



## Index

By Order of Her Majesty .....	1
Judicial Intranet .....	2
Editorial Comment .....	2
Justice Agenda European Union .....	3
How Important is the JP Court? .....	4
Profile - Arthur Hamilton .....	5
Cases of Interest .....	5
Community Payback .....	6
Spotlight on Dumfries .....	7
Accolade to Robin Wild .....	8
Adjournments .....	9
Justice in the Making .....	9
Value of Local Lay Justice .....	9
Last Public Execution in Scotland .....	11
Judicial Studies Committee .....	12

## By Order of Her Majesty

by Stuart Fair

It was with great delight that we learned that our Secretary Johan Findlay was awarded an OBE in Her Majesty's New Year Honours list for services to the Administration of Justice in Scotland.



This will have come as no surprise for most who know Johan – and indeed, a surprise to some who already assumed that Johan had previously been thus honoured. Johan truly merits this acknowledgement and has been a champion of the Justice of the Peace in Scotland for more than a couple of decades. Indeed, it would not be rash to speculate that nobody has done more than Johan to enhance and further the standing of the Justice of the Peace in Scotland.

Johan has worked tirelessly to further the interests of the Justice of the Peace, improve standards of competency and the position of the Justice of the Peace as a full member of the Judicial Family. Johan has played a significant role in managing the successful changes in Summary Justice post McInnes. Indeed, recent anecdotal evidence suggests that we have to thank Johan for sowing the seeds of policy which bore fruit in the format of the current Community Payback Order! In terms of enhancing our standing within the judicial family Johan has worked hard to extol the comparative merits of the Justice of the Peace. Johan has very eloquently put forward the benefits of confidence that lay justice brings to the system of summary justice – the Justice of the Peace as the great Lord Cooper eruditely outlined, “their responsibilities are even heavier than those of the higher courts, for it’s usually the lay magistrate who has to act as arbiter of the fate of the first offender, whose initial appearance in the criminal court so often marks the parting of the ways between a

career of crime and restoration to useful citizenship.” I am sure Lord Cooper would have greatly approved of Johan’s efforts to encourage Justices to ably discharge such responsibilities in a way that befits Judicial office.

Johan’s commitment to the Justice of the Peace in Scotland is truly remarkable and the extent of her involvement with summary Justice is difficult to adequately summarise and in terms of her varied roles and associated appointments does not bear adequate testimony to the hard work she has put in. She was an inaugural member of the Scottish Criminal Justice Forum till 2000. Johan is a current member of the Board of the Scottish Courts Service – appointed in 2009 and was a member of the Parole Board for Scotland for six years from 2000. Johan is also an Honorary Sheriff although untypical of this honorary role but so typical of Johan is the fact that she has actually presided as a Sheriff and dealt with summary business. Outwith all of this Johan is an extremely busy Justice of the Peace sitting twice a month in Dumfries – in essence Johan does more than “walk the talk!”

Johan was elected as the first Chairman of the newly created Scottish Justices Association in 2007 and her hard work ensured that the Association maintained a high profile in Scotland by advising on the modernisation of the justice of the peace and managing the changes by helping stakeholders understand the implications and the improvements it would make. ▶

*continued on p2*



## Courtesy Titles For Justices Of The Supreme Court

Her Majesty The Queen has signed a warrant declaring that every Justice of the Supreme Court of the United Kingdom will in future be styled as ‘Lord’ or ‘Lady’, to ensure that all Justices of the Court are described and addressed in a similar manner.



Under Johan's stewardship this high profile culminated in a reception hosted by the Scottish Government for the 400th anniversary of the Justice of the Peace in Scotland which included Johan addressing a large gathering in the Signet Library in which she conveyed Her Majesty's personal greetings on attaining the 400 year milestone in the presence of Scottish Ministers, professional judiciary and fellow justices. Such an event did not happen by chance and it was Johan that highlighted the advent of the 'quadricentennial' anniversary. A good example of raising the profile can be seen in Johan's exemplary work which she has carried out as the Editor of the Scottish Justice over the past 12 years which is very much appreciated by readers throughout Judiciary and in the wider legal world.

In terms of appointments and roles, Johan has been involved in a significant number of

Scottish Government decision making bodies on the Appointment, Training and Appraisal of the Justice of the Peace. She currently chairs the Sherifdom of South Strathclyde Training and Appraisal committees and is a member of the Appointments Committee, and was on the Nithsdale Justices Committee, Dumfries and Galloway Justices Committee, the Scottish Association for the Study of Delinquency and the District Courts Association Executive Committee – latterly was Chair of the Communications Committee.

In between all of this important work with Summary Justice Johan has brought up four children, being the "best Grandma in Hightae" to twin grandchildren with another two on the way and managed to squeeze in a Post Graduate Diploma in Criminal Justice in between. Notwithstanding all of the above Johan is also regarded as the pre-eminent

authority on the subject of the history of the Justice of the Peace in Scotland and is the author of the seminal text published in 2000 - All Manner of People: the History of the Justices of the Peace in Scotland. Indeed, my first contact with Johan arose through e-debating as to the merits of an 1815 copy of a book which we both own - the Powers and Duties of the Justice of the Peace in Scotland by George Tait – Advocate – and I thought it was only I that was an "anorak"!

In summary, Johan's recognition is very well deserved and we are proud of Johan and her achievements. In many ways, we have much to be grateful for Johan's work and we do hope that she will continue to "work her magic" for and on behalf of Justices.

**Stuart Fair LLB JP**  
**Chairman Communications Committee**

## Judicial Intranet

The Judicial Office is launching (launched) a Judicial Intranet on 4 April 2011 at <http://judicialintranet> which will provide a very useful resource to all Justices of the Peace to support them in undertaking their role and duties, both on and off the Bench. Justices of the Peace, along with all other judicial office holders will have on-line access to a broad range of materials and information.

The judicial intranet will now become the main channel of communication between the Lord President and all members of the judiciary and will be used for disseminating information. It will also keep you to date with the latest news as well as new judicial appointments, transfers and retirements in Scotland.

Additionally, part of the judicial intranet has been specifically designed to provide easy access to all the materials which Justices of the Peace need, such as the JP Bench Book (currently under revision) and the Equal Treatment Bench Book. You will find this section in the menu at the top of the home page headed JPs.

The Justices' section includes an introduction which explains the purpose of the intranet. It also invites feedback on items or materials which might be helpful to consider including in the future. Suggestions should be sent to [judicialstudies@scotcourts.gov.uk](mailto:judicialstudies@scotcourts.gov.uk). We will be arranging to include new materials to ensure that the resource is kept fully up to date with relevant and useful articles that are of interest to Justices of the Peace.

We also want to ensure that all Justices of the Peace are in a position to obtain electronic access to the judicial intranet from any location. You should have received a note of your Scottish Court Service email address and instructions on how to access your emails from a remote location, as well as instructions on how to access the Intranet from your home computer.

If any further assistance is required you should contact the IT helpdesk by either phoning 0131 444 3333 or emailing [helpdesk@scotcourts.gov.uk](mailto:helpdesk@scotcourts.gov.uk)

## Editorial Comment

by Johan Findlay

Spring is here, well on some days at least! The Communications Committee is delighted to present the Scottish Justice for your information and enjoyment.

