

FACULTY

The newsletter of the Faculty of Advocates • news

Spring 2004



above: A secondary school pupil enjoying the experience of being an Advocate for the day

Trial in miniature

Advocacy has always attracted a diverse range of people, and thanks to the Faculty's MiniTrials initiative, they're getting younger than ever

Allowing secondary school pupils the opportunity to role-play in mock criminal trials is the aim behind the Faculty's MiniTrials project. The initiative helps to demystify the law in an enjoyable way and allows youngsters to see what really happens in a criminal court.

During the MiniTrial, pupils play the roles of prosecution and defence lawyers, court staff, witnesses and jurors under the watchful eye of real-life clerks of court, advocates, solicitors and procurators fiscal.

During the trials, pupils run their own

simplified sheriff court criminal jury trials using an information pack compiled by the Faculty and other professional volunteers.

The "lawyers" are responsible for examining and cross-examining the witnesses while other youngsters reach a verdict based on the role-play evidence.

Pupils take part in two trials each during the day-long events, which are staged in real courtrooms, with the trials being overseen by senior members of Faculty as the "sheriffs".

The professional volunteers also visit

participating schools ahead of the event to tutor the pupils in the various roles and explain a little about the work of an advocate, fiscal or solicitor.

The initiative, which has the support of the Law Society of Scotland as well as the Crown Office and Procurator Fiscal Service, also helps to improve the pupils' self-confidence and their analytical and debating skills.

The MiniTrials project was launched nearly two years ago by Sandy Wylie QC as a response to an apparent lack of knowledge of the justice system highlighted by the Nuffield Foundation's *Paths to Justice Scotland* publication.

Mr Wylie says: "*Paths to Justice* raised the issue of the public's limited knowledge of their legal system and of the criminal and civil courts. I felt we might be able to help by speaking to young people and schools.

"The project needed to fit easily into a school's curriculum, have realistic, interesting case studies and be fast-paced in order to keep students interested.

"Being able to participate in an event like this, in a venue like a sheriff court, is a unique experience for the pupils involved and one which we feel can only help to broaden understanding of the law and of the community in which we live."

Following a pilot period, the MiniTrials were launched last year, with hundreds of pupils participating in events in Kilmarnock and Edinburgh sheriff courts.

The scheme has been well received by the pupils, teachers and professionals involved and has also won the support of Justice Minister Cathy Jamieson and Lord Mackay of Drumadoon, both of whom addressed the Kilmarnock event last November.

Joan Spencer, an English teacher at Edinburgh's Trinity Academy, says the benefit to the pupils is enormous: "The work in MiniTrials is about developing, gathering and organising information in a logical order, presenting an argument and teasing detail from a big picture.

"It doesn't matter if it is assessing the character of Romeo or working out whether a person would have been likely to be involved in supplying drugs – it comes down to the same skills in the end."

For further information about the initiative, or to volunteer to participate in the project next year, please contact Sandy Wylie at: afwylie@advocates.org.uk

Great achievement

Faculty officer John-Ross Morland has raised £2,700 for charity, after a trek along the Great Wall of China



FACULTY OFFICER John-Ross Morland (pictured above) raised £2,700 for the Scottish Society for Autism when he successfully completed an

arduous 100-kilometre trek along the Great Wall of China last autumn.

John-Ross, from Polbeth in West Lothian, who has worked at the Faculty for four years, also flew the flag for Scotland by carrying the Saltire all the way to Beijing during his 10-day walk for the *Bravehearts to Beijing* appeal.

The Faculty provided sponsorship of £250 to help John-Ross towards his pledge to raise £2,500 for his chosen charity. He more than met his target, by collecting £2,710 out of a total of £122,000 raised.

The money raised by John-Ross and 40 other volunteers will go towards building New Struan House in Alloa, a much needed education centre for children affected by autism.

The existing Struan House opened in 1977 but is no longer able to cope with the demand for places. The money raised by the appeal will build a bigger and better site to cope with 54 children and aims to be the most advanced centre in the

world for autism. It has been designed by an architect, who is the parent of a former pupil at Struan House, in a way that relates to how autistic children view the world.

John-Ross says he has enjoyed the challenge and the experience of a completely different culture.

"Going to somewhere like the Great Wall is something I've wanted to do for a while and when I saw the advert, I jumped at it.

