the Scottish Justice

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Whatever Happened To The Sentencing Council?

You may have been one of those wondering why sections 1-13 and Schedule 1 of the Criminal Justice and Licensing (Scotland) Act 2010 had not been brought into effect three years after they were enacted. They are the provisions which set up a Scottish Sentencing Council.

However, it is understood from a lecture given to SACRO (formerly the Scottish Association for the Care and Resettlement of Offenders) by Lord Carloway, the Lord Justice Clerk, that implementation is imminent.

Lord Carloway, who will chair the Council, gave strong hints as to the sort of guidelines it will lay down. He is quoted as saying that judges, "upon the basis of concrete research", should be looking at what they can do to "rehabilitate, rather than punish", and move away from retribution "designed to stigmatise the offender and to subjugate and isolate him from society" towards "a model in which the sentences are far more tailored to the individual offender, and are more inclusive in taking account of the needs of the community."

You can read his speech at: http://www.sacro.org.uk/sites/default/files/media/lord_carloway_sacro_lecture_-_5_november_2013.pdf.

Editorial Comment

by Johan Findlay

In the previous Editorial I commented that summer was a long time in arriving and then suddenly we found ourselves enjoying the best and longest summer for many years!

Much has happened during the summer and in two sheriffdoms, SSDG and L&B, there were appointments of new justices of the peace. This is a long process taking some 18 months from application, through to interview with those who were successful then completing a very comprehensive, training programme. They were sworn in respectively on 5 June in Ayr and on 5 August in Edinburgh. Both installations were impressive and emotive ceremonies, presided over respectively by Sheriff Principal Brian Lockhart in Ayr and by and Sheriff Principal Mhairi Steven in Edinburgh. I am delighted to have group photos of them in this issue.

I am pleased to say that the majority of the new justices have joined the SJA and I know we all wish them the very best for the future.

It is now four years since the start of the new style appointments and the process is being refined constantly. The training is both local and national and is very intense!

Gillian Mawdesley, the Justice of the Peace Legal Consultant at the Judicial Institute for Scotland (JIS), has provided an article outlining the process of application and training of a new justice and added various comments from some of the new justices on their feelings and experiences of the training, and how it matched their first sittings. However, as one of the justices commented … I guess no matter how well trained and how well prepared you think you are the unexpected can always happen. How true this is No judge, no matter how lengthy their experience, can ever be prepared for every single eventuality, but the training both local and national which all judicial officers now undertake, prepares us to deal with whatever happens. Also included is a brief outline from one new justice on his feelings and experiences on the process.

Attending the installation of new justices makes us all reflect on our own oaths and dealing with courtwork and how much we grow through this experience. The new training and appointment system is vastly different from that which happened before, just as the work of the JP has changed dramatically over the years.

Public (or private) praise for the judiciary is fairly rare but a rather beautiful panegyric was given in 1893 in Sri Lanka and reproduced in this issue. The address was typical of the ethnic and cultural background of the times and as such is an interesting look at what happened then.

Gillian has also provided a case review of Andrew Logue v PF Kilmarnock and other Road Traffic matters.

The Office of the Public Guardian (OPG) is an important part of SCS but one with which many will be unfamiliar. The Public Guardian, Sandra McDonald, has given us a fascinating view of the work of OPG and their role in dealing with vulnerable people.

Recent discussion on the Not Proven verdict – a perennial debate – engendered an article by R. M. White which is very thought provoking. It would be interesting to know how many times justices have used the Not Proven verdict and the Scottish Justice would be interested in any comments or experiences that justices have on this subject.

Court Reforms:

The consultation paper on Court Reforms – Shaping Scotland's Court Services – was published earlier in the year outlining the vision of how courts in Scotland will operate in the future. The planned reforms will take up to 10 years to be fully

Editorial continued.....

implemented but the first part are set to begin over the winter. These are of course the Court closures, which is an emotive subject for many involved. The reforms are not only affecting Justices but all the courts and all levels of the judiciary will see changes and a new emphasis on shrieval specialisation.

There are 6 standalone Justice of the Peace courts and 3 Sheriff and JP courts which will move into a nearby Sheriff Court at the end of November 2013: a further 3 Sheriff and Justice of the Peace courts will move at the end of May 2014 while a further 4 Sheriff and Justice of the Peace courts will move at the end of January 2015. One Justice of the Peace Court, Wick, will be disestablished and all the summary criminal work there will be done by the sheriff.

The reforms have had to take into account the many proposals coming from several reviews of the courts which have taken place over the last few years in both civil and criminal work.

A feasibility study of a Justice Centre in the Borders is to take place when those involved in courts - Scottish Police, COPFS, Social Work, Victim Support along with SCS, will examine the possibility of a centre along the lines of the current Justice Centre in Livingstone which comprises : Sheriff and Justice of the Peace courts, Police HQ, COPFS, Scottish Fire and Rescue, the Children's Reporter and a Community Health and Care Partnership.

Website

The new SJA website is up and running. Apologies to all who could not access it for a few months – it took somewhat longer than expected to transfer all the contents and the old website had to be closed suddenly for security reasons. The site, which is very user friendly, is now open and all justices will be asked to enter their own details and will be able to make any changes to their details themselves. This will be a great saving to the SJA in both time and expense and should ensure that details are kept up to date.

The website includes a forum for justices to discuss whatever they want. This is a private forum which only members can access and it is hoped that justices will use this and find it useful and a way of 'sounding' out other justices and other ideas and experiences.

Editor

Johan Findlay

Accolade

Public praise for judges at any level is fairly rare, and indeed rightly so, but in May 1893 in Kandy, Ceylon – now Sri Lanka – a Buddhist Address was given to the Hon Justice Campbell Lawrie by the Sangha of the Asgiri Vihara as follows:

"To the Hon A. Campbell Lawrie, Senior Puisne Judge of the Supreme Court of the Island of Ceylon. "May the gods always protect the noble and learned Judge Lawrie, who, delighting the hearts of the good, is like a lamp unto Lanka, shining in the splendour of wealth, who, decked in the pure and lovely garb of wisdom, wears the necklace of law, and who is an abode of virtue and an ocean of love. May the gods long preserve in health and happiness the illustrious and good Judge Campbell Lawrie, endowed with all personal attractions, who, having rooted out all prejudices, administers law with justice. Is there an illustrious Judge Campbell Lawrie by name who is like the lotus attracting the bee-like great, whose words are pleasant, chaste and cordial? Him may the gods keep for a long time to come endowed with all blessings. Is there a Judge Campbell Lawrie by name who, as the noble lion does the elephants, conquers his opponents by unyielding firmness? Him may the gods preserve from all harm. Is there a famous and honourable Judge Campbell Lawrie by name who, well versed in various branches of knowledge, and perfectly self–subdued in disposition, loves to supply the needs of the poor, pressed down by want and is free from every form of evil? Him may the gods always protect."