The appointment and training of justices has undergone far reaching changes and we now have a large group of 'new' justices sitting on the bench. This issue of the Scottish Justice contains an article on the views of a new justice, Sue Robb, who recently completed the appointment and training process and has been sitting for almost a year. It is interesting to compare this with another article by Robin Wild who has recently retired from the bench and he describes his experience of appointment and working some 27 years ago! I am very grateful to both for their contributions and would be interested if any other new or very indeed experienced justice would like to tell us of their own experiences.

Robin, a past chairman of the District Courts Association outlines the work he did in persuading the authorities that justices were worth retaining over the McInnes review. We have to keep doing this – what I call the L'Oreal effect !! We are worth it! Justices are members of the community and as such work and play in their local areas while understanding the wider issues of criminal justice. 'Deliberative democracy in which public deliberation is central to legitimate lawmaking and allows the public – as opposed to professional lawyers – to make decisions on the facts in a case'.

Community Payback Orders have arrived! It is now 400 years since 1611 when justices first asked for some form of community sentence but a mere 3 years since it was suggested to the Justice Secretary, Kenny McAskill at a conference and it has come to fruition. We hope it will be a very useful disposal in the limited armoury we currently have.

I am very grateful to Stuart Fair for penning a very complimentary piece on my receiving an OBE in the New Years Honours List. The investiture at Buckingham Palace on 24 March was a truly memorable occasion. I have very much enjoyed the work over the last 24 years and while I never thought of any kind of award it is really wonderful to have that work recognised and which reflects on lay justice in general.

Finally, can I remind members that there will be elections for the Executive of the SJA in the summer and I would urge those of you who are interested to stand for the election. The SJA needs committed people on the committees and those of you who are fairly new to the job would be welcomed. Enthusiasm with a desire to further the justices of the peace and some time available is all that is needed.

**Editor**  
**Johan Findlay**

# The Justice Agenda of the European Union

We may know the European Union through its interest in food quality or worker mobility (and the consequent need for more interpreters in court) or helpfully in reducing mobile roaming charges for our holidays. Until the end of 2009 when the Lisbon Treaty came into effect, the area of criminal justice was largely unaffected by EU decisions. This is now changing. John Thornhill, Chairman of the Magistrates Association, reports that: "... the whole thrust of harmonisation is moving forward apace in terms of European arrest warrants which now impact on all countries. I have also been consulted (by the Ministry of Justice) on harmonising the management of sentences and other procedures in the courts".

In many countries, lay judges involved in criminal and civil cases have concerns that this European harmonisation will result in the role of lay people being reduced in judicial procedures. Because of these concerns, the European Lay Judge Forum has been established and the Scottish Justices Association has been involved to ensure that we keep ourselves informed and involved in maintaining a lay involvement in justice.

## October 2009 – First meeting

Susan Kirkwood attended this meeting which was called because of concern that the Lisbon Treaty would have implications for the administration of justice and the role of lay judges. Lay judges from parts of Europe attended this meeting in Helsinki and examined the different ways in which lay people are involved in the courts.

There was particular concern about the "Stockholm



Programme" which calls for "A Europe of law and justice: The achievement of a European area of justice must be consolidated so as to move beyond the current fragmentation. Priority should be given to mechanisms that facilitate people's access to the courts, so that they can enforce their rights throughout the Union. Cooperation between legal professionals should also be improved, and resources should be mobilised to put an end to barriers to the recognition of legal acts in other Member States."

## July 2010 – Second meeting

The SJA Chairman, Philip Murray attended a Symposium of European Lay Judges in Europe which was held at the European Academy in Berlin. Representatives of lay judges and Justices of the Peace from Germany, Finland, Spain, Sweden, Austria as well as the UK – Scotland, England and Wales –attended.

The conclusion of the symposium was to form

a European organisation for voluntary lay persons involvement in the judiciary and draw up a charter for volunteer lay involvement by European citizens in judiciary which would incorporate the European catalogue of core values and the rule of law. On the basis of these discussions during the symposium, a draft "Charter for volunteer lay involvement in jurisdiction" is being prepared. The plan is that the charter will be formally adopted in London in July 2011.

## The future

We believe that we must keep an eye on Europe. At this time there will be little impact on ordinary justices. However by being involved we will avoid finding that a European-inspired law of procedure suddenly impacts on us when it is too late to comment or have an influence.

## Lay Judges in Criminal Courts in Europe

Finland: In the District Criminal court an appointed presiding

judge sits with 3 lay judges to hear non-serious cases. The votes of the presiding judge and the 3 lay judges are equal.

Germany: Lay judges sit in criminal cases in the courts of first instance i.e. in local and Regional courts and in appeal proceedings at the Regional court. In each event there are 2 lay judges sitting. In addition, depending on which court it is, there are 1, 2 or 3 professional judges.

Malta: Lay judges (Commissioners for Justice) sitting singly, deal with summary "depenalised" criminal cases. These include many motoring cases, breaches of environmental and hygiene licences, littering and parking.

Sweden: In the District (criminal) Court, 1 professional judge sits with 3 lay judges. In the Court of Appeal, 3 professional judges sit with 2 lay judges.

**Susan Kirkwood**

# How Important Is The JP Court?



## Lay justice

Lay justice is much more widely used in Great Britain than, probably, anywhere else in the Western world, and there are two main ways in which it is used, that is, juries and lay judges.

## Lay judges

Lay judges in England and Wales are represented by some 31,500 magistrates sitting in Magistrates Courts, in benches of three normally, though there are also some 100 full-time, and 150 part-time, professional District Judges (formerly called Stipendiary Magistrates) who also sit there. These Magistrates Courts are extremely important, in that every criminal case starts there and the vast majority also finish there (for there is no equivalent of the Sheriff Court), and there is a non-criminal jurisdiction as well.

Lay judges in Scotland are represented some 450 lay JPs, now sitting in JP Courts, usually in benches of one (thus, incidentally, probably constituting the only lay single-judge criminal court in the Western world), though there are a handful of professional Stipendiary Magistrates, who only sit in the Glasgow JP Court. This is a much smaller number of lay judges even given the different sizes of population. Also, all criminal cases do not start in the JP Court and the majority do not finish there (for there is the Sheriff Court), and nor does the court have a non-criminal jurisdiction.

So how important is the JP Court? The answer is important in itself, but also particularly interesting, given that the Summary Justice Review Committee: report to Ministers in 2004 (the "McInnes Report"), which kicked off the recent summary justice reform, recommended (though only by a majority) that lay courts be replaced by professional "summary sheriffs", and Lord Gill's Report of the Scottish Civil Courts Review last year may have resuscitated the idea with a recommendation for professional "District Judges".

## The importance of JP Courts - quantity

The McInnes Report recorded, in paragraph

4.27, that the number of people proceeded against in the old lay District Courts had dropped from 85,000 in 1992 to 37,000 in 2002. Indeed, this was one of its reasons for recommending replacement of lay justices. From the figures given in the Table in paragraph 4.28, it can be calculated that this drop in numbers represented a drop in the proportion of District Courts cases from about 42% to about 27% of the total number of people proceeded against. (The proportion of Stipendiary Magistrates' cases almost halved in this period, and that of Sheriff Summary Court cases rose proportionately from about half to about two thirds).

So has this proportion of lay judges' cases continued to decline, remained steady, or been reversed in the decade since these figures were collected? This was the decade which saw the summary justice reforms following McInnes, including both the replacement of District Courts by JP Courts (accepting the McInnes minority view), and the increased emphasis on "direct measures".

