those from out of the area still surviving on publicly funded work may prefer to slum it slightly further away at the Ibis, Novotel or Travelodge.

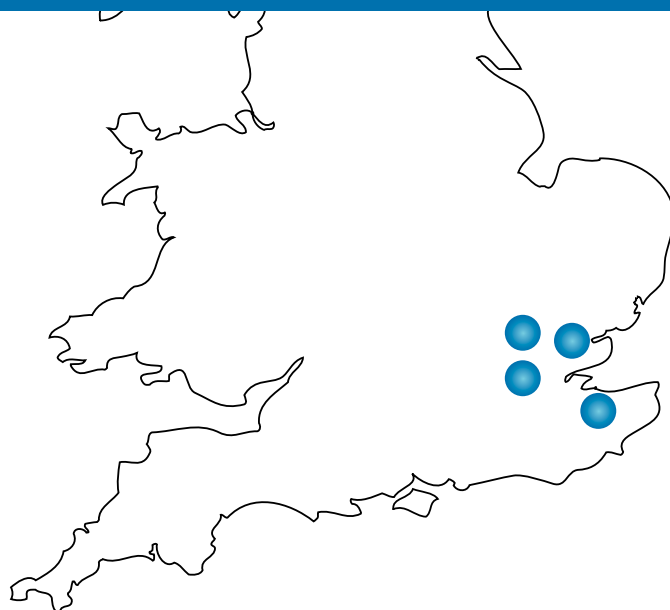
Lady barristers report that Reading is a great place to shop. The Oracle Centre, completed in 1999 on the site of a 17th Century workhouse, attracts huge numbers to its commercial outlets. The pedestrianised Broad Street also offers plenty of opportunity to misspend one's £46.50 mention fee.

Ricky Gervais and Kate Winslet were born in Reading. Sadly, they have now moved on.

*Gareth Branston is a barrister at 23 Essex Street and Treasurer of the Thames Valley Bar Mess*



# BAR MESS REPORTS



## CENTRAL LONDON

The CLBM has been hard at work on your behalf over the past few months, representing the Circuit at negotiations over the planned 'double-shift' sittings, as well as the more routine meetings with the judiciary. Following an intervention by the Mess, we hope that by the time 'Circuiter' goes to press the Court Service will have withdrawn their extortionate charges for receipt of faxes and photocopying in the London Courts (up to £5 for 1 page). Please let us know of any new abuses.

*The mess would like to congratulate an old favourite, Phillip Shorrock, on his well-earned appointment to the bench.*

The mess would like to congratulate an old favourite, Phillip Shorrock, on his well-earned appointment to the bench. Phillip's wasted no time in making his presence felt at the 'special' court centre that is the Crown Court at Woolwich. Other new appointments include Judges Bishop (Inner London), Peter Clarke and Frances Sheridan (Blackfriars).

The annual cocktail party is planned for late November. All are welcome, but we'd like to remind more amorous members of the Mess that suitable hotel accommodation is available nearby. We advise you to book early to avoid disappointment.

*'Prendergast'*

## KENT

Feeling that just one boozy get-together a year was not enough to raise the spirits during these difficult times, the Mess held a very successful drinks party at Canterbury on 9 July. Well-attended by Bench, Bar and others it may yet prove to be an annual event. Our thanks go to Judith King for organising it, and to the Resident Judge, Judge Williams, for her much-valued support.

Sadly though, the allure of cricket is less strong than that of free merlot, and this year's Bar/Solicitors cricket match had to be cancelled, for the first time in over ten years, due to a lack of players. Often in the past the solicitors have had to recruit from beyond their profession, but this year their supply of 15 year-old prodigies appeared finally to have dried up. Hopefully England's Ashes win will inspire them next year, whether admitted to the Roll or not. The Bar may even find some prodigies of its own.

The Circuit Roadshow hit Maidstone and it was very well attended. Our Leader spoke on many subjects including Best Value Tendering and means testing for Legal Aid in the Crown Courts. Merlot, etc was provided; we know what you like.

The annual dinner is on 27th November 2009 at Lincoln's Inn Old Hall. The guest speaker will be HHJ Gratwicke, a luminary of first the Kent Bar and now the Essex Bench. We are delighted he has agreed to re-join us (even if for one night only), and we hope the Essex Bar will forgive a temporary return to his roots. It promises to be a great evening and application forms will be sent out soon. In the meantime further details can be obtained from the Mess Junior, c/o 5 St. Andrew's Hill, DX 417 LDE.

