



ChBA Review 2013

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From the Chairman



Another year of change and substantial achievements has passed. The features elsewhere in this Review will tell you what happened in 2013. None of the things that we have been able to do would have happened without the dedication of those who work on the Association's main committee and sub-committees, and of Francesca, to whom I gratefully record my thanks for all their efforts. I am pleased to say that the elections for membership of the committee were all contested in 2013, which I regard as a healthy sign. The Association must be truly representative of its members.

The forthcoming year will also be a year of challenges for all of us. To start things off, a new Code of Conduct comes into force on 6 January 2014. There will be a seminar focusing on the important differences from the current Code. From the start of term, the Chancery Bar Litigant in Person Support Scheme will be operating on a daily basis in the Applications Court. It is an important initiative that deserves your support. Early in the year we will conduct a review of how the standard contractual terms regime is working out and, if appropriate in the light of that review, we will prepare a set of Chancery Bar standard contractual terms.

In addition to the annual winter conference, we will experiment with a shorter summer conference, to help

those who are unable to attend the winter conference. We still await the decision of the BSB on what the new CPD regime will look like – it will not come into force before 2015 – but we will have to look again at our programme of seminars in the light of that to make sure that the current format is what our members need.

There is no let up in the number of consultation papers to which we need to respond, a subject that I drew attention to in last year's Review. We do desperately need your help to work on these, as they arise, and would be grateful for more volunteers. Not only does this work help to protect our own interests but putting in a detailed and considered response to the important papers significantly raises the profile of the Chancery Bar.

On a brighter note, we have a planned return to Cayman to look forward to in the spring, and the international sub-committee will be giving careful thought to other jurisdictions that we should visit. Planning is already underway for the octocentenary celebrations of Magna Carta in London in 2015 and with your help we aim to play a full part in that. It should provide a unique opportunity to showcase the legal services industry in London.

Tim Fancourt QC

Annual Conference 2013

An off-the-cuff remark by one of the Bankruptcy Registrars that we Chancery lawyers do not cross-examine effectively determined the theme of the Tenth Annual Conference – advocacy and all that it entails. It proved a popular subject.

It is thanks to all the organisers, speakers, workshop leaders, and delegates over the last ten years that the annual conference has been such a huge success. I cannot believe that it is over eleven years ago that I approached Sir Andrew Morritt the Vice-Chancellor (as he then was) to ask him if he would allow at least one of his judges to take time off on a Friday afternoon to address our first conference. From January 2003 the event has gone from strength to strength.

“Excellent conference – best ever in my view. Nice atmosphere and high quality and entertaining speakers throughout”

Perhaps a reflection of that increase in strength is that the conference continues to enjoy the support of eminent judges. Despite his role as President of the Supreme Court, Lord Neuberger was as loyal to the ChBA as ever and gave up his time to judge the moot between Lord Hoffmann and Sir Nicholas Patten who gave us brilliant examples of higher court advocacy. Another frequent contributor has been Sir Terence Etherton, who we welcomed in his new role as Chancellor of the High Court. He addressed us on his ideas for the future of the Chancery Division.

Further highlights of the conference were: a very learned paper on “Piercing the Corporate Veil” by Mr Justice Arnold; a stimulating double act on the art of cross-examination of experts by Edwin Glasgow CBE, QC



Conference workshop (top) and Carolyn Walton (left).

(counsel to the tribunal in the Bloody Sunday enquiry) and Marion Smith; Christopher Morris on being an expert; and the ethics panel chaired by Mrs Justice Asplin.

Our thanks also go to the “Just a Minute” panel of three of the Bankruptcy Registrars and Mr Justice Vos who proved that he can easily opine for over a minute on virtually any topic. And everyone loved listening to Lord Justice Mummery’s advocacy war stories and did not complain that he overran his time slot. The feedback on the workshops was also extremely positive.

“It has proved a winning formula.”

I am extremely grateful to the Association for granting me the fun of organising the conference for a second time. I could not have done it without my conference committee and the willingness of the victims of the telephone requests that they run a workshop or do a lecture. Long may such willingness and assistance continue.

Carolyn Walton

News in brief

The Fifth Annual Chancery Bar Careers Fair took place on Saturday 16th November at Gray’s Inn. Students from over 44 educational institutions signed up to attend. Twenty chambers set up their stalls to entice over 130 students from all over the country to consider making the Chancery Bar their home. Talks ranging from “How to make the best pupillage applications” to “Why tax work is fascinating” kept the students entertained and informed along side the Fair itself. The video of the Fair – never to be seen in a cinema near you - can be found at www.chba.org.uk.