The answer to that question is surprisingly difficult to pin down. The Scottish Government's annual Statistical Bulletin on Criminal Proceedings in Scottish Courts is the standard source for such information, and latest issue was published in January (available at <http://www.scotland.gov.uk/Resource/Doc/338582/0111403.pdf>). The figures given are not directly comparable with McInnes' ones, having been collected by different people, for different purposes, and by different means. However, Table 3 seems to indicate that, in the decade since McInnes' figures, the proportion of cases taken by the District Court (and now JP Court) did not continue to decline after 2002, but bumped along on a plateau at between 34% and 37% of the total until 2009-10, when it suddenly rose to 42%. The level is higher than McInnes reported, but that may be accounted for by McInnes referring to "Persons proceeded against in court" and the Statistical Bulletin to "Persons with a charge proved by [a] court". In any case, this is an interesting pattern, differing substantially from that of the preceding decade, so it would be useful to have some corroboration of it.

Corroboration is provided by another source, that is, the figures produced by the Crown Office and Procurator Fiscal Service under the title "Case Processing - last five years", and available on their website (at <http://www.crownoffice.gov.uk/About/corporate-info/Caseproclast5>). These are again not directly comparable with the McInnes' figures, nor indeed with the Statistical Bulletin ones, but like the Statistical Bulletin ones, they also show no decline in the proportion of District (and now JP Court) cases over the relevant period, but rather a plateau, which can be calculated (as only numbers are given, not percentages) at between 31% and 33%, though again ending with a rise in 2009-10, in this case- to 36%.

This pattern of plateau, then rise, must have been affected by the replacement of District Courts by JP Courts and the increased emphasis on "direct measures", and consequential changes Crown Office policy as to which court a case should go to. On the increased emphasis on "direct measures", we do have information, as Tables 21-29 of the Statistical Bulletin record differences over the last few years in the use of warnings, "fixed penalty" notices, "fiscal fines", etc. These are too complicated to follow up here though they might be expected to have increased overall, thus tending to reduce the JP Courts' proportion of cases. (Incidentally, it is probable that, nowadays, more cases are dealt with by non-court disposals than by courts). On consequential changes Crown Office policy, we have only inferences, but we can infer that over the last decade more cases were sent to the JP Court, thus tending to balance out the loss to "direct measures". This is why the total remained at a plateau, at least until now. However, this pattern will no doubt change in future as the interplay of these factors settles down, so it would be a bold person who predicted the 2010-2011 figures, let alone beyond.

Nevertheless, it seems safe to say that, currently, JP Courts take about a third of all criminal proceedings before courts in Scotland, and that this proportion may be rising. And incidentally, in any case, many more cases go before lay justices than go before juries, for Table 3 of the Statistical Bulletin also records that High Court cases constituted only 1% of the total in 2009-10, and Sheriff Solemn only 3%.

## The importance of JP Courts - quality

Quantity is not, of course, the only measure of importance, as comparison with juries indicates, and the crime which JP Courts take is certainly relatively minor, compared with what goes before juries.

But, without wishing minimising its importance, nearly all crime can be said to be relatively minor. The same Statistical Bulletin, in Table 4(a), shows that in 2009-10 there were 2,453 convictions for the most frequent types of major crime, that is, "non-sexual crimes of violence" (which includes all types of homicide, serious assaults and robbery). But if we look at a selection of relatively minor crimes in the same year, we find that the number of convictions for acts of vandalism (3,629) was one and half times greater than all those "non-sexual crimes of violence" put together; that the number of shoplifting convictions (8,076) was more than three times greater; and that the numbers of breach of the peace convictions (14,051), "petty or minor assault" convictions (14,107) and speeding convictions (14,375) were each nearly six times greater. Relatively minor crime is enormously more common than major crime.



## Profile: Arthur Hamilton

Unsurprisingly in the light of this, Table 7 of the Bulletin shows that imprisonment is a rare penalty, for 87% of all court disposals were not custodial in 2009-10, and that proportion has been steady for at least a decade. Indeed, at 13%, the proportion of custodial sentences was the same as that both for probation orders, and for admonitions, so it seems that over the last decade, courts have admonished pretty much as often as they have imprisoned!

Fines, which have been by far the most common form of disposal, amounted to 60% of all disposals in 2009-10, though showing a decline over the decade from 66% in 2000-01 (which para 5.5.14 of the Bulletin attributes, at least in part, to increased use of "direct measures"). What is more, these do not generally seem to be large fines. Chart 4 of the Bulletin, in paragraph 5.5.17, shows that the average fine on an individual (as opposed to a company) in 2009-10 was only £217. Averages can mislead, but that figure is less than a tenth of the JP Courts' maximum financial penalty.

Unfortunately, these figures are not broken down by court, so they do not tell us what proportion of these relatively minor crimes was taken by JP Courts, nor what proportion of custodial sentences JP Courts imposed, nor relative levels of fines.

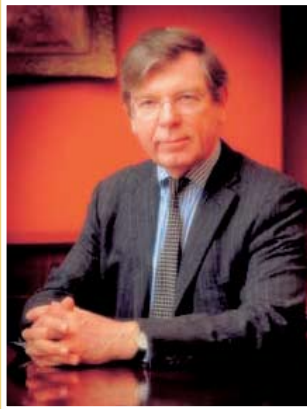
In any case, the proportions and levels will, no doubt (like the quantity and proportion of JP Court cases), change in the future, not only through the interplay between "direct measures" and Crown Office policy, but also through the recent restriction on short sentences in the Criminal Justice and Licensing (Scotland) Act 2010 (and we can note that the underlying assumption of all these factors is that most crime is relatively minor).

However, the picture is clear. The third of all criminal proceedings taken by JP Courts may be relatively minor, but it does not constitute some separate, insignificant, appendix to "real crime". Vandalism, shoplifting, breach of the peace, "petty or minor assault" and speeding are the typical stuff of the criminal courts, not homicide, serious assault and robbery.

### The importance of JP Courts – conclusion

JP Courts take some third or more of all court criminal proceedings, a much greater proportion than juries do. The average sentence for most crime is well within the JP Courts' sentencing powers, and those powers seem more than adequate for a much greater proportion of mainstream crime. So JP Courts give the impression of being quite important.

*Robin M White*



**The Lord President of the Court of Session,  
Chairman of the Scottish Courts Service Board**

### Biographical details

I was born and brought up in Glasgow where I attended Glasgow High School (1949-1960); spent 1 year at Glasgow University, then 4 years at Oxford University studying classics and philosophy and finally spent 2 years at Edinburgh University studying law. I was always interested in the use of language and in fact, part of the philosophy course at Oxford was linguistic philosophy; However, I chose law, and in particular the career of advocacy, because it would bring me back to Scotland and hopefully, allow me to earn a living arguing about the meaning of words and phrases.

### Did you ever think through your career you would be Lord President ?

I had no thought of becoming Lord President until very substantially into my judicial career.

### Was there anyone who was a great influence on your life?

Yes, my mother was a great influence for instilling a love of literature and learning and my wife for advice, strongly founded in common sense.

### What changes you have seen over the years?

From a lawyer's point of view the types of cases heard in the Court of Session are now much more interesting than when I started as an advocate with many more public law cases. The judiciary of Scotland as a whole has become much more unified – through the Judicial Council for Scotland and more recently by the Lord President becoming head of the Scottish Judiciary. The new Scottish Court Service with a Board of judicial office holders, practitioners and lay members all contributing to a better informed management structure.