Lawrie was a Scotsman, a graduate (BA) of Glasgow University in 1856, and admitted to the Scottish Bar in 1861 travelling to Kandy in Ceylon and appointed District Judge. He learned Sinhalese, and produced his two volumes of Gazetteer of the Central Province of Ceylon in 1896 and 1898, and in 1891 was Puisne Justice of the Supreme Court in Sri Lanka then Acting Chief Justice till he retired in 1901 to Scotland and was awarded a knighthood. He published two volumes of Early Scottish Charters and died in 1914.

A Scotsman in France

A Scotsman, in France, in his car, is stopped. The police go round to his window and ask him if he's been drinking.

'Yes' he replies. 'This morning I was at my daughter's wedding, and as I don't like church much, I went to the cafe opposite and had several beers. Then during the wedding banquet I seem to remember downing three great bottles of wine, a Corbieres, a Minervois and a Faugeres. Then to finish off during the celebrations, during the evening, me and my pal downed two bottles of Johnny Walker's Black Label.'

The gendarme warns him; 'Do you understand I'm a policeman and have stopped you for an alcohol test'?

The Scotsman replies 'Do you understand that I'm Scottish, the car is British, my wife is in the other front seat, and she's driving?'

Another Tale From Across The Atlantic

A defendant was on trial for murder. There was strong evidence indicating guilt, but there was no corpse. In the defense's closing statement the lawyer, knowing that his client would probably be convicted, resorted to a trick.

"Ladies and gentlemen of the jury, I have a surprise for you all," the lawyer said as he looked at his watch. "Within one minute, the person presumed dead in this case will walk into this courtroom." He looked toward the courtroom door. The jurors, somewhat stunned, all looked on eagerly.

A minute passed. Nothing happened.

Finally the lawyer said, "Actually, I made up the previous statement. But you all looked on with anticipation. I, therefore, put it to you that you have a reasonable doubt in this case as to whether anyone was murdered, and I insist that you return a verdict of not guilty." The jury, clearly confused, retired to deliberate.

A few minutes later, the jury returned and pronounced a verdict of guilty.

"But how?" inquired the lawyer. "You must have had some doubt; I saw all of you stare at the door."

The jury foreman replied: "Yes, we looked, but your client didn't."

Office of the Public Guardian

The Public Guardian for Scotland heads up the Office of the Public Guardian (OPG), which is based in Falkirk but which has a Scotland wide remit to support and supervise those who are looking after the property and financial affairs of individuals no longer mentally capable of doing so personally.

The current Public Guardian is Sandra McDonald. Sandra has been in post since 2004 and has qualifications in public sector management, law and nursing; all of which she relies on daily.

The most routine encounter many of us will have with the OPG is to register a power of attorney (PoA). A power of attorney is a deed which you grant, whilst still mentally capable, to nominate whom you would wish to look after your affairs, including health and welfare matters, should you no longer be able to do so personally.

Sandra explains: "Many people think a PoA is unnecessary because the worst won't happen to them, and if it does they have loving next of kin who would look after things for them if they couldn't do so themselves. But your next of kin are not legally permitted to do so without a court order - unless you have granted them permission by way of a PoA. A PoA is vital if you want to have your say about your future."

There are around 300 PoAs submitted to the OPG daily. In order to administer this increasing demand effectively, the OPG has recently introduced an online registration service, accessible on the OPG website. Data from the online form automatically populates the OPG's database and has markedly reduced the administration time per PoA. An online PoA can be registered within three days whereas the same document submitted in hard copy will take about six weeks.

Attorneys are not supervised by the OPG; one assumes the granter [of the PoA] trusted the person they appointed and the OPG respects this decision. The OPG does however have a free investigation service which can inquire into the actions of an attorney in cases of concern, but this relies on people reporting their suspicions.

Office of the Public Guardian (Scotland)

Sandra says: "Some people worry that reporting their concerns could result in the OPG marching in, when in reality we find that a softly softly approach gets us much further, However we can, and do, take serious action when necessary"

If a person becomes incapable and hasn't granted a power of attorney their family will have to apply to the local sheriff court for permission to manage their affairs and make decisions on their behalf. This process takes some months and is costly – on average about £3000 – and comes at a time when the family could least do with the added stress. The person appointed is called a Guardian. Unlike attorneys, guardians are routinely supervised by the Public Guardian, or local authority if they are looking after welfare matters.

A Guardian is required to submit an inventory of the estate they are administering and a plan of how they intend to manage this. They then report progress annually against this, accompanied with a set of financial accounts.

Sandra says: "Guardians often equate the annual review process with being 'checked on'. We do have a role in supervising a Guardian but we do our best to tailor the process, offering as light a touch as is possible. Annual review is as much about supporting a Guardian in what can be an onerous responsibility at a difficult time".

Although the Adults with Incapacity Act, which governs this work, has been in place for 13 years now, there is still a lot of uncertainty about what it does/does not offer and what may be best in given circumstances. The OPG has an active Outreach Education Service which offers training around the country - to carers and charities as well as to medical and legal professional groups, people acting under the act or those that are thinking about it. Contact the office or visit the website if you wish more information about this service. The OPG cannot offer legal advice but does offer signposting and guidance.

As Austin Lafferty, past President of the Law Society, wrote:

"There is considerable help through the agency of the excellent Office of the Public Guardian. This Department is an official success story efficient, informative, personable; the staff are a superb first contact for citizens, even I as an experienced solicitor make use of their public facing staff to answer questions…And I can assure you it is not just me that holds this opinion; OPG is a byword for good service and assistance".

The Office telephone number is 01324 678300 (where the OPG are proud to say you are answered by a human voice not an automated reply).

The web address is www.public guardian-scotland.gov.uk

Case Review: Andrew Logue v PF Kilmarnock and Road Traffic Cases

All JP Courts hear a plethora of speeding cases every year. These cases lead to headlines in the newspapers as those in the public gaze may well fall foul spectacularly of the speeding regulations.

A recent case provides us with an example 'Celtic boss Neil Lennon handed six month driving ban for speeding.' [1]

Speeding cases do end up frequently being appealed, whether in respect of conviction or in the exercise of the test of exceptional hardship.

This article considers the recent case of Andrew Logue v PF Kilmarnock [2] which deals with both a conviction and sentence appeal. Thereafter it emphasises some points to note when dealing with such cases in court.

In Logue, the facts were, as ever, relatively simple. On 25 July 2012, Andrew Logue was driving his BMW motor car at 87mph in a 40mph zone on the Glasgow Road, Kilmarnock. He was convicted following a trial. He was fined £700 and disqualified from driving for 9 months.

The conviction appeal related to the absence of sufficient evidence that the speed check device (a Unipar SL70264) was calibrated and working properly. The points at issue included lack of evidence of:-

1. The date on which the speed device was due for its calibration check;
2. the distances which the officers obtained when carrying out checks on the device before and after their period of duty;
3. Corroboration about the TXi function of the police radios;
4. Corroboration that the device had been aimed at the accused's car; and
5. The device being operated correctly at the locus.

