

Jan/Feb 2012 - Issue 02

# Signet

magazine

The magazine of  
The Society of Writers to  
Her Majesty's Signet

WILLIAM ROUGHEAD WS

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Letter from America Randy Gordon

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John Duncan Fergusson, RBA (British, 1874-1961)  
*La Plage Royan* (detail)  
£70,000 - 100,000  
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# Signet magazine

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ACKNOWLEDGEMENTS National Archives of Scotland, Paul Raeburn Photography

DESIGN The WS Society

PRINTING Minuteman Press

PUBLISHER The WS Society

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## THE SOCIETY OF WRITERS TO HER MAJESTY'S SIGNET

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Keeper of the Signet  
THE RIGHT HON LORD MACKAY  
OF CLASHFERN, KT

## MICHAEL PORTILLO

# A night to remember

**Y**ou are in for an experience this evening that I hope will be at least as pleasurable as my own personal Florida favourite – The Simpsons Ride at Universal Studios. But a bit longer – longer even than the queue. Please make sure that you keep all body parts inside the table area at all times, that you remain seated and in an upright position for the duration of the dinner, and that you keep your shirt and shoes on until the dinner comes to a complete end. Please ensure that you take all personal belongings with you when you exit the table, doing so to your left. So – sit back, relax, and enjoy the ride”.

With these words Caroline Docherty - just back from a holiday in Florida - welcomed guests to the Signet Library for the the WS Society's Annual Dinner 2011.

Guest speakers for the evening were The Right Hon. Michael Portillo and, upon the occasion of his being admitted as a Fellow of the WS Society, The Right Hon. Lord Hope of Craighead (David Hope).

Before dinner, Caroline Docherty paid tribute to Lord Hope's distinguished career (see opposite) and also referred to his family's connections with the WS Society over several generations:

“The name Hope takes up probably

more space than any other in the Society's history. His father, uncle and grandfather were all members. His father-in-law was, and his brother-in-law is a member. His great-great-grandfather James Hope was the longest serving Deputy Keeper, serving 54 years in total in that office - his coat of arms can be seen in the window at the end of the room. James' father – David's great - great - great grandfather, Charles Hope - was Lord President from 1811 to 1841, and you came past the splendid portrait of him as you came up the stairs tonight and on display on the landing is a copy of an appreciation signed by then Deputy Keeper and members of the Society on the occasion of that Lord Hope's retirement”.

Lord Hope said in his speech after the dinner that when growing up “the letters WS meant far more to me than QC”.

Introducing Michael Portillo, Caroline Docherty referred to his “transformation into virtual national treasure” after his political career in the Conservative Party during which he served as a Minister in Margaret Thatcher's Cabinet. His eventual electoral defeat was later voted by Channel 4 viewers and *Observer* readers as their third favourite moment of the 20th century. Caroline said that “it is his blend of humour, good sense and

the ability to poke fun at himself, as well as his obvious talents as a writer and television presenter, that has so rightly endeared him to the British public”.

Michael Portillo's speech was a *tour de force* on social, political and economic affairs at global, European, UK and Scottish levels, elegantly introduced and closed with anecdote and humour, much of it self-deprecating. Referring to himself as a member of an exclusive club of “former future Prime Ministers”, Mr Portillo joked that an application to join had been received by former Labour Party leadership contender David Miliband. He added – perhaps reflecting his continuing political loyalties - that one was also due from Labour leader Ed Miliband.

Commenting on the question of a referendum on Scottish independence, Mr Portillo said:

“All the momentum is with Alex Salmond. The UK government seems to be mightily distracted by other issues and I think England is sleeping while events go on north of the Border”. He said he “profoundly hoped” there was serious thought being given at Westminster to the future of Scotland, but added: “Alex Salmond has been left the field so much to himself. What political rival does



he face? None... He probably gets up every morning and thinks about this and has done for many years. But for David Cameron – who has actually been very thoughtful about Scotland – it is one of a very long list of things he has to pay attention to, and obviously with Libya and the Euro and so on, he’s obviously not giving it the attention Alex Salmond is”.

After Michael Portillo closed with a toast to the WS Society, Lord Hope responded with a toast to the Society’s guests.

Lord Mackay of Clashfern closed the evening by referring to the magnificence and quality of the evening and to the evolution of the WS Society and of the Signet Library. Lord Mackay spoke approvingly of the opening of the Champagne Bar at the Signet Library for the Edinburgh Festival last summer and looked forward to similar initiatives which would make the splendours of the building known to a wider audience.

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## LORD HOPE of Craighead

Lord Hope of Craighead was made a Fellow of the WS Society at the Society’s Annual Dinner on 11 November 2011.

Born in Edinburgh. Studied classics at the University of Cambridge and law at the University of Edinburgh. Admitted to the Faculty of Advocates in 1965 (after serving as a devil to James Mackay, now Lord Mackay of Clashfern). Became a Queen’s Counsel in 1978 and thereafter was Dean of the Faculty for three years. Appointed in 1989 as Lord President of the Court of Session and Lord Justice General of Scotland. In 1996 appointed a Lord of Appeal in Ordinary.

In 2009 appointed the second senior Lord of Appeal and later that year he became the first Deputy President of the new UK Supreme Court.

Appointed a Privy Councillor in 1989 and a Life Peer in 1995. Appointed a Knight of the Order of the Thistle in 2009. He is an Honorary Bencher of Gray’s Inn, a Fellow of the Royal Society of Edinburgh and Chancellor of Strathclyde University. He is also

Chairman of the Advisory Board of the Institute of Advanced Legal Studies. He is a former President of the Commonwealth Magistrates’ and Judges’ Association.

Away from the law, Lord Hope’s great loves are his family, walking, music and ornithology.

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*“Alex Salmond has been left the field so much to himself. What political rival does he face? None. He probably gets up every morning and thinks about this and has done for many years. But for David Cameron it is one of a very long list of things he has to pay attention to.”*



Above: Michael Portillo interviewed for the *Scotsman* prior to the main event.

Overleaf: Photographs from the event by Paul Raeburn Photography.





LORD WALLACE

JONATHAN MILLS

MIKE WADE

SIMON LAIRD



MICHAEL PORTILLO

LADY MACKAY



ANNA BENNETT

JONATHAN SEDDON

NICK SMITH



LORD MACKAY

LORD HOPE



CAROLINE DOCHERTY



LORD HAMILTON

RICHARD KEEN

CAROLINE DOCHERTY



LORD HAMILTON

VERY REV GILLEASBUIG MACMILLAN

LORD GILL



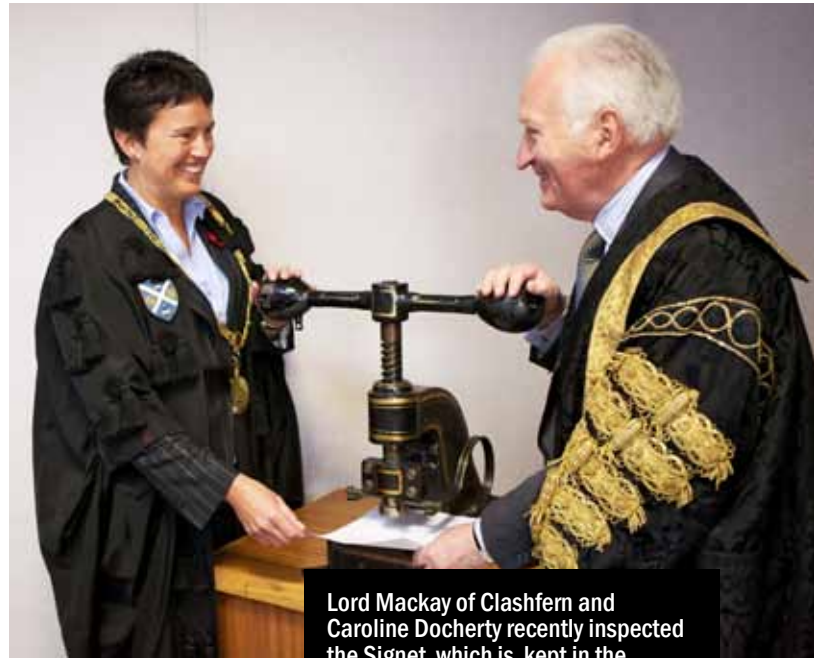
DONALD FERGUSON



## — Inspecting the Signet —



LORD HOPE



Lord Mackay of Clashfern and Caroline Docherty recently inspected the Signet which is kept in the Signet Office under the control of the Principal Clerk of Session at the Court of Session. For those not familiar with the history, the Signet originated as the seal of the Kings of Scotland and is still in use today to authenticate court documents.