The Chancery Bar Association put on 41.5 hours of accredited CPD during 2013! This does include the Singapore and Guernsey trips, but... wow!

2015 will be the 80th birthday of the Association – please let Francesca know how you think we should celebrate.

New for 2014: Summer Conference

In response to member-led demand, following a survey at the last winter conference, we are putting on an inaugural half day conference on 26 June 2014.

This pilot conference will be free to members and will be held in the excellent conference facilities at the British Library on the afternoon and early evening of 26 June. The format will be a combination of panel discussions and break-out sessions (of the style that have proved successful in the winter conference format). The speakers and topics are yet to be announced but we hope to have a mixture of practitioners and academic and judicial participants. It will end with a champagne reception in the British Library’s magnificent rooms and (if dry) on the terrace.

Richard Millett QC

The Chancery Modernisation Review

In January this year the incoming Chancellor asked Lord Justice Briggs to undertake a review of the work of the Chancery Division with a view to making recommendations for its modernisation. He has been assisted throughout this process by Mr Justice Newey and an advisory panel (of which your Chairman and I were part).

Lord Justice Briggs wrote to all our members and other stakeholders to provide him with their views on an informal basis before Easter. He then conducted an exhaustive series of meeting with groups all over the country who had an interest in the outcome of his report. A working group was set up to meet Lord Justice Briggs it comprised Timothy Fancourt QC, Richard Millett QC, Lesley Anderson QC, Michael Todd QC, Ian Clarke, Nicola Preston, Toby Watkin and me.

The interim report was published at the end of July and it covered a wide range of subjects including the greater use of docketing for appropriate cases, the jurisdiction of masters and district judges to hear cases, triaging of cases at the outset, a change in culture to case managing cases towards alternative dispute resolution, and fixed rather than open-ended trials to name just a few key areas.

Responses to the interim report were provided by the end of October 2013 and our working group’s response can be found on the website with the report. In general the proposals in the interim report were warmly welcomed. The interim report suggests that there will be a complete change in the way in which we litigate in future in the Chancery Division if the proposals are adopted. The final report will have been received by the time this goes to press.

Penelope Reed QC

Overseas Trips

Singapore

Our Conference in Singapore in April was a special event in the life of the Association as it was our first in Singapore. It was very ambitious and it was the first to be run as a joint Conference. It was the product of negotiations between the working group of myself, Timothy Fancourt QC and Richard Millett QC with the Singapore Academy of Law.

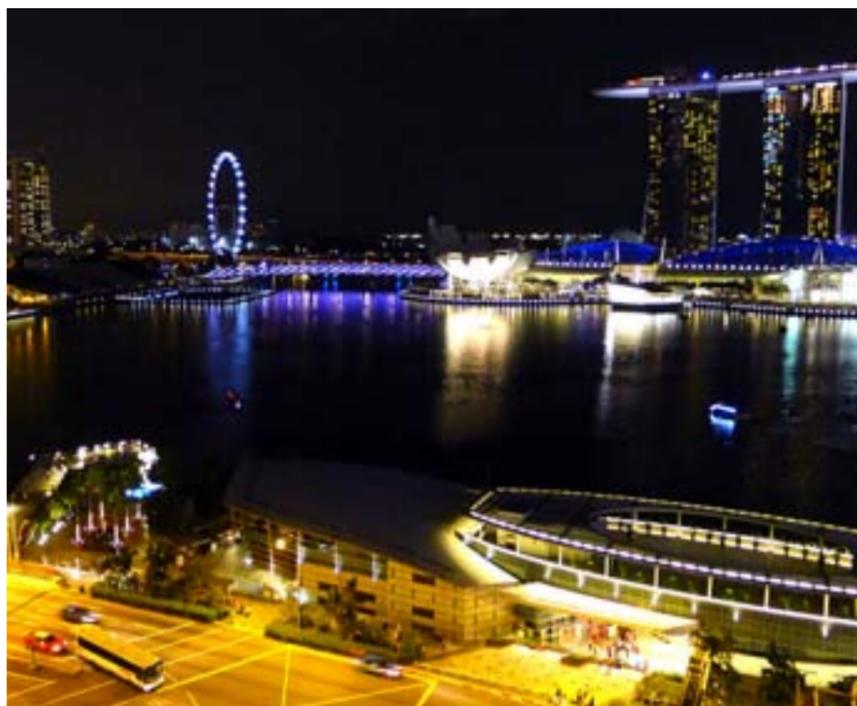
The venue for the Conference was the amazing new Supreme Court building designed by Norman Foster and the title was "Finance, Property and Business Litigation in a Changing World". Menon CJ gave the keynote address, which was a tour de force on the impact of Equity in Singapore. Over 200 lawyers from Singapore and the region attended with 44 members of the Association and 9 senior clerks. We had 3 plenary

sessions and 3 sets of parallel break-out sessions which enabled 27 of our members to speak or lead sessions. There were numerous opportunities to interact with SAL counterparts in organising and participating in the break-out sessions.