With regard to points 1-3, the justices were satisfied that the device was within calibration. The necessary checks had been carried out though the police had not been able to provide the actual date of calibration or the distances measured (which might have been preferable). The device was operating correctly. With regards to points 4 and 5, the accused's vehicle had been the only one on the road at the time and the device had been used correctly. A further ground of appeal was added that there was no evidence of the respective police officers' experience though this seems not to have been a focus on which the court dwelt.

The Appeal Court upheld the justices' verdict on conviction that there was sufficient evidence to reject any No case to Answer submission. Echoing the decision in Cox [3], not every adminicle of evidence requires to be corroborated. Each case must be decided on its facts and circumstances. The crucial elements in the charge had been proved.

The Appeal Court went on to consider the issue of disqualification. Andrew Logue put forward that he had not been invited to make submissions about his personal position regarding disqualification. The factors submitted to be in his favour were that he was a self-employed garage owner, had a MOT qualification, three employees and if he were to be disqualified the VOSA would have the right to remove his MOT testing authorisation. That would end his business and lose employment for three employees. That would amount to undue hardship as he had a family to support.

The Appeal Court emphasised that inviting submissions while advisory was not mandatory. The period of disqualification was not excessive nor such that the period should be reduced. The speed at which Andrew Logue was driving equated to 117% over the permitted limit that could, in the words of the court, be 'potentially catastrophic.' He already had a previous speeding conviction where five penalty points had been imposed. There was a need to consider issues of public protection and deterrence. Furthermore, he had been represented by someone experienced in road traffic matters. The appeal was therefore refused.

Conclusion:

Convictions under sections 84 and 189 of the Road Traffic Regulation Act 1984 should be relatively straightforward to prosecute. However, the need for corroboration makes them much harder to deal with.

- What needs to be proved is that the driver exceeded by his speed of travel the speed limit applying to that road.
- Each case must be decided on its facts and circumstances.

Recent cases of Cox [4] and Egan both discuss issues of sufficiency of evidence when dealing with the complexity of the checks carried out in calibrating the measuring devices used in speeding cases by the police and the need for corroboration.

- Corroboration is not required in respect of every component part of the evidence. It is sufficient 'if concurrence of testimony establish[es] the accuracy of the device, a fact which may well be established in many different ways.'
- There needs to be a flexible and pragmatic approach to these cases when hearing evidence about the accuracy and calibration of the measuring devices.

Corroboration is still required though that does not mean separate corroboration is required for each link in the chain. The need for corroboration may well change in future and be simplified as the issue of corroboration forms part of the debate resulting from the recently introduced Criminal Justice Bill.

- How much evidence is required will be a matter for justices to decide in each case. When in doubt ask your Legal Adviser for advice following the recent case law.

The case of Logue is interesting because of the argument on sufficiency but equally because the Appeal Court robustly dismissed the exceptional hardship cited based on the seriousness of the charge itself.

On lessons learnt, it may be advisable to invite responses from the defence on any proposed disqualification, though a justice is entitled to exercise an element of discretion in sentencing having regard to the prevalence of certain offences and their risk to the public in the locality. There was no apparent challenge to the disqualification made in court, so justice was seen to be done in respect that the justices were not acting unfairly or unreasonably. Why an agent representing an accused would not address this in his submission to justices seems strange. Possibly he did not perceive that conviction was likely or disqualification a possibility. This is a good case of a justice in the words of the Lord President giving 'impartial and fearless justice to all who come before us.'

Gillian Mawdesley,

Justice of the Peace Legal Consultant

1 http://news.stv.tv/tayside/240684-celtic-boss-neil-lennon-handed-six-month 24 September 2013

2 [2013] HCJAC 110

3 [2011] HCJAC 14

4 [2012] HCJAC XJ846/12

5 Cox

6 Opening of Legal Year 2013 Speech by The Right Hon Lord Gill http://www.scotland-judiciary.org.uk/26/1136/OPENING-OF-LEGAL-YEAR

Lay Justice

The judgment of one citizen by another is as old as civilisation and can be found throughout history and across the world.

For centuries the 'elders' of the villages would be deemed to be invested with judicial powers but gradually and over centuries, this has evolved to be people chosen for their apparent judicial skills – an acknowledgement that it was not only the elders who had this ability. It could of course be argued that some age and experience of life is vital in the judiciary whether lay or salaried.

Juries have been with us since 1230 but again it took centuries to create the set of rules we have today around juries.

The Justice of the Peace was created in 1360 in England and transported to Scotland in 1609 and has come under a great deal of scrutiny since that day in June 404 years ago. Then it was seen as an imposition from England, that it was not necessary, and of course, to add insult to injury, placed a different sort of person on the Bench. However, James VI & I could see their worth and despite all the controversy, the JP stayed. Nothing is static of course and the role of Justice has transformed many times over the last 4 centuries with arguably, the most important, taking place in the current century.

We now have a system called Lay Justice which places people, not trained in the Law but trained very thoroughly in the legal work they require to perform on the bench. At last the justice is under the same auspices as the other tiers of judiciary in Scotland and is considered to be part of the Judicial Family – a far cry from only a few years ago when the Local Authorities ran the courts presided over by the JP, some more interested than others. But the fact remained that 32 local authorities were running 32 different courts and groups of justices and there was little integration.

Being part of the judicial family means that justices have to obey the same rules as their salaried colleagues and Lord Denning described being a judge in 1957 thus:

"A judge's part . . is to hearken to the evidence, only himself asking questions of witnesses when it is necessary to clear up any point that has been overlooked or left obscure; to see that the advocates behave themselves seemly and keep to the rules laid down by law; to exclude irrelevances and discourage repetition; to make sure by wise intervention that he follows the points that the advocates are making and can assess their worth; and at the end to make up his mind where the truth lies. If he goes beyond this, he drops the mantle of a judge and assumes the role of an advocate; and the change does not become him well."

A further description written somewhat earlier, in early 17 century, by Sir Francis Bacon, an English philosopher, statesman, scientist, jurist, orator and author. He served both as Attorney General and Lord Chancellor of England and said, "Patience and gravity of hearing is an essential part of justice; and an over-speaking judge is no well-tuned cymbal."

Of course the theories are one thing and the practice is another but the ethos of being a judge has not changed over the centuries and we are still exhorted to ask questions only for clarification in a trial.

It is difficult to describe 'lay' in light of the amount of training given today to Justices of the Peace. While one or two do have a legal qualification, the vast majority do not, but all are subjected to an intense learning programme and equally important, no one can sit in court until they have taken the judicial oath.

Having lay people on the bench helps maintain public confidence in the judicial process and is one method whereby the public can gain insight into the operations of the courts. Lay judges come from many varied backgrounds with a wide view of justice in society and indeed this is one of the reasons for maintaining the jury system.

The Justice of the Peace has come a long way - doing right by all manner of people - and has maintained the confidence of both the legal system and the public, in a period of constant change. Whether sitting as bench of three or as a single justice - the only single sitting Lay Judge having power of verdict and sentence within our legal tradition across Europe and North America - the Justice of the Peace has, through careful selection process and significant training and assessment, successfully risen to the transformational challenge of todays' professional expectations on Criminal Procedure and Court Craft and claim rightful peer status within the judicial family in Scotland.

There is more to do to continually maintain professional expectations of evolving judicial standards - however over the last few years the Justice of the Peace in Scotland has demonstrated judicial capabilities that well deliver the exacting standards of our legal system and confidence to meet the challenges that lie ahead.

Johan Findlay, Stuart Fair

The Court of the Lord Lyon

The current Lord Lyon King of Arms is retiring, and the post is being advertised.

The Court of the Lord Lyon is the heraldic authority for Scotland and deals with all matters relating to Scottish Heraldry and Coats of Arms and maintains the Scottish Public Registers of Arms and Genealogies.

In other words, it is the Lord Lyon to whom you apply if you want a coat of arms. The Lyon King of Arms Act 1672 restricts the grant of arms to "virtuous and well-deserving persons" who are domiciled in Scotland, but we can assume that all JPs fulfill both those criteria.

So if you would like a coat of arms, you should petition the Lord Lyon, setting out your claim. You would also have to pay the fee, and be warned, the fee for the most basic form of coat of arms is £1459, and that for what you might call the full works is £3057.

But if you want to apply to be the next Lord Lyon, you should apply to Jayne Milligan, Scottish Government, Civil Law and Legal System Division, 2W St Andrews House, Regent Road, Edinburgh, EH1 3DG, telephone 0131 244 3051, or by email at Jayne.milligan@scotrland.gsi.gov.uk by 31 October 2013.

Further information on the Lord Lyon can be found at http://www.lyon-court.com/lordlyon/CCC_FirstPage.jsp

Not Proven? Not Likely!

As we all know, Scotland appears to be unique in having three possible verdicts at the end of a criminal trial – guilty, not guilty and not proven.

Some see this as part of the genius of the Scottish criminal justice. Others see it as a case of "They're all out of step except our Johnny".

Origins

The three-verdict system did not come into existence because anybody (let alone any Parliament) sat down and said to themselves "there ought to be three verdicts".

Its origins are in fact complicated and obscure. Essentially, for good or ill, the three-verdict system came into existence by accident. It appears that there were only two verdicts until the 18th century. Terminology varied, but by the 17th century, juries either found the accused "fylet [fouled], culpable and convict", or "clene, innocent and acquit".

However, a complicated way of drafting indictments which grew up meant that, increasingly, judges sought to confine juries to simply deciding whether the facts asserted in the indictment were "proven" or "not proven", reserving to themselves the actual pronouncement of guilt or otherwise (and using "guilty" and "not guilty" rather than the colourful 17th century terminology).

But, in the 18th century, juries sought to retrieve their power by going beyond "not proven" and positively asserting "not guilty" when they thought it appropriate. Nevertheless, "not proven" did not fall out of usage, leaving the position we know today.

Meaning

If the origins of the three-verdict system are complicated and obscure, so is its meaning.

an explanation

In *McNicol v HMA* 1964 JC 25, a noted judge, Lord Clyde, sought to explain the three-verdict system. It was, he said, "much more logical and in accordance with principle" than the two-verdict one, because the position was not symmetrical. On the one hand, a jury can never know a person is guilty, but can only decide the case against him is "proven", he suggested. But on the other, he suggested, they may not only think the case against a person is "not proven", they may be convinced that s/he did not do it, so can go a step further, and pronounce that person "not guilty".

This explanation obviously has strong attraction, and Lord Clyde's words have not been disapproved by later judges in the half-century since he said them. But there are some problems with it.

first problem with the explanation

The first problem is that, if this is the explanation, one might expect judges to emphasise it in their charges to juries. However, twenty-five years after McNicol, in Macdonald v HMA 1989 SLT 298, the High Court observed that:

"the normal direction is to say you have three verdicts, one of guilty and two alternative acquittal verdicts of not guilty or not proven and to say to the jury the choice is theirs because they are both acquittal verdicts".

But the Court then went on to say that:

"it is in our view highly dangerous to go beyond that and endeavour to explain what the not proven verdict is in relation to the not guilty verdict".

In other words, if a jury wants to know what the difference is between "not guilty" and "not proven", it's on its own. And an interesting question is how this applies to the JP Court. If a JP asks his or her Legal Adviser to explain the three-verdict system, the Legal Adviser is presumably required to apply *Macdonald v* HMA, and simply say:

"I am sorry, your Honour, all I can tell you is that there are three verdicts, one of guilty and two alternative acquittal verdicts of not guilty or not proven and the choice is yours because they are both acquittal verdicts".

second problem with the explanation

The second problem follows from the first. It is that nobody actually knows why any jury, sheriff or JP chooses between not guilty and not proven when acquitting. (And it would, incidentally, be an offence to find out why any particular jury came to its conclusion).

There do not seem to be any recent statistics on usage of those two verdicts, but twenty years ago the Scottish Office published a consultation document called *Juries and Verdicts*, which gave some data. Most trials, of course, end in a guilty verdict. But it noted that, of those acquitted in the High Court in the preceding few years, 43% were acquitted by means of a "not proven" verdict; of those acquitted in sheriff and jury trials, 33%; of those acquitted where a sheriff was sitting alone, 22%; and of those acquitted in the District Court (as it then was), 19%. Thus, "not proven" verdicts were a quite common form of acquittal. But how was the choice made?

The differences of usage as between courts seems extraordinary, and it appears that juries used the "not proven" acquittal much more often than sheriffs and JPs sitting alone did, and that JPs used the verdict least often. However, the consultation paper did not discuss the implications of that. (It should not be forgotten, incidentally, that since the vast majority of criminal cases are heard by sheriffs and JPs sitting alone, their 22% and 19% of acquittals constitute a much larger actual number of cases than do the 43% and 33% of High Court and sheriff and jury acquittals).

Juries and Verdicts did, however, discuss a couple of misconceptions about the "not proven" verdict which a BBC Scotland opinion poll had thrown up. These were that acquittal by "not proven" automatically gave the Crown the right to prosecute the same person again, and that a "not proven" verdict in respect of one person meant no other person could be prosecuted for the alleged offence. These misconceptions might shed some light on why the decision between "not guilty" and "not proven" is taken, at least by a jury.

But in addition, there was also concern that "not proven" had become a soft option, again at least for juries, where there was reluctance to come to a clear decision. If this were so, it would a curious about-turn from both Lord Clyde's explanation, and the 18th century thinking which produced the three-verdict system. Those two justifications both suggested that "not proven" should be the standard acquittal, and "not guilty" go beyond that to say, in effect, "you leave the court with no stain on your character". But on the soft option view, however, "not guilty" is the standard acquittal, and "not proven" means "but we still think you might have done it"!

(It is interesting to note that some who have campaigned for abolition of the "not proven" verdict after its use in high profile cases, seem to assume the jury, denied that option, would have convicted: it seems at least as likely that the jury would still have acquitted, but by use of a "not guilty" verdict).

third problem with the explanation

Nor is this all, because the third problem, following from the first and second, is that Lord Clyde's explanation is unfair, because it is inconsistent with the presumption of innocence. Accused are to be presumed not guilty unless the Crown prove its case, and are not required to prove their innocence. Therefore, to distinguish between "not provens" (that is, those against whom the Crown case is not proven), and "not guiltys", (that is, those whom a jury - or sheriff or JP - positively concludes are innocent), is to at least partly reverse the burden of proof, and put an obligation upon accused to prove their innocence if they want a "real acquittal".

Putting the same point another way, if "not guilty" is the normal form of acquittal, and is taken at face value, then "not proven" must leave a stigma whether deserved or not.

fourth problem with the explanation

And finally, there are clearly potential difficulties for juries which disagree on the verdict, since some may want to convict, some to acquit by "not proven", and some to acquit by "not guilty".

Current debate

Not surprisingly, the question of the three-verdict system has been the subject of frequent, if inconclusive, debate over the years. This has, however, usually centred on juries, rather than sheriffs and JPs sitting alone who, as we have noticed, probably give most "not proven" verdicts.

Recently, debate has been re-ignited following the Carloway Review and its consequential legislation. This is because it has been pointed out that, whether or not the abolition of the requirement for corroboration is justified, it has implications for other parts of criminal procedure, including majority verdicts and (as it is usually put) the existence of the "not proven" verdict.

Thus, there was a Scottish Government consultation earlier this year, entitled Reforming Scots Criminal Law and Practice: additional safeguards following removal of the requirement for corroboration (accessible at http://www.scotland.gov.uk/Publications/2012/12/4628/downloads#res410935) However, it was brief in the extreme on the "not proven" verdict, devoting only a page to the subject, and simply asking for views in general, and specifically what the verdicts should be called if there were only two.

The Analysis of Consultation Responses which was published afterwards (accessible at http://www.scotland.gov.uk/Resource/0042/00425488.pdf) was not much longer. It recorded that the weight of opinion among consultees was, as a general point, that the three vedicts should be abolished, but on the specific question of what the verdicts should be called if there were only two, opinion was more or less equally divided between those favouring "proven/not proven" and those favouring "guilty/not guilty".

In the light of this, it might be expected that legislation would follow quickly seeking to abolish the "not proven" verdict. However, it has been reported in the press that the three-verdict system has been referred to the Law Commission. As that body has not yet issued a Discussion Paper (which is its normal practice, after analysing the existing law for such discussion), it looks as if the question has been kicked into touch, and "not proven" is safe for a while yet.

A final thought

Has anyone else noticed that the only two places that the word "proven" is used are in relation to the "not proven" verdict, and in cosmetics advertisements on television where dodgy claims are described in a warm, reassuring, voice as "scientifically proven" (as in "scientifically proven to make you look younger")?

Robin M White

Have You Ever Mistaken The EU For The ECHR?

You wouldn't be alone if you had. Even newspapers seem to get it wrong, particularly when they refer to "the European Court". So a quick guide might be useful.

Firstly, the European Union – "the EU": it's a 28 member body, essentially concerned with economic integration, but spreading into other areas. It operates to a large extent by producing "Community Law". This must be applied by the national courts of each Member State, and trumps their national law, in the sense that if the two conflict, national courts have to apply Community Law, not national law.

The EU has several institutions, like the European Commission, all wholly or largely based in Brussels, except one. This is the European Court of Justice ("ECJ"), in Luxembourg, so sometimes helpfully called "the Luxembourg Court".

But if national courts apply Community Law, what does the ECJ do? The chief answer is that it decides Community Law disputes between Members States, and "preliminary references", which require explaining. If national courts all the way from Lerwick Sheriff Court to its equivalents in Poland, Greece, Portugal, etc, apply Community Law, they are unlikely to apply it identically. So a national court can refer to the ECJ any question of the interpretation of Community Law arising in a case before it, for an authoritative ruling. The national court then applies that ruling in the actual case.

Secondly, the European Convention on Human Rights - "the ECHR". This is a treaty, not a body, but was produced by a body, the Council of Europe, which has nothing to do with economic integration. It has 47 members, and was set up to propagate democracy and human rights, chiefly by promoting treaties. The first was the ECHR, but there are now a couple of hundred others, on subjects from nationality to cybercrime.

There is no equivalent of Community Law. All signatories agree to "secure" the ECHR rights. But their national courts don't apply it unless the signatory has amended its law to incorporate them, which is what the Human Rights Act 1998 did.

The Council of Europe also has several institutions, including the European Court of Human Rights ("ECtHR"), in Strasbourg, and sometimes helpfully called "the Strasbourg Court". What it does is to deal with ECHR disputes between signatory states, but also "individual petitions". These are possible where an individual claim his or her human rights have been breached, has taken the matter to a national court unsuccessfully, and exhausted all appeals unsuccessfully. Then s/he can petition the ECtHR (which can decline to hear it). If it does hear the petition, and finds in the individual's favour, there is no enforceable remedy. Enforcement depends on political pressure, and any sense of shame the state has for being found in breach of the ECHR.

So it's simple, really. The EU is not the ECHR, and there are two "European Courts", Luxembourg and Strasbourg.

Intallation in Edinburgh

The ceremony was on 5 August at Edinburgh Sheriff Court House. It was performed by Sheriff Principal Mhairi Stephen and before Sheriffs Nigel Morrison and Ken Maciver. Also present were the Procurator Fiscal for the East Federation John Logue and the President of the Edinburgh Bar Association, Mark Harrower, who also represented the other local faculties in Lothian and Borders. Other guests were Chief Superintendant Jeanette Macdiarmid and Sheriff Welsh, and of course the families of the new JPs.

The justices will sit in Edinburgh JP court unless otherwise stated after their names.

Left to right back row standing :
Hilary Stevenson, Robin Strang, David Harper, Ros Williams, Neil Morrison, Gary Watson (Duns), Iulia Toch, Neil Polwart (Livingston), Ailsa Slack (Haddington)
Seated front row;- Susan Fallone, Maureen McGinn, Kate Campbell, Moira Williams

Installation in Ayr

South Strathclyde, Dumfries and Galloway Justices
Standing left to right :
Dougie Campbell, Kenneth Forrest, Paul Carnan, William Steele, George Smith, Robin Howard, Syd Barry, Gordon Littler, John McKay. John Perry, Amjid Bashir, David Jamieson, Sandy Russell, Robert McCroskie, Michael Stryjeski.
Seated Robert Walsh, Lily Simpson, Patricia Gray, Carole Boswell, Sheriff Principal Lockhart, Susan Andrews-Baud, Marion Craig, Shirley McNeer, Ross Milligan.

Consultation on Cameras and Phones in Court

The Judicial Office for Scotland has just launched a consultation on the possible use of cameras and phones in court.

The cameras issue is not new, and guidance was issued by the then Lord President (Lord Hope) in 1992, and updated by the last Lord President (Lord Hamilton), in 2012. However, the current Lord President, Lord Gill, has decided the question deserves re-consideration, particularly since it is easy now to take photographs with phones, and in the light of the rise in “live, text-based communication” (defined as “all platforms and formats of communicating directly from court using text” – which seems to mean “tweeting”), all against the background of the fact that many people use “the new media”, rather than print, to get information..

The principles involved are straightforward. On the one hand, proceedings in courts should be open to the public, and reporting of those proceedings should be allowed. On the other, the administration of justice may be prejudiced by the use of cameras and phones in court, particularly in criminal cases, by making witnesses more hesitant, or by members of the public “grandstanding”.

The consultation paper examines the law in a number of other jurisdictions, and asks some 25 specific questions.

The SJA will be responding to the consultation.

Child Witnesses

Child witnesses are quite unusual in the JP Court. However, one of our number shares the following recent experience.

"I have had two or three trials over the years with child witnesses. The most recent was a couple of weeks ago, when two defence witnesses were children, aged 10 and 11, respectively.

After brief discussion with fiscal and agent before the first child came in, I cleared the court and moved down to sit at the side of the agents' table. By agreement, gowns stayed on.

When each child came in, I sat them next to me and explained that I was in charge, but that the man next to her, and the woman across the table, would want to ask them questions. I explained that if either of those people asked them if something had happened and they thought it had, they should say so. But if they thought it hadn't, or if they simply couldn't remember, then they should also say so. I asked them if they understood, and if they had any questions.

They appeared intelligent children, not over-awed by the surroundings, and able to answer properly, and they said they understood and had no questions. By agreement, and after advice from my Legal Adviser, I put them on oath, and they gave evidence clearly and comprehensibly.

I am confident the trial was properly conducted, and justice was done".

What Are Clothes?

Sandifer v *United States Steel Corporation* is currently before the US Supreme Court. It concerns whether steel workers should be paid "work time" for donning and doffing work clothes, including flame-resistant jackets, protective leggings, gloves, steel-toed boots, hard hats, safety glasses and so on, given that the Fair Labor Standards Act, S203(3) excludes payment for "any time spent in changing clothes … at the beginning or end of each workday".

The following are some of the exchanges in oral argument:

"MR. SCHNAPPER: *In ordinary parlance, not everything an individual wears would be referred to as clothes. There are examples of that in this courtroom: Glasses, necklaces, earrings, wristwatches. There may be a toupee for all we know. Those things are not commonly referred to as clothes.*

JUSTICE SCALIA: *I resent that.*

(Laughter.)

MR. SCHNAPPER: *And nor are neck braces, which I've seen one in this courtroom. It's also the case that there are any number of things that people wear to do their jobs that are not clothes. The police officers outside the building are wearing guns, radios. I suspect they have handcuffs; I couldn't see those. The quarterback who played for your team yesterday had a quarterback playbook wristband with the plays on—on his—on his wrist. Workers wear tool belts. It's—one of the recurring—recurring issues that has come up in these cases are knife scabbards. We don't think anyone would, in ordinary parlance, call those things clothes. And we think that's the significant limitation on this.*
And so even though you could be wearing those things, those are not clothes.

JUSTICE SCALIA: *Tools and what?*

MR. SCHNAPPER: *Scabbards.*

JUSTICE SCALIA: *Scabbards.*

MR. SCHNAPPER: *Knife scabbards. The Tenth Circuit holds a knife scabbard as clothes because it's like holsters".*

Also:

"JUSTICE ALITO: *This is one of the aspects of your argument that seems really puzzling to me. I don't know when a human being first got the idea of putting on clothing. I think it was one of the main reasons, probably the main reason, was for protection. It's for protection against the cold, it's for protection against the sun. It's for protection against—against thorns. So you want us to hold that items that are worn for purposes of protection are not clothing?"*

For more of the same, see http://www.theatlantic.com/technology/archive/2013/11/what-are-clothes-asks-most-delightful-supreme-court-argument-in-history/281155/.

Thoughts of a New Justice

Having just completed the training as a Justice of the Peace, the long process of waiting for your appointment being confirmed starts, the doubts as to your ability to cope with a day in court start to creep in. The longer this process takes the greater the doubt. Week by week your confidence dips until you question your sanity in applying in the first place. Eventually that envelope drops through your door, your appointment is confirmed and the date of your installation is set. Quickly another letter drops through the door, your court appointments for the rest of the year. Elation and dread is a weird combination!

The day of your installation arrives and with a certain amount of pride (I hope there is not going to be a fall), you and your family assemble at the appointed hour. You are now a fully fledged Justice.

The dreaded day arrives, your first sitting on your own. Decisions have to made, what do I wear? What tie goes with this? With your stomach full of fluttering butterflies you head for court. Arriving at court you take your last breath of fresh air for some hours. Why are you doing this? A question many of your friends and family have asked you many times! You now enter a twilight zone, you meet many people before even entering the court room, Legal Advisor, Clerks, Police, Procurator Fiscal, Defence Agents who all know you are the new kid on the block, I just hope I can carry this through. A few papers are put before you to sign, with a shaky hand you sign your first official document. That wasn't too hard.

Your legal advisor has now talked you through the business of the day, "nothing to worry about just a routine day in court", it is alright for him it's not his first day! Time now for the real business to start, the clerk opens the door and you hear the words "All Rise", your heart rate shoots up, you start to feel nauseous, you want to turn back but too late you are in and sitting on the chair, why is it called the Bench? You have remembered, I think, to say "good morning" or at least you have acknowledged their presence. The first case is called, a plea of guilty is tendered, what do I do now, your advisor gives you your options, now you have to decide the sentence, what can you remember from your training, level of fine, points & discounting, it's like patting your head and rubbing your tummy at the same time. After delivering your first verdict you start to relax and the day flies by, you remember to adjourn and take advice as required. Eventually the business is completed you rise and thank everyone for their help. As you sit in the office you start to calm down and try and analyse the day's proceedings. Your initial training has stood you in good stead; you have conducted the court and survived, on reflection this has been due to not only the training but the help you received throughout the day not only from your legal advisor but from everyone in the court process.

Maybe it is not going to be that bad after all. Now when is my next court day?

Robert Walsh JP

Six Stages in the Journey of a new Justice of the Peace:

Application, Training, Appointment, Reality, Reflection and Future.

The number of justices of the peace (justices) is ever changing, much more than for other tiers of the judiciary where the number remains relatively static over the training year. Justices retire or resign. But justices are appointed too. In 2012-2013, 40 justices were appointed from the Sheriffdoms of Lothian and Borders and South Strathclyde Dumfries and Galloway. They are now starting their fledging career as justices in the courts.

Everyone involved in the criminal justice system has had the experience of Day One at court, be it the Fiscal, the defence agent or the judge. We thought in recognition of that experience that we should reflect on what is involved in being appointed as a justice (as some justices may well have forgotten or not been involved in the current rigorous judicial appointment process). Thereafter we asked the newly appointed justices to reflect on their Day One experiences, their experience to date plus their aspirations for the future. At the Judicial Institute, we had a slightly self-centred motivation in ascertaining how training equipped justices for that Day One experience as we plan for delivery of future training.

We include contributions from those that responded and have survived! Some justices have not made it yet to Day One yet. To them, we wish them the best of luck.

1 Application:

'Let's start at the very beginning.'[1]

To be appointed as a justice, there needs to be an application through the judicial appointments process. *(This is done through the Justice of the Peace Appointments Committee, JPAC. There is one JPAC per sheriffdom chaired by the Sheriff Principal and it comprises several experienced justices, themselves appointed after interview, a number of lay people and a number of sheriffs, as detailed in the Justice of the Peace Orders 2007. Editor).*

The application will be assessed and after that, a number will be invited to interview. The proper selection and appointment of members of the judiciary is a matter of fundamental importance in any country committed to the rule of law. That system must ensure that the right judges are appointed free from any improper influences. Prospective justices successful following the interview process were invited to participate in mandatory training to become a justice. That was no easy task as *'the calibre of applicants to become JPs in this Sheriffdom was of the very highest order'* as was recognised by Sheriff Principal Stephen. [2]

2. Training:

Training follows a set procedure approved by the former Lord President Hamilton.[3] Justices are appointed from all walks of life; they have different backgrounds as some have no knowledge of the law, others have a detailed knowledge coming from the police, prison, or social work backgrounds. A few selected have legal backgrounds from Scotland or further afield. Equipping justices with the necessary skills and knowledge and more importantly, the confidence to be justices of the future is essential.

This is not the time to extol the intricacies and complexities of that training but it is appropriate to stress three important features of the training:-

1 Commitment from prospective justices to devoting time and energy in completing the training. Training is accomplished over months, not just weeks. It includes both legal and practical training that requires visiting prison and observing the courts in action;

2 Breadth of the training undertaken. Twelve topics are currently specified as mandatory for study ranging from substantive Scots criminal law and evidence to sentencing, with judicial ethics including independence and impartiality underpinning all aspects of training; and

3 The relationship between local and national training. The Sheriffdom Legal Advisers and their teams [4] and the Sheriffdom Justices' Training Committees organise, arrange and deliver local training in accordance with the prescribed course of training. That provides the necessary introduction and background to be gained before the justices actually sit. That initial training is developed as justices require to attend a residential induction course delivered by the Judicial Institute. That course included an in–depth examination of communicating effectively in court, working with the Legal Adviser in that unique relationship governed by the principles set out in *Clark v Kelly,* [5] giving reasoned decisions, sentence selection and delivery, dealing with the unexpected and judicial ethics. A record of the training provided is included in the Judicial Institute's Annual Report. [6]

Training naturally evolves as the law is always changing. *'We shall need to be alert. We shall need to be trained.'* [7] We can anticipate this, especially in the field of criminal law where a number of significant changes are expected following the introduction of the Criminal Justice Bill (and the proposed abolition of corroboration which will have significant impact on evidential requirements in court.). Training will be developed to meet these requirements. As Sheriff Principal Stephen recognised:-

'Criminal law and sentencing has become very technical. It places significant stress on the professional Judiciary to keep abreast of developments and I acknowledge that it places a very great burden on people like you who are public spirited enough to do this important work voluntarily.'

No challenge for justices there then!

Appointment: The day comes when appointment to the judiciary as a justice of the peace arrives. That is a very important occasion as it means that the justice has been chosen to serve because of their individual qualities; these being the personal qualities that they bring including knowledge and experience of the world gained **outside** the law as distinct from the full time judiciary. The Oath is taken –*'to do right to all manner of people without fear or favour affection or ill will.'*

As one Justice stated:-

'Eventually your appointment is confirmed and the date of installation is set. …Elation and dread is a weird combination.'

Reality: In the court room, it is Day One. The court sheets have been studied. The Legal Adviser has indicated that the court is ready. Is the justice ready for the court?

We asked a number of justices to reflect on Day One. Here follow a selection of the replies:-

My First Day in Court:

It was late August, a trials court at ▶

Edinburgh Sheriff and Justice of the Peace Court.

Justice 1:-

'It was with a range of feelings that I set off from home. Excitement that this day had arrived and I would get my first opportunity to put into practice what I and others have been in training for, for some time; pride at being selected for such a privileged position; and nerves, a lot of nerves in fact, as I wanted to do the position justice and repay the trust placed in me.

I did my best to prepare for the day. I went through the court list a few days before trying to imagine all the possibilities and what I'd do in each of the scenarios I'd dreamed up. Going over in my head the options available and what I'd say. I also spent time going over notes from the various training sessions. First class training sessions I have to say.

On walking up Chambers Street towards the Court House, I was a little surprised to see a gathering of press cameras. There must be a high profile case in one of the Sheriff Courts I thought. My aim for the day was to do as good a job as I could, learn from the experience and 'fly under the radar'. I kept my head down and walked past the crowd.

This, however, was to be an unusual day. Shortly after arriving I was advised that one of the trials on my list was a well-known footballer [8] *before the court on charges of shoplifting, assault and threatening and abusive behaviour. … .. I was not expecting this level of interest. Not in my court and certainly not on my first day.*

This was a time to seek some words of wisdom from my Legal Adviser. 'Treat this case as any other' was the advice. It was also a day to draw heavily on our training.' [9]

Justice 2:-

'Your legal adviser has talked you through the business of the day. 'Nothing to worry about just a routine day in court.. It is alright for him it's not his first day! Time for the real business to start, the clerk opens the door and you hear the words 'All Rise', your heart rate shoots up, you start to feel nauseous you want to turn back but too late you are in and sitting on the chair. Why is it called the bench?' ...

The first case is called. A plea of guilty is tendered. What do I do now. Your adviser gives you your options ….you have to decide on sentence what can you remember from your training level of fine, points & discounting. It's like patting your head and rubbing your tummy at the same time…

Eventually the business is completed you rise and thank everyone for their help…. Your initial training has stood you in good stead; you have conducted the court and survived. On reflection this has been due to not only the training but the help you received throughout the day not only from your Legal Adviser but from everyone in the court process.

Maybe it is not going to be that bad after all. Now when is my next court day?'

Justice 3:-

'The [Legal Adviser] was so supportive; answering my homework questions (beforehand including an email over the weekend). On the day, she arrived at 8am and spent 2 hours before court going through every case on the court list. That really helped prepare me well and calmed my nerves.'

Reflection: Not all justices start with a tickly cough and when asked about what not to do from Day One, the justice replied *'not to pop a Locket in my mouth before reading the bail conditions.'* You heard it here first!

Justice 1:

'Coincidentally, the following day I visited the Appeal Court as part of the New Justices Training Seminar. Another valuable experience and one which gives considerable reassurance that appeals are addressed robustly and fairly. … On reflection the training was extremely helpful, relevant and thorough, but I guess no matter how well trained and how well prepared you think you are the unexpected can always happen.'

The training, both local and national, has gone well and has been much appreciated by the justices. It has supported the justices to arrive at Day One. However training does and must not stop there.

Future: Justices require to continue training to support them in their role. Much of that training will be available and delivered locally. Owing largely to the enthusiasm, demand and commitment demonstrated by the newly appointed justices, the Judicial Institute designed a one day course specifically aimed at and for them. It allowed a day split between the Appeal Court in the morning and in the Judicial Institute's learning suite in the afternoon.

The objectives of the course are aimed at increasing exposure to the court, allowing an early opportunity to exchange and discuss experiences (replicating 'the judges' coffee lounge') and to concentrate on topics such as handling sentencing, judicial ethics and adjournments, all highly pertinent to the new justice. To date, two courses have been run with a third one planned to take place in October. Feedback from such courses has been highly positive. The Judicial Institute are considering other ways in which new justices and indeed all justices at stages of experience can be supported by training, be it delivered in a course, written or in e-learning format. Please note the Judicial Institute's Prospectus 2014[10] which sets out the courses planned for next year.

We welcome feedback in identifying areas of interest in assessing the training needs in order to design, develop and plan the delivery of training for justices in the future..

We would thank all who have participated in providing feedback and helped in the delivery of training to those justices including the Legal Advisers involved from both Sheriffdoms. Sheriff Principal Stephen recognised their importance of role in providing:-

'The in-court support and legal advice from Legal Advisers is crucial to success of our system of lay justice.'

In conclusion to, the newly appointed justices, Sheriff Principal Stephen added, as we do, congratulations on reaching this stage. Her parting remarks were *'to use these qualities to make decisions on the bench, independently impartially and with humility.'* We can add no more than strive to deliver effective training to ensure that aspiration is met.

Gillian Mawdsley

Justice of the Peace Legal Consultant

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1 2003 GDW 7-164

2 http://judicialintranet/library/jsc/annual_reports/Annual_Report_2013.pdf

3 'Judicial Studies or Judicial Training' Edinburgh 11 July 2013 The Right Honourable The Lord Chief Justice, Judicial Institute for Scotland

4 David Kemp Lothian & Borders and Phyllis Hands South Strathclyde Dumfries & Galloway

5 2003 GDW 7-164

6 http://judicialintranet/librarry/jsc/annualreports / Annual Report 2013.pdf

7 'Judicial Studies or Judicial Training' Edinburgh 11 July 2013 The Right Honourable The Lord Chief Justice, Judicial Institute for Scotland

8 Soccer star in shop row pays penalty' http://www.express.co.uk/news/uk/424030/Soccer-star-in-shop-row-pays-penalty

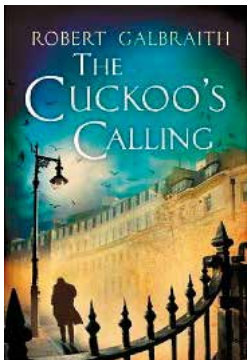
9 Note: he was convicted and fined £100 for the breach of the peace.

10 Issued August 2014 http://judicialintranet/pages/Judicial_Institute/prospectus.aspx

Book Reviews

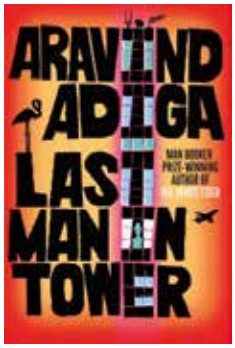
The long winter nights are creeping in and now is the time to enjoy a good book at the fireside. Close the curtains, light the fire and settle into a good read.

The Cuckoo's Calling by Robert Galbraith



The secret of the real author came out some time ago and JK Rowling's pseudonym, Robert Galbraith first detective novel is an exciting read. Cormoran Strike is the private detective with an interesting past of his own - the illegitimate son of a rock star, he lost a leg in Afghanistan, and is suffering the immediate aftermath of the very painful break up of a relationship. Refreshingly however (and unlike so many crime novels) his problems do not dominate but remain in the background. When a famous model is found dead in the snow below the balcony of her luxury flat it is considered to be suicide but her brother asks Strike to investigate the case. Galbraith tells an excellent story with very real characters and an interesting plot.

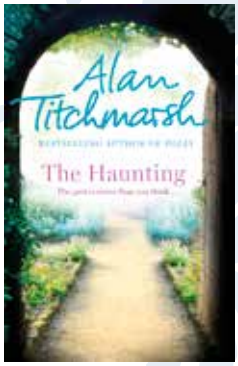
Last Man in Tower by Aravind Adiga



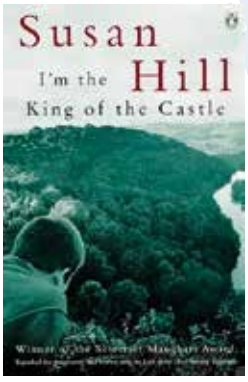
A most readable experience from the author of the Man Booker prize winner of 2008. Like 'White Tiger', it is set in Mumbai, India, or more precisely, in a tower block of apartments which a property developer wishes to buy and restore as a very upmarket development. He makes what, for most of the occupants, is a fabulous offer to buy them out, but he needs the consent of everyone in the tower to bring this about. The story is of one man's struggle, with ever-dwindling support from his neighbours, to keep the developer at bay. The author, quite savagely at times, describes the tactics and extent to which a property magnate will go in that city to achieve his goals and to ride roughshod over 'the little man'. An enlightening and, at times, powerful read of what modern life can be like in Mumbai (Bombay).

The Haunting by Alan Titchmarsh

The author is, of course, well-known as a television gardening expert and this does emerge on occasion in this book. It is a ghost story, as the title suggests, but although slightly disturbing in parts it is a gentle read, perfect for long winter nights. It concerns two parallel stories, one in 1816 and the other in the present day, about persons and events connected with a house in rural Hampshire. A young lady is found dead by the side of the river Itchen and certain consequences flow from this which have relevance to a modern day purchaser of the house and those around him. It is not designed to be high literature, but is a thoroughly pleasant read which is not too taxing on the grey cells!



I'm The King Of The Castle - Susan Hill



You can always rely on this author to produce disturbing and atmospheric, rather than outright explicit, scary stories. It is the rather harrowing tale of the bullying of one boy by another. The mother of one of the boys is brought, with her son, into the home of a widower to act as housekeeper to himself and his son, which throws the sons of each adult together. The adults appear only to have eyes for each other and although they pride themselves on knowing their respective sons well, they clearly do not.

Rather disappointingly, the Kindle version of this book has a large number of typographical mistakes.

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