"I also wanted to raise money for the Autism Society. The brain is the most complicated organ. It's really who you are, and people who have this condition need help. There's a need for more research, so that's why I wanted to help this cause."

Neil Brailsford QC, Treasurer of the Faculty, adds: "The Faculty is extremely happy to lend its support to such an important cause. We would also like to thank members who helped John-Ross fund his expedition for their generosity."

Setting the record straight

In a recent speech, the First Minister said that lawyers were guilty of 'buck-passing' and 'self-serving practices'. The Dean responded with a more accurate viewpoint

IN HIS Apex lecture, First Minister Jack McConnell accused lawyers of buck-passing and self-serving practices. Colin Campbell QC (pictured below) swiftly responded in *Holyrood* magazine by pointing out that "the frequent portrayal of criminal legal aid as a gravy train for greedy lawyers may feed popular perceptions, but it is wide of the mark". He stressed that there has been an exodus of lawyers from this important area of work and that a crisis looms if the trend is not reversed.

The Dean noted that there is nothing in Lord Bonymy's recent review of the High Court which

suggests that the explanation for delays is defence lawyers exploiting the system for their own benefit. The Dean supported the Government's recent White Paper on the High Court when it called for "more and earlier information to the defence about the prosecution case." Late disclosure to the defence was identified by Lord Bonymy as an underlying reason for many defence applications for adjournments.

The Dean observed that the overall picture at present is hugely overloaded sittings, with far more trials set down than can possibly be

completed. Trial dates are being fixed when there is no real expectation of a trial beginning on that date, causing inconvenience and frustration to victims, their families, witnesses and jurors.

The aim should be to settle trial dates only when essential preparation is complete and both sides are ready. For this reason the Faculty supports the proposed extension of the 110 day rule.

Lord Bonymy also highlighted the pressures on judicial resources and in his *Holyrood* magazine article, the Dean commented that appointing more and more temporary judges to cope with the workload was "damaging the character of the Court."

Given that the First Minister was speaking shortly after a vituperative and personal attack on a judge by certain sections of the media, it was good that he stated that the independence of the judiciary is a cornerstone of our democracy. However, the Dean questioned the implication in his speech that judges are not sufficiently accountable for their decisions.

"In fact, few servants of the public are as accountable as our judges," the Dean emphasised. "In a society based on the rule of law, it would be a matter of great concern if experienced lawyers rejected judicial office because of a lack of public support for the role of judges".

The same issue of *Holyrood* Magazine carried comments on the First Minister's speech from Donald Findlay QC, Neil Davidson QC, Derek Ogg QC, Paul McBride QC and Maggie Scott QC.

Simply the best

COLIN CAMPBELL QC recently responded to an invitation from the editors of *Counsel*, the magazine of the Bar Council for England and Wales, to reflect on the first year of the Judicial Appointments Board for Scotland in light of the proposals in the government's consultation paper on selecting judges south of the border.

The Dean's comments were personal and not made on behalf of the Faculty or the Board.

The Dean expressed reservations about the current system of making recommendations by way of a ranked list of candidates, adding: "I would prefer a system where the Board simply selects the best candidates for the vacant posts. This would help to concentrate the mind on choosing the best, rather than identifying those who pass some minimum level of competence."

The Dean explained that the Board's remit does not extend to all judicial appointments in Scotland. For example, the Board has no role in the appointment of temporary judges of the Court of Session, although this is under review.

The Faculty has supported the Board's view that it should be given responsibility for recommendations for temporary judges.

A major issue facing the Board is how to take forward its remit to consider ways of recruiting judges who are as representative as possible of the communities they serve.

The Board has stressed that "unless more members of under-represented groups have the necessary legal training, these goals will not be achieved by the efforts of the Board alone."

The Board has therefore welcomed initiatives from the Faculty which recognise the need to educate our young people about our system of justice.

Books galore

We take a closer look at the Advocates' Library

THE ADVOCATES' Library has become a national institution since its formal inauguration by Sir George Mackenzie of Rosehaugh in 1689 and was the foundation of Scotland's National Library in 1925.

The *National Library of Scotland Act* of that year transferred the entire contents of the Advocates' Library "for public use to all posterity" with the exception of law books and legal manuscripts – the Faculty's tools of trade.

The Faculty gifted 750,000 printed books and pamphlets and a collection of unique and invaluable Scottish manuscripts.

Now, under the direction of Senior Librarian Andrea Longson, the aim is to provide a first-class library and information service to members of Faculty and staff and to Faculty Services Ltd.

The library, which has 17 full-time and four part-time staff, also acts as the national archive of law books in Scotland, providing access to information via the National Library of Scotland and promoting scholarship and research.

Edgar Prais QC has been Keeper of the library for more than a year and, in consultation with Andrea, has made a substantial contribution to the operation of the library.

Completed projects include a user survey, new library rules and suggestion boxes in the libraries in Parliament House, in Lawnmarket,

Edinburgh and in Saltmarket, Glasgow. The library is now also running a photocopying service trial. Mr Prais was the inspiration behind a highly successful evening in historic court three which featured leading author Ian Rankin in conversation with Donald Findlay QC.

The Heads of Department and their main duties are:

Andrea Longson Senior Librarian

In charge of the whole library, budget, staff management and strategic planning.

Maria Robertson Reader Services Librarian

Deals with inquiries, provides training for members, orders books, supervises library assistants.

Sharron Wilson Periodicals Librarian

Oversees the work of the periodicals section, ensures that all journals are received and available and that all loose-leaf publications are kept up-to-date.

Angela Schofield Bibliographic Services Librarian

Maintains the online catalogue, ensures that all stock is in the best location with room for growth. Responsible for the collection and management of rare books.

Louise Moyes Assistant Librarian

Responsible for the collection of judgements and other papers from courts and tribunals. Organises indexing and storage. Maintains Court Papers and Damages Databases.

Co-ordinates IT matters in the library and deputises for the Reader Services Librarian. Other members of staff include Senior Library Assistant Rosemary Paterson and Lindsay Levy, the Rare Books Cataloguer.

The main library is in Parliament House and not only are there additional libraries at the High Court buildings in Lawnmarket, Edinburgh and Saltmarket, Glasgow, but in the House of Lords too. Christina Tiffney oversees the Saltmarket Library.

In an average year, there are 16,000 items borrowed from the library and staff also deal with about 4,000 routine inquiries and 1,000 reference inquiries per year.

Staff are constantly striving to improve the services available in the library and the past year has seen the introduction of the Justis online service, the online provision of Scottish Criminal Case Reports and Scottish Civil Law Reports, a collection of Sheriff Court judgements with supporting database, Green's Litigation Styles, Butterworths Health and Safety Service, including Redgrave and Butterworths Employment Service including Harvey.

In May 2003, work began on the online cataloguing of Sir Walter Scott's library at Abbotsford. Scott was an avid bibliophile and there are more than 9,000 volumes there.

Snail in the bottle floats online

The Faculty has been helping the Scottish Council of Law Reporting make some of Scotland's law reports available on the Internet



She should never have asked for a slug of ginger!

THE FACULTY has provided a major boost for Scots law by assisting the Scottish Council of Law Reporting (SCLR) make Scotland's most authoritative law reports available on the Internet.

SCLR is the non-profit making charitable organisation responsible for producing Session Cases, which take precedence over any other law report quoted in Scottish courts.

Thanks to what John Elliot WS, SCLR Chairman, described as "generous sponsorship" from the Faculty, the electronic archive now stretches back to 1930.

It includes *Donoghue v Stevenson*, the case of the snail in the ginger beer bottle in a Paisley café, which had a huge influence on legal thinking on the law of consumer protection and product liability far beyond Scotland's small jurisdiction.

The new SCLR website can be visited at www.scottishlawreports.org.uk. It has a great list of useful web links by Derek O'Carroll and contains digital images of the actual Appeal Papers in *Donoghue v Stevenson*.

The other key factor in making Session Cases available on the Internet for the first time has been the collaboration between the SCLR and Context Ltd which has resulted in the reports now being published on Justis.com, Context's leading research service.



Sarajevo calling

THE PARENTS of Almira Delibegovic-Broome enjoyed a unique welcome to the Faculty when the Dean welcomed them to her calling ceremony in their native language.

Almira (pictured left) arrived in Scotland in 1992 as a 21-year-old student from Bosnia to take part in an international summer school and had to stay after the outbreak of war made a return home impossible.

Almira's parents travelled from their home town of Tuzla to see her become a fully-fledged advocate and immediately headed for Dundee University to see her younger sister, Mirela, who studied biochemistry, receive her PhD on the same day.



Rankin rare find

ADVOCATES' CLERK Lisa Paton (pictured left) was delighted to meet Ian Rankin during his recent appearance at Parliament House for his highly entertaining "chat show" with Donald Findlay QC. Rankin signed her copy of his 1986 novel, *The Flood* and as Lisa

discovered, his first published work. She was even more delighted when he confirmed that it was one of only 200 copies in existence, one of which had been sold on eBay, the online marketplace, for \$6,000.

Lisa explains: "I bought the book in a charity shop for 60p when I was a student. I took it along to see if it was a genuine first edition and Ian Rankin's reaction was: 'Where did you get this? Now that it is signed by Rankin, if I get a reasonable offer, I would be very tempted!'



Devil may care

EIGHTEEN DEVILS are now in the midst of their training in advocacy skills which began in October and November last year with the Faculty's Foundation Course. The Foundation Course is designed to increase awareness and understanding of the fundamental skills and knowledge required to be a successful advocate.

Organised by Kenneth Campbell, the Faculty's Director of Training and Education and Rosie Saunders, the Training Manager, and involving more than 40 practising advocates trained as instructors, the intensive course covers areas such as the examination of witnesses, jury speeches, making legal submissions to the court, drafting written pleadings and consulting

clients. More than 200 devils have now participated in the Foundation Course since it began in 1995.

The devils (pictured above) and their principal devilmasters are: Alice Taggart (Louise Milligan); Alan Macleod (Margaret Hughes); Christopher Pirie (Donald Davidson); David Small (Andrew Young); David Thomson (Craig Sandison); Fergus Thomson (Michael Howlin); Gordon Michie (Andrew Webster); Heather-Mairi Carmichael (Ruth Crawford); Isabella McKerrow (Robert Milligan); Isla Davie (Alan McLean); James Dawson (Jonathan Lake); James Hastie (Archibald MacSporran); Karen Bruce Lockhart (Morag Wise); Lorna Maclean (Jane Porter); Mark Strachan (Stuart Nicol); Martin Richardson (David Johnston); Paul Nelson (Ian Sharpe); Paul O'Brien (Robert Weir).

People on the move

Lord Mackay of Clashfern, the former Lord Chancellor and Dean of the Faculty of Advocates, has been awarded the Royal Gold Medal by the Duke of Edinburgh for his outstanding contributions to Scots law and public service. Menzies Campbell QC MP was knighted in the 2004 New Year Honours.

Andrew Stewart has succeeded Eugene Creally as Clerk of Faculty.

Donald Findlay QC has been elected as Chairman of Faculty Services Ltd.

Patricia Comiskey is now Clerk to the Examiners and Depute Clerk of Faculty. Colin Tyre QC has been appointed as a Commissioner of the Scottish Law Commission.

Valerie Stacey QC has been appointed as a member of the Sentencing Commission chaired by Lord MacLean.

Sue Rouf, a solicitor with law firm Bishops, has replaced Mike Weeple as Legal Assistant to the Dean of Faculty. Mike has taken up a new job with the Scottish Executive.

Liz Ewing, the IT manager, has retired. Her replacement is Howard Beck. John Kerr, who joined Faculty Services Ltd as interim Chief Executive in February 2003, has now been appointed Chief Executive.

Bruce McKain, formerly Law Correspondent of the *Herald*, has joined the Faculty as Director of Public Affairs.

QC appointments

Professor Gerry Maher, Ronald Watson, Mhairi Richards, Norman Ritchie, Johanna Johnston, Sean Murphy, Robert McCreadie and Martin Jones, all members of Faculty, have been appointed as Queen's Counsel.

Worthy causes

THE FACULTY is currently involved in a number of wide-ranging sponsorship projects which have been approved by Treasurer Neil Brailsford QC.

Following the successful single event sponsorship of Elgar's *Dream of Gerontius* at the Usher Hall last May, the Faculty has now agreed to become a sponsor/supporter of the Royal Edinburgh Choral Union. The Faculty has also agreed to sponsor a major prize in the Scottish International Piano Competition in the Glasgow Royal Concert Hall in September. In addition, Feis Rois, which champions the survival of traditional music in the north of Scotland, is currently involved in sponsorship talks with the Faculty.

On a wider front, the Faculty is looking at sponsorship projects involving the Glasgow Young Refugee Project and the Cyrenians, an organisation that tackles homelessness in Edinburgh and West Lothian.

FACULTY news

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