

THE CIRCUITEER

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CIRCUIT TRIP TO PARIS

It has been a number of years since the last circuit trip, and many more since the last to Paris. This diplomatic mission was long overdue, and, as we discovered from the moment we arrived, a venture enthusiastically welcomed by our Parisian counterparts.

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EDITOR'S COLUMN

Much has happened across the Circuit since the Spring edition, with changes of Leadership of Specialist Bar Associations and the Circuit itself – congratulations and thank you to all those who are willing to work on our behalf in so many ways.

The American election has haunted international news for too long and the impact of the Brexit vote has barely begun to be understood – superficially steady economic figures hide the underlying tensions amongst many businesses and professionals. Our readership can be sure of one thing – government officials will try to avoid returning to the positive discussions that were close to bringing financial stability to many at the publicly funded Bar. Our representatives have an increased burden upon their shoulders and will need your help more than ever.

Judicial retirements abound as many have made way for others, or are about to do so: the renewal of the Judiciary with young talent is a fascinating, almost organic process, with changing times bringing changing faces and attitudes. I'm sure that you join me in thanking those who step aside and wishing those well, who seek to fill their shoes.

There has been cause for sadness too – losing colleagues

or friends, we are reminded of the transient nature of our flickering flames. This edition highlights a few but we all know of others who need remembering too.

Valerie Charbit continues to do a fantastic job of highlighting the importance of Wellbeing at the Bar: encouraging members of our profession to speak more freely about mental health problems before they become overwhelming: asking for help should no longer be seen as a sign of 'weakness' but is part of ensuring a more sustainable and healthy approach to working in one of the most pressured of professions.

Forgive me a few lines of personal reflection in the hope that the LGBT Bar initiatives will acquire the same degree of prominence since the links between the LGBT community and mental health issues are widely documented, insufficiently appreciated and potentially catastrophic – a few statistics, all of which are prepared by comparison to the heterosexual community:

- LGB people are 50% more likely to experience long-term mental health problems and are twice as likely to attempt suicide, with LGB young people (up to the age of about 24yrs) being 6 times more likely to attempt suicide.

- 88% of trans people have experienced depression (compared with 25% in the wider community); more than 77% regularly use antidepressants and more than 60% have attempted suicide.

It is no surprise that premier footballers remain entirely 'heterosexual' in the face of knowing the personal and financial consequences of 'coming out'. Even at the 'educated' Bar, the cumulative effects of ill-considered comments can take their toll: group conversations often involve the unspoken assumption that everyone present is heterosexual which places a burden on those who are not either to remain silent or to declare their own sexuality ... every day.

I encourage everyone to reflect on the impact of the language we use and to make our voices heard in trying to overcome some of the challenges arising from the sexual orientation and gender identity of our predominantly 'invisible' minorities.

Thank you to those who supported the Charitable call in my previous Editor's Column – we raised upward of £17,000 (including a few "silent" contributions) for Opportunity International. I cannot recommend the Prudential London100 cycle too highly – it



Karim Khalil QC

was an extraordinary day riding the closed roads of London and Surrey, ending with the chance to watch the Olympic professionals fly down the Mall in the late afternoon: they made it look too easy!

Once again, a fine array of writing talent graces the pages of The Circuiteer – of special note are the reflections of Igor Judge upon his time as a Circuiteer, reminding us that life outside London has many rewards and often encourages some of the finest advocacy! He triumphed at the Circuit dinner (and the wine was much appreciated too).

My thanks to my sub-editor, Adam Morgan; Aaron Dolan who works tirelessly for the Circuit in so many ways; Sam Sullivan for his typesetting patience and to all who have contributed to this edition.

Carpe Diem

Karim Khalil QC

Drystone Chambers
Editor *The Circuiteer*

If you wish to contribute any material to the next issue of The Circuiteer, please contact: Karim.KhalilQC@drystone.com

Kate Mallison

We were saddened to learn of Kate's sudden, yet peaceful, passing on the 5th August. She was fearlessly committed to the career that she had dedicated her life to. Her recovery from a serious illness, over a decade ago, to return to practice is a testament to her strength and her courage. She served on the Thames Valley Bar Mess committee for many years and was the Mess representative on the SEC committee. She was interested in those around her from the most junior to the most senior. There are many that owe her a debt of gratitude for the

advice or support that she gave them as they started out, and throughout their careers. She enjoyed all the Bar had to offer and her influence extended far and wide. When news started to spread the Chamber's website host shut down our website fearing a cyber attack, in fact it was over 4000 hits on Kate's profile in 24 hours. It is fair to say that she would not shy away from expressing strong views but you couldn't help but feel disarmed as she finished, as she always did, with a smile and an "I'm sorry". She will be missed not only by us in chambers but I suspect by many more of the profession that she loved.





Max Hill QC

LEADER'S REPORT OCT 2016

And so, the time has come for me to bid farewell as Leader of this great Circuit. My successor, unidentified at the time of writing, takes over on 1st January 2017, and I wish him or her every good fortune in representing the thousands of barristers practising on the South Eastern Circuit. Any individual can only do their best, but it is the Leader's great good fortune to have the assistance and goodwill of the Circuit Officers, Administrators and Committee. This is what sustains me throughout the two years and two months of my Leadership.

When I was elected in November 2014, my first entry on the Circuit website contained these words: *'Notwithstanding our fight for survival, I believe that opportunity comes from adversity, and the qualification and experience we all have as members of the Bar can be used to sustain our careers in a variety of hitherto untried ways, without abandoning self-employment, the hallmark of the independent and fearless professional. There is much work to be done in ensuring that the skills of the criminal barrister are recognised and utilised by a far wider circle, not merely in criminal courts.'*

It will be for you and others to judge, but I believe that the publicly-funded Bar on this Circuit has proved its skill and versatility in the last two years. Whilst times remain hard for many, we have seen that able members of the Circuit have expanded their work to embrace far more than 'merely' a legal aid defence practice in the Crown Court. Not that there is anything wrong with spending your time defending in criminal cases where the defendant lacks the money to afford a private defence. It is vital that an independent Bar remains for this

purpose, and continues to include the brightest and the best advocates of this generation and those yet to come. However, we are seeing members and their sets complement this work with ever-increasing instruction in private work (including 'private' criminal defence work, often paid at rates just above the legal aid mark), regulatory or disciplinary work, or corporate instructions stretching all the way from local authorities to major City institutions. If you are one of the many who are actively pushing yourself and your practice into these areas, more power to you.

But that is not a complete answer to what I called the fight for survival, and it has been a fight. I also wrote in November 2014 *'We must ensure that the Bar remains on the front foot in our engagement with Government, to ensure that nobody in a position of influence over the Criminal Justice System is allowed to forget the paramount importance of maintaining a properly-funded independent Bar, in the best interest of all who come before our criminal courts.'* Through the Bar leadership, which comprises the six Circuits of England & Wales together with the Criminal Bar Association and the Bar Council, you have kept on the front foot with Government, both before and after the 2015 General Election, and before and after the Brexit referendum. On your behalf, we have formulated and presented fundamental improvements to both the legal aid funding crisis and the issue of quality in advocacy before our courts. Bar leadership proposals for a completely revised Advocates Graduated Fee Scheme (AGFS) were presented to the Ministry of Justice (MoJ) in the summer of 2015. At the same time, a worked-through proposal for a defence advocates panel was presented to the Ministry, when we all feared the imposition of Two Tier Contracts for solicitors and the wholesale loss of new instructions for the Bar. Two Tier foundered, just as QASA has foundered. However, it is with a profound sense of regret and frustration that neither the revised AGFS nor the defence panel scheme have yet come to pass. There was nothing we could do about the enforced delay during the General Election last year, and nothing to be done about the real hiatus caused by the fallout from Brexit this summer. By the time you read this, a long delayed Government consultation on both AGFS and defence panels may be en route or even on your desk. Meanwhile, I must ask you to accept that

it is not for want of trying that these schemes are still planned rather than actual. I can only add that the highest commendation must go to the many Bar representatives, including of course several from this Circuit, who have tirelessly laboured in your interest, and who have presented polished material for the Leadership including me to promote with MoJ.

The third and final recitation of my own words from 2014 is as follows: *'I am conscious that the SEC serves all members of the Bar practising in the South-East, and I intend to ensure that the SEC Committee is truly representative of all whom it serves. Speaking for myself, the Criminal Bar Association (which I chaired 2011-12) is the specialist bar association most closely representing my professional practice. However, the other SBAs are all powerful lobbies on behalf of their own special interests, and importantly they have come to the aid of the criminal Bar in our time of need'*. This brings me directly to one of the developments of which I am most proud during my time as Leader, namely the creation and maintenance of the SEC Access to Justice Working Group. This Group has been actively pursuing consultations and other public announcements touching on the legal system in this jurisdiction, and it does so with the benefit of a twenty-strong cadre of barristers from all walks of professional practice. I have been particularly pleased to sponsor this development, creating an atmosphere in which the issues affecting the criminal Bar are a minority interest, far more time being taken up in dealing with issues from the Briggs Report on civil justice to the current consultation on modernising judicial terms and conditions. I have always been conscious that our colleagues from practice areas beyond crime patiently listen to the agonies of the criminal Bar for a disproportionate amount of time. I hope that I and others have redressed the balance at least to a degree during the past two years. Whilst our instructions and remuneration may come from disparate quarters, when it comes to the application of legal precedent together with a principled approach to problem-solving, we remain One Bar and we must stick together. The SEC and the Circuit Committee is open to all who have the time and interest to shape the Bar of tomorrow. If you have not been directly involved before now, think about it. There is much that you might do to help.

Three reminders of my words two years ago, and three strands to the work of the Circuit and my work as Leader. All three go together. I have done my best to pursue all equally.

Of course there has been more to my time as Leader. The continuing pre-eminence of the SEC Bar Mess Foundation Advanced International Advocacy Course (aka 'Keble' to all of us) takes pride of place. HHJ Julian Goose QC, Paul Stanley QC, Sarah Clarke and Aaron Dolan (as Course Director and Deputies, and SEC Administrator respectively) deserve our heartfelt gratitude for tending the flame so ably, and keeping our former Leader Tim Dutton's great idea alive and closing in upon an imminent silver anniversary. This leviathan course, benefitting criminal and civil practitioners equally, walks tall amongst all other advocacy courses worldwide, witness the course tutors who give their valuable time and fly around the globe to join us each August Bank Holiday. I have loved every minute of my time at Keble 2015 and 2016, and am confident my successor will feel the same.

Next comes our representative work in general, spreading the word on new developments and best practice through the Bar Mess structure which is unique to the SEC. I am grateful to my inner circle, the Bar Mess Chairman, for all of their efforts on

behalf of barristers working at all points of the compass around the Circuit, and for their wisdom and help whenever I have asked for guidance on matters sometimes local to one Bar Mess, sometimes touching the Circuit or the profession as a whole.

And thus I return to the Circuit Committee, who have been a sounding board for my every thought, and the body to whom I have reported every twist and turn of my efforts as Leader. A Committee usually consists of quiet hard-workers, who receive little attention or praise. The Circuit Committee has been my calm and good-humoured point of contact throughout my Leadership, and I offer my thanks to every member. Membership of course is not constant, and annual elections ensure the arrival of new faces and new energy. And we lose members whom we sometimes wish were still with us. As to this, I single out Kate Mallison, whom we sadly lost in August but who proved her selfless dedication to the Committee, to successive Leaders and to the SEC as a whole over many years. I first joined the SEC Committee as Junior in 1995, and can barely remember a time when Kate was not involved, making incisive contributions on every topic of real interest to practitioners. Kate will be missed, but not forgotten.

Finally to the team of key individuals who make the SEC work. To my fellow Officers Oscar (now HHJ) Del Fabbro, Giles Powell, Natasha Wong, Valerie Charbit, Simon Walters, Heather Oliver, Helena Duong. Thanks one and all. To Committee members who have shouldered special burdens, Iain (now Justice of the East Caribbean Supreme Court) Morley QC as Director of Education, Karim Khalil QC as Editor of the Circuiteer, Paul Cavin who joined me on the Joint Advocacy Selection Committee, and Alison Padfield as Chair of the Access to Justice Working Group. Thank you. And to our peerless Administrator Aaron Dolan and my PA Tana Wollen. I don't know what I shall do without you.

It has been the greatest privilege to spend the last two years trying to do everything I can for this Circuit. My thanks to every individual member who has made contact with me to discuss matters personal and professional. I have tried to help.

We no longer use Latin when in court. But I can finish here with the words 'Floreat SEC'.