### Where is your favourite place in Scotland?

Achiltibuie, Wester Ross where my wife and I have a small hideaway.

### What do you do to relax?

Piano practice having returned to this after a long period away! I also enjoy reading, usually history, with the occasional novel. I go to the gym – not too frequently.

### Favourite piece of music, book, film.

Music – "Four last Songs" by Richard Strauss, Book – "Decline and Fall of the Roman Empire" by Edward Gibbon and Film – "The Lady Vanishes", directed by Alfred Hitchcock

Many thanks to Lord Hamilton for this contribution.

## — Cases of Interest —

A recent case before the Appeal Court reminded the judiciary how to present any allowance being made on account of the stage when the plea has been tendered such as an early plea in court. If a Justice assesses that it is desirable that some allowance or discount in sentence should be made, the Justice should state clearly what the distinct discount was in the process of arriving at the appropriate sentence. There are two ways in which this may be achieved. The Justice can state what: the sentence would have been - a fine

of £100 reduced on account of the early plea to £75 or

the percentage of the discount allowed was - a fine of £100 where a reduction on account of the early plea of £25 has been allowed.

The Appeal Court has affirmed that the starting point for the sentence should be clearly stated in court. Avoid saying that the fine would have been increased by £25 if there had not been a plea at this early stage. If in doubt, seek advice from your Legal Adviser in court.



# Community Payback for the Justice of the Peace Court

- Tuesday, 1 February 2010: Sections 14 and 17 of The Criminal Justice and Licensing (Scotland) Act 2010 ('2010 Act') come into force.
- Friday, 4 February 2010: Laurence Winters became the first offender in Scotland to be sentenced to a Community Payback Order (CPO).
- Early March 2011: Over 30 CPO have been imposed in Scottish Courts.

All courts including Justices of the Peace have been granted a range of new sentencing options with the introduction of CPOs. Where a CPO is the sentencing disposal chosen, these powers allow Justices of the Peace to choose from a menu of requirements depending on the nature of the offence. Each Sheriffdom has been organising training on the 2010 Act including the opportunity of undertaking practical exercises in syndicate groups to discuss what these new powers mean and how to apply them.

This is a two-part article designed at complementing local training. Part One covers CPOs. Part Two covers breaches of CPOs by which time, a number of CPOs will have been imposed and a number of breaches will have been dealt with by the courts.

## What's new?

The 2010 Act abolishes Community Service Orders, Probation Orders and Supervised Attendance Orders. However, the changes in the 2010 Act only affect the disposals of cases where the offence occurs on or after 1 February 2011. Where a number of offences span 1 February 2011, the offence will be regarded as having been committed on the first of these dates. For a considerable time, two sentencing regimes will be running in tandem. Any current sentencing options remain competent in respect of offences that occurred prior to 1 February 2011.

Sections 14 and 17 of the 2010 Act bring in two key changes:-

Section 17 (now Section 204 of the Criminal Procedure (Scotland) Act 1995 ('1995 Act') contains a presumption against imposing a short custodial sentence of three months or less on an offender (for the Justice of the Peace Courts, that means the maximum sentencing power of 60 days). Justices of the Peace will still be able to sentence offenders to custody but only if the court has concluded that there is no other way of dealing with the offender. The Legal Adviser will provide advice but where such circumstances arise, the court must state reasons why it has formed this view and have such reasons entered into the court minutes accordingly.

Section 14 (Section 227A to 227ZN of the 1995 Act) sets out the provisions about

CPOs in detail. A CPO consists of a range of requirements chosen from the menu of options.

## What are the options?

That depends on the purpose of the sentence being imposed. As the range of options in the case of a breach of a CPO differs depending on the reason why the CPO was imposed, the court should ensure that this reason is recorded in the minutes.

If the CPO being imposed is instead of a sentence of imprisonment, the Justice of the Peace Court can choose from one or more from the following five requirements:-

- Unpaid work or other activity requirements up to level 1(20-100 hours);
- Offender supervision requirement;
- Conduct requirement;
- Compensation requirement; and Residence requirement.

If the CPO being imposed is instead of a fine or along with a fine, the court is restricted to a choice of one or more of the first three options. In imposing a CPO, the court should be satisfied that the requirements chosen are compatible with each other.

Before deciding on the imposition of a CPO, the court should still consider the range of sentencing options. CPOs will not be an appropriate sentence for most cases in the Justice of the Peace Courts and should be considered as quite a high tariff disposal. The imposition of such an order can and may be the subject of an appeal if the sentence is felt to be harsher than a sentence that may have been imposed in respect of a similar offence committed prior to 1 February 2011.

## What do the requirements mean?

Unpaid work or other activity requirement means unpaid work or a combination of unpaid work and other activity. The nature of any unpaid work and the allocation of hours between unpaid work and "other activity" requirement will fall to be determined by the responsible officer in the social work department. Work in the community includes all manner of activities such as snow clearing, litter/graffiti clearing or working in a charity shop. 'Other activity' is aimed at improving the individual's employability prospects, for example, by addressing literacy or numeracy.

The number of hours allocated to "other activity" is limited to 30% of the number of hours specified in the unpaid work or other activity requirement or 30 hours, whichever is the lower. It is for the responsible officer, not the court, to determine how many of the hours specified, if any, are allocated to 'other activity.' This requirement will normally be

completed within 3 months (though the court can if required specify a longer period.)

Compensation requirement is much like the Compensation Order which can still be imposed without the need for any CPO. Compensation will be paid in a lump sum or instalments for the personal injury, loss, damage or other matter in respect of which such an order can be made. Payment must be made within 18 months after the requirement is imposed or (if an offender supervision requirement is also imposed), 2 months before the end of that supervision period, whichever is the earlier.

Offender Supervision Requirement means what it says. Within a period to be specified (between 6 months and 3 years), the offender is required to attend appointments at a time and place determined by the responsible officer nominated by the local authority to promote the offender's rehabilitation. If a Compensation Requirement, a Residence Requirement or a Conduct Requirement is imposed, an Offender Supervision Requirement must be imposed.

Residence Requirement means that an offender must reside at a specified place such as a hostel or other institution but only if such a place has been recommended as a suitable place. The term must specify a period of time which must not be longer than the period specified in the Offender Supervision Requirement.

Conduct requirement is a requirement that the offender must, during the specified period of not more than 3 years, do or refrain from doing specified things. The requirement must be necessary to secure or promote good behaviour or prevent further offending. Conduct requirements cover a wide range of types of activity or behaviour such as refraining from entering a shop or keeping a dog.

## Managing the sentence

At the court's discretion, a Periodic Review (Progress Review) can be imposed to monitor the offender's progress with the requirements under the CPO.

Before any sentence can be imposed, the purpose and effect of each of the requirements that are being imposed, the consequences if the offender does not comply with any or the requirements imposed in the CPO and any provisions for a review must be explained to the offender in open court. The offender must consent to the CPO and confirm that he is willing to comply with each of the requirements.