LORD CULLEN

SHERIFF PRINCIPAL  
MHAIRI STEPHEN



ANDREW MCRAE

LORNA JACK



MIKE WADE

# *On the right track?*

**T**he turn of the year is always a time to reminisce and speculate, and in the most recent holiday, for the first time, I consulted the authors of *Old Wade's Almanac*. Through their good offices I was able to obtain an executive summary of the forthcoming Inquiry into the Edinburgh Tram project. The findings, prepared by a leading consultancy, are reprinted here for your benefit.

- Background. The Edinburgh tram project was conceived with the best intentions, to promote "green" transport, to modernise the city's transport infrastructure, and to benefit the population, notably in Leith. It received widespread political support at a local level, but plans were pushed through too speedily by the former Labour administration, who, fearing defeat in the 2007 elections, sought to secure its own "legacy". Oops.

- National political leadership. Funding of £500 million for the project was voted through by politicians of all parties in spite of opposition by the minority SNP Scottish Government. The SNP administration promptly removed its agency, Transport Scotland, from the tram project. In the consultancy trade we call this "cutting off your nose to spite your face".

- Governance. Responsibility for the project was by-passed to TIE, an "arm's length" company linked to the Council. As early as 2007, TIE had been removed by Transport Scotland from a managing role on another transport project, the Stirling - Alloa railway, which was finally completed, late, for £87 million, more than twice its original budget. Not a good start, but then, despite their handsome salaries, few staff at TIE had direct experience of the successful management of a large-scale civil engineering project. Unbelievable, no?

- Route. The route through Leith bisected one of the most

important medieval settlements in Britain and any archaeological finds would necessarily hinder construction. In the event, the discovery of 300 skeletons in a sunken graveyard near one of the oldest churches in Scotland halted construction for four months. A blind man on a galloping horse could have seen that one coming, but not the people running this project.

- Contractors. Hailed on their appointment as experts, these lads





proved a bit of a handful. In their native Germany, Bilfinger Berger took some flak, when the Cologne city archive fell down while the company was tunnelling nearby. In Edinburgh, they apparently did not bargain for the harsh Scottish weather and laid tramlines in winter. These had to be dug up and laid again, adding further delays. Vorsprung durch Technik anyone?

- Dispute. Like the 100 Years War of old, no-one alive is old enough to remember when the dispute between TIE and the construction consortium broke out, nor could anyone tell us what it was about. But we know for sure that it ran for the better part of an entire Parliamentary term, and for at least half the life of the Edinburgh Council elected in 2007. Throughout this period it halted work on this, one of the biggest construction projects in Scottish history, yet no politician or public official made a decisive intervention. It's a chilling thought really, isn't it?

- Outcome. The project was realised in autumn 2014 three years late and, at £800 million, £250 million over budget. A line of just eight miles was completed, two thirds of its original length. Leith, one of the most impoverished parts of Edinburgh, was devastated: local businesses, the swimming pool and, with a kind of sick irony, the Job Centre all shut down as a consequence of the abortive work. There is no realistic prospect of the full route being completed any time soon.

- Recommendation. Next time, take the No 22 bus.

- Invoice. Our fee is £1 million. Terms are 28 days.

*No-one alive is old enough to remember when the dispute between TIE and the construction consortium broke out, nor could anyone tell us what it was about.*

## Deputy Keeper's Letter



The writing of my column always involves me in a mix of looking back and looking forward, and this time is no different. Looking back only to the last (and first) edition of this magazine in the summer, I am reminded of the many letters and emails of congratulations the team at the Society received on its production. Their theme was that this development says more about the Society than the mere words on the page; it demonstrates the breadth of our activities, the depth of our history, and the constant, careful reinvention we have to undertake. Thank you to all who took the time to get in touch. I am all the more delighted that this second edition represents a further development, in that its design and production have been undertaken entirely in-house, thus keeping production costs to a minimum, and giving us greater control over its look and feel. Once again, I am very happy with the result.

People often ask me why I enjoy being DKS, and I think that the articles in this edition go a long way to explaining. They demonstrate the breadth of our membership, with contributions from members in Italy and the USA, and we also see evidence of the role that our members have always taken and continue to take in training and in educating members of the wider profession. But it is reading more about the Roughead Collection that really illustrates one of the things I most enjoy about the Society. We have such a wealth of

“treasures” - in some cases in terms of value, but I am really referring to their interest – and virtually every time I visit the library I get to see something new to me and fascinating. One of our challenges is to make these treasures more widely available, and present them in a fresh and interesting way.

But, of course, the highlight of the WS year is the Annual Dinner. As I think the photographs illustrate, the Upper Library was looking “awesome” as I said on the night, still under the spell of a trip to the States. And the photographs also show a lot of people enjoying themselves. Even I am smiling - in the face of a sell-out audience, and speakers of the national calibre of Michael Portillo and Lord Hope. Perhaps it is true that I am a glutton for punishment.

As the Chief Executive reminds us elsewhere in this magazine, in the summer we played host to a “pop-up” Champagne Bar in the Lower Library, which was a tremendous success with members and visitors alike. Our aim now is to build on that success, developing the use of our building, and maximising its potential.

So, it is not all dinners and champagne. Though both do help the enjoyment.

**Caroline Docherty**  
Deputy Keeper of the Signet

*The Deputy Keeper of the Signet is the most senior membership representative of the WS Society.*



# CELEBRATING WILLIAM ROUGHEAD WS

60 YEARS OF THE ROUGHEAD COLLECTION AT THE SIGNET LIBRARY

*'...the best  
showman that  
ever stood  
before the  
chamber of  
horrors'*

Dorothy L Sayers

William Roughead WS (1870 - 1952)



# Pioneer of 'true crime'

William Roughead WS began a legal career but quickly abandoned it for crime writing, becoming a celebrated exponent of the 20th century "true crime" genre. Roughead's influence on crime writing was enormous and he was popular on both sides of the Atlantic. Anna Bennett tells the story of this gentle genius.

**T**he Commissioners' Room in the Signet Library has an atmosphere all of its own. Its oak lined bookcases, open fireplace and view over the illuminated desks in the Advocates' Library create a special sense of Scottish legal heritage. But it is the unique collection of books on the Commissioners' Room shelves, donated by the late William Roughead WS, which weaves the most fascinating of personal histories. The WS Society's "Roughead Collection" has international importance, for Roughead was a pioneer of modern crime literature, recognised across the world. May 2012 marks the 60<sup>th</sup> anniversary of his death.

Roughead's entrance to the legal professional was quite traditional. After early studies at Edinburgh University he was an apprentice to T S Maclaren and William Traquair. He was admitted as a WS in July 1893.

That same year Roughead used family inheritance (his father owned an outfitter and draper's shop on Princes Street) to set himself up as a lawyer in premises at 122 George Street, Edinburgh. Roughead's independent wealth was pivotal to his future. Without the pressures of looking after clients and seeking out new work, he was able to devote his time to

his true interest. Roughead was afforded the opportunity to begin on a new path, as a writer and editor of studies in crime.

There were early signs of this alternative career - in 1889, at the age of 19, he skipped apprentice duties to attend the trial of Jessie King, the "baby farmer" of Stockbridge. For the next 60 years Roughead attended almost every murder trial of significance at the High Court of Justiciary. Essays by Roughead on these experiences were first published in the *Juridical Review*.

The essays and commentaries quickly evolved into wider studies of crime, which were printed in overlapping anthologies, each including the word "murder" in their title. In fact, Roughead regretted not using this reference in the title to his first book, which he simply called *Twelve Scots Trials*. He later expressed his disappointment:

"I have always considered that my venture suffered in its baptism... of those three fateful words two at least were unhappily chosen. 'Scots' tended to arouse hereditary prejudice... 'Trials' suggested to the lay mind either the bloomless technicalities of law reports or the raw and ribald obscenities of the baser press... Had there been a

'baker's dozen' the game would have been up indeed".