*N. Victor*

## ESSEX

The Essex firmament has changed somewhat over the last few months: Frank Lockhart's funeral service was packed, with the Bar and Bench well represented. His brother and Patrick Musters delivered two beautiful eulogies that managed to capture the many facets of our much missed Southend Judge. But being a Yorkshireman, he would have told us all to get on with our lives and to enjoy them so, with thanks for a life well lived and for some great memories, on to happier things. We have welcomed three new Judges to Basildon, Messrs Graham, Lodge and Saggerson. All are shaping up well; displaying good humour as well as good judgement. What more could anyone ask?

Worrying signs of falling standards up at Chelmsford: the annual Bar v Bench cricket match turned into a rout for the Bar, with HHJ Ball's team suffering not just from a lack of hitting power but also from the absence of their captain, who had been compelled to go and pay homage at the court of Bruce Springsteen at Hyde Park rather than galvanise his troops on the greensward. It was left to the heroic HHJ Gratwicke to try and inspire the Bench team but they were trounced by a Bar XI led by Compton (Alan, that is). Our Mess chairman, John Dodd, got the catch of the match award (!) but was in danger of forfeiting it as he chose to bowl wearing a rather fetching pair of shorts. "It was like being bowled at by an American tourist" the disgruntled Gratwicke complained, as he missed yet another ball as a result of his laughing too much. Many thanks to Alan and Gayle for organising a great day and for providing a gargantuan tea.

The Mess dined Mr Justice Calvert-Smith in high summer at High Easter: a great



evening, well attended and David really did sing for his supper – you had to be there!

*"It was like being bowled at by an American tourist"*

Late news: our former Chair, Nigel Lithman QC, has just survived a parachute jump in order not to lose weight but to raise funds for charity – the Kamala community in Israel, a centre that cares for adults and children with profound special needs. Bravo Nigel. Comments, donations, etc to nlqc@aol.com. Congratulations to Valerie Charbit (and Dan of course) on the arrival of their second child, Eli. May he and they be blessed.

Wishing you well as we hunker down for the autumn stretch and hope that we can all meet to swap tales at the annual dinner which this year will be held in Brentwood on 20 November. Details can be obtained from the Junior, Jackie Carey at 2 Bedford Row.

*'Billericay Dickie'*

## HERTFORDSHIRE & BEDFORDSHIRE

The Early Guilty Plea Scheme at Luton Crown Court has been revised with the process now starting at Magistrates' Court level. In cases identified as suitable, the CPS will prepare documentation to be served on the defence, who are then required to notify any disagreement within two weeks of committal or sending. Unless the defence have raised an objection, the case will then be listed for plea within 4 weeks of the Magistrates' Court hearing.

A quiz night to be held on 27 November is being organised by the court staff at Luton Crown Court, with members of the judiciary and the bar being invited. Details can be obtained from Tom Forder at Luton Crown Court.

HHJ Gullick is now sitting at St Albans.

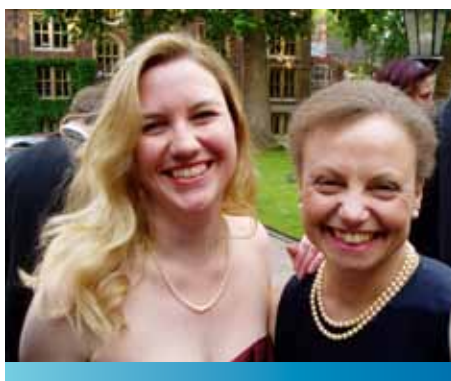
The Committee is considering a draft for a new Constitution. Now that the summer

break is over, a draft will be finalised and a general meeting will then be held so that the Constitution can be discussed.

*Fred Ferguson*

**If you wish to contribute any material to the spring issue of The Circuiteer, please contact Ali Bajwa at [ABajwa@25BedfordRow.com](mailto:ABajwa@25BedfordRow.com)**

## More Images from the Annual Dinner: 26 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*

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*Sort code*

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*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*

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*Originator's Identification Number*

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***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

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

### PROPOSER

Must be a paid up member of the SEC

Name	
Signature	