Max Hill QC

Red Lion Chambers
Leader, South Eastern Circuit

Reflections of a Circuiteer

I was called to the Bar in 1963. To practice at what was then called the independent Bar, whether you intended to venture out of London or not, you were required to join a Circuit. My first pupillage did not culminate in a tenancy. I was offered a tenancy in a Circuit set based in London and joined the Midland Circuit. I practised on the Midland Circuit, and then the Midland and Oxford Circuit until 1988 when I was appointed to the bench. It was a wonderful way to practice at the Bar.

Memories of the early days come flooding back. Circuiteers were sometimes, patronisingly, described by those practising in London as “provincial” barristers, and sets of chambers based on circuit were described as “provincial” sets. Yet to someone whose pupillage was based in London, standards of advocacy on Circuit appeared to be strikingly high, a view which was later confirmed on every Circuit I visited as a judge.

There were some strange rules. For example, if you took silk from a Circuit set of chambers, you had to leave your old chambers and join a set with an address in London. If you were briefed off your own Circuit, a fee had to be paid to a junior from the Circuit you were visiting. “Special” was the description given to this particular restrictive practice. Circuits guarded their boundaries. Non-circuit members were treated with courtesy, but on the occasions when I travelled to Chester and Swansea and Sheffield to do a simple “undefended divorce”, a very familiar feature of early practice, I somehow found myself at the very bottom of the list. My abiding memory of that visit to Chester was it happened on the day after the Court had listened to the tapes of victims of the notorious Moors Murders. The shock was almost palpable. No one could speak above a whisper.

Criminal courts did not sit permanently. Assizes and Quarter sat for limited periods, sometimes a week, sometimes indeed, even shorter. The work had to be done quickly. A two-day case was a long case. At Assizes High Court judges dealt with the most serious cases they do now, but cases of rape and robbery, s 18 and death by dangerous driving, were all included in their lists. The arrival of the “Red Judge” was an event. Clerks would send young members of chambers to sit

in court on the first day of Assizes so that they could listen to and learn from the leading juniors, and sometimes silks, on the circuit prosecuting and mitigating. You were also sent to Quarter Sessions because the Recorder or Chairman had let it be known that there was an unrepresented defendant to whom he was willing to grant PPD (Poor Prisoners Defence). These experiences, combined with appearances in trials at magistrates courts, when solicitors were on holiday, formed an essential part of your learning curve as an advocate.

One or two additional features about criminal justice: your fees were not fixed centrally. At Lindsey Quarter Sessions you were paid at least double the fee paid by Northampton Quarter Sessions. It was deliberate policy, designed to attract senior practitioners to Lincoln, so that the work would be done more efficiently, and quickly. Whether at Assizes or Quarter Sessions the individual who fixed the fee sat in Court. For work done particularly well, the standard fee would be “upped”, sometimes on his own initiative, sometimes at the suggestion of the judge. Such a compliment from the judge was always passed on.

There were still very few women practitioners. Although I have recounted the story before, I shall repeat that their position was summarised for me by the speech made by Mrs Justice Lane at the dinner given in her honour following her promotion from the County Court bench. She began by saying that “this was the first time she had dined in Mess”. Some of the older members of the Circuit felt a little shocked at what they thought was a discourtesy: some of us were shocked that this was so. Since then the Circuit has elected Frances Oldham QC to be its Leader, and Julia Macur and Kate Thirlwall have been, and now Sue Carr is a Presiding Judge.

What did a circuiteer offer? The short answer, and the long answer too, was advocacy. There were no closed ranks of specialists. Your speciality was advocacy. Not least because the criminal courts did not sit all the time, and because cases in courts, civil as well as criminal, took far less time than they do now, we not only prosecuted and defended, and if you



Igor Judge

did criminal work, you certainly did both; we did family work, money and custody and access; personal injury, both for plaintiffs, as they then were, and defendants; occasional sale of goods, and building and planning and employment cases: and boundary disputes; just about anything that needed an advocate. For example, I was fortunate enough to be briefed to argue the case of *Treasure Trove* in the Chancery Division, and in the mid 1980s to advise and represent miners in the Midlands during and in the aftermath of the Miner's Strike in their disputes with the NUM, and later the NCB. I doubt whether anyone nowadays has the breadth of practice, which many circuiteers then enjoyed. Areas which we would not touch included taxation and trusts, and defamation, where the theory was that an untutored pleading might half your plaintiff client's damages, or double the damages to be paid by your defendant client. Subject to specific exceptions of this kind, I repeat advocacy was our speciality, and on circuit it was so regarded by solicitors. I believe that what was true for my own circuit was true for the others.

In short it was a very different world, as it always has been and no doubt will continue to be. My years on the circuit left me with many lifelong friends, redoubtable opponents in court, pleasant companions out of court. Remarkably, in such a competitive profession, I never remember even the beginnings of an occasion when a circuiteer behaved towards me in a way which led me to question his professional integrity or standards. Rather my years on circuit were marked by generosity of spirit with help and support whenever it was needed. Perhaps unsurprisingly, when I was a judge, circuiteers, from every Circuit, were always welcome in my court.

Igor Judge, Baron Judge

Retired Lord Chief Justice

ALL CHANGE AT LEWES CROWN COURT

2016 has been a time of change across the whole of the Criminal Justice System. Lewes Crown Court has seen significant change, with its three most experienced judges retiring in the space of a few months. Former Leader of the Circuit HH Michael Lawson QC, HH Anthony Scott-Gall and HH Richard Hayward all bid farewell to a court to which they had contributed so much over the years.

The valedictories for all three were very well-attended, with the upstairs galleries of Court One at Lewes Crown Court being used as an over-flow due to the sheer numbers who wished to say goodbye to three charismatic judges who were at the very heart of Lewes Crown Court for many years.

The Sussex Bar Mess hosted a black tie dinner in honour of our three retiring judges on 10th June at Pelham House, Lewes. The well-attended event was a fantastic opportunity to wish all three the very best in their retirements and to thank them for their immense contributions to justice at in Sussex during their tenures. Chairman of the Mess, Alan Kent QC, proposed a heartfelt toast to our retiring judges and HH Hayward responded with his usual wit and impeccable comic timing.

I have taken the opportunity to speak with HH Michael Lawson QC, HH Anthony Scott-Gall and HH Richard Hayward about their memories of life at the bench and bar and their views on the current state of the Criminal Justice System.

What were your feelings at the start of your judicial career?

HH AS-G – Whilst at the bar I was an infrequent visitor to Lewes but when I did appear there I was very conscious that Lewes was an Assize Court and it still retained that aura for some years thereafter. It was a great honour to be appointed to sit at Lewes March 1996 given that I lived 20-30 minutes away. That meant no more commuting to London or further afield which made Lewes/Hove very appealing places to work. I was apprehensive when I started but the Court Staff at Hove CC (where I sat first) and thereafter at Lewes could not have been more supportive, helpful and patient as I settled in and 20

happy years passed quickly by.

HH RH – My feelings were a mixture of apprehension and excitement. I had only appeared in Lewes on one previous occasion when I managed to lose an unlosable Licensing Appeal! Richard Brown, as he then was, was for the Respondents. When I was appointed on the 1st April 1996, a date some felt to be appropriate, I was offered Southwark, where I had sat as a Recorder, or Lewes. I was undecided, but my very old friend HHJ Coltart persuaded me to choose Lewes. He told me Lewes was a very civilised town with an excellent local Bar, helpful and friendly staff, and a few “watering holes” for the occasional working lunch. How right he was. I received a warm welcome from colleagues, staff, the Bar and solicitors. Lewes is a special place and I feel very fortunate to have been able to work there.

How do you look back on your career at the bar and on the bench?

HH MLQC – I started my judicial career with drinks with the Bar in the Mess at Maidstone and finished with drinks (and food) with the Sussex Bar Mess in Lewes. For me, the company of those I work with has given me the most pleasure. Knowing that I can trust my opponents (or know the ones I cannot trust!) comes from the time spent together during cases, the give and take of pre-trial negotiations, and the generous appreciation of one's opponents if some cross-examination or speech goes well. As professional life becomes more regulated and grown up we mustn't lose the sanity which mixing with others provides.

How did things change during your time at Lewes Crown Court?

HH RH – Change has been relentless. I believe a very significant change was the abolition of the traditional and very powerful role of the Lord Chancellor as Head of the Judiciary and a leading member of the Cabinet, and the creation of the Court Service, the Judicial Secretariat and Ministry of Justice. This has led to the Judiciary being slowly, but surely, absorbed into the Civil Service. The Senior Judiciary has either not appreciated this or felt powerless to stop it. I fear for the independence of the Judiciary in the future.

Another change I have noticed is the increasing absence of Pupils in Court. When I was at the Bar and in my early years at

Lewes senior juniors always had a pupil with them. A good pupillage is essential for an aspiring barrister to learn good habits, a respect for the Court process and how to handle Judges, opponents, witnesses and Court Staff. I appreciate that pupils now have to be paid and this is a real burden. I believe the Inns of Court should put the huge sums being spent on “advocacy training”, with questionable results, into a fund to help pay for pupillages.

HH S-G – For my first ten years or so at Lewes the Presiders would come to sit at Lewes regularly for a month to six weeks sometimes twice a year. The visit by the “Red Judge” reinforced the solemnity and gravity of court proceedings tempered by the social events arranged by the Sussex Bar Mess and, the Lewes Judiciary and The Presider. I have no doubt that these now infrequent events have reduced the chances for rapport and bond between CJs, the Bar, The Court Staff and the Presiders. Sadly, in later years the demands on the services and time of High Court Judges and Presiders has become so great that the presence of a “red judge” at Lewes became a rare event. Three of our regular judges had murder tickets and the need for Presiders or High Court judges to try these cases was obviated save for just a few cases. There was therefore a saving of expense and High Court Judges' time with the work done by Circuit Judges. Time will tell whether that has benefited the dispatch of judicial business.

HH MLQC – I spent half my judicial life in the Lewes group of courts and admired the way judges, advocates and staff alike coped with the inevitable problems associated with working from 3 centres. None are ideal and Lewes, for all its history is no longer a suitable Tier One court building. For me, however, as we have become more regulated by the MOJ and Court Service and more focused on targets and new initiatives, we have become more inward looking. We are no longer part of the community we serve – decent people who are fascinated by, and want to know more of, what we do: No open days, very few college or 6th form visits; no longer involved in the wider fabric of the Criminal Justice system; no real involvement with the High Sheriffs who seek to draw the constituent parts together. I believe it is time to look outwards again – and show people that the important job we do is

done on their behalf and explain why we do what we do.

What are your thoughts on the future of the Criminal Justice System?

HH MLQC – Looking back over the last few years, I can hardly believe the blatantly political interference by Grayling as Minister. His ambition, as a non-lawyer, to prove that he could bring the system 'to heel' did untold damage. Fortunately, Mr. Gove was persuaded to undo much of his predecessor's achievements. We will watch with interest what approach the current 'non lawyer' takes! I was sorry to have to retire just as the paperless world and the new judicial intranet came in. I would have enjoyed the challenge and would have liked to see if it worked better than our more familiar ways. What I think is more important, however, is that advocates learn how to examine and cross-examine more quickly. Our trials take too long and better focus on the real issues can be much more powerful than a long and rambling performance. We need a legal version of 'speed dating'!

HH S-G – I could not ignore the significant changes in the dispatch of judicial business between 3/1996 when I started at Lewes and 3/2016 when I retired. These changes are not unique to Lewes. The staff have had to manage a significant increase in the workload, and the nature of the workload particularly the way criminal trials are now presented. Despite being under resourced they coped with unfailing humour and fortitude. With the increased reliance on technology and the impending digital revolution I am relieved to pass that burden on to the next generation. What became ever more clear to me over time was that Lewes CC as a building has become no longer fit for purpose. This fine building was designed for a different age and approach to trying criminal cases. I fear its time has come, should there be sufficient funding to construct a Sussex Palais de Justice to replace Brighton, Hove and Lewes under one roof. Anywhere but Crawley. I never enjoyed moving from Lewes to Hove – fortunately the List Office took pity on me and I was spared sitting at Brighton.

Were there any other developments during your time at Lewes Crown Court for better or worse?

HH RH – Finally it has been sad to see how badly the independent Bar has been treated over the past few years, and I am full of admiration for Counsel who have continued to work so hard in their clients interests in such a difficult environment. Frozen or reduced fees, and rights of audience being granted to a wider pool of lawyers has made the Bar a less attractive career for bright young graduates. Sadly I do not think the Senior Judiciary appreciate the effect



this is having on the Bar and the criminal justice system.

HH SG – The second significant change over the last twenty years in crown court work has been the rapid and not always welcome change in representation in both prosecuting and defending cases. When I was at the Bar, Solicitors conducted summary and either way trials quite capably before the Magistrates. As time passed after 3/96 in the crown court the Lewes Judges found themselves presiding over ever increasing numbers of either way trials conducted by "Higher Court Advocates" acting both in house for the CPS and as a "Higher Court" Solicitor counsel. With very few notable exceptions the quality of the advocates on both sides of the court was lamentable both in contested cases before a jury and in guilty pleas before the Judge. It was so dispiriting for a judge in a criminal trial, obliged to be impartial, to see a case hopelessly prosecuted before an intelligent Sussex Jury (they do exist) and/or incompetently defended. This scenario has been repeated despairingly by judges at every residential seminar I attended over 20 years. It is not for me to explain or excuse this development, in defence work but I fear it has been finance driven by small, under resourced local solicitors rather than by ego driven advocates manqué. The failings of many CPS advocates in the crown Courts has been acknowledged and sadly in my time has not been fully addressed. Perhaps the clock should be turned back and competent counsel instructed to appear in the Crown Court, counsel who do not have the security of a salary and a pension. This backdrop has been the second most vivid memory of my years sitting at Lewes. This is not to say that life on the bench was a struggle: quite the opposite and whatever the list I knew that those appearing before me were ever courteous, as well prepared as was possible under the new (over optimistic) regime of disclosure so that justice was done rather than avoided on the day.

Any final thoughts on your career and the future?

HH MLQC – What a privilege it has been to work in the criminal courts for 46 years meeting and helping people of all sorts. How good to finish at Lewes with its unique atmosphere. Thank you all for

your tolerance of my quirks! But especially thank you for such a wonderfully generous farewell Bar Mess evening. I couldn't have wanted anything else. I love retirement and am having a ball!

HH S-G – What I learned over the years was that no one wanted to be in a crown court except possibly counsel (even if they had no instructions and that they might be paid if they were lucky). Jurors, witnesses and defendants would rather be elsewhere and it was the Judges responsibility to manage the Court, even on those unfortunate occasions when a trial was ineffective. As a judge I felt able to overcome this disaster without too much angst. It never ceased to amaze me how many trials were effective notwithstanding the numerous pitfalls that were ever present. It is to the credit of all at Lewes, the CPS and the defence that so many trials were in fact effective, whether before a jury or not. This is my prevailing memory of the years 1996-2016. We greatly enjoyed the dinner at Pelham House and I wrote to Sarah Lindop (Junior of the Sussex Bar Mess) thanking her and the Mess for not only the event but the good company and generous present.

HH RH – I feel very fortunate to have practiced at the Bar and then sat as a Judge for 46 years. My Chambers were at 1 Essex Court. I had a general Common Law practice which took me to the House of Lords, the Court of Appeal, the High Court and numerous County Courts, to the EAT and disciplinary tribunals. I had the privilege of appearing before Lord Denning and seeing some of the finest advocates of their day in action. When I became a Judge I sat in crime, civil and family. Every case over the years has been different involving different issues, challenges and people. Few careers offer such variety, and I miss travelling to Court thinking about what the day holds. The send-off I received in May, and the kind wishes expressed were much appreciated by me and my family. As to the future, well it is challenging and exciting. I wish the Sussex Bar Mess and the wider Bar all the very best, and I will continue to support both as best I can.

The Sussex Bar Mess, The South Eastern Circuit and all those whom have had the pleasure of appearing in front of HH Michael Lawson QC, HH Scott-Gall and HH Hayward thank them for their fantastic contribution to the Bar, the bench and our Criminal Justice System as a whole. The Sussex Bar Mess look forward to seeing all three at the upcoming Garden Party to be hosted by HHJ Kemp in September.

Ross Talbott

Lamb Building
SEC Committee Member
Sussex Bar Mess Committee Member

Meeting of the Chairs of the SEC Bar Messes



On Friday 18th March 2016 the Lady Ottoline Restaurant in London WC1 was the venue for another wonderful South Eastern Circuit event.

This was as ever superbly arranged by Aaron Dolan and hosted by Max Hill QC.

Many of the Chairs of the SEC Bar Messes met and were able to devote the evening to discussing a range of issues that had arisen in their respective messes.

They were able to pool and share successful ideas and discuss ways of regenerating messes. The Messes still play such an important role, especially for the junior bar in being a receptive forum for raising the issues that concern them.

All members of the SEC should know that their respective Chairmen spend much of their free time gathering information and seeking to influence the development of the justice system in the best interests of the Bar.

Amongst the topics of conversation on this occasion, the Mess Chairs discussed the proposed revision of the AGFS, the plans for a defence panel of advocates, and membership of Bar Messes for the employed Bar.

All were thanked by the Leader on behalf of all members of the SEC for their valuable and selfless work.

The following were able to attend:

Leader of the SEC – Max Hill QC

Chair of the Herts and Beds Bar Mess – Kerim Fuad QC

Chair of the Cambridge and Peterborough Bar Mess – Karim Khalil QC

Chair of the Central London Bar Mess – Rosina Cottage QC

Chair of the Sussex Bar Mess – Alan Kent QC

Chair of the Kent Bar Mess – William Hughes QC

Chair of the North London Bar Mess – Philip Misner

Chair of the Essex Bar Mess – Gerard Pounder

Assistant Junior of the SEC – Helena Duong

Kerim Fuad QC

Church Court Chambers



ESSEX BAR MESS REPORT

Our annual dinner, usually held at the end of November, was brought forward this year because we simply couldn't wait to say goodbye to Judge Ball QC. One jests. CB's departure will take time properly to register, particularly for the many of us for whom his tenure at Chelmsford coincided pretty much with the length of our practice. His has been a great innings.

On 30 September the Mess assembled in splendid numbers at the Andaz Hotel at Liverpool Street. As well as a fond farewell to CB, the occasion also marked the 25th anniversary of our Mess itself. It was a wonderful evening among friends old and new, including Mr Justice Knowles. There were past (one nearly said old) Mess chairs and many former Essex Judges including our retired Residents, granddad Mitchell and great grandpa Clegg. Other welcome returners included Judges Marie Catterson, Alice Robinson and the recently departed Jonathan Black who is now fluttering hearts in Croydon.

Thanks go to our tireless Junior, Laura Kenyon, for organising such a delightful evening – nay (with the late extension) night. The least said about colleagues' nocturnal 'dad dancing' the better. Long live the Essex Bar Mess!

On a poignant note, HHJ Anthony Goldstaub QC has recently retired after many memorable years at Chelmsford. He has been one of our most affectionately regarded Judges and we will miss his delightful presence and sharp wit. For many years he coped uncomplainingly with devastating medical difficulties, without ever losing the mischievous glint in his eye or the ability to catch any train on which he set his mind ("choose a convenient moment, Mr Halsey..."). Even using a walking stick, he could out pace almost anybody twixt court and railway station.

In his court a couple of years ago, Sarah Vine's disinhibited vulnerable client (more familiar with the lower court) interrupted a hearing by yelling out "Why are you on your own – there's normally three of you?" Quick as a flash, Goldie quipped "it's the Government cutbacks – only one Judge per court now".

We will miss those moments.

SOUTHEND PIERRE

Essex Bar Mess

Inns of Court College of Advocacy (ICCA)

On 13th June 13 the Council of the Inns of Court (COIC) launched the Inns of Court College of Advocacy (ICCA) to succeed to the functions previously carried out by the Inns' Advocacy Training Council (ATC). The ICCA will be responsible for providing leadership, guidance and coordination in relation to the pursuit of excellence in advocacy. The College will be governed and supported by barristers representing the Inns and Circuits, the Bar Council, Specialist Bar Associations and the judiciary. It will oversee the development and delivery of advocacy training for the Bar of England and Wales.

The extra resources provided by the four Inns have given the ICCA the opportunity to expand the work in progress inherited from the ATC and to develop important new work of its own. In the forefront will be the continuing and important task, in collaboration with the Bar Council, of training advocates in the handling of vulnerable witnesses. The systematic programme which has been devised will deliver training over time to more than 12,000 barristers and solicitor advocates. It continues the groundbreaking work carried out by the ATC, supported by The Advocate's Gateway (TAG), and follows the ATC and TAG's successful International Conference held in 2015. This was attended by eminent members of legal and academic circles from many jurisdictions and highlighted the need for change in the way we work with vulnerable witnesses in justice systems around the world. On 8th June 2016 the ATC and TAG launched their first published book, *Addressing Vulnerability in Justice Systems*, edited by Professor Penny Cooper and Linda Hunting and published by Wildy, Simmonds and Hill Publishing, which brings together the papers from the conference. A complete list of the papers which are included in this publication can be found on our Advocate's Gateway website (www.theadvocatesgateway.org/international-conference-2015).

Projects and Events

The ICCA has many other projects on its domestic agenda: reviews of fundamental advocacy training techniques, the teaching of professional ethics and the handling of expert evidence. The expert evidence project includes collaboration with the Royal Statistical Society in the production

of a manual for advocates on how to handle statistical material. Advocacy in the youth courts and the digitisation of the court process are further challenges. But like the ATC before it, it has no ambition to take over the early training delivered by the Inns and Circuits to their own members: the qualifying sessions for Bar students, the pupils' training courses and the New Practitioners' Programmes. Its role here will be to function as a think tank, generator of training materials and forum for discussion.

The ICCA's first public event will be an all-day conference on 29th October 2016 entitled *Vulnerability and Power: Maintaining the Balance (The Client's Perspective)*. This will be aimed at changing the view of vulnerability as a unitary problem with a single solution, and will widen the material on vulnerability currently restricted to vulnerable witnesses. Speakers will include: Derek Wood CBE QC, ICCA's new chair of governors, Baroness Hollins and Nicola Padfield, Reader in Criminal and Penal Justice at Cambridge University and Master of Fitzwilliam College. Themes to be explored will include Autism and Learning Difficulties, Vulnerable Criminal Defendants, Young Persons and the challenges of foreign languages in court.

International work

Internationally the ICCA will continue the ATC's extensive programme of delivering advocacy training overseas, particularly in the developing worlds, where improving standards of advocacy training helps to maintain the rule of law. In the past year, the ATC has delivered training in a wide range of territories, including Zimbabwe, Guernsey, Brussels and Belize. In Belize training was delivered, at the invitation of the Department of International Narcotics and Law Enforcement Affairs of the US Embassy. It provided urgently needed advocacy training to serving police officers who act as Police Prosecutors. In contrast to the UK, these officers are required to present some of the most serious cases which could carry sentences of up to 10 years imprisonment. They are also required to deal with committal proceedings in more serious cases, where often the Defendants are unrepresented.

Future trips include Philadelphia, Ghana, Poland, Sierra Leone and South Africa. In all of its overseas training, the ATC adopted a 'seed corn' approach; giving direct training to local members of the legal profession



"Seeing officers of many years' experience absorbing the basic techniques of advocacy, and then matching that to their own deeper knowledge of criminal justice, meant that the trainers could take huge satisfaction in seeing their students rapidly improve." - Saul Herman, Belize March 2016



"For the ATC it is gratifying that advocacy training at the Bar is seen overseas as a 'gold standard' for international tribunals." - Robert O'Donoghue, Brussels April 2016



"It was remarked on quite widely that there had not been so convivial a meeting of Bar and Bench for some years, and there appeared genuine relief among both parties that all could get along and learn from each other" - Ian Morley QC, Zimbabwe April 2016

and training local trainers to continue that process. The fact that the ATC and (now) the College have been constantly asked to provide this training is a measure of the impact it makes, and clear evidence that advocacy at the Bar of England and Wales is seen to set the "gold standard" internationally. The trainers from the Inns and Circuits who give up their time to support these programmes, and the host countries who always make our trainers feel welcome, deserve the warmest thanks.

If you are interested in supporting any of the College's projects, please contact your Inn or Circuit with your details or Phoebe Makin (pmakin@advocacytrainingcouncil.org) for more details.

Derek Wood CBE QC

Chair of the Board of Governors - ICCA

JOHN DOWNES ALLIOT

A TRIBUTE

John Downes Alliot was my first Head of Chambers when I commenced my pupillage at 1 Crown Office Row on 3rd October 1983.

On that morning I met my pupil master David, later to become Lord Justice, Latham who explained to me the standards of behaviour expected of Chambers, how I was expected to assist him, my likely working hours and the importance of making and attending Chambers tea.

At that time all members of Chambers including the Clerks, were accommodated on the basement, ground and first floors.

John occupied a palatial room on the 1st floor overlooking Inner Temple gardens, as befitted a man of his stature and had been Head of Chambers since 1981.

First Impressions

I think I heard John's stentorian tones before I saw him but when he came into view I saw a barrel chested, imposing if not slightly intimidating looking gentleman, immaculately turned out with a straight back, piercing eyes and highly polished cavalry boots. In those days senior members of the Bar wore pinstriped trousers, black jackets and waistcoats (bowler hats had only recently been abandoned) and often a watch and watch chain.