The SAL extended wonderful hospitality to us and many of us stayed on to hear Dame Mary Arden's lecture to the SAL on Good Faith in Contracts. The timing of her lecture gave us the bonus of having Lord Mance present at the Conference, and we were delighted that he chaired one of the sessions.

The Conference was a great success and the Chief Justice has already indicated that he would like there to be a future joint Conference.

David Halpern QC



Singapore's spectacular waterfront

Guernsey

In October we descended upon Guernsey for the Association's second overseas Seminar there. The afternoon of seminars was split in two and the first panel made up of Eason Rajah QC, Julia Beer and Josh Lewison, expertly chaired by Lieutenant Bailiff Hazel Marshall QC spoke on *Prest v Petrodel* and the latest BIS consultation. Lively debate ensued in the question and answer session. The second panel of Peter Dodge, Bridget Lucas and Paul Marshall (equally well chaired by the Association's very own David Halpern QC) spoke on the effect of the Limitation Act 1980 in complex financial claims, nominee directors and money laundering. The talks encompassed the overseas dimension.

In addition to the CPD section of the trip, we were honoured that those who arrived early to Guernsey were treated to a tour of the Courts by the Greffier, the Deputy Greffier and the Bailiff. We of course admired the Guernsey advocates' toques and a highlight of the tour was being permitted to look at the Norman-French conveyances and bonds.

The trip benefited from excellent talks and was an opportunity for members from England to network with overseas members of the Association and to promote the Association generally to the lawyers and judges of Guernsey. We look forward to visiting the Channel Islands again, probably next year.

Ruth Hughes

2014 Seminar Programme



The 2014 seminar season promises to be an interesting one. The aim has been to focus on issues of wider appeal which are controversial in a bid to stimulate debate.

In the main programme for the first half of 2014 we have lively seminars on the fall-out from *Futter* chaired by newly-appointed Chancery Judge Nugee J, and a debate between the Family Division and the Chancery Division after *Prest* chaired by Mostyn J of the Family Division.

The highpoint of the Seminar Programme is the Annual Lecture in April and we very much look forward to welcoming Sir Terence

Etherton as the guest speaker this year.

We are delighted that it has been possible to expand the programme with more academic speakers. We will have Professor Graham Virgo among the other distinguished speakers on the panel on Breach of Confidence in May.

The New Practitioners' Programme (NPP) also promises a stimulating and lively series of sessions, including "Managing Your Practice at the Junior Chancery Bar" in March, with counsel, a clerk and an accountant as speakers.

Richard Millett QC

Chancery Bar Litigant in Person Scheme (CLIPS)

On 4 December 2013, the Association, in conjunction with the Bar Pro Bono Unit and the RCJ Advice Bureau, launched the Chancery Bar Litigant in Person Support Scheme ("CLIPS"). CLIPS has the support of the Chancellor and the Judges of the Chancery Division and aims to provide "on the day" advice and advocacy for litigants in person in the Interim Applications Court. The scheme will assist litigants in presenting their cases to the court, while at the same time assisting the Interim Applications Judge to serve the interests of justice and ensuring that those with limited financial means can still access justice.

Members of the Association with post-pupillage Chancery experience are invited to volunteer. The scheme has adopted the Court 37 paperwork from the Queen's Bench Division pilot for litigants in person which sets out all of the operational points about the scheme. These can be found on the website for the Association at www.chba.org.uk.

The Committee commends CLIPS to the Association's members: it is an excellent opportunity to use our expertise to protect access to justice for all.

Eleanor Holland



Academic Members' Dinner

On 23 May 2013, the Association held its first dinner specifically for its Academic Members. We were tempted away from our marking duties not only by the prospect of good food and the company of fellow members, but also by the amuse-bouche of a preceding proprietary estoppel seminar, chaired by Lord Justice Lloyd.

Excellent papers by John Randall QC, William Swadling, and Elspeth Talbot Rice QC set the scene for further submissions at the Chancery restaurant where anyone attending was obliged to have clean hands. The dinner, hosted by the Chairman of the Association and the Chair of the Academic Liaison Sub-Committee, was well-attended by academics, many of whom made the trip into London.

It was a successful evening and the informal setting was ideal for discussion of matters such as how best to encourage students to consider a career at the Chancery Bar, and a number of us with an academic interest in proprietary estoppel benefitted greatly from the barristers' explanations of the practical issues thrown up by the doctrine. We look forward to the next dinner.

Ben McFarlane

Equality & Diversity

This year the E&D committee have undertaken a number of projects.

January saw the launch of the new-style mentoring scheme with a training session led by Hormoz Ahmadzadeh (see the item by George Laurence QC for further details).

In **March** the committee participated in a successful event organised by the UK Law Societies' Association which was aimed at attracting students from low-income backgrounds to aspire to practise in the chancery and commercial sphere.

In **May** the committee organised and supported the Association's workshop on the fair allocation of work. This was chaired by Rebecca Stubbs QC and was a well attended event which reflects the continuing awareness of the impact of E&D following the implementation of the new rules in September 2012. Continuing areas of review include the need to reach a consensus as to the precise parameters of the rules and improving the capture of information so that the process becomes incidental to the work done by clerks to generate and secure business.

In **July** we hosted some students participating in the

PRIME social mobility programme and the Association continues to encourage its members to involve themselves in schemes like the SMF Bar Placement Week and Inner Temple's Pegasus Access Scheme (we are always pleased to see how many Chancery Chambers step up to the mark when volunteers are called for).

Going forward, fair allocation of work and social mobility will continue to be topics of particular interest, as will retention of those who have taken parental leave. The BSB's review suggests that chambers really are making great strides in providing for parents to continue to practise, but there are further cultural changes needed to enhance the experience of those seeking to juggle practice with caring responsibilities.

There is a huge amount of interest in equality and diversity from members of the profession, generated in part by the BSB's recent and forthcoming rule changes, and also by the inclusion of diversity as a competency in which applicants for silk must excel. We hope to be able to harness that enthusiasm so that the Bar increasingly reflects, and earns the trust of, the society which we serve.

Joanne Wicks QC and Rebecca Stubbs QC

The Chancery Bar Mentoring Scheme

Life for many at the Bar can be stressful and competitive. It is heartening that the Association embraces initiatives such as the mentoring scheme to help alleviate some of the stressful aspects of being a barrister. It provides an opportunity for a mentee to discuss on a confidential basis with a mentor any and every aspect of the former's career over time. The mentor, an established practitioner, is a resource to be called on by the mentee for advice on anything of concern ranging from career development and chambers' administration to how to balance work with the other demands of life.

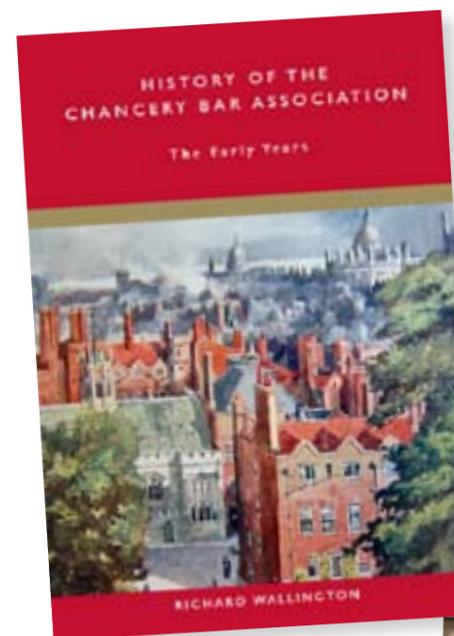
The training session run in January 2013 for would-be mentors and mentees highlighted the need and use of such a scheme. Many of the legal problems chancery barristers have to try to advise about are truly intractable. Our confidence that we are fit to advise about them is often rather fragile: there is so much evidence that others are doing better. I found the meeting a suitable environment in which it was easy to admit how true that was in my own case.

It seems to me that our mentoring scheme marks an important step in the direction of demystifying

a little of the reality of making a successful career as a chancery (or any) barrister. Our clients want and are entitled to expect clear and helpful advice. But if we want to be fit (in the widest sense) to give such advice and to prosper in our careers for the right reason (namely because we are actually doing a good job), a mentor could play a very useful role. And it's helpful for mentors too, not least because in helping the mentees to articulate what is troubling or puzzling them, mentors find that they are more readily able to put their own professional concerns in perspective.

George Laurence QC

More news in brief



▲ The Association published the excellent "History of the Chancery Bar Association: The Early Years" by Richard Wallington.

▶ On 20 May 2013 the intrepid Association walkers set out on the London Legal Walk, or if rumours are to be believed, there was a hint of jogging from some so fast was the pace set by the Association's last Chairman. Over £3000 was raised for pro bono work.



• On 8 July 2013, a group of the junior members of the Association attended a networking event with the London Solicitors Litigation Association. It was a great opportunity for connections to be made over an engaging ten-pin bowling night at the All Star Lanes in the City with mixed teams of barristers and solicitors battling it out for victory.

• On 25 July 2013, the Association hosted a drinks reception at Serle Court to say farewell to Chief Master Jonathan Winegarten upon the occasion of his retirement.

• The Association has continued to embrace modern forms of communication to ensure that it reaches the widest possible audience including Twitter to promote the Careers Fair. We now have 165 followers.

In 2013 the Association responded to 15 consultation papers and represented your views to the various Consultors. A full list of the papers can be found on the website at www.chba.org.uk.

The Association would like to thank the following people for their contribution in 2013: Timothy Fancourt QC, Mark West, Amy Berry, Penelope Reed QC, Andrew Frances, Tom Dumont, Anna Clarke, Richard Wilson, Tim Morshead QC, Tom Weekes, Toby Watkin, Caroline Waterworth, Philippa Daniels, David Holland QC, Fenner Moeran, Malcom Davis-White QC, Joanne Wicks QC, Georgia Bedworth, Kavan Gunaratna, David Rees, Sebastian Prentis, Paul McGrath, Paul Marshall, Josh Lewison, John Machell QC, Andrew Francis QC, Andrew Twiggs QC, Alana Graham, Philomena Harrison and Eason Rajah QC.

Volunteers are always welcome. Please email admin@chba.org.uk if you would like to assist with responses to any consultations



Meeting The Chancellor

The Chancellor found time to meet with the ChBA at the end of his first year in office to discuss a range of topics from his aspirations for the Chancery Division to his wide range of interests outside the law including selection for the Moscow Olympics. It is not surprising that the Chancellor is an erudite and learned man. But anyone would be impressed by the combination of drive, passion and humility that this Chancellor brings to everything he does.



The Rt. Hon Sir Terence Etherton

The role of Chancellor involves two main functions. First, he is the Head of the Chancery Division. Second, he is a member of the Judicial Executive Board, where he acts within the wider judicial function. It is plain that the Chancellor considers he is extremely privileged to be the Head of the Chancery Division which is made up of very distinguished judges, masters and registrars and is the sum of its impressive judicial parts. Together this makes the Chancery Division one of the most respected courts in the world. Looking ahead, that reputation should be enhanced when the Rolls Building is, as is anticipated, provided with the IT system necessary to support its judiciary within the next 18 months. This should provide increased efficiency and ensure that judicial resources are utilised in the most efficient and cost effective way for the public benefit – something that the Chancellor is very keen to ensure.

If you look over the Chancellor's CV you will see an impressive array of non-Bar related activities. He competed at the World Championships in 1977, 1978 and 1979 as a member of the Great Britain International Fencing Team and went on to be selected for the Moscow Olympics in 1980. The Chancellor chose not to compete (as it had been left to individual team members to decide if they should attend) and sadly for the sport of fencing, but to the enormous benefit of the Bar, the barrister of 6 years' call decided that his career had to take priority rather than pursuit of a place at the 1984 Olympics.

Before appointment to the bench, the Chancellor undertook a huge number of public appointments. These included being a non-executive director at the Riverside Mental (NHS) Trust for most of the 1990s and the Chair of Broadmoor Hospital Authority from 1999 until 2001. These appointments came out of the Chancellor putting his name forward to the Public Appointments Commission shortly after obtaining silk. At that time, the Chancellor believed he was subject to Lord Hailsham's

unwritten ban on the appointment of homosexuals to the judiciary and he discounted the possibility that he might ever become a judge. Given his very real commitment to, and belief in, public service he decided instead that he wanted to use the very portable skills that members of the Bar acquire to benefit a wider range of people and that led him to undertake these very different and fascinating roles.

It is to the Chancery Division's benefit that times have changed. We are fortunate to have as Chancellor a man that possesses the experience from outside the Bar (management, exposure in different areas, an awareness of the importance of legal services in a wider context) which is combined with the skills that are required by any member of the Bar (in his own words), namely passion for your career path, being the best for yourself and your client and resilience, so that you can put the last case behind you and move on no matter what the result. In the Chancellor's case, there is clearly a huge overlap in his approach to sport, his life and his career, and the Chancery Division will no doubt benefit from those characteristics in its new Chancellor particularly during a period of change and modernisation. The Association wish the Chancellor well for the year ahead.

Amanda Tipples QC and Caroline Waterworth

We would like to thank the contributors, photographers and editor for all the time and effort devoted to the ChBA Review 2013

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