The Judicial Studies Committee is planning to develop follow up training once the initial training has been delivered based on the practical experience of imposition of CPOs. ▶

continued on p7



# Spotlight on Dumfries Sheriff and Justice of the Peace Court



Dumfries sits at the mouth of the River Nith in the South West of Scotland, once described as the 'Queen of the South' giving rise to the local football team of the same name. It is a very ancient town of historical importance and indeed boasts the Devorgilla Bridge, still in use as a footbridge, built in the 13th century by Devorgilla, Lady of Galloway, and mother of John Baliol and which, according to Groome's Gazetteer of Scotland, '...for many long generations, was held to be second only to London Bridge'.

The town is of course famous for being Robert Burns' last home and burial place but has a fairly bloody history as the town where the Red Comyn was slain in Greyfriars Church by Robert the Bruce and where Covenanters were hanged or drowned in the Solway. Being the first town across the border England it is perhaps not surprising that violence peppers the history. It is also however, the town where the last public hangings of both male and female prisoners, took place – more of this on page eleven.

Dumfries Sheriff and Justice of the Peace Courthouse stands on Buccleuch Street which crosses the River Nith some few hundred metres further down. The building of red sandstone which is still quarried locally, was completed and opened in the Spring of 1886. Sheriff Ross and Sheriff Jamieson are the two resident sheriffs with part time sheriffs presiding occasionally.

Dumfries is in the Sheriffdom of South Strathclyde Dumfries and Galloway, the final sheriffdom to be unified under Summary Justice Reform. Justices of Dumfries were fortunate to be able to move into the Sheriff Court House a year prior to unification but remained under the auspices of the Local Authority till February 2009 when that final unification took place. The court room was refurbished as a criminal court and there is a lift to the corridor from the custody suite for better security although the main sheriff court has stairs direct from custody to the dock.

The court sits weekly on a Tuesday with an extra day for Trials, Special Reasons and Exceptional Hardship hearings one Wednesday per month although this is increasing to a further day for trials due to the very high volume of cases going through the court. At least 130 cases will be dealt with at the cited court on Tuesdays, mostly now RTA – the common law offences having almost all gone to fixed penalties. Careless driving cases are increasing and there are many very high speeds recorded on the A74(M) which is the main arterial road from England. A great number of drivers hold foreign licences which makes the direct line to DVLA for a printout extremely important.

An increasing number of accused come with no legal representation and this in turn

increases the time it takes to deal with the case. Many people who are articulate and capable in their own lives and employment find the legal process very intimidating and having to question police or other professionals in the court is a world apart from their normal business and has to raise the issue of equality of arms.

Dumfries justices sit in threes in common with justices across Dumfries and Galloway undertaking the necessary twelve sittings and often more. A much needed group of new justices has been appointed across the sheriffdom and they have been taking their places on the bench which has alleviated the work for others.

There are 3 further Justice of the Peace courts in Dumfries and Galloway; Annan which remains in the local Town Hall, and Kirkcudbright and Stranraer both of which are held in their respective sheriff courts. Over the last 24 years (District) courts were closed in Sanquhar, Lockerbie and Wigtown as they were unsuitable. Being a rural area there is a great deal of traveling between courts. There are of course many more court locations in the west and north of the sheriffdom but distances rule out sitting there regularly. It is good to preside in different courts, gaining wider experience across the area.

Signing duties are undertaken during the half hour before court when applicants are asked to come to the court and 'appointments' are booked, there being no reason for these to be emergencies. Custody courts are ad hoc and the LA simply phones around to find an available justice.

**Johan Findlay**

## Community Payback for the Justice of the Peace Court *Continued from page 6*

Meanwhile, any queries should be referred to your Sheriffdom Legal Adviser.

Remember the Key Points:-

CPOs provide scope for court to punish offenders in a way that also addresses the areas of their lives which need to change;

CPOs replace the complex range of existing sentences of Community Service, Probation, and the Supervised Attendance Order;

Their introduction follows the recommendations of the Scottish Prisons Commission which identified two principles at the heart of its proposals on sentencing. Custody should be used only when it is needed to reflect the seriousness of the offence and for those who pose a risk of harm. Sentences served in the community should involve payback. Those who damage communities should make reparation to those against whom they offended. The aim

is to stop the 'revolving door' of reoffending.

CPOs can be imposed on any offender aged 16 years or over; and

CPOs underline that a community sentence is principally a punishment not merely a supportive intervention.

**Gillian Mawdsley JSC**

**Lay Training Consultant for the Judicial Studies Committee**

# Accolade To Robin Wild As He Retires From The Bench



Robin Wild was appointed a justice of the peace 27 years ago serving the bench in Selkirk over this time. He sat for the last time in mid January on the bench and as a mark of his contribution to Scottish justice, local solicitors and court staff filled the court and the Head of Faculty gave a speech thanking Robin for his contribution over the years in the Borders court. A tremendous mark of respect to a justice who has served so well for many years.

Speaking on behalf of all those present, including defence agents, local solicitor Iain Burke said that every practitioner present hoped to find a judge who was very fair with a sense of compassion and a reasonable approach. "So we were very lucky to have had him," said Mr Burke. "You have embodied all these qualities in your time on the bench. Your fellow JPs can take you as their example," he told Mr Wild, adding praise for his role in helping save lay justice in Scotland.

In response, Robin told the assembled solicitors he was very honoured and much

humbled by Mr Burke's kind words. He said he had enjoyed his time on the bench enormously and was very sad at having to retire ... 'All of human nature is spread before you in a court and you do see some very difficult cases. And, yes, I did feel like a social worker on many occasions, trying to find a suitable disposal. I think deferred sentences with conditions attached to them have been very useful.'

Robin was elected to the first Executive Committee of the SJA in 2007. He had been very well known over many years in the District Courts Association and was elected Chairman 2002 to 2004. This was of course the height of the McInnes Review when justices had waited for nearly two years for the Review to be completed and in May 2004 the proposals of the review were announced with the suggestion of the abolition of lay justice. Of course, in true tradition the report had already been leaked but this was the actual and unwelcome reality and caused a great deal of anguish.

In the Editorial of the Newsletter dated November 2004 I reported that Robin had retired as chairman but was very willing to help to steer us through the continuing process. I wrote.. 'Justices of the Peace across Scotland have cause to be very grateful that during very difficult times we have had a very fine chairman. Robin has worked tirelessly to promote the district court, has written hundreds of letters on our behalf, travelled across the country to inspire flagging spirits – and achieved it. And all of this was done at a time of great personal tragedy. We are indebted to Robin for all he has done as chairman and wish him well in the future.' He kept his promise and continued to work promoting the justice and was indeed instrumental in persuading the powers that be that lay justice was an asset and should be retained.

Robin's retirement will allow him more time to devote to his favourite pastime - rebuilding and driving classic cars and we wish him and Daphne a very happy retirement.

*Editor : Thanks to the Southern Reporter for their permission to use part of an article published 20 January 2011.*

## Reminiscences from Robin Wild

When I was appointed in the early 80's, one was 'invited' to become a Justice of the Peace. In my case the Chief Executive for the District Council asked me for my CV. I was slightly nonplussed and was told that the Secretary of State 'had it in mind'

to appoint me as a JP. Another aspect of JPs in those days, certainly in this district, was that strenuous efforts were made to balance the political representation on the bench.

On my appointment I was asked to attend a court, sitting on the jury benches to observe a Justice taking the court. After that I was expected to take courts on my own. It was pretty confusing at first because it takes some time to appreciate the 'choreography' of court procedure. In the early '90s we had very large numbers in each court though this tailed off by the end of the decade.

I think the most interesting trial I ever had was a charge of kidnapping which was heard over two days and which I deserted in the end!

In the Borders we were lucky to have Court Clerks, now of course styled Legal Advisers, who have been committed to JP training – Gordon Junor, now Advocate, in my early days and for the last 20 years or so, Margaret Dundas now our LA. Not only were we given excellent training in those days but we were encouraged to take part in District Courts Association (DCA) activities.

I became Chairman of this organisation and one of my first actions was to arrange a meeting with the Justice Minister, then Cathy Jamieson since I felt she should be made aware of justices and what they did. I say that this was fortunate because, at that stage in October 2002 we did not realise the storm was about to break in the shape of the McInnes Report. The Review of Summary Justice recommended that lay justice should be terminated. The fact that I had already had discussions with the Justice Minister was a great help in seeking further meetings.

Once the Review was published, I wrote to all JP Chairmen to give them a plan of action. I also wrote an individually 'topped and tailed' letter to each MSP and entered into correspondence individually with those that too the trouble to reply. In addition I had meetings with the representatives of each of the opposition parties – Annabel Goldie, Kenny MacAskill and Stewart Stevenson.

I also established formal attendance of DCA representatives at the CMJA conference as part of my campaign. That year the conference was held in Jersey and Rodger Neilson and I attended. I took several opportunities to bring to their attention the McInnes recommendations and received their strong support which I



them communicated to the Justice Minister on my return.

In addition all JP benches wrote to their Minister expressing their concerns and many individual JPs also used their personal contacts to maintain the pressure. In saying all this we should remember the huge impact of the Minority Report to the Main Review which was produced by Sheriff Brian Lockhart and Mrs Eilidh Murray JP without which the recommendations of the review might well just have been accepted. As we know now, all our efforts paid off and lay justices survived with improved conditions.

It was a privilege to serve as DCA chairman, particularly at the most critical time that the DCA faced in its existence. It has also been an enormous privilege to have been invited to act as a JP, sitting in judgement on one's fellow human beings and seeing the diversity of human nature that is laid out before us in the court of law. I shall miss it.

**Robin Wild**

## Adjournments

The attention of Justices is drawn to the case of *Omid Najafian v Donaldson* [2010] SCCR 816. This case concerned a straightforward charge of speeding. The Crown made a motion for an adjournment at the first Trial Diet as an essential witness had not been cited. The Crown conceded that they were at fault in that they had failed to appreciate that the witness would be required to speak to the accuracy of a measuring device. The Defence intimated that they were ready for trial (An Intermediate Diet had been held at which both the Crown and the Defence indicated that they were ready for the trial.)

The Justice agreed to the adjournment. The accused appealed to the High Court.

Lord Hardie held that in the absence of any proper explanation for the Crown's fault in the case, it was difficult to understand how the Justice could have exercised his discretion in the way that he did. By reference to an earlier case of *Paxton v Procurator Fiscal*, the public interest and the economical disposal of summary cases and the cost and inconvenience to the accused were material factors to be considered in hearing motions for adjournment.

# Justice in the Making

## Becoming a Justice of the Peace

It had never crossed my mind to become a Justice of the Peace. I knew one many years ago who was rather self-important, and kept leaving Board meetings to sign warrants. Other Board members were unimpressed!

I was looking for a way to contribute in Dumfries and Galloway but expected that it would be the usual input to the 'not for profit' sector. A member of my family noticed the recruitment advert for new JPs and said, "You could do that". Well, I realised I could, having known the Board member and was aware that my expertise and experience were transferable. I began to think that this could be an interesting challenge.

Duly, I completed and submitted the application form. I was impressed by the form (I am no stranger to the recruitment process) which requested a substantial amount of information in relation to the competencies. I was confident that the sifting procedure would be sensible. Much useful information was provided with the form including references to web sites and offers of contact if required. I was not surprised to be short listed for interview - these were discerning people!

The interview continued to follow best practice. A mixed gender panel consisting of a JP, a Sheriff and a lay person, used a paper with ranking exercises, completed by the candidate just prior to interview, as a basis for discussion. I found this interesting and stimulating and began to realise that there are no definitive answers in this game. Requests for examples of relevant experience were difficult to pin down because the perspective is different and ephemeral to an interviewee at that stage.

The discernment continued and I was chosen to undertake training. Once I met my fellow trainees, I felt very privileged to have been chosen. This is a diverse group of intelligent, talented, widely experienced individuals.

Our training began. It was some of the best and most interesting training I have ever undertaken. There was a high level of commitment from all who gave their time and the benefit of their expertise for us. Court staff accommodated our requests to observe proceedings in both Sheriff and JP courts. Sheriffs contributed their advice, made presentations and took an active interest in our training. Police officers, psychologists, social workers, the Sheriff Principal, sheriff clerks, procurators fiscal, defence agents, legal advisors, fine

enforcement officers and experienced Justices are amongst those who have made our training so interesting and enjoyable.

Our final residential weekend at Dunblane Hydro was extremely worthwhile. The organisers, Judicial Studies Committee, had gone to a great deal of trouble to video scenarios, using themselves as actors, and these were both educational and amusing. Dividing us into small groups for the practical sessions provided a 'safe' environment and meant that we felt less embarrassed about role playing.

I felt that the training was comprehensive but there is no substitute for experience. I would have liked to spend some time as an observer on the bench as the outlook from up there is rather different! Those of us who were installed at Dumfries were awed by the experience. Three Sheriffs and a senior J.P. (now O.B.E.) on the bench as the Sheriff Principal administered the oath to each of us was inspirational and nerve wracking to say the least. Eloquent speeches of welcome from the Deans of the Faculties of Dumfries and of Wigtownshire were thought provoking. We felt a distinct sense of achievement, and of terror.

Everyone has been patient and forbearing as we struggle to get to grips with our remit and make mistakes on the way. The ongoing J.P. training and fora provide answers to our questions (or, at least, stimulate debate) and more experienced J.Ps continue to assist us to become more proficient.

Sitting on the bench is tiring, stimulating, and sometimes tedious. Tiring because lists of 140 are daunting, stimulating because there is always something different to challenge us, and tedious because of interminable traffic offences. There is a balance between enough sittings to keep up experience and managing the other part of my life and while I know that sitting once a week would reduce the booting up time - there are limits to my altruism.

So being a J.P. isn't quite what I had envisaged but it is interesting and rewarding when we are able to have a positive influence on a situation. There is potential for us to achieve more through the community payback scheme and I await implementation with interest.

I very much enjoy the company of other J.Ps - that Board member was just - very different!

**Sue Robb JP SSDG**



# The Value of Local, Lay Justice

There is no question that despite being non salaried, lay justices are not free of charge. As Stuart Fair's article in the last newsletter of winter 2010 showed, we actually cost quite a lot. But then anything worthwhile is relatively expensive – relative to it's worth.

**W**hat then is the worth of lay justice? What is the value of a lay bench? Do we make better decisions than our professional counterparts? Hardly. We may well have fewer appeals but that is unsurprising since our sentencing powers are less likely to result in custody and appeals are considerably more likely to follow a custodial sentence.

Being lay literally means 'without a professional qualification' but justices have a considerable amount of training in their work on the bench. We would not pretend to be professional but we can have a professional approach in our work. I would suggest that this is as much as can be asked of lay judicial officers, on call 24/7. It was disappointing that at SJR we were no longer appointed for life but have a 5 year tenure. This was designed to be similar to the part time sheriffs. However, what was not considered was that we are not in fact part time. We can be asked to consider any kind of judicial duty at any time of the day or frequently the night!