In those first few months whenever John called my name I found myself fearful I had committed some gross misdemeanour but he was always gently inquiring about my progress and welfare and that of my parents who also lived in Langley.

As a pupil I accompanied John to Court on many occasions, usually to the Old Bailey. I marvelled at his skill and eloquence. He commanded the attention of all in the court room and controlled witnesses impeccably. He was unfailingly polite – all witnesses were Mr. Miss or Mrs and police officers were addressed by their rank. Questions were precise, economical and cross

examination devastating. He once put to a young man that he wasn't "man enough to admit when he had done something wrong" and got the answer "Yes!"

The Cyprus Secrets Trial

In 1985 John was instructed to represent a young RAF serviceman in what became the longest spy trial ever tried. It lasted from 11th June 1985 to 29th October. It was reported thus:

LONDON – Seven British servicemen who went on trial for spying betrayed some of the nation's "most precious military secrets" in exchange for sex, drugs and money, a London court was told.

Prosecutor Michael Wright said the foreign power behind the spy ring was not known, but he said some of the defendants have said they thought it was the Soviet Union, "and maybe they know best." The damage caused by the spying was "quite incalculable," he said.

The servicemen were all stationed at a British base on Cyprus that is believed to be used for intelligence-gathering purposes. They are charged with channeling to foreign agents hundreds of highly classified and top-secret documents between February, 1982, and February, 1984.

They face 28 charges in a trial expected to last into the autumn. Five are in the Royal Air Force and two are soldiers.

"They, as servicemen, acted as spies," Wright told the court. "And, as spies, they betrayed to the agents of a foreign power some of this country's most precious military secrets."

John would set off to the Old Bailey walking at such a pace that I felt like a toddler trying to keep up. Although by now I was a tenant and had received my first iron grip Alliot handshake, by way of congratulation, whenever I had a spare moment I would take time off to watch the great man in action.

John always told me there was only one good point in any case and saw his task as rubbishing the idea that his Welsh heterosexual client could be part of a Russian backed homosexual spy ring. All had confessed and the leading authority on oppression Rv Sang was the only authority he took to court, as far as I could tell, for the whole trial. "My case makes R v Sang look like a picnic" – he told me.

He called a number of WAF's to attest to his client's red blooded interest in the fairer sex – although one explained that his enthusiasm wasn't matched by his performance (hence his nickname Biffo) and that his client had no knowledge of or connection with Russia.

John also believed that no jury could concentrate on a closing speech for more than 45 minutes. He was unimpressed by one of his co-defending counsel who addressed the jury for 2 days.

John was true to his word. After about 19 weeks of evidence his closing speech was 45 minutes – it ended thus:

"Members of the jury my client is accused of being part of a Russian sponsored homosexual spy ring. He doesn't speak Russian, he's Welsh. He's never been to Russia. He's certainly not homosexual as many of his lady colleagues testified. Members of the jury I give you... **Biffo the master spy.**" Then he sat down. His client, first on the indictment, was the last to be acquitted – a job well done.

It was whilst watching that trial that I accompanied John to the robing room, which also contained the gentleman's facilities. John stopped by the door and entered. Shortly thereafter he bellowed "Martin". What have I done wrong I thought. I entered with some trepidation to find John relieving himself. He half turned and said: "I'm not in the business of giving advice, but when you are at the Bar pee at every opportunity!"

As well as being an economical oral advocate John had a similar punchy written style. When he was first called to the Bar Advices, particularly on quantum, might consist of a couple of lines and a figure. I recall that when we had a Chambers celebratory dinner to congratulate John on being made a High Court judge our new head of Chambers, Scott, later Lord Justice, Baker commented that, following John leaving Chambers, he had come across a rare piece of Alliot memorabilia: an Advice that extended to a second page!

John was scrupulous about ethical behaviour and could not tolerate sharp practice. He was not afraid to make that plain to opponents. He embraced the cab rank view often acting for clients whose political views he disagreed with. He was so professional they would never have known. How many Masters of Beagles would have represented Hunt Saboteurs!

As I have said, John was a man with forthright views who spoke as he found. In my early days I would often knock on his door (which was open to young and established practitioners alike), and ask for his views not just on the law but opponents and judges. I recall "pompous arse but fair" being one of his more complimentary comments about a judge.

John the Judge

John got the infamous tap on the shoulder in 1986 and served with distinction as a High Court Judge from 1986 to 2001. Unfailingly courteous to litigants and juries he liked those appearing in front of him to get to the point. A marvellous judge of character and the reliability of witnesses he brought all his real world experience of life in the Guards to bear. Even those who lost left feeling they had received a fair trial or hearing.

His judgments were lucid and accessible and he never got judgitis! In fact he loathed much of the pomp and ceremony surrounding the judiciary. I remember meeting him at Reading Crown Court when he was trying a murder, sitting with him in Chamber after Court and him bemoaning the fact that he had to stay in the lodgings rather than get back to his beloved Patsy, at Park Stile in Langley, less than 20 miles away.

He always said his task as a judge was to be quick courteous and wrong – "that's what the Court of Appeal are for!" John also served with distinction as Presiding Judge of the South Eastern circuit.

John the family man

John was incredibly proud of his wife Patsy and his children. I first met Patsy when she swept into Chambers in boots and legwarmers and thought who is this breath-

taking beauty? I then discovered it was my Head of Chambers wife who, like John, was warm funny and incredibly down to earth – what a striking couple. John would update me, after he became a judge, at every Christmas party on the progress of George, Julian and Kate and spoke of you all with obvious pride. On Saturday I saw hundreds of pictures of John with his extended family including his grandchildren and his love and affection for his family was plain to see.

He loved life away from Chambers – something of the gentleman farmer; it was not uncommon for him to have been up in the early hours yet still be in court every day after lambing. His energy was boundless. He was a generous host entertaining my parents at Park Stile after I was made a tenant with warmth and generosity.

Chambers Anecdotes

In preparing this address, I sought anecdotes from members of Chambers and got an amazing response. As Patsy, George, Julian, Kate and I discovered, when we met last Saturday, most of them are unrepeatable in polite company.

I will recount two. The first deals with John's attitude to time keeping – both Robert Seabrook and James Badenoch, both former pupils, gave me versions of this story which leads me to think John was mischievously testing them both.

"He was in every way a "stickler" – for correct dress (including changing the bowler hat for the flat cap when he got into the car to drive), for "doing the work of the day in the day" (one of his favourite adages), and for punctuality.

"When I was his pupil he sometimes drove us both to court. "Be outside my house at e.g. 8.07 or you will not get a lift" (and we had to synchronise watches). I remember arriving at 8.08 to see his car (of course) already moving off down the road. I ran hell for leather after it, and he condescended to stop for me to get in, but made it clear that I had failed one of the Alliot tests of suitability for life at the Bar."

James continued:

"When the CPS took over the prosecution of his cases they hadn't bargained for Alliot. After a discussion with the defence he told the CPS rep that the offered pleas would be accepted. "But sir, I must check because that depends on what Mr Lavelle [the Sussex CPS head honcho] says". Alliot: "No it doesn't. You can check with whoever you like, but what they say is of no interest. I'm briefed in this case. The decision is mine and it's final".

Advice to me in my early years: "Don't worry about a mistake you think you have made. By the time you have got

yourself really worried you will have made another one anyway."

The second is from John Gimlette who marshalled for John.

"I only joined 1 Crown Office Row a few months after John had left for the bench. However, there was always a lingering vapour trail, as if some powerful presence had just throttled off into the yonder. I did however catch up with him a few months later, in Nottingham, where I was sent as a judge's marshall. At first, I was rather alarmed by Alliot J, who was always up first and last to bed. He was like the chatelain of some great fortress, except that the lodgings were dingy and chintzy and had plum-coloured doors. By day, I'd sit with him at the bench, and, because it was hot, he'd hoik his robes up, and I'd notice that he was wearing huge black boots, better suited to the Sussex Downs than for negotiating the nuances of the Sexual Offences Act. But, by night, he was ready for a party and he'd gather in the local bigwigs and subject them to a pithy Latin grace, which I began to suspect meant something rude. John was always the life and soul of these evenings, and would unnerve the magistrates with his sense of fun. One night, we were all invited to dinner at a real castle at the end of a very long drive, and six of us turned up, in an enormous chauffeur-driven Daimler. As we drove away, John noticed a pair of toads sitting in the drive, and he made us all get out (in our heels and tails) and shoo them away. It was an intriguing moment of tenderness after the jollity of dinner.

John thought it was a great joke that – under some obscure Victorian statute – I was being paid 27p a day, and, for the next 30 years, whenever we met he'd refer to me as 'Marshall'. In fact, he didn't just say it, he'd bellow it, as if I were his ensign flagging under a hail of arrows. And then, of course, he'd laugh and say something kind, and – if I was lucky – I might get one of his stories. He had a great eye for the absurd, and was little impressed by flummery and status. It always struck me that, in his court, it didn't matter whether you were a Nottingham coal miner or it's High Sheriff, you were still treated with that strange mixture of curiosity and steel. Somewhere, some poor unfortunate will be grateful that John was his judge, just as we are grateful that he was one of ours. He'll be much missed"

Personally, I can only echo those sentiments: a great man, barrister, judge, father, grandfather and husband. I, for one, will miss him terribly but I know he will be happy that we are raising a glass to him.

Martin Forde Q.C.

One Crown Office Row



Keble College. Image from Wikimedia.

23rd Keble Course

Report on the 23rd South Eastern Circuit Bar Mess Foundation Advanced International Advocacy Course at Keble College, Oxford

"Welcome to the twenty-third Keble Course! We are confident that you will find it stimulating and rewarding. If you take time to read the materials and prepare with care, you will thoroughly enjoy the week in Oxford."

With these words, our Course Director called us to action, in writing, and I was now a confirmed "Keble Participant" for the course set to be held August 29 to September 3, 2016.

The Course Director's words were at first reminiscent of the usual harmless banter of experienced professors to their unsuspecting students at the start of a course. A closer reading however betrayed an omen that we have, by registering for this course, consented to a most violent cerebral assault that, in the absence of rebellion, will result in such a high degree of intellectual stimulation that our enjoyment will be obvious to the world.

There was no turning back now. My colleague, Susan Watson-Bonner, and I were selected by our Government to attend the twenty-third installation of this internationally acclaimed advocacy marathon. Our mission, to learn all we can... improve the quality of our advocacy... represent our Government and Department to the best of our abilities. We were certainly thrilled by this prospect.

Susan and I are both called to the Jamaican Bar and are at different levels of our career. Our training at the University of the West Indies and

the Norman Manley Law School was steeped in the Commonwealth Caribbean Legal System which has its roots in the English Legal System. The major traditions of the English Bar were therefore not foreign to us. However, our major challenge was adapting to the fact that the pre-1962 English Common Law, which in the absence of statutory provisions is the predominantly the prevailing legal position in Jamaica, has in many cases been significantly amended by UK Statutes. The lesson on pleas in mitigation would forcefully underscore this point as we still do pleas in mitigation in what was consistently referred to in playful condescension as 'the old way'.

The first order of business then was to enthusiastically download and collate the reading material provided for the course. We also had to do our background research on the applicable laws in force in the UK so we could make the most accurate legal submissions possible.

The unbridled enthusiasm quickly morphed into lament when the sheer weight of the work expected of us became more apparent by the minute. We were still engaged in our substantive work duties so preparation was not as smooth as we expected. The added pressure of living up to Usain Bolt's phenomenal performance in Rio de Janeiro made our task no easier.

It was now time for us to seriously explore our options with regard to withdrawing from the course. But thankfully, we quickly banished that thought and boldly embraced our destiny fully confident that the rewards will outweigh the burdens.

Susan had been to the United Kingdom prior but this was my first time here. We left Jamaica at about 5:30 p.m. and arrived in England at about 9:00am. I did not sleep a wink on the flight and my body appeared convinced that it had gone a whole day without sleep.

Additionally, we were welcomed to the Gatwick by a light "summer" breeze that was, a little nippy but thankfully not as cold as anticipated.

Sleep was but a concept at this stage and travelling from the airport



S. Watson-Bonner and C. Smith at Keble College, Oxford

to our London Hotel was a full workout. Over the next few days, the 'subway' was to become more than a sandwich to me. I also rode on the top floor of a Double Decker bus as often as I could and even strolled along the London streets at night just to absorb the atmosphere of this 'new place'.

The journey from London to Oxford Town was phenomenal. The lush greenery was relaxing and opened my mind to the learning that I anticipated would follow over the next few days.

On arrival at Keble College, I was immediately impressed by its lush manicured lawns and majestic architecture. This is truly a great environment to host such a gruelling course.

Sure I did expect to receive valuable advocacy lessons from the listed stalwarts of the UK Bar. That was clear from the extensive schedule of activities provided in our daily schedule. Of equal importance however are the several life lessons in what it means to be a Barrister as well as the importance of mentorship in the continuity of the bar that were to be imparted through the numerous opportunities for cultural and intellectual exchange provided at communal mealtime.

Valuable Advocacy Practice

Simply put, we were exposed to approximately forty hours of gruelling practical advocacy practice under the watchful eyes and energetic guidance of some of the UK's most eminent judges and legal practitioners.

Our day started at 7:00a.m. each day with communal breakfast and would end around 9:00p.m. at the end of communal dinner. Classes were run on a strict time table throughout the course of the day. Here, nothing was taken for granted and we were re-introduced to the ground rules and advanced training that every great orator and litigator is usually expected to have been exposed to.

Such training included the undeniably helpful private and group 'voice and speech' training sessions. These imparted the skills needed for us to be convincing advocates from the first breath. The importance of standing upright with shoulders back, using the lower lungs for

breathing, fully opening the mouth to improve enunciation and pushing the sound from the gut for increased volume were underscored. These are but some of the valuable aides-mémoires received at Keble that once properly implemented did increase my confidence level a hundred fold.

The practical lessons on how voice modulation coupled with the proper enunciation of consonants nullify the barriers to communication presented by 'foreign accents' was also immediately relevant and very refreshing.

As part of the course, each advocate was required to prepare material related to trial and appellate advocacy as well as handling expert witnesses and vulnerable witnesses. Through the Hampel method of advocacy training (which relies heavily on execution, review and replay) we were allowed to watch demonstrations from various faculty members on each aspect of the training. Each advocate was then allowed to execute each pre-set task (including examinations in chief, cross examinations and various speeches) while being video recorded. The advocate's 'live' performance was then critiqued by faculty members on the spot in the presence of our colleagues. We were each then sent to meet with another pre-agreed member of faculty (who did not observe the live performance) to review the tape in a private video review session.

The 'out-of-body' experience created by the video review sessions was no doubt a powerful tool. It motivated each advocate to identify even the slightest barriers to communication presented by otherwise unnoticed mannerisms and take active remedial steps. I was previously unaware that I mirrored an orchestral conductor when I address the court with my pen in hand. Through the video

review sessions, I was immediately convinced that this could be a real distraction and a barrier to communication. I was also able to observe the effects of any corrective measures taken. This image is also permanently etched in my mind lest I be tempted to forget.

Additionally, the video recordings can serve as entertainment on a slow day.

The Plenary and breakout sessions on the ethics of the profession were also relevant even to the Jamaican context. The various responses given to practical scenarios presented and the resulting discussions gave real guidance that any barrister, solicitor or attorney-at-law would do well to consider.

The breakout rooms were also a masterful stroke. Advocates were able to watch each other's performances and learn from the faculty reviews of the live performances. I learnt many things from my colleagues and was exceedingly pleased to watch each of them grow from strength to strength with each exercise.

Continuity of the Bar: What it Means to be a Barrister

I have always been told that the essence of law is mentorship and that the legal profession can only survive if its senior members pass on its traditions to the junior members. The pastoral atmosphere in which the course was administered underscores this point.

Many lessons on what it really means to be a barrister were learnt, not in the classroom and video review sessions, but in our interactions at meal time. The lively and courteous discussions accompanying our daily three square meals and numerous coffee breaks confirmed for me that a barrister's core principles must be guided by R-E-S-P-E-C-T.

Each member of faculty, regardless of differences of opinion, exhibited the utmost respect for self, for colleagues, for senior members and the profession as a whole. Each participant surely observed this and was in turn subconsciously motivated to conduct all learning activities in this vein.

This can only auger well for the continuity of the profession as participants return to their respective locations.

All in all, the learning environment and course content were indeed stimulating and rewarding and the organising committee, faculty and helpers must be commended.



The Dining Hall at Keble College, Oxford

Image labelled for reuse.

Courtney B. Smith

Keble International Participant

Legal Officer, Financial Investigations Division,
Ministry of Finance and the Public Service

CIRCUIT TRIP TO PARIS

APRIL 2016

When I saw Fiona Jackson's friendly wave from the bar at St Pancras I knew I had found them. It really shouldn't have taken me so long: where else would the SEC delegation be while hovering for the train, than sitting around their trolley cases, glasses in hands, sampling the produce of the nation of the colleagues we were to visit over the next two days.

It has been a number of years since the last circuit trip, and many more since the last to Paris. This diplomatic mission was long overdue, and, as we discovered from the moment we arrived, a venture enthusiastically welcomed by our Parisian counterparts.

Our superb travel agent Dee Connolly had surpassed her brief by finding us hotel rooms next to the Arc du Triomphe, so that our weary Friday night arrival in the city was soothed by views of starry skies over the city's most prominent landmarks.

It was business in the morning, but of the most pleasant kind, with a brisk walk up the Champs Élysées, past the pyramid of the Louvre and over the bridge to the ile de la cite where our hosts awaited us at the 'Maison du Barreau' – the home of the Paris Bar Association. We were met by deftly presented drinks and the 'chic'est of lawyers before we sat down together to a joint seminar after an introduction and welcome from Dominique Attias, Vice-Bâtonnière of the Paris Bar.

The topic was pertinent, visiting as we were in the wake of the November



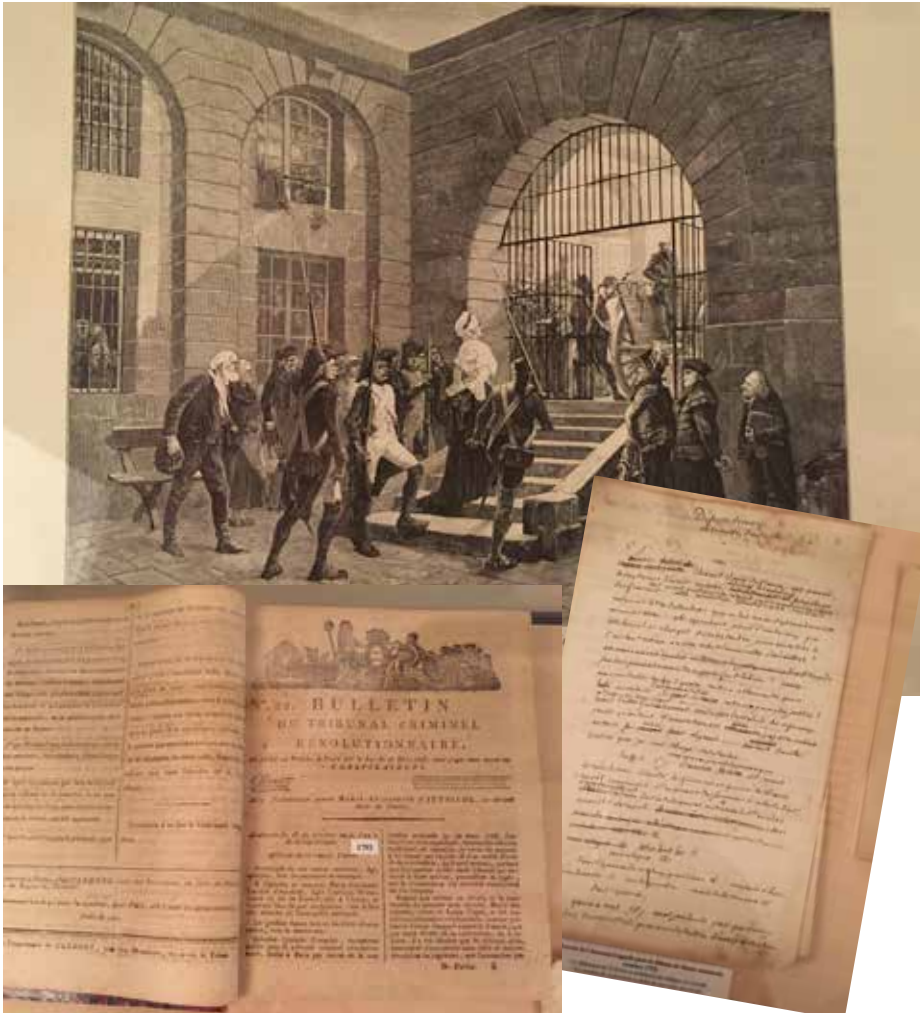
2015 Paris Bombings – “Dealing with terrorism as a lawyer: sharing experiences between the UK and France”. Our own Max Hill QC fascinated his listeners with his authoritative recounting of his experience in the most significant of our recent terrorism trials and his reflection on the issues which emerged and in particular on how the electronic presentation of evidence could render complex and diverse strands of evidence intelligible for juries. It was clear that our French colleagues were fascinated by the scope of Max's experience and the sophistication with which these trials are mounted in the UK. As Xavier Autain, an avocat and Membre du Conseil de L'Ordre (an advisory role which includes responsibility for safeguarding human rights) responded in his following address, France has no form of digital presentation and little experience of trials of this magnitude. He predicted that the proceedings recently begun in respect of the November bombings would take 5 to 6 years to come to trial and that there was no precedent for managing a trial with so many witnesses and so much recorded evidence.

Other speakers followed, focussing in turn on the effect of the declared 'State of Emergency' on access to lawyers and the



rights of the accused. The Bar had, they argued, to take its place in standing up to current incursions on civil liberties and to re-focus political attention on addressing the growing radicalisation of young people rather than the implementation of reactive security measures.

All commented that they saw themselves, sadly, at the beginning of a similar journey to legal expertise and court craft in this area, and that they had much to learn from the English Bar. The differences in our systems and codes of conduct drew surprised remarks from both sides – the independence of the English Prosecutors and the speed of our trial process chief among them. After an engaging vote of thanks from Frédéric Sicard, the current 'Bâtonnier' (leader) of the Paris Bar, we moved to the buffet lunch they generously provided in animated mood, with useful and enlightening



conversations springing up all over the beautiful salon in which we found all manner of culinary delights.

The term 'buffet', ironically, was one which gained rather than lost in translation on this occasion: seemingly endless dishes of deliciousness, which would easily have graced a Michelin starred dining table were laid out before us, alongside charming descriptions of how the particular ingredients and combinations came about, as well as from whose region (no Frenchman or woman it seems, loses a passion for his 'terroir' of origin when he comes to Paris!). To add to our good fortune the Bâtonnier's cellar had been opened for the occasion and some very special vintages added to the vivacity of our conversation, and gave at least a few of us added courage as we ventured into a little French rather than simply accepting our hosts' flawless English, and even more so as we aimed to respond to the real topic of fascination for our colleagues – Brexit and the then looming Referendum in the UK.

A word about the 'Bâtonnier de l'Ordre des avocats de Paris': he is the head of the Paris Bar, so called because he exhibits his authority and rank by his possession of the 'baton'. His Deputy, presumably awaiting the passing of said baton in a

year's time – Mme la Vice-Bâtonnière. At our later visit to the Museum of the Paris Bar we saw portraits of Bâtonniers of old brandishing their Batons of power... and on not a few occasions was our own Leader noted to be rather attracted to the idea!

Other gems of the museum included the original notebook of Marie-Antoinette's defence counsel before the Tribunal Criminal Revolutionnaire. A tough brief, one suspects, before a rather unsympathetic tribunal. A century later, the notes of Fernand Labori's pleadings in defence of Émile Zola. (charged with libel against the army after publication of his famous 'J'Accuse!' letter criticising the flawed

conviction of Jewish army officer Alfred Dreyfus), were underlined in red pencil where saw his best points. Both attested to a continuing tradition, shared on both sides of the Channel, of fearless advocacy of which we were reminded throughout the weekend to be both proud and protective.

After all of that rigour, it was back to the hotel for a brief rest before we met some of our colleagues again for dinner 'Chez Renault'. The major French car manufacturers occupy a block of the Champs Élysées with sparkling showrooms exhibiting their latest racetrack models. And the obvious complement to a car show room? A restaurant... of course! Gathering our thoughts and comments on the day's activities, we dined this time not in historic parlours but suspended on a platform above the most modern of engines. A day, I think all agreed, well spent.

CPD points gained, Sunday was a day of rest and exploration. Our leader to a flea market, returning with vintage treasures, others to galleries and museums, and yet others to a gentle wander through the Marais and its squares and cafes. By late afternoon, however, the Gare du Nord awaited and we reluctantly turned our minds again to home, and possibly Monday's brief. But as ever with circuit trips, after even our short time away and our brief encounter with other ways and other styles we returned professionally refreshed and invigorated, and at least for me, just a little bit more...well... French!

And as for our counterparts? Invitations followed and visitations arrived just a few weeks later when the Bâtonnier and his party boarded the Eurostar in the other direction to meet leaders of the English Bar in the Inns of Courts. Vive l'alliance!

"Thank you from all of us to Dee and to Fiona for their faultless planning and execution of a wonderful weekend."

Nicola Shannon

SEC Executive Member
Barrister at Lamb Building

REPORT ON THE FLORIDA BAR'S CIVIL ADVOCACY COURSE

In May 2016, four junior barristers were fortunate enough to be awarded a South Eastern Circuit scholarship to attend the Civil Advocacy Course at the University of Florida, in Gainesville. The course is run by the Florida Bar Association and attended by civil practitioners to hone the advocacy skills of both wide-eyed juniors and seasoned lawyers alike. The lucky recipients flying the flag for the SEC were Francesca Perselli (New Square Chambers), James Holmes (1 Gray's Inn Square), Sarah Clarke (Clerksroom) and me (Church Court Chambers). We were led by Gavin Mansfield QC (Littleton Chambers) who joined the faculty in training the course participants and gave us the benefit of his wisdom and good humour throughout the trip.

Upon arrival in the Sunshine State, we were very kindly hosted in Tampa by Judge Claudia Isom and practising trial lawyer Woody Isom. Aside from kayaking, swimming in their pool and trips to local restaurants, Woody and Claudia ensured we were given tours of the State Court, US Middle District Court and the Second District Court of Appeal. We were also treated to a Cuban style dinner with members of the judiciary and the Florida Bar and a lunch with the Hillsborough Bar Association's Young Lawyers, where we addressed the group on issues within our own practices.

My personal highlights included a private audience with Judge Virginia Covingham, whose enormous and beautifully furnished courtroom and chambers enjoyed the benefit of complete electronic management in papers. At her fingertips she had access to all pleadings, applications, orders, judgments and correspondence ever filed for one case. Documents were electronically hyperlinked to one another and to external case law. One entertaining part of our tour was listening to one amused Judge's remarks to Defence Counsel making criminal bail applications on behalf of their orange jumpsuit-wearing clients. Finally, I relished listening to legal arguments in the District Court of Appeal. Although the terminology was very different, the legal principles and arguments were comparable. We were also extremely fortunate to have a private audience with the appellate Judges thereafter to discuss the US legal system and the ethical issues that arise in their work.

After Tampa, the real work began in Gainesville, the largest city in North Central Florida and home to the University of Florida. Our intensive advocacy course was

a split over a number of days of lectures, presentations, workshops, discussions, working lunches and feedback sessions led by faculty staff and high-flying civil practitioners. James and I were tasked with representing the Claimant, an aspiring golf professional whose dreams of Tiger Woods style success were (on our case) cut short following a run of bad luck: an accident on a "slip 'n slide" waterslide, then negligent clinical treatment and surgery, which installed a faulty plate in his spine. Francesca represented the surgeon accused of clinical negligence; Sarah, the company who manufactured the metal plate. We all had to prepare different aspects of the opening, examination in chief, cross-examination and closing speeches to be watched and filmed by amused American lawyers and faculty staff, the latter of whom served as both judge and jury. After each performance, we were given very useful feedback and sent off to review our videos with other faculty staff and Judges.

Having carried out only limited number of jury trials in my practice, I really enjoyed watching and practising jury speeches. Somewhat surprisingly, a lot of the theatrics seen in our much-loved US television dramas was replicated in these demonstrations. By this I mean, appealing to shared family values, holding a client's shoulders, moving more freely around the courtroom and using demonstrative and visual aids. The style was quite different too – perhaps more colloquial and sometimes hyperbolic than we're used to in our civil courts. Further, observing the process of jury selection complete with bone fide jury consultants and a real mock jury was an experience I will never forget. Each party's trial lawyers posed a variety of questions of potential jurors including those about gun ownership, favoured news channels and college education to engineer their dream team and to pitch their case accordingly, to great effect.

Day one of the course marked my first opening speech to my very own "jury" comprising other course participants and faculty staff in my small group. As luck would have it, Gavin Mansfield QC was one of the faculty staff allocated to our group



that morning. I decided to throw myself into the US style of advocacy. Across the board it seemed as though my colleagues and I were reaping the benefits of our English upbringing – many of us were told by faculty staff that they were inclined to accept our arguments, simply due to our "quaint accents". All of our performances were filmed. Personally, I'm saving my re-runs for 10 years from now, only to be watched with a sense of humour and a glass of wine in one hand!

FLORIDA CRIME ADVOCACY COURSE

During the course, the Chair of the Trial Lawyers Section of The Florida Bar, Thomas Bishop and Gavin Mansfield QC demonstrated examination in chief (known as "direct") and cross-examination of the Claimant's quantum expert. The applause from the English contingent for Gavin's devastating cross-examination was probably the loudest of all! Thereafter, the real reason we were in Gainesville emerged: to entertain the Americans.

At great haste, we proceeded to write a Revels-style skit set in the Court of Appeal, to be performed after dinner at the Present of the University of Florida's on-campus house-cum-mansion. James Holmes rather fittingly played an amalgamation of James Bond and Sherlock Holmes; Gavin played himself, as lead Counsel for the applicant; Francesca played Q, Dr Watson and a court usher whilst Sarah was herself and Moriarty. I played Lady Justice Camilla Parker-Whitehouse of Westminster – I find that anticipating the Parker-Bowles jokes is often the best form of defence. After a few hasty rehearsals in the hotel lobby, our after-dinner sketch seemed to go down well. Certainly we don't appear to have scared off the Americans from hosting us Brits again just yet.

I am very grateful to the SEC for enabling me to attend the course. The experience reinforced how much I actually enjoy oral advocacy, which is something that I can sometimes forget amidst pleadings, advices, negotiations and skeleton arguments. Seeing the effectiveness of our US counterparts' often enigmatic courtroom style, reminded me that it is worth taking risks with advocacy and always being open to trying new techniques. Lastly, it has strengthened the idea for me, that the value that barristers have to their clients isn't necessarily an encyclopaedic knowledge of the law but rather their skill set. Despite knowing very little about Floridian law, during the course it quickly became clear that what mattered most was analytic ability and advocacy technique. This served as an important reminder to focus on and hone one's skill set, so that one can be flexible when new and exciting areas of practice develop.

Camilla Whitehouse

Chambers of Kerim Fuad QC
Church Court Chambers

Each year the South Eastern Circuit sends four members of the Junior Bar to take part in the Gerald T. Bennett Prosecutor and Public Defender Trial Training Program in Gainesville, Florida. The program, which in many respects mirrors that of the Keble Course, is however unique in America, as it is the only course designed for, and attended by, both Prosecutors and Public Defenders. In advance of the course the participants are sent a booklet containing three briefs, the idea being that by the end of the week each participant would have completed two trials and dealt with the psychiatric evidence in the third.

Whilst it would be easy to claim that the briefs were easily mastered and that we felt fully prepared when we arrived in Florida, there was a considerable amount of culture shock involved in trying to get our heads round the American procedural law and the absence of PACE codes of practice. For a start it took a while to work out, and then Google, what a motion in limine was.

The four of us arrived in Florida on the Saturday, and met David Howker QC, who was to act as part of the faculty on the course, for dinner. Whenever you go away with others it is always a worry that the group you are with will not get on, that personalities will clash, or that the group leader will be particularly demanding. Any such fears were washed away within moments of meeting David. He instantly put us all at our ease, and had us reduced to tears with his attempts at the American accent (and particularly his insistence whilst attempting it, that we all had to attempt to object to something during the week).

The following day we drove to the University for the introduction sessions where we met the 36 State Attorneys, 37 Public Defenders, and 1 State Wide Prosecutor, who were also participating in the course via an embarrassing introduction of being made to stand up so everyone knew who the 'British' were. We then split off into the four different groups in which we would spend the week. The small group sessions opened with everyone introducing themselves, the part of the State that they came from, and the number of trials they had done. It was surprising that most of the American participants had not got a huge raft of trials under their belts and most had mainly 'second chaired', that can equate to our version of 'being led', which is much more prominent in their system. Preliminaries over, we moved on to a session on case analysis, which was familiar enough, before moving on to the voir dire. It has to be said that at

least one of us was, and to be frank all of us were, expecting this to be an application to exclude evidence based on the motions in limine. It was with some surprise and trepidation, that we learnt this was to be a session Jury selection. Fascinating, alien, and at times surreal, it made us all thankful that we do not have to question Jurors before the start of the case, as it quickly became apparent to us just how much skill was required, and demonstrated by our American colleagues, to ask questions that did not alienate the Jurors before the case had even been opened.

At the end of the session the groups, and the panel of tutors (made up of Judges and experienced practitioners) were all keen to know what we made of Jury Selection and what followed was an extensive discussion about the relative strengths and weaknesses of the different approaches adopted by the different sides of the Atlantic. It's fair to say that the Americans were shocked that we did not get to choose our Juries in the same manner as it became clear that to them this was the most important part of the trial.

The following day the first trial sessions began, and one of the real strengths of the course was the fact that everyone was encouraged to treat it as a real trial. This not only meant that we were all dressed in court attire (minus the wigs & gowns!) but that there was an "all object" policy; at any time, any member of the group could object to a comment made, or question asked by the person undertaking the exercise. On the one hand this may seem a little daunting, but it certainly kept us on our toes throughout the week (particularly given our ignorance of the American procedural law). Indeed, it was only in the Opening Speech (sorry, Statement) when Alex learned to his cost you could not ask the Jury to put themselves in the shoes of a witness (this is known as the 'Golden Rule'). We quickly learnt that whilst the American style allows more rhetoric and dramatic licence, it also has fairly strict rules on the use of emotive language.

All of the exercises throughout the week were filmed, and after being critiqued in the room, you would go to the impressive law library building for a video review. It is, we feel, important to emphasise just how valuable it is to get different opinions on your performance, and to see for yourself how you speak, move, and what it is you actually say (rather than what you think you said). The movement in the court room, although alien to us, was imperative to our colleagues who were advised to 'make use of the space' and to us, it became obvious that not only was it important what was said

during advocacy, but it was also important how it was 'performed'. One very senior judge on the faculty stated his feedback to Jodie would be to be 'more Pentecostal' – acknowledging that he also understood we were not allowed to wander around the court room in the same dramatic fashion on this side of the Atlantic. Although, one thing that we all learnt was just how useful subtle movements, and visual aids, can be to provide emphasis or a change of pace. One thing that quickly became apparent, is that whilst our American colleagues had more licence to roam around the Court room, when you listened to the content of their Opening Speeches (Sorry, Statements) the underlying approach was, subject to a few matters of style, very similar. Whilst there was a lot of focus on explaining what the witnesses would say, the underlying approach was the same as it is in this Jurisdiction, as one Judge put it "tell the story clearly, succinctly, and engagingly".

Exercises in examination in chief and cross examination followed, and back in more familiar waters, we managed to avoid too many objections (although never ever try and put a prior inconsistent statement to a witness, you'll likely end up with an objection for improper impeachment). We all also watched how both sides had to struggle amongst these 'objections!' to adduce evidence; even those things that appeared fairly anodyne or incontrovertible, which in our system would have been admitted by agreement. The provenance and relevance of items, especially 'business records', seemed to be subject to a whole raft of objections (some that were incredibly inventive) that in our jurisdiction, we are pretty certain would lead to strong words from the Judge, yet seemed to be lauded in the States. It became clear that this combative approach was deemed an essential part of succeeding at trial for our American colleagues. When we discussed the approach now adopted in England and Wales, they were shocked that we have such things as section 10 admissions, Defence Statements, and that we would work in such a collaborative manner.

Throughout the week we had a number of discussions with them about the differences between our systems, the death penalty, and the overwhelming caseloads that they have to deal with, as they often having to juggle several hundred cases at once. The other surprising feature of their practices was the fact that they tended to be allocated to a single Court, in front of a single Judge, often against the same one or two opponents.

One of the highlights of the course was the

demonstration of the examination in chief and cross-examination of Leonard "Stick" Phillips, the drug-dealing, eight-ball selling, criminal informant who was to be the State's star witness in one of the trials. Whilst there was a serious side to the techniques used, all of the faculty members played it up a little for the audience. After a thoroughly entertaining examination in chief by Manny Madruga (the Chief Assistant State Attorney for Monroe County in the Florida Keys), and cross-examination by Cary High, David rose for his part in the demonstration and, with a mischievous glint, he opened with the line "Mr Phillips I Just want us to have a little think about the evidence you have given so far" before taking him through Stick's "sliding scale of deception".

As is tradition, one evening we held a 'Pimms party' for our American colleagues



– which followed days of trying to explain to a large percentage of them what Pimms was. This was a great opportunity to get to know both members of the faculty and our fellow students better without the time constraints placed on us during breaks. As an added extra, inspired by the impressive cross-examination of 'Stick' by David and the impression it had made on everyone, we obtained a small trophy to be won following some friendly cross-Atlantic competition. The aptly named 'Stick Phillips Memorial Trophy' was surprisingly coveted and desired so much by our American colleagues, that in the interests of diplomacy, David decided it should be presented to the Americans in his closing address. However, having made this 'magnanimous' (which had nothing to do with the fact that we had lost the competition), we realised that the trophy had disappeared. This then led to three days of unexpected detective work by the four of us to track down where the trophy had disappeared to and which of the American students had possession of it.

What struck us most during the week was how friendly everyone on the course was, from the most senior of the Judges, to the most junior of the lawyers, and we ended up having lunch with different people from the course almost every day. Manny Madruga, the very same formidable

prosecutor involved in the demonstration, even got involved in setting up a few pranks on our cohort. Firstly, when moderating in Harry's class, he instructed the actor who was playing the child witness that he was calling to give evidence (and who had coped incredibly well with the questioning by previous students) to burst into tears when Harry started his questions. Needless to say, the rest of us are still to see the recording of this that he (Manny, not Harry) insisted the rest of us should watch! Secondly, as we were walking into the main lecture hall for a second demonstration (the examination in chief and cross-examination of a psychiatrist), telling David (who was not to be part of that demonstration) that he was looking forward to his part, sending David into a few moments of blind panic about the fact that he hadn't prepared anything.

Whilst some of us ended our American experience with some down time in New York, Michael spent a day in Orlando sitting on the bench with a judge in the Orange County Courthouse. Sitting through the jury selection of a murder trial was an interesting experience, which despite the mock jury selection earlier in the week was still quite alien, as was going for lunch with the Judge who had many questions about the English system. Perhaps the most surprising part of the

day was being told by the Judge that he carried a gun with him at all times including whilst on the Bench.

It is difficult for any of us to properly express our shock, and sadness, at learning a few weeks after our return to the United Kingdom that David had passed away suddenly. Quite simply the trip and the course would not have been the same without him. He had this ability to put you instantly at ease, and a manner which made you feel like you had known him far longer than the few days we spent together in Gainesville. He was by turns, effervescent, mischievous, and endlessly entertaining. On the two occasions he made a speech during the week, firstly at the close of our reception on the Tuesday and at the closing session of the course, he had the audience roaring with laughter, before turning back to more serious matters at which point the room would fall silent, captivated by him. We are all honoured that we got to spend this time with him and send our condolences to his family, whom it was obvious, even from the short time we spent with him, meant the world to him.

Alex Langhorn

9 St Johns St Chambers

A view from the Naval Bar

The Keble International Advanced Advocacy Course 2016

In 1997, fresh from university, I joined the Royal Navy as a Logistics Officer and started the journey that ultimately led me to attend this year's Keble International Advanced Advocacy Course as a Naval Barrister, and Prosecutor at the Service Prosecuting Authority. From day one of my initial Officer training at Britannia Royal Naval College, Dartmouth, we were drilled in the arts of planning and defence writing, the Ministry of Defence's in-house writing conventions and also in the art of planning. At its heart military planning can be summed up by the 3 P's, namely Preparation, Preparation, Preparation and Defence Writing by its three core principles: Accuracy, Brevity and Clarity. Why is this of any relevance to Keble? Because in a nutshell these are the same core principles of effective advocacy that I took away from my time at Keble.

Having been selected for Legal Training in 2002, commenced my GDL in 2003 and been called to the Bar in 2005, I was at that stage of my career where I was comfortable in my practise as a Prosecutor and International Lawyer, and had relaxed into my style. I am on my second appointment as a prosecutor, having previously prosecuted as a junior Officer; I had defended at Courts Martial in the intervening years; and I had been deployed overseas on numerous occasions giving real time legal advice on operational law matters. But since completing the mandatory advocacy training post pupillage, I had not undergone any further Advocacy training. Thus when offered the opportunity to attend Keble (ie on being told that I was attending) I jumped at the chance refresh and refine my advocacy skills under the tutelage of the Keble Faculty.

Arriving at Keble College having devoted a considerable amount of personal time to the pre-reading and preparation that was required, I was keen to get started but was already fearing a week of being Hempled to within an inch of my life, by some of the best advocates known to man. For those who have not been Hempled before, the technique involves you demonstrating your skill (whilst being recorded by video camera), before being negatively critiqued by a member of the panel on one aspect of your delivery, content or style, that critique forms your headline to take away. A demonstration is then given of how to conduct your particular exercise but avoiding your particular headline trap and you then get the opportunity of reviewing the video recording of your performance, before repeating the exercise and hopefully avoiding your past mistakes. To add to your insecurities all of this is conducted in front of your tutor group, who also have to go through the same process. The prospect of being Hempled non-stop for 6 long days can therefore be a daunting prospect, but it is undoubtedly softened by two aspects, firstly you have advantage of taking onboard the headlines offered to the other members of your group, and therefore learning from their good practice, or avoiding their faults and secondly each critique and headline, no matter how harsh is ultimately fair and utterly well deserved.

During the course of the week we were skilled and drilled in the art of closing, opening, examination-in-chief and cross examination; as well as undertaking training in the handling of vulnerable witnesses and appellate advocacy. Each exercise required considerable preparation before and then to get the

maximum benefit from the exercise a period of reflection was also required, the grand finale of the week being a trial of the case that you have been working with all week, in order to put the lessons learnt into practice in front of a live Jury. Each day was therefore long and extremely hard-work for everyone, not at least the members of the faculty, a mix of Judges, QCs and Senior Juniors from the UK and beyond, each of whom brought their own unique experiences and views to bear, and had donated their own time to tutor on the course. Preparation, preparation, preparation was therefore the order of the day, and the same rings true advocacy in the round. If you know your papers inside and out, develop and master your case theory, and know all the strengths and weaknesses of your evidence, then your planning will pay dividends in Court itself as your advocacy will be far more accurate.

One of the other key lessons that I re-learned as a result of my time at Keble was to keep it short, and keep it simple, in other words the final two basic principles of Brevity and Clarity. It is often said that a picture paints a thousand words, but sadly a thousand words do not necessarily make for a pretty picture in Court. By keeping advocacy concise and precise, whether in the oral form or the written form, it packs more of a punch and has far greater effect. By highlighting the issues up front in an opening, you grab the attention of the Jury and help focus minds to the task at hand, and by keeping your speeches as short as is practicable and your questioning of witnesses limited to the key areas in issue, without covering unnecessary detail, you again keep the Jury focussed on what is actually important. The same is true in written advocacy, where the criminal procedural rules now require that skeleton arguments are precisely that, skeleton. They need to be short, pithy and focussed on the issues. A skeleton argument that is accurate, brief and clear, as a result of good preparation, may well win the day without the need for extensive legal argument in court, the Judge may already be with you. Do it badly and you are starting from a position of weakness. Judges, are no different from the remainder, time short and with increasing workloads, they do not have the time to pre-read war and peace at every application/legal argument.

And so, having espoused the merits of brevity, I shall end my review of Keble. Whilst it required a significant investment of time in the pre-course preparation and was extremely full on through out its duration, it was arguably the most beneficial advocacy training course that I have been on since Bar School. The combination of being coached by the finest legal minds in the UK and beyond, of sharing experiences and practice with your fellow students and refining your own style of advocacy, meant that I have come away with a refreshed style of advocacy and I have re-learned the core tenants of accuracy, brevity and clarity than can only come through preparation and planning.

Commander D J Ward MBE

Royal Navy

Keble Advanced International Advocacy Course

Introduction

To tell friends and family unconnected with the law that you have signed up for the Keble Advanced International Advocacy Course is often to invite a sceptical, even bewildered, response.

Why, they ask, would someone choose to give up a week of their summer holiday in August to hole up in an Oxford college for the sake of professional development? Most eyes narrow yet further if you hint that you were intending to return to Chambers in late August anyway, and it becomes clear that you are not sacrificing a week of holiday to attend, but have chosen instead to forego a week of paid work for the privilege.

A straw poll amongst those who attended the Keble course this year, as I did, revealed a diverse range of answers. A select few had either heard about the course from colleagues who had personally recommended that they attend, or had done a decent amount of research. For others, the prospect of cross-examining an expert in the High Court for the first time brought a rush of blood to the feet and a corresponding pallor to the cheeks. There were also a smaller number for whom, more prosaically, the deadline for acquiring a healthy number of CPD points was fast approaching.

Whatever their reasons for registering, I have no doubt that the overwhelming majority of participants at this year's course found that Keble far surpassed their expectations. As one of the other participants put it before dinner on the final night: "I would recommend the course to anyone, immediately. As long as they weren't a direct competitor."

For those barristers (or solicitor advocates) who have not heard of the Keble course, or who

have not yet given it serious consideration, this article is intended to give a little background to the course, to describe its structure in broad terms, and then to explain why it represents a genuinely unique opportunity for those hoping to improve their advocacy.

Background

The Keble course runs as a six-day residential course, held at Keble College in Oxford in August each year. It is open to advocates who have over three years' call. It attracts 45 CPD hours, including 9 hours of advocacy and 2 hours of ethics.

The Week in Outline

PREPARATION

The welcome pack for the course contains three sets of papers. The first set, which is the most voluminous, forms the basis for the majority of the exercises undertaken during the course of the week. The other two sets form the basis for expert witness handling and appellate advocacy exercises, respectively.

Setting the tone for the week to come, the welcome pack recommends that participants dedicate four full days to preparation. As part of that preparation, participants are asked to provide the faculty, in advance, with a skeleton argument in respect of the first set of papers.

THE FORMAT

Upon arrival, participants split into criminal and civil streams. During lectures and demonstrations from the faculty, either the whole student body or the criminal/civil streams congregate in the main lecture hall. At other times, participants break off into smaller groups of eight, in which they seek to put into practice what they have learned and are offered guidance by between three and five faculty members.

The majority of those faculty members themselves revolve between classes daily, so as to ensure that all participants have direct contact with a wide range of faculty members.

CLOSING SPEECHES

The first few sessions are dedicated to closing speeches, presented by participants as if oral evidence had just come to an end in the trial of the matter set out in their first set of papers. Dealing with closing submissions first not only allows participants to receive an early critique of their oral submissions, but also offers an insight into the way others have analysed the case in question, which assists with subsequent classes on witness handling.

WITNESS HANDLING

Given that the Keble course is principally concerned with the improvement of participants' oral advocacy, a considerable amount of time in the middle of the course is dedicated to witness handling. For those who are in court almost daily, I am reliably informed that the course serves to knock off any rough edges that may have been acquired during the first years of practice and to develop a range of new skills.

For those without such extensive practical experience, the course offers very clear guidance as to:

- The various aims of examination in chief and cross-examination
- The extent to which the preparation and scope of examination in chief and cross-examination are informed by rigorous case analysis
- The logic according to which groups of questions ought to be structured during the course of cross-examination
- And the most appropriate method and style of questioning for any given case or witness

VULNERABLE WITNESS HANDLING

Just when participants are beginning to feel comfortable cross-examining 'ordinary' witnesses of fact, they are tasked with adapting their newfound skills so as to undertake the examination-in-chief and cross-examination of vulnerable witnesses. It is true that such witnesses are most commonly found in criminal and family law matters. That said, the faculty at Keble this year were keen to emphasise that judges increasingly expect practitioners across all specialisms to be alive to the issues that arise when such witnesses are brought within the litigation process.

Given that that is what judges now expect, I probably speak on behalf of most participants when I say that we were glad to be given the opportunity to hone our skills within the confines of Keble College. The actors brought in to play witnesses with ADHD this year were both compelling and dedicated to their task. For the record, the members of our group were under no illusions that something had gone wrong with our first attempts at witness handling by the time the vulnerable witness had jettisoned both his shoes, sketched a series of lewd images on a white board and started rolling around on the floor. All that remained to be clarified was what had gone wrong and what could be done to put it right in the second attempt.

EXPERT WITNESS HANDLING

Having dealt with vulnerable witnesses, participants are then given the opportunity to work with expert witnesses. For those advocates whose specialism often gives rise to disputes of technical fact, these sessions are invaluable. Participants are guided as to the best means of

structuring conferences with experts so as to get a handle on technical issues that may not be inherently familiar to them. They are then given insight into how best to undermine their opponents' experts in cross-examination and how best to insulate their own experts from attack. In follow-on sessions, participants are given ample opportunity to hone their cross-examination skills, leaving them well prepared for technical disputes in practice.

APPELLATE ADVOCACY

Marking something of a break from witness handling, participants are also given the opportunity to practice their appellate advocacy. As one might expect, the papers for the appellate advocacy section are not particularly paper-heavy and revolve around a legal problem to which there is no clear answer. The appellate advocacy sessions offer an opportunity for participants to hone their skills at making legal submissions and to try and emulate the highly impressive demonstration offered by the faculty earlier in the day.

VOICE COACHING AND WELLBEING

Going beyond the 'core' curriculum, the Keble course also gives participants to attend one-on-one sessions with voice coaches. From those I spoke to, the response to those sessions was the same as mine, namely: overwhelmingly positive. Most participants were astonished at how quickly they could improve upon their oral advocacy having been taught to focus a little more upon their breathing, stance and dictation.

The course also includes a session on wellbeing at the Bar. This seeks to draw out several of the pitfalls associated with a long career in what can be a highly stressful profession, and then offers guidance on how to avoid those pitfalls. It also gives an overview of some of the work that is being done to ensure that female barristers who step away to have children are given the flexibility and support they need in order to continue at the Bar thereafter. I am sure that, before too long, both of

those aspects of wellbeing at the Bar will be given the same status within chambers as more firmly entrenched equality and diversity matters.

WORKLOAD

Put simply, the Keble course involves a lot of work. After a full day of lectures, demonstrations and interactive classes, most participants go on to spend their evenings working to prepare for the following day. That said, they do so not out of some sense of formal compulsion, but rather because they recognise that they are likely to draw as much as possible from the next day's lectures and classes only if they are on top of the material and have made a decent first attempt at whatever task has been put before them. In that regard, the Keble course feels something like a compressed MBA: the participants are, by and large, wholly self-motivated because it is clear to them what benefits will accrue to them as a result of treating the course in the way it was intended to be treated.

TRIAL

On the final day, a Saturday, participants take part in mock trials. Paired up with one of their co-participants from their small group classes, they take on another pair in the final hearing of the claim that they have used for the purposes of most of their classes during the course of the week. Given that the Friday night is a fairly riotous affair, the bulk of participants and a sizeable minority of the faculty are somewhat worse for wear on the Saturday morning. Nevertheless, the trial is a fantastic opportunity to put into practice the skills that have been learned during the course of the week, and is conducted in something of a celebratory spirit.

What Makes the Course So Useful?

THE FACULTY

Ask any past participant why the Keble course was so useful and the same response will no doubt arise again and again. It is largely down to the faculty. Because of its tradition of excellence, Keble

can attract faculty members from the very upper echelons of the legal profession. By way of example only, that means that participants can expect:

- To be taught how to cross-examine by the very best criminal silks
- To be shown how to maximise the effectiveness of their appellate advocacy by Lord Justices of Appeal
- To be given tips on skeleton arguments and the making of oral submissions by top commercial silks
- And to be taught how to undermine an opponent's expert by a Judge of the Queen's Bench Division

If such quality were not enough, the faculty is made up of practitioners and judges from a variety of jurisdictions. In a single day, our small group of eight found itself being critiqued by an Australian silk, an Irish silk, a senior advocate from Hong Kong, a Malaysian Court of Appeal Judge and a High Court Judge. Whilst most of their comments chimed with one another, the faculty members' respective backgrounds enabled each of them to offer insights that were unique to practitioners from their particular jurisdiction.

FORMAT

With such an impressive and diverse range of faculty members on hand, the Keble course would no doubt be useful if it consisted of nothing more than a series of lectures in which principles, distilled from years of practice, were outlined to the participants. As it is, the format of the course takes the experience much further.

Following such a lecture, the faculty then follow up with practical demonstrations on how the relevant principles can be put into practice. Those demonstrations are not mere snippets of advocacy, but full-blown appeal submissions, closing speeches or conferences with experts. Taken together, the lectures and demonstrations show participants not just what it is that they can improve upon and how to do so in practice, but why it is so important that they do so if they

intend to be persuasive and successful advocates.

The format also maximises the benefit to participants through the use of smaller teaching groups. The 'Hampel method' of teaching, so beloved of Bar schools across the UK, is particularly effective at Keble. First, because the baseline performances upon which the tutors are commenting are often higher than they might otherwise have been in the absence of the faculty's lectures and demonstrations. Second, because the tutors' comments are backed up by years of practical experience at the very highest level. What that means, practically speaking, is that by the end of the week each participant is likely to have made two significant strides forward in each core skill.

SIZE

The fact that Keble keeps the number of participants down to around 65 each year also directly benefits participants. In the various meals and coffee breaks at which faculty and participants eat, drink and socialise together, there are plenty of opportunities for one-on-one conversations with faculty members. These can be particularly useful if there are specific aspects of what participants have seen that day that they would like to discuss, in depth, before moving on to another topic. The limited numbers also help to foster a real sense of camaraderie, both between faculty and participants and between participants who have been allocated to different teaching groups.

Conclusion

For advocates up to seven years' call, the Keble course offers a unique opportunity to refine both their written and oral advocacy skills. The faculty, format and size of the course – coupled with its tradition of excellence – make it well worth doing, even during the August break.

Matthew Finn

Participant
Keating Chambers

Wellbeing at the Bar



I expect by now you are back in full swing and the Summer holiday is a pleasant memory and that the Christmas holiday beckons. Does our wellbeing depend on the respite we all seek to find in holidays or should it be more a part of our daily lives even whilst working. Until we embrace the idea that efficient working can be done in less time with us well and happy, rather than overtired, we will struggle to succeed to persuade others that this is the case. The endless drip of emails through the day and night, all of which require a response, wears down even the most organised of us.

My time as Recorder has re-connected me with the Bar that I was struggling to find time to see, for the number of meetings and events I deal with. How does each of you make sure that your working weeks are a happy before your holiday weeks?

The sad deaths of Kate Mallison, David Howker Q.C., Jonathan Turner Q.C, David Batcup and Stephen Field, bring home to all of us just how short life can be and so we must all make sure that the life we lead at the Bar is the one we want to lead and enjoy. With that in the bag our skills as world class advocates should surely mean we are fulfilled.

So what can be done and what is being done? By the time you read this the Bar Council's working group on Wellbeing will have launched its Wellbeing Web Portal a place where you should be able to find easily the advice, policies and events on wellbeing tailored to barristers needs. That means that you will no longer have to search for Bar specific advice or help. It's an exciting project and the culmination of a great deal of hard work by Sam Mercer from the Bar Council and Rachel Spearing who chairs the wellbeing working group and all my colleagues on the working group.

September and the start of the new term found over 55 barristers attending the first joint Wellbeing event organised by the Bar Council's working group, sponsored by the South Eastern

Circuit, Criminal Bar Association and Family Law Bar Association entitled Practice Management, Resilience and Recovery. On a Monday night the other 50 barristers who had signed up probably found themselves struggling to attend at the start of term. Robyn Bradley and Rachel Spearing gave an insightful talk on why barristers physiologically may find themselves struggling with the non-stop pressures and some useful pointers to consider to help manage the difficulties we face. The resources are available on the Wellbeing Website.

A question raised that evening related to whether the working group is working with our colleagues training the judiciary to find working practices that benefit us all. This is something both sides are keen to collaborate on and I hope to update your further soon on how that will be progressed.

Will there also come a time where even if you cannot stop the emails arriving you will not be required to answer or respond to a skeleton argument by email unless you have had 48 hours notice? A question which may be close to many of our hearts when we regularly find that when we have finished our work and taken some time in an evening we check the email either before bed or upon waking and find an important skeleton argument that requires our immediate attention. There cannot be many professions where the ability to switch off becomes harder and harder. The knowledge that emails are arriving during the night can disturb sleep for some and it cannot be right that barristers are "on call" without any additional fee 24/7. So perhaps we all need to work to change working practices whilst wholeheartedly embracing new technology and the digital working age. Research has shown that having to answer emails outside working hours damages job performance because it prevents people from ever disengaging from work and leads to chronic stress and emotional exhaustion. It is often the constant expectation of a response to emails that can lead to more stress than actually responding to them. The intrusion into the life side of the work life balance is what leads to the emotional exhaustion which in turn affects performance.

There are a number of different ways to deal with the stream of emails whilst also managing ones practice and the working day. Try looking at them only once or twice a day at specific times. Emails can be received with good manners, you can make it plain that you have seen the email but want to give it careful consideration and therefore would seek to respond to any document/argument by close of play the next day. Acknowledge receipt of the email indicating when you will answer by. Try only looking at emails on your commute, or use your out of office response to explain why there maybe a delay in responding but that you will do so within 48 hours for example

if you are mid-trial. However, this may not work for many of us and perhaps we can start to share how each of us manages our daily practice in order to help build up resilience for more junior members of the bar.

You may recall last Easter the South East Circuit ran a survey to explore Wellbeing issues on the Circuit. 89 members participated and careful measures were taken to ensure the anonymity of all respondents. Of those who responded to the survey: 87% indicated that they had suffered from stress in the last three years (stress as distinct from high pressure normally associated with a demanding job); over 37% of respondents said they had suffered from depression; a further 30% said that they had health problems and about half of those who responded said that they had not confided in anyone nor sought advice, help or medical treatment.

60% of our survey participants also said they had suffered from financial problems in the last three years. These included late payment of fees, cash flow problems and/or a drop in income.

In answer to our question on what most affects wellbeing at the Bar, our survey participants mentioned: pressures of life at the Bar, working long hours, poor pay, financial worries, last minute instructions, the unrealistic expedition of all proceedings, unrealistic expectations from Judges, a career where there is no career path, feeling undervalued and unequal treatment within chambers.

Participants to the survey also said they found chambers, colleagues, friends and family good support mechanisms for helping with their wellbeing. They also found taking holidays, the work itself and the resilience they had developed helpful, as well as flexible working arrangements. Many of the resources that the Bar Council's 'Wellbeing at the Bar' programme is developing will help members identify lines of support available.

In addition, survey participants were keen on the use of telephone hearings or email directions for shorter directions hearings, and felt the continuance of court sitting hours of 10.30am-4.30pm would allow barristers time to complete their non-court work within the working day.

Generally our survey showed that only a third of participants felt they had enough time off work. Two-thirds of participants either did not seem to get a decent break or they felt that their breaks were interrupted by work. The requirement to work long hours outside holidays was also highlighted. Some survey participants said that they could not afford to take holidays.

Encouragingly almost 80% of those who took part in the survey said that they were willing to devote time to their wellbeing. Only 42% felt informal meetings with other circuit members would support them and those that were keen to meet overwhelmingly supported meeting less frequently than every month.

Other ways in which participants asked the SEC to support them were – changing the culture of the Bar – that is to promote Wellbeing and look to prioritising it. The Bar Council's working group is devoted to doing that and the SEC wholly supports its programme of activity. The Wellbeing at the Bar Website which will have launched by the time you are reading this will also showcase all those initiatives that are being offered by circuits, Inns or specialist Bar associations in one place.

The SEC is fully committed to the Bar Council's working group, and to the online resources which form part of the Wellbeing Website. It has been exciting to be part of this programme and to be able to influence its direction to suit the needs of our members. Our joint event in September was the start of what we hope to be more events and resources devoted to your wellbeing. The event in September stressed the need to "take breaks, keep your social life up outside work, cultivate an eclectic mix of friends and develop and sustain new and varied interests and hobbies". That may be a tall order for those of us that sometimes feel our work and familial responsibilities take up all of our time but it is something towards which we should all aspire. Perhaps starting with the critical essentials as defined at the event – sleep, diet, exercise, mindfulness, play, nurturing relationships and daily gratitude practices, being kind to yourself and being proud of what you do – is an essential practice we should all critically embrace.

Many of our Wellbeing survey participants suggested that the SEC consider developing counselling or therapy support through our links with the Wellbeing at the Bar programme. Following on from the joint event with the CBA and FLBA the SEC intends to trial an Art Therapy class which will allow any members wishing to partake to access Wellbeing essentials by expressing themselves creatively with an art therapist. This is an event which will be publicised in the news section of the Wellbeing Website that already offers weekly yoga and mindfulness sessions for barristers.

Having acknowledged the survey results, the SEC will continue to lobby for the introduction of prompt payment of fees and to press for realistic court sitting hours; also for telephone or email directions where appropriate.

Please email Aaron to let us know if you would like to attend the Art Therapy classes, your confidentiality will be maintained. We are currently seeking a regular place to host the activity with the help of the Inn's.

In the meantime do contact me with any further initiatives you would like us to pursue. We continue to look towards a variety of courses or ways to support to members as we appreciate that different people will find different things helpful.

Valerie Charbit

2 Bedford Row

SEC photo gallery

The 2016 Annual Dinner at Middle Temple Hall 10th June



Circuit Leaders' Dinner which took place at Inner Temple on 6th April 2015