A lifetime's work in literature followed, which gained Roughead the accolade of "recording angel of Scottish matters criminous". His skill lay in his ability to convey the content of the criminal mind to the reader. His accounts of the dark and sinister intentions of the accused, who by all other appearances were ordinary people, represented a new way of commenting on murder and crime.

Roughead edited nine volumes in the *Notable Scottish Trials* series. His books allowed the entire case to be put before the reader, resulting in a feeling of being present in the courtroom as the proceedings took place. Roughead enjoyed a special relationship with court officials and staff. He had his own reserved place and desk in the High Court and consulted official records freely. His writing was thorough and detailed, but his were not books for lawyers, they were for everyone.

Roughead's editions in the *Notable Trials* series included accounts of some of the most notorious criminal cases both old and new, including such household names as *The Trial of Burke and Hare* (1828), *The Trial of Captain Porteous* (1736) and *The Trial of Deacon Brodie* (1788). However, it

is widely accepted that his greatest achievement was his analysis of the trial of Oscar Slater and his integral part in the appeal process, the topic of a separate article in this magazine.

**A**lthough his work always concerned crimes committed in Scotland, his appeal was much wider, crossing nations and continents. He had popular success in the US, where the American audience relished his dry sense of humour and inimitable style. President Franklin D Roosevelt kept a complete set of Roughead books in his personal collection, on a shelf outside the Oval Office. American culture was embracing pulp fiction, the new style of the detective novels by Raymond Chandler, Dashiell Hammett and James M Cain. Film noir was emerging and Roughead's dramatic and engrossing accounts of pre-meditated crime fitted in well.

Roughead gained praise from his contemporaries and peers. His friend Henry James talked of his "witty scepticism, and a flair for old-fashioned storytelling and moralising" whilst Dorothy Sayers described him as "the best showman who ever stood before the door of

the chamber of horrors".


These comments perhaps do not portray the man behind the writing. He was described as "kindly", even "cherubic" in an article which appears in the *Sunday Post* in December 1939. He had a retiring disposition and was sensitive to any reference to his baldness (pictured with a hat and glasses most often). In the *Sunday Post* interview he admitted:

"I have a pretty soft heart and time and time again, when the judge has put on the black cap and the condemned man or woman has howled in terror, I have felt almost sick. I have sworn at these times I had never attend another trial. But - well, something draws me back".


It is this human response coupled with his critical legal ability which makes Roughead's writing so rich, influential and still relevant today.


The WS Society continues to work on the Roughead Collection. An online catalogue of 175 items is available for research, with more items being added. A pilot project with the National Archives of Scotland to digitise Roughead's personal scrapbooks relating the Oscar Slater trial has recently been completed.

*"I have a pretty soft heart and time and time again, when the judge has put on the black cap and the condemned man or woman has howled in terror, I have felt almost sick. I have sworn at these times I had never attend another trial. But - well, something draws me back."*



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CELEBRATING WILLIAM ROUGHEAD WS  
60 YEARS OF THE ROUGHEAD COLLECTION AT THE SIGNET LIBRARY

# Oscar Slater: Presumed guilty

William Roughead's *The Trial of Oscar Slater* is one of his best known works. An account of Scotland's most notorious murder trial of the early 20th century, the book marked the beginning of Roughead's campaigning involvement in the fate of Oscar Slater. Roughead was among many leading figures who exposed the prejudice behind the original murder conviction in an era when there was no right of appeal in Scottish criminal cases.  
By Karen Baston.

**I**t was a murder case fit for Sherlock Holmes. On 21st December 1908 Miss Marian Gilchrist, an elderly lady with a desirable jewellery collection, was brutally beaten to death in her Glasgow flat. The only thing missing from Gilchrist's flat was a diamond brooch. There was no sign of forced entry into the carefully locked home and the rest of Gilchrist's possessions were left in place. Her maid had only been absent from the flat for about ten minutes. What was the motive and who had committed such a horrendous crime?

Police had little difficulty in identifying a suspect of questionable character. Oscar Slater had tried to sell a pawn ticket for a diamond brooch before travelling to New York via Liverpool on 26th December. His actions seemed suspicious to the police and, although he did not resemble the man described in eyewitness accounts, he became the prime suspect.

Slater, a German Jew, had moved to London in the 1890s. He soon developed a criminal record for an array of crimes including assault and he was a known associate of members of the criminal classes. He was in Scotland by the late 1890s but divided his time between Glasgow, London, and New York. Slater used a variety of aliases and addresses: he was known to police wherever he settled thanks to his involvement in gambling and other marginal activities. He also worked as a dentist and as a "Dealer in Diamonds and Precious Stones".

Slater was an ideal suspect and the police followed



Oscar Slater after his release. Roughead Collection, Signet Library.

him to New York. He returned to Scotland voluntarily to face trial for the murder of Marian Gilchrist in May 1909. Among those attending the trial, as was his custom, was William Roughead. Roughead noted the weakness of the prosecution's case which was mostly based on unreliable eyewitness accounts as well as the idea that Slater's trip to New York had been an attempt to evade the police. Slater's past history was also admitted as evidence. He was found guilty and sentenced to death. But not everyone was convinced of his guilt. Additional information soon came to light after sentence was passed and Slater's sentence commuted to life imprisonment.

Roughead was appalled by Slater's treatment during the trial. He published the *Trial of Oscar Slater* as one of his *Notable Scottish Trials* in 1910. This outlined his concerns about how evidence against Slater had been collected and about how the trial was conducted. The book was based on Roughead's notes from the trial: he also used the shorthand notes taken by a team of court clerks. There was no Scottish court of criminal appeal at the time so Slater was unable to have another day in court. However, Roughead's work on the case attracted interest. Sir Arthur Conan Doyle's version of events, based on Roughead's, appeared as *The Case of Oscar Slater* in 1912.

An inquiry into the Slater case took place in 1914 which explored evidence suppressed during the trial about another suspect: the Glasgow policeman John Thompson Trench, who had been involved in the original investigation, believed that one of Miss Gilchrist's relatives was guilty of the crime. The inquiry did not exonerate Slater - officials covered up the new information offered and accused Trench of corruption - but his cause continued to gain support. Roughead brought out a second edition of his book in 1915 which incorporated information from the inquiry.

The Glasgow journalist William Park wrote a new account, *The Truth About Oscar Slater*, in 1927. Park worked with Roughead and Conan Doyle and used Roughead's collection of papers to write his book. Roughead's copy, now in the Signet Library, is bound with letters from Conan Doyle and Park. Slater had by this time been in prison for nearly nineteen years. Park's book

caused outrage and the *Criminal Appeal (Scotland) Act 1927* was given retrospective powers so that the Slater case could be re-opened. Slater was released from Peterhead Prison in November 1927.

Roughead, Conan Doyle, and a legal team that included top criminal lawyer Craigie Aitchison prepared Slater's appeal. Roughead preserved his correspondence and newspaper reports about the Slater affair in a series of scrapbooks, now in the Signet Library's Roughead Collection.

“I watched Slater's face as... he strained every nerve in his anxiety... Not until the last words fell from his lordship's lips did the appellant realise that he had won the day.”

One of these has recently been digitalised for the WS Society by the National Archives of Scotland. This is titled “The Slater case. Being a consecutive narrative of the proceedings following the 1914 Inquiry, until the release of Oscar Slater and the quashing of his conviction by the High Court of Justiciary on 20th July 1928, with the subsequent payment made to him by Government, all as recorded in the contemporary newspaper press. Illustrated with original letters,

documents, and photographs”.

The *Daily News* credited Roughead, along with Conan Doyle, Park, and Trench, as “The Big Four of the Slater Case” (19 November 1927) whose efforts resulted in the case being reopened. The reporter described Roughead as the “most kindly, shrewd, and witty of men” and related that “one evening some weeks ago I found him busy with scissors and paste pot, and it appeared he was adding my articles to [an enormous collection of newspaper cuttings] – ‘for the benefit of posterity’”. This *Daily News* cutting appears in the Slater scrapbook described above.