Defining local is somewhat more difficult today with the advent of good communications, roads and travel, and it is hard to see local in terms of a short distance. In the nineteenth century the Metropolitan Police boundary was fixed to enable it to be a 'local' force. It was determined by the distance a man could ride on a horse in a day (25 miles) So many Justice of the Peace courts deal with mainly Road Traffic cases and it is not easy to feel the case in front of us is truly local when it happened on the motorway.

Justices were of course created to deal with local issues at a time in history when it was somewhat easier to be and feel local when travel was unheard of for many people. But today, local in the sense of geography is not the main value. Sheriffs are also considered 'local' and in fact have the same geographical jurisdiction as justices being sheriffdom wide and also expected to live within their sheriffdoms.

Local justice is also less important than it was as we have a great deal more national justice than historically with some local variations. Local knowledge has always been considered important but under SJR we can sit in courts many miles away and it would be natural to expect the fiscal to inform the bench of any local issues or indeed to ask if there are any local problems. Sentencing locally may not in fact be so very different from national sentencing.

In Lay Justice? it is argued that while a system of professional justice '...is desirable in a society governed by the rule of law'... that same system would deny participation which is the very essence of democracy. By promoting lay justice the government is promoting deliberative democracy putting the citizens of Scotland directly into the courts while fully accepting that they can only work within the rule of law. Jurors are also lay people making decisions within the parameters of the law, in their case, guided by the presiding Judge.

The participation in the criminal justice system of citizens as jurors and as lay judges also brings an increasing understanding of the legal system across Scotland –as does lay participation in the Children's Hearing system. To have ordinary people involved

in these processes increases public confidence in the system through awareness of how it works and a democratic awareness of where it does not work. Any members of the public coming into the courts for jury service will examine the system – their only previous experience after all was celluloid – and hold it to account if faults are perceived. So too the public attending the Justice of the Peace courts.

As Lord Neuberger said recently, 'One way in which members of such a society ensure that it truly becomes a civil society is through taking part in free and fair elections. Another is by taking an active part in the justice system'. He was talking about jurors but the principle remains the same.

The word 'local' really does come into its own when confidence is considered. Local confidence in the bench is imperative and to create and maintain local confidence the bench must be as professional as possible. However, local will quickly translate to national when all areas share that confidence and this can only be good.

The justice of the peace as an institution followed the rapidly expanding Commonwealth from earliest times and took it's place in all countries including crossing to the USA on the Mayflower, and moving with the people across the USA as they went West. A book which goes by the intriguing title of Inferior Courts, Superior Justice studied the American North West frontier by looking at the records of the justices there between 1853-1889, concluded that the frontier was not in fact nearly as violent as previously portrayed and that ...'the justices contributed to the relative stability of that society'.

**“Defining local is somewhat more difficult today with the advent of good communications, roads and travel, and it is hard to see local in terms of a short distance”**

The contribution of lay justices continues, increasing confidence and trust of the population in the machinery of the State by appreciation of independent and impartial justices. Justice of the peace courts are no less legal than those manned by full time professional judges.

As Stuart Fair quite rightly noted, In the face of these challenges it is obvious that Lay Justice will continue to have to prove its worth and, indeed, commit to continuous further improvement. This is simply a fact and one which I think justices have embraced in particular over the Summary Justice Reforms, but must continue to do so. This is not easy in the light of the recession, smaller workforces coping with more work, and fewer people willing to give their time voluntarily – but if Justices of the Peace are to continue, we must give value.

The government suggests in their response to the Gill Review that we might take on some civil work and this would be a step in the right direction. However, there is also the question of an increased criminal jurisdiction. Drunk driving which carries a statutory disqualification as well as a fine could be dealt with in the JP court. We are well used to trials of great technical detail involving the Safety Camera Partnership and could cope well with drunk driving technicalities. Domestic violence cases and more serious drug cases are examples of where our jurisdiction could be increased in line with the Magistrates courts in England. Sheriff court fines are frequently well within our limits of £2500 and we now have the new Community Payback Order and discretionary disqualification in our choice of disposals

Bankowski et al, conclude with, 'The rule of law is not subverted by this injection of the lay element. On the contrary this...is necessary for its full and proper working. This is not something sinister but rather the only morally acceptable way a society based upon the rule of law can be organised'

Thus, the L'Oreal effect, We are worth it...

**Johan Findlay**

# The last public executions to take place in Scotland

Dumfries Courthouse in 1868 stood on the opposite side of the road from its present location. The local prison was directly opposite and public executions were held there, on the corner of Irish Street and Buccleuch Street and always drew a large crowd.

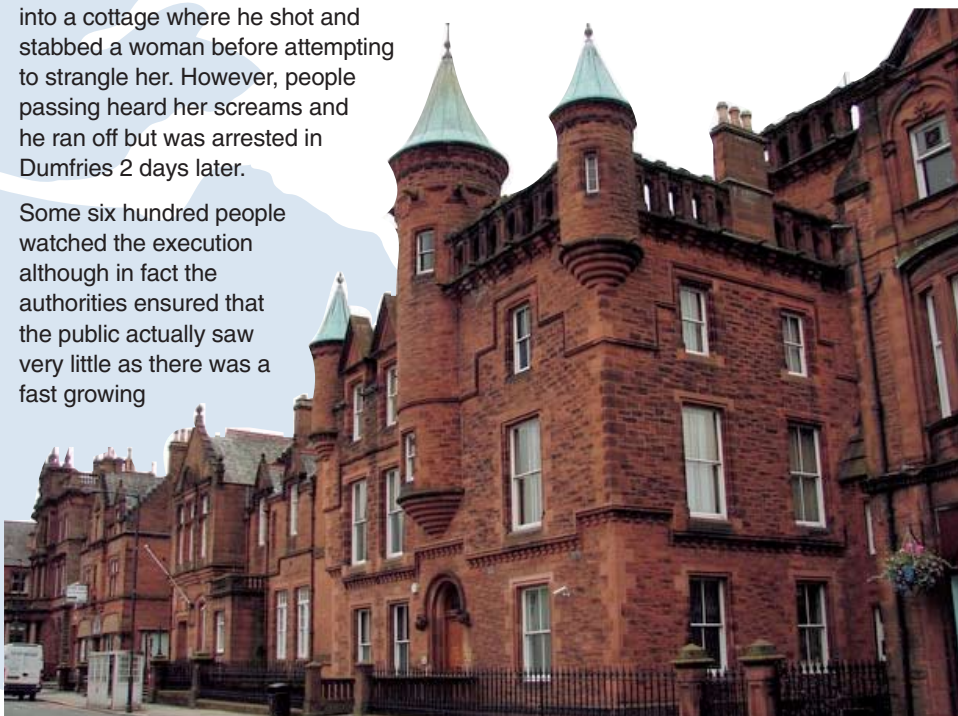
The last female to be hanged publicly in Scotland was Mary Reid or Timney in April 1862 having been convicted of the murder of her neighbour. She was 27, and had beaten to death her neighbour Ann Hannah, 40, because, she alleged, Miss Hannah had refused to lend her any money or allow her to gather firewood on her farm at New Galloway, Kirkcudbrightshire. At her trial Mary Timney said Miss Hannah had started the fracas by kicking her before she retaliated with a knife, a poker and a hammer. She told the court that she was jealous of the victim, who "had acquired an influence over her husband". Many attempts at a reprieve failed and it is recorded that on the Monday before the execution she was visited by her husband and children and had to be dragged away from her children at the end of the visit. It is reported that a vast crowd came to watch.

Robert Smith was the last man to be hanged publicly in Scotland on 12 May 1868. He was aged 19 and had raped and strangled a nine year old girl, Thomasina Scott, in a wood near Annan. He then broke into a cottage where he shot and stabbed a woman before attempting to strangle her. However, people passing heard her screams and he ran off but was arrested in Dumfries 2 days later.

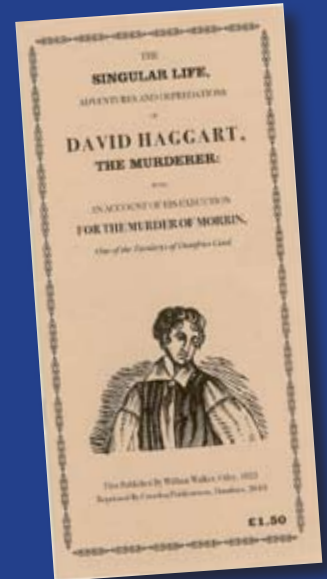
Some six hundred people watched the execution although in fact the authorities ensured that the public actually saw very little as there was a fast growing

movement against this being a public spectacle. The last fully public hanging took place in Perth when Joseph Bell was executed on 22 March 1868, while the last English hanging took place at Newgate on 26 May 1868 shortly before the Capital Punishment Amendment Act 1868 was brought into force which compelled all executions to be inside the prison and no longer in view of the public. It took nearly 100 years to fully abolish capital punishment in the UK – 1908 saw the end of hanging those under 16, while infanticide by the mother (probably post natal depression which was not understood at that time) remained a hanging offence till 1922. Various reforms of the categories were made till 1965 when execution was suspended for 5 years and in 1969 it was abolished except for treason and piracy with violence and not till 1999 when the UK joined the European Convention on Human Rights was capital punishment totally abolished.

Not every local murder was dealt with locally and in 1821 a 21 year old man, David Haggart was hanged in Edinburgh for the murder of Thomas Morrin, a 'turnkey' in Dumfries prison. Please see the Book Review on the right for more information on Mr Haggart.



## DAVID HAGGART *The Murderer*



A series of short booklets is being created titled, Crimes of Dumfries. The first is a re-print of a booklet written by William Otley, first published in 1821 and whose lengthy title is *The Singular Life, Adventures and Depredations of David Haggart, The Murderer* with an account of his Execution for the murder of Morrin, one of the Turnkeys of Dumfries Gaol.

Haggart was born near Edinburgh but despite being from a law abiding and hardworking family he spent his latter years robbing and housebreaking. Breaking prison on several occasions – not that difficult then - he was on the run for several years and travelled the length and breadth of Scotland and Northern Ireland continuing his crime spree. The murder was committed when he was attempting to break out of Dumfries prison where he had made copies of the four keys required to get to the street, but he hit the turnkey, Mr Morrin on the head with a stone and killed him. Eventually he was caught having gone on the run again and the authorities managed to hold him for trial and shortly afterwards, execution.

The publication gives an authentic feel to life in the early 19th century. For a copy of this fascinating booklet priced £1.50 please contact Creedon Publications Dumfries 01387 262960



# Judicial Studies Committee

## Justice of the Peace Annual Conference 2011

The Justice of the Peace Annual Conference is being held at Stirling Management Centre from 4pm on Friday 20 to 1pm on Sunday, 22 May 2011. This is the annual skills training event for Justices delivered by the Judicial Studies Committee. The course programme is presently being finalised and will be available shortly. The JSC seeks to vary the venues and times for these events in order to allow Justices from all over Scotland from different backgrounds and occupations the opportunity to attend.

The course will include a wide range of topics of current interest such as judicial skills of presiding in court, judicial conduct, working with the Legal Advisers, sentencing including the disposal of Community Payback Orders, case management and diversity issues. There will be introductory talks from a number of speakers followed by facilitator led,

small group sessions including practical exercises. There will also be time to meet with other Justices in an informal setting outside your own Sheriffdom to exchange experiences on how practices differ from court to court. Feedback from previous Annual Conferences have indicated that those Justices attending have enjoyed the training opportunity that it provides.

Invitations have been sent out to Justices who have not attended a national training event in the last three years. The JSC would seek to encourage those that have not yet replied to reply as soon as possible so that the lists of those attending can be completed. If any of those Justices would like to be invited, please can they indicate their interest to Gillian Mawdsley, the Lay Justice Training Consultant for the Judicial Studies Committee (GMawdsley@scotcourts.gov.uk) for their name to be included.

## Spring Reading

These books are not necessarily newly published books but are well worth reading preferably sat in an armchair with the fire lit, the curtains pulled and a glass by your side.

For those followers of C.J. Sansom, and his *Shardlake* series, the fifth book, *Heartstone* has just been published. Life under Henry VIII, treachery, political spin, fear of saying anything that could have result in arrest and a slow and painful death are brilliantly recounted by Sansom through the eyes of Shardlake, a hunchback lawyer. Descriptions of the food, weather, clothes and war bring the Tudor era very much to life in a gripping, page turning story.



Deep South of the United States of America, is seen through the eyes of Scout, the young daughter of civil rights lawyer Atticus Finch. It comes to a head in the trial for murder of a black worker who is, of course defended by Finch. Its real charm lies in the author's ability to explain things through the eyes of a child. A wonderful read!



*Mr. Rosenblum's List, Or Friendly Guidance for the Aspiring Englishman* by Natasha Solomons, is a charming book. It tells the story of a German Jewish man and his wife who leave Germany in 1937 in the

shadow of the coming to power of the Nazis in that country. It tells of their efforts to integrate into the local community first in London and subsequently in rural England and he decides to create an English golf course, with the intention of inviting the great Bobby Jones to open it formally. This is a book about the emotions and bitter-sweet experiences of immigrants to England at that period.

*The White Tiger* by Aravind Adiga is a novel about the many aspects of life in India and particularly poignant with the Commonwealth Games having been in Delhi this year. This is a 'no-holds-barred' book, funny and tragic, ruthless and gripping, written, somewhat unusually, as a soul searching letter to the visiting Chinese Emperor.

Incredibly, it is a full sixty years since the first appearance of Harper Lee's classic *To Kill a Mockingbird*. This novel, set in the

### Scottish Justices Association

#### Chairman

Philip Murray  
Branxholm Braes,  
Hawick, TD9 0JT  
chairman@scottishjustices.org

#### Vice-Chairman

Rodger Neilson  
vice-chairman@scottishjustices.org

#### Secretary

Johan Findlay  
No 3 The Steading  
Smallholm Farm  
Hightae, DG11 1JY  
secretary@scottishjustices.org

#### Treasurer

Stuart Fair  
treasurer@scottishjustices.org

#### Membership Secretary

Rodger Neilson  
membership@scottishjustices.org

### Members of Executive

Malcom Macaskill

Johan Findlay

John Moore

Robin White

Andrew Webster

John Burns

Graham Coe

Fraser Gillies

David Grainger

Stewart Daniels

Andrew Leven

Allan Clasper

Keith Stirling

John Lawless

Susan Kirkwood