Slater had a fresh trial in 1928. On 9th July 1928, Roughead acted as a witness based on his attendance at the original trial and the first edition of his book was used in court. He also gave evidence that the small hammer that Slater had used in his jewellery business could not have caused the horrific injuries that resulted in Gilchrist's death all those years earlier. Roughead recorded the dramatic moment when Slater learned the result of his appeal:

“I watched Slater's face as, leaning forward in his place, with his hand behind his ear, he strained every nerve in his anxiety to follow the low, rapid reading of the judgment; and as point after point was given against him, it was obvious that he believed his case lost. Not until the last words fell from his lordship's lips did the appellant realise that he had won the day”.

The Appeal Court found that the judge had misdirected the jury by failing to remind them that Slater's past should not be considered when making their verdict. Slater was not actually found innocent of the murder but the appeal verdict was one distinctive of the Scottish criminal justice system: not proven. He was awarded £6,000 as compensation from the government for the time he had spent in prison.

A fully updated third edition of *The Trial of Oscar Slater* appeared in 1929. Roughead continued collecting information about Slater in his scrapbooks and he published a fourth edition of *The Trial of Oscar Slater* in 1950 following Slater's death in 1948.



Telephone Cadnam 39.  
Nearest Station Totton.

Bignell Wood,  
Minstead,  
Lyndhurst.

Dear Mr Roughead

I shall be returning through  
Edinburgh this week end and shall be  
at the N. British Hotel. Could you dine  
on Monday night at 7.30? No dress.  
Send a line to the Hotel.

Yours sincerely

Arthur Conan Doyle.

Sept 7.

### The Slater Case:

Being a consecutive narrative of the  
proceedings following the 1914 inquiry  
until the release of Oscar Slater and  
the quashing of his conviction by the  
High Court of Justiciary on 20<sup>th</sup>  
July 1929, with the subsequent payments  
made to him by Government, all  
as recorded in the contemporary newspaper  
press.

Compiled by  
William Roughead, M.S.  
Editor of The Trial of Oscar Slater.

Illustrated with original letters, documents,  
and photographs.

Edinburgh:  
1929.



The Roughead Collection at the Signet Library includes not only Roughead's book collection but also his scrapbooks and other papers. All his papers on the Oscar Slater trial have been digitalised in collaboration with the National Archives of Scotland.

This page:

Clockwise from the top: letter from Arthur Conan Doyle arranging to meet Roughead; Roughead's manuscript title page for his Slater record; cartoon of Craigie Aitchison after his appointment as Lord Advocate in 1929.

Next page:

Clockwise from the top: newspaper marks Slater's release from Peterhead Prison; photograph of Arthur Conan Doyle and Craigie Aitchison KC; Roughead's admission ticket for the 1928 trial; newspaper shows pathologist Dr Galt reviewing his records of the Slater case.

All from the Roughead Collection, Signet Library



# 18 YEARS of GRANITE HELL



1900

Oscar Slater, an innocent man, was entombed behind the grey barriers of Petechoud.

## The Vindication of Oscar Slater

### CRAIGIE AITCHISON'S FOURTEEN-HOUR SPEECH



1927

He emerged, but the granite had entered into his soul.

In 1925 a released convict carried a tiny scroll of paper, hidden under his tongue, to Conan Doyle, the novelist. It was a message from Slater, and read: "For God's sake, get me out of this hell." The subsequent agitation for his

Famous Scottish Doctor Tells His Secrets

## THE MISSING



DR GALT studies the records of his interesting cases.

## CLUE IN THE SLATER CASE

A KILMARNOCK lad, Dr Galt began as a chemist's assistant. Early in his career he became medico-legal examiner to the Crown, and played an important part in many famous criminal trials, including that of Oscar Slater. Here he tells how an important clue, which would have altered the whole aspect of the case, was overlooked in Slater's trial.

By DR HUGH MILLER GALT  
Well-Known Pathologist



Sir Arthur Conan Doyle, who has taken a keen interest in Slater's case, and Mr Craigie Aitchison, K.C., leading counsel for Slater in the appeal.

Number

9

NOT TRANSFERABLE.

Date Friday 8<sup>th</sup> June 1928

HIGH COURT OF JUSTICIARY.

ADMIT BEARER.

PRINTED BY THE NEWSPAPER PRESS, LTD., LONDON.



# The blame game

The Scottish Government has declared no-fault compensation its favoured way forward for the NHS in Scotland and set up the No-Fault Compensation Review Group (NFCRG) to look at the options and the models adopted in other countries. NFCRG member Professor Kenneth Norrie explains the arguments.

**M**edical practice, like any other human activity, sometimes causes harm. If that harm was the result of negligence, then the patient may seek damages. Yet any patient who suffers injury needs care for that injury, whether or not he or she can establish delictual liability. The current system provides high levels of compensation for some patients injured in the course of medical treatment, and no compensation at all for most.

The Scottish Government recently accepted the recommendations of the No-Fault Compensation Review Group (NFCRG), which had identified significant merits in moving away from delictual liability in this area and providing compensation for the victims of medical accidents without their having to establish negligence.

## *Justifications for no-fault compensation*

The NFCRG concluded that medical accidents were different from most other accidents, and so could be compensated on a different basis, for a number of reasons:

- The legal test for fault is far removed from moral fault: the law currently focuses on causes and not effects and gives no ethical ground for identifying who deserves to be compensated.
- Liability is often completely out of proportion to the level of fault: a moment of carelessness by an obstetrician, for example, might lead to massive and long-term disability.
- There is a risk that the present law encourages medical decisions to be made on the basis

of reducing the chances of litigation rather than on a professional judgment of what is best for patients.

- Learning from mistakes is made more difficult if admitting one's own errors might lead to liability.
- When someone is ill, they feel obliged to seek treatment and they do not have the choices that they typically have in other walks of life of whether to undertake risks or not.

**Compensation is often not what patients want, which is explanation, or apology, and systems improvement, so that the bad outcome does not affect other patients in the future.**

- The legal process is particularly complex in medical negligence claims: the test for professional liability is higher than for "ordinary" liability; the need to find professional witnesses is troublesome; causation within the law of negligence is especially difficult for patients to prove; there is seldom an "equality of arms" between a patient and a health-care provider. This massively increases the overall costs of legal claims with the

result that the law of negligence is a highly cost-ineffective means of providing compensation to patients injured during health-care.

- Presently, damages paid for out of NHS funds are assessed on the costs of private treatment and so the existing system effects a shift of resources from public to private providers.

## *Drawbacks of no-fault schemes*

It has to be recognised, however, that there are some serious drawbacks to any no-fault scheme, for example:

- Compensation is likely to be lower than would be obtained under a normal claim for negligence: in cases of extreme injury this reduction will be very great.
  - Removal of the threat of litigation removes an incentive to seek higher standards of care. The link between paying compensation and learning lessons from bad outcomes is broken.
  - Compensation is often not what patients want, which is explanation, or apology, and systems improvement, so that the bad outcome does not affect other patients in the future.
  - Patients may feel a lack of accountability because the health professional is not financially liable and may therefore look to other bodies such as the General Medical Council or other regulators to hold the professional to account.
  - Causation is often the most difficult element in a claim for negligence, yet it cannot be avoided and so the practical
- Continued on page 20*



# In camera

Upper Library of the Signet Library,  
WS Society's Annual Dinner,  
11th November 2011.







benefits of a no-fault scheme are less than might appear at first sight. Nor is there any real ethical improvement in the operation of a compensation scheme: a person born congenitally injured continues to get nothing from a no-fault compensation scheme though his or her needs are identical to those of a person who suffers the same injury caused by medical treatment that goes wrong.

#### *Other questions*

Even if it is adjudged that a no-fault scheme has more benefits than disadvantages, there is a host of questions that need political and legal answers. First and most obviously, who pays and how? Should it be an insurance-based model, or a social security claim? Should court action be prohibited, or allowed when claims for no-fault compensation are rejected? What appeal mechanisms ought there to be? Should there be financial limits on what can be claimed, and if

so how much? Are there types of injury that should be excluded (for example mental injuries, or economic injuries beyond loss of earnings)?

The Scottish Government is committed to engaging with medical, legal and other professionals in addressing all these questions.

It is to be hoped that vested interests do not inhibit or skew the important discussions made possible by this engagement.

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*Professor Kenneth Norrie teaches at the University of Strathclyde's Law School. He started his academic career as a medical lawyer before widening his teaching and research projects into most areas of private law as well as legal history.*

Professor Norrie was the keynote speaker at a dual professional conference on medico-legal practice held at the Signet Library in September. Organised by the WS Society, the Scottish Young Lawyers' Association and the British Medical Association, the conference for doctors and lawyers included workshops for doctors to address lawyers and *vice-versa*. In addition to discussions on the No-Fault Compensation Scheme the delegates heard presentations on the medical legal considerations of catastrophic injuries, scientific evidence in the courts and mitigating common negligence issues in medical practice. The WS Society plans further events in this field, including a CPD seminar on Personal Injury Trusts, to be run early next year. For more information please contact Anna Bennett by email [abennett@wssociety.co.uk](mailto:abennett@wssociety.co.uk)

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# Charity begins at home

**Anna Bennett looks at the importance of a robust board structure as a key principle of governance in the charity sector.**

**N**owadays charity trustees have access to a wealth of guidance on the subject of good governance. The increasing availability of advice for those involved in the management of charities stems from a variety of pressures to improve systems of control in the voluntary sector. Such pressures come from within the sector, but also externally from government through the monitoring role of the Office of the Scottish Charity Regulator. There is a tangible push to improve governance, as part of

the general commitment to the third sector as a vital part of the Scottish economy.

Against this background, the day-to-day reality is that any board of charity trustees has a number of responsibilities to juggle, with limited time and resources. Understandably the tendency is for the trustees to focus on expanding the charity's activities, whilst safeguarding the charitable assets. To have this perspective, the board should first consider whether it has an appropriate structure to carry out its duties effectively.

This article considers some key points which trustees may address during an internal review of the board composition. The overriding objective is to construct a diverse and properly qualified board, equipped to lead and supervise the modern charity.

First things first – the board should have a written constitution which specifies an appropriate number of trustees relative to the size of the organisation. If an old constitution provides for an unwieldy number of trustees, this should be reviewed and streamlined to allow for dynamic



board meetings. Constitutional review has become easier as a result the reorganisation provisions contained within the *Charities and Trustee Investment (Scotland) Act 2005* and subordinate regulations.

The constitution should include job descriptions for board members and office bearers such as the chair, secretary and treasurer. The constitution can set out the qualifications expected of the board members and office bearers. Appropriate skills should be recruited to the board from a range of different backgrounds, professions and experience. Then, a regular skills audit should be carried out to identify any skills gaps as trustees retire and are replaced.

A diverse board helps to ensure the charity's decision-making reflects the views and interests of the different areas of the community which the charity serves. The charity board should seek to avoid a "monoculture" within the trustees, and should set an example in terms of diversity, reflecting the environment in which the charity operates. In pure business terms, a diverse board can also attract new external investment by increasing the charity profile, range of contacts and potential donors.

In the current climate charities often voice concerns about their ability to recruit new trustees where more is expected in terms of compliance and risk awareness. Some might say this process could be further complicated by demanding a range of skills and qualifications of new recruits. However, in practice, a new trustee feels more comfortable in his or her role where they have the benefit of a clearly defined job specification, a code of conduct, an understanding of the time commitment and the period of involvement. In fact, advertising for charity trustees has become common in the cases of larger charities wishing to demonstrate a transparent recruitment process.

From the new trustee's point of view, their appointment is a means of broadening personal experience and skills, as part of their general career development. A formal induction process should be implemented to familiarise the new trustee with the operation of the charity and role of the board. As part of the induction the new trustee should sign a declaration to confirm they are not disqualified from acting as trustee, and should share other appointments and

areas of interest with the board. On an ongoing basis the board should maintain a declaration of interests for the trustees and a conflict of interest policy.

## In the Scottish charity sector there has been a historical tendency for a pool of trustees to stagnate, which can negatively impact on the charity's overall strategy, as activities expand and change.

As well as the appointment of new trustees, the constitution should also specify the means of refreshing the board membership. A set length of service is best practice, to allow board members to be rotated and replaced at regular intervals. If the governing document does not specify such a term, the appointment continues until the trustee dies, resigns or is removed from office. In the Scottish charity sector there has been a historical tendency for a pool of trustees to stagnate, which can negatively impact on the charity's overall strategy, as activities expand and change. During their period of office, trustees should have opportunities for on-going training in the law and governance.

If the board is able to objectively scrutinise itself in this way, and make changes as a result of an internal review, it has the best possible chance of effectiveness in serving its beneficiary group. It perhaps even has competitive edge, in terms of investment and donations.

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*The popular WS Charities conference for solicitors, trustees and professional advisors takes place on Thursday 23 February 2012 at the Signet Library. If you are interested in attending please contact Anna Bennett on 0131 225 0659 or email [abennett@wssociety.co.uk](mailto:abennett@wssociety.co.uk).*

## PILOTLIGHT

Pilotlight is a UK charity which supports small local charities and social enterprises tackling some form of local human disadvantage, and helps them become more effective and sustainable. Specifically, Pilotlight manages the transfer of business skills from local business people into a local charity or social enterprise which has asked for help with governance, capacity building or strategy.

All the partner charities and social enterprises which Pilotlight supports work with passion, but lack the necessary business skills required to make them sustainable. Pilotlight creates teams of 4 business people - known as "Pilotlighters" - who meet for three hours each month for a year with the CEO of the charity. A project manager facilitates and manages the process. Pilotlight measures the impacts made and reports these back to the corporate partners.

Pilotlight's corporate partners include Scottish law firms Biggart Baillie LLP, Shepherd + Wedderburn LLP, Brodies LLP and Stronachs LLP who all have partners actively engaged on local projects. An example - David Gilchrist of Biggart Baillie currently forms part of a team of four Pilotlighters working with a Glasgow based MS charity. The other team members are drawn from Scottish Ballet, Smith & McLaurin Ltd and Prudential UK.

*"From Pilotlight's experience of working with over 200 charities and social enterprises across the UK, it is clear that good governance, which has to include effective, consistent communication between a strong board and the executive, is a key issue which will ultimately be a determining factor in the success of any organisation. Indeed, this issue consistently features within the Strategic Plans written by all organisations supported".*

Ken Campbell, Pilotlight Project Manager.

For more information about Pilotlight, please contact Graeme Powrie on 0131 243 2769 or email [gpowrie@pilotlight.org.uk](mailto:gpowrie@pilotlight.org.uk).

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# LETTER FROM ITALY

Antonio J. Manca Graziadei

## *Justice on trial*

The Knox appeal trial in Perugia, with the total acquittal of Amanda Knox and Raffaele Sollecito, raises a number of questions as to the workings of the Italian judicial system.

**M**eredith Kercher, born in 1985 in Southwark, London, an exchange student in Perugia from the University of Leeds, was murdered at her flat on 1st November 2007, presumably between 10.00 am and 12.00 pm. Her body was found on 2nd November at 1.15 pm on the floor of her bedroom with stab wounds to the throat. The time of death could not be established with any precision because the police prevented the coroner from checking her temperature until midnight on the night after her death.

On 6th November Raffaele Sollecito, a 23 year old student and his girlfriend Amanda Knox, a 20 year old exchange student from The University of Washington, Seattle, house-mate of Meredith, were arrested in connection with the murder.

Amanda had been questioned for 50 hours after Kercher was found dead, without the presence of a lawyer or a professional interpreter, including the night before she was arrested. She eventually signed a statement on 6th November at 1.45 am before the police officers questioning her, and another before the Prosecutor Judge Mignini at 5.45 am, after 14 hours of interrogation without food and without a lawyer. The statement read: "I see myself in the house... Patrick with me - Patrick Lumumba. He's gone into Meredith's bedroom. And I can hear her

screams". The statement Amanda signed implicated Lumumba with a bizarre and awkward line: "I have a hard time remembering those moments but Patrick had sex with Meredith, with whom he was infatuated, but I cannot remember clearly whether he threatened Meredith first. I remember confusedly that he killed her". This statement was subsequently declared inadmissible by the Court of Cassation (the highest court of law) because it was taken in breach of the rules of criminal procedure.

Patrick Lumumba, a Congolese owner of a bar in Perugia called "Le Chic", who employed the American as a part-time waitress, was later found to have a solid alibi and was not put under trial. Knox was sentenced to three years imprisonment for falsely accusing him ("calunnia").

In December 2009 both Knox and Sollecito were convicted of sexual assault and murder by two judges and a jury of six lay judges of the Corte d'Assise of Perugia and sentenced to 25 and 26 years respectively.

Another man, Rudy Guede, a native of the Ivory Coast and raised in Perugia, was also convicted in a separate trial in October 2008 of sexual assault and murder of Kercher and sentenced to 30 years. He opted for a "shortened" or "fast track trial", and his sentence was reduced on December 2009 on appeal to 16 years.

The basis for the convictions were,

essentially:

- Against Guede: He admitted he was in the house the night Kercher was killed and traces of his DNA and a bloody fingerprint were found there; the handprint on a pillow in the room, on which the lifeless corpse of Kercher was found, was made by him; the vaginal swab of the victim contained the DNA of the victim and of Guede; his DNA was on the cuff of Kercher's sweatshirt found in her room, and on a strap of the bra that she was wearing, found cut off and stained with blood; his DNA was on Meredith's purse, which was also in the room that she occupied; further biological traces of Guede were found on the toilet paper taken from the toilet of the bathroom.

- Against Sollecito: Circumstantial evidence; a trace of DNA belonging to him was on Kercher's bra fastener, which was only found and bagged on 18th December 2007, more than seven weeks after the murder.

- Against Knox: Circumstantial evidence; traces of her DNA mixed with Kercher's were found in the bathroom; an eight-inch kitchen knife was found at Mr. Sollecito's house with traces of Kercher's DNA near the tip and her DNA near the handle; footprints in the apartment, revealed with luminol, were found in her bedroom, the corridor and another flatmate's room and were identified as belonging to her bloody feet.

The new trial before the Court of Appeal of Perugia began in November 2010, a full retrial in accordance with Italian criminal procedure, held in the presence of two judges and a lay jury.

As requested by the high-profile Kercher and Sollecito defence, headed by Giulia Bongiorno, a prominent criminal lawyer and Member of Parliament, the appeal court ordered an independent review of the contested DNA evidence by independent forensic DNA experts. They submitted in June 2011 a 145 page report that noted numerous basic errors in the gathering and analysis of the evidence, further asserting that a police forensic scientist had given evidence in court that was not supported by her laboratory work. The report said the evidence was "unreliable because not supported by scientifically valid analytical procedures". They stated that the tests on the blade of the knife

were not reliable, because the international protocol for tests on DNA analysis had not been followed. The police investigation had also not complied with international standards for the collection of DNA samples. The scientists said the previous results could have been the consequence of contamination.

The report concluded that the police either mishandled evidence or failed to follow proper forensic procedure 54 times.

Finally, one of the experts stated in testimony that a police video showed that, when the most important piece of evidence was gathered, it was handled with a glove that was visibly dirty.

On 3rd October 2011, the Court of Appeal overturned Knox's and Sollecito's convictions for murder and sexual assault. It upheld the "calunnia" conviction against Knox for having falsely accused Lumumba of the murder.

From the start, this case has highlighted the flaws of the Italian criminal justice system. Indeed, what happened is not unusual and, in many ways, it is typical. The prosecution stemmed from a very poor investigation, which in Italy is conducted by a Prosecuting Judge (Pubblico Ministero). Scientific evidence later proved to be badly flawed, both in the way it was gathered as well as in its analysis; interrogations were conducted in breach of procedural rules. The Prosecuting Judge is the same person who conducts the investigation and carries out the prosecution in court – and he wants to confirm his thesis. The court experts are appointed by him – and they want to confirm his thesis.

The court hearing the case is made up of judges who belong

to the same body – the judiciary – and they are part of the same culture, the same caste, the same "club". The same self-governing body (Consiglio Superiore della Magistratura) represents and supervises both prosecutors and judges, who regularly migrate from one role to the other. This does not mean a judge is dishonest, but it does breed a strong conflict of interest.

Only the defence is left to contradict the initial evidence and, in this case, only during the appeal were proper third party experts finally appointed to review the scientific evidence. This was, for all practical purposes, the first time the evidence was independently re-viewed, thereby exposing the numerous flaws.

Unfortunately, this pattern has been usual in the last 30 years in Italy. Previously, investigations were carried out independently by the police, and the prosecutor's role was to review such evidence and – if sufficiently solid – translate it into a proper accusation. Policemen are very poorly paid and do not have the necessary motivation to investigate properly, as they have to follow the orders of the Prosecuting Judge and, frequently, they are not at all happy to do that.

Lawyers who do criminal work tell consistent and repeated stories about flawed cases. The only reason that the flaws emerged here is because the defence was very high-profile and very good. The same problems occur every day, but most lawyers do not have the time, the money and the expertise to bring out the inconsistencies.

This case has highlighted that the system does not work properly either way: if Sollecito and Knox were guilty, they have now been unjustly acquitted, and this is bad for everyone, particularly for

the Kercher family and for the credibility of our judiciary. If, indeed, they are innocent and only now have been found not guilty, this is also very bad for everyone, particularly for them, having unjustly spent four years in prison, but also for the Kercher family and for the credibility of our judiciary. It is a "lose-lose" scenario.

There are solid grounds for radically reforming our criminal justice system, but there has been no prospect of this with Silvio Berlusconi in power. He has tried several times to pass reforms, which were apparently supported by his once very strong majority. However, his own conflict of interest has always contaminated these reforms, which were drafted by his own criminal defence lawyers, strangely coinciding with his own current judicial interests. A good example is his botched attempt to pass a privacy law to prevent the publication in newspapers of police wiretaps transcripts.

For these reasons the reforms have always been rejected by Parliament and, indeed, this "judicial" conflict of interest became a main and inexorable cause of Berlusconi's dwindling political and populist support.

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*Antonio J. Manca Graziadei joined the WS Society in 2011. He has practiced law in Rome for over 20 years. He speaks fluent English and French as well as Italian and has offices in both Rome and Edinburgh. He has extensive experience in litigation, EU law, property law, copyright, labour law, family law, trust law, administrative law and immigration law.*

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**THIS CASE HAS HIGHLIGHTED THE FLAWS OF THE ITALIAN CRIMINAL JUSTICE SYSTEM. WHAT HAPPENED IS NOT UNUSUAL... IT IS TYPICAL.**

*There are solid grounds for radically reforming our criminal justice system, but there has been no prospect of this with Silvio Berlusconi in power.*



# LETTER FROM AMERICA

## Randy Gordon

# *Media on trial*

As the Leveson Inquiry continues into the methods of the UK press, high profile expatriate cases like Amanda Knox's in Perugia add a cross-jurisdictional dimension to the tension between the legal process and reporting in the popular media. The cultural conflicts multiply exponentially as the legal and mass media "narratives" play out. But scandalous headlines that sell newspapers do not always aid the cause of justice.

**B**oth lawyers and the public at large tend to think of legal proceedings as walled off from everyday discourse because of things like their formal trappings and rules of evidence and procedure. And the fact that many items in a trial record are intended for and perhaps intelligible only to lawyers (pleadings, objections, motions, and the like) heightens the sense of distance between the legal and the lay. As a consequence, although these materials can be assembled in a narrative fashion (in, for instance, the written opinion of an appellate court), the result will constitute a purely legal narrative.

But what happens in the courtroom is not always frozen within that space because legal narratives can escape their containers and assume a non-legal shape. One way of thinking about this phenomenon is by recalling Robert Ferguson's concept of a "continuum of publication" - i.e., that although a criminal case may begin with an indictment, it may end with any manner of publication, things like newspaper reports, historical accounts or even fictionalizations. These extra-judicial publications show how different groups interpret legal narratives (whether to make sense of them or to create scandalous headlines). In contrast

to the past, though, subsequent publication is increasingly given over to simultaneous publication in "media" trials - trials that are particularly salacious, involve attractive or famous figures, and - most important - are relatively long.

The Casey Anthony and Amanda Knox trials provide casebook studies: young, attractive defendants accused of murder in highly suspicious (yet nonetheless ambiguous) circumstances, circumstances infused with all the sex, drugs and wild parties that any voyeur could hope for. Interestingly, each was convicted by the media, yet ultimately released by the courts. None of this is to suggest that media trials are without precedent (think of the Dreyfus affair), but there is something about the immediacy of reporting and commentary that is new to our age.

At first, both Knox and Anthony were reviled in the press, each likened to a child of Satan, vampire, or somesuch. Knox was accused of participating in the grisly murder of her British room-mate in Italy, ostensibly as part of a sex game. Anthony, by contrast, was a single mother and was charged with killing her two-year-old daughter so that she could spend more time out on the town. But the true common thread here was the bizarre behaviour that each

of the young women exhibited after the incident in question: for example, Anthony didn't report her daughter's disappearance when it happened and participated in a "hot body" contest only days after; Knox turned cartwheels in the police station and wore John Lennon t-shirts at trial.

Ultimately, an Italian appellate court reversed Knox's conviction, and a Florida jury acquitted Anthony. But the public reactions (at least in the US) to the two verdicts were quite different: relief and elation in the case of Knox, bitter recriminations and death threats in the case of Anthony. There are myriad possible reasons for this disparity, but - as some commentators have concluded - Knox benefited from the general American suspicion of criminal proceedings brought against expats in foreign jurisdictions, and Anthony suffered under the visceral presumption that the death of a child is the result of actual (or something tantamount to) infanticide. But all this is at the end of the day beyond our ken.

What we can know, however, is how legions of media pundits tried these cases on tracks parallel to the actual proceedings. Nancy Grace, a former prosecutor and present CNN commentator and novelist, is representative of this trend, although she has been described

as particularly “rabid” in advancing her opinions. In any event, Grace is “credited” with advancing the Anthony case (the “Tot Mom” case in her lingo) from a garden-variety homicide case into a national media circus. In reaction to the not-guilty verdict, she opined that “Tot Mom’s lies seem to have worked. The devil is dancing tonight”. In a similar vein, she labeled Knox’s release a “huge miscarriage of justice” (reported in *USA Today*) and offered her own narration of what really happened: “I believe that while Amanda Knox did not wield the knife herself, I think that she was there, with her boyfriend, and that he did the deed, and that she egged him on”.

The point here is that every trial involves a narrative reconstruction of the past: everybody has a story to tell. The prosecution offers a narrative of guilt, the defence one of non-guilt. And the jury has to fashion one of its own - one that, to itself at least - justifies whatever decision it reaches. Most certainly, juries sometimes get these things wrong. But is the legal system better off with (largely) uninformed pundits passing judgment before, during, and after a trial? I do not think so, and in saying this I do not mean to imply that the Fourth Estate does not serve a valuable public service in criticising lawyers, judges, and juries when we err.

But we are diminished when accused criminals are tried in the media just because they showed socially inappropriate behaviour before or after an otherwise unexplained death. After all, sometimes - as it was for Camus’ Meursault in *The Outsider* - trial based on antisocial behaviour can have grave consequences.

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Randy Gordon has been an associate member of the WS Society for several years. He is a partner of Gardere Wynne Sewell LLP in Dallas, Texas. Randy’s focus is complex litigation, principally in antitrust and competition law. Randy is the author of *Rehumanizing Law: A Theory of Law and Democracy* (University of Toronto Press, 2011) which followed upon his doctoral thesis on study leave at the School of Law at the University of Edinburgh.

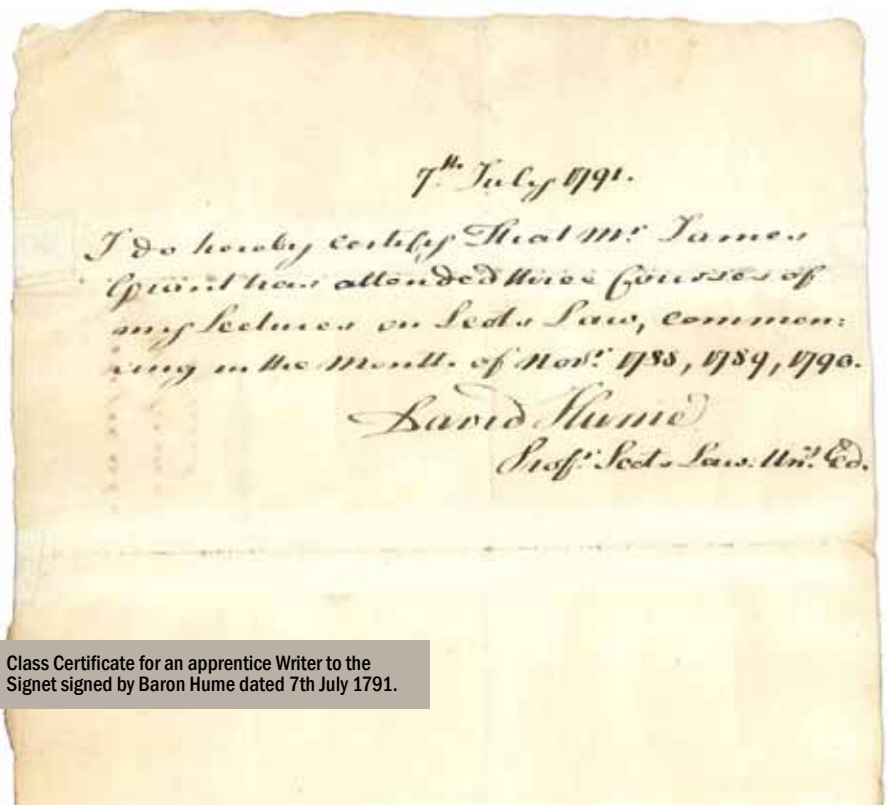
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endured and evolved over 250 years.  
By Anna Bennett.*

**T**he 18<sup>th</sup> century lawyer and philanthropist John Watson could not have envisaged that his bequest would still be used to help young people well into the 21<sup>st</sup> century and beyond. Today, John Watson's Trust offers practical support for children and young people throughout Scotland. The charity makes grants to support educational needs - donating funds for classroom equipment and laptops, extra curricular lessons, summer school placements and travel passes for beneficiaries across the country. Over 200 grants have been made this year alone.

The story begins with John Watson's birth in 1705, when Edinburgh was still a walled city, largely medieval in character, and before the changes brought about by the Act of Union. Early records indicate John Watson

# THERE HAS BEEN SPECULATION ABOUT THE TRIGGER FOR HIS PHILANTHROPIC INTENTIONS.

*John Watson's philanthropy continues to benefit young people and his connection with the WS Society lives on.*

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attended the High School of Edinburgh, followed by studies at Edinburgh University. He took his apprenticeship with his father David Watson, who was also a WS. John Watson was admitted as a WS in 1739, aged 23. He achieved professional stature and peer recognition, assuming the role of Substitute Keeper of the WS Society between 1746 and 1762. He was also appointed as the Solicitor to the Post Office and Assistant Solicitor of Customs and Salt Duties during his career. He lived and practised in the Old Town, owning a townhouse in Gosford's Close near the Lawnmarket. His professional success led to some prosperity and he also owned a country house, "Bellsfield" in Liberton.

John Watson was clearly a man of conscience. When he was a young lawyer he was influenced to include the first in a series of charitable bequests in his will, which would feature in each will he subsequently wrote. The initial motivation for these legacies remains unknown, although there has been some speculation about the trigger for his philanthropic intentions. In a memorial written after his death by Robert Jamieson, who was his apprentice, clerk and partner, Jamieson notes that the first charitable provision was intended to help the prevention of "child murder" by founding a hospital within the city of Edinburgh "for receiving secretly infant children and bringing them up".

Some commentators believe John Watson may have witnessed the notorious trial of Isabella Walker, who was later immortalised as the character Effie Deans in Sir Walter Scott's novel *The Heart of Midlothian*. Others speculate it might have been a more personal circumstance that brought him to identify with children in need. Whatever the trigger, John Watson continued to make plans to set aside part of his estate for charitable purposes throughout his lifetime.

John Watson's personal circum-

stances changed when he married Isobel Mudie in 1741. Isobel, a native of Montrose, was 20 years younger than John, but the couple had no children. The early years of their marriage appear to be happy ones, evidenced by a declaration in his Disposition of 1952, which speaks of his love and affection for his wife. John describes Isobel as a "most affectionate spouse" who had "shown great care" for him.

Later, his attitude towards his wife changed dramatically. This coincided with a decline in his health, which saw him struggle over a protracted period with a "nervous disposition". This change in sentiment is illustrated by the diminishing provisions for Isobel in his wills, culminating in his last Deed of Settlement, dated 2<sup>nd</sup> July 1759. The couple separated in 1760. Isobel's interest in the estate was restricted to the income from a fund of £1,300 set aside for her during her lifetime, and £200 for "mournings and other uses". The remaining estate, and the capital of Isobel's fund on her death, was to be administered by trustees appointed by John Watson "for such pious and charitable uses with the city of Edinburgh" as the trustees deemed appropriate. John lived for two and a half years after signing his final Disposition.

John Watson's trustees were left with the task of implementing his wishes. A legal wrangle in relation to his estate followed his death. A shadow had been cast over the legality of his last Disposition, by virtue of the fact he had provided for other arrangements in his earlier wills. There were submissions from Isobel that John was not of sound mind at the time of signing the Disposition. She claimed she was entitled to succeed to a larger share in his estate under their marriage contract.

The legal proceedings concluded that the 1759 Disposition was indeed valid, "subsisting and effectual". John Watson's trustees were legally entitled to take possession of the

residue of his estate. They set about investing the funds and considering the options for longer term use and application of the legacy. Various recipients were considered including the Orphan Hospital, the Asylum, the Royal Infirmary and a charity established for the "Relief of the Destitute Sick". Another Edinburgh lawyer by the name of Vans Hathorn became involved as a trustee during this process. He was determined to ensure that the original purpose of the legacy was fulfilled, to help alleviate the deprivation of local children in need. Eventually, an Act granting authority to build a "Hospital for Destitute Children" was passed in 1822.

This laid the foundation for John Watson's Institution, a hospital and home for children, which then became John Watson's School. Between 1828 and 1975 the Institution and then School owned and occupied the premises at Belford Road, which are now the Gallery of Modern Art. Following the School closure in 1975, the property was sold to the National Galleries of Scotland and the proceeds of sale were transferred to John Watson's Trust. The current trust arrangements were constituted by a statutory arrangement which came into force in 1984. The work in connection with making grants and donations from the income of the fund began soon after that.

The WS Society continues its close association with John Watson's Trust. The Board of Trustees includes six members of the WS Society. The Governors of the Trust are the WS Society's Council members. The Society's executive team deals with day-to-day administration of the trust and compliance matters.

John Watson's philanthropy continues to benefit young people and his connection with the WS Society lives on.



David Lee

# LAWYER, KNOW THYSELF

When I interview managing partners or chief executives of law firms, I always ask this simple question: “What is in your DNA?”.

It is a question designed to find out what lies beneath, what makes a firm tick, what makes it different. In these challenging economic times, everyone agrees that standing out from the crowd is absolutely vital.

Yet perhaps the question isn’t so simple after all - and I am constantly surprised how limply some captains of our legal industry answer it. Several times, the reply has been “What a good question” - and from experience, I take this to be a stalling tactic which means, “Crikey, I never saw that one coming” or possibly “I need to speak to the marketing manager afterwards and complain about the poor briefing”.

Not everyone answers so badly. One recent interviewee simply replied “Quality”, then elaborated by explaining that his firm sought to be excellent in everything it did. If genuine quality is running through your veins and imprinted on your DNA, then that is not a bad start.

Yet the failure of so many firms to answer effectively suggests one key conclusion: although all of them have been through endless reviews of all aspects of their business, many have not stopped to reflect on their core purpose. They have not gone beyond the bottom lines of income and expenditure to try to understand the beat of their own firm’s heart.

In some ways, this is puzzling, because all firms talk *ad nauseum* about providing a high-quality service to clients - and understanding what makes the client and *their* business tick. “It’s all about the clients,” has become a kind of mantra of the economic

downturn, as if clients didn’t really matter that much in the past, as if they were just another notch on the financial bedpost during those heady days when the good times just kept on rolling.

Of course, law firms need to provide excellent client service - not least when those clients are much more likely to shop around for their legal services and demand that those services are delivered in a more, ahem, cost-efficient manner.

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This twin challenge of lower prices and greater competition will only be exacerbated with the coming of Alternative Business Structures. It might take time for ABS to have a significant impact on Scotland, as the opportunities in commoditised areas of law will be much greater

in the far larger English market, but those challenges will certainly come.

As ever with challenges, there are also opportunities - especially for those law firms that have kept the “man o’ business” mentality. Step back a couple of generations and it was natural for lawyers to offer holistic advice and support, above and beyond the technical work that all clients expected as a matter of course. Lawyers were trusted business advisers - and interestingly, this sort of language is now making a strong comeback.

Why? Possibly because a generation of lawyers has not had to go that extra mile. The work was there, they did it, and then they moved on to the next transaction, whether it be a house sale or a huge corporate deal.

I am not seeking to tar all lawyers with the same brush, but when the work was there, they often did not need to add the bells and whistles - a quick and efficient service was what the clients wanted, so they too could move on to their next project as the business world spun at an ever more frantic pace.

In 2012, this business world is very different, and surely it will be those who have continued to play the part of the trusted adviser - and instilled those values throughout their firm - that will have the competitive advantage as the legal pips start to squeak.

Another common refrain from interviewees is that Scotland has too many law firms and too many lawyers - and that we will see more consolidation.

If Scotland is indeed over-lawyered - and if there is more economic pain to come - then all firms really need to know what is in their DNA. If not, in the famous words of Private Fraser in Dad’s Army, they are surely doomed.

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*David Lee is Director of David Lee Media & Events. He edits The Scotsman’s Law & Legal Affairs pages, and tweets on legal affairs @scotsmanlaw*

# BOOK REVIEW

*Conveyancing Practice in Scotland*, 6<sup>th</sup> edition, Euan Sinclair and Ann Stewart (Bloomsbury Professional, 2011). Paperback, pp 748, list price £78).

Euan Sinclair and Ann Stewart, both members of the WS Society, are to be congratulated on publishing this completely restructured and rewritten work, just short of 750 pages all told. This is a considerable labour by any measure.

When you consider that the work encompasses the most fundamental reforms to land tenure law in Scotland for a generation; that it guides the reader through the transformative impact of technology on registration of title and associated practice; and that it is a work useful to everyone from the lay person, to the law student, to the licensed conveyancer, to the experienced solicitor - well, the achievement assumes truly Herculean proportions.

It is difficult to overstate the comprehensiveness of this book. Starting with the regulatory regime for conveyancing service providers, the book then takes the reader through every step of the paradigmatic property transaction - everything from client engagement, to contract, to due diligence, completion, security, registration and feeing. And the whole written in a direct and engaging style - truly an instruction manual, help desk and troubleshooter all rolled into one. The result is a comprehensive resource for those with an interest in the subject. The only wonder is that it remains a printed book and not an interactive app. Perhaps that is to come.

Robert Pirrie

*Plus ça change,  
plus c'est la même chose*

**The publication of *Conveyancing Practice in Scotland* (6<sup>th</sup> edition) written by two WS members (see review) is a reminder of the enduring role of the WS Society's members in selflessly supporting best practice in property law for over 200 years. Robert Pirrie and Karen Baston look at how things began in the 18th century with the remarkable Robert Bell WS.**

**T**he man who first urged the formal training of conveyancing at the WS Society was Robert Bell WS (1760 - 1816). Admitted as a WS in 1784, Bell wrote to the Deputy Keeper of the Signet in 1793 that he had "often wondered how our Society should so long have neglected a science so entirely [our] own". Bell went on:

"... the country has some right to expect that, as we are possessed of exclusive privileges, we should cultivate, by every means in our power, that department which we constitutionally possess; and as there is no department which requires a greater degree of knowledge, nor more enlarged and comprehensive views, than conveyancing, there surely can be no object so truly important, either to our own body or to the community at large, as the state of that science".

Bell's letter was read out at the Society's meeting on 27 May 1793 and Bell's proposal to develop conveyancing training found support within the Society. It was agreed that "one of the members should be appointed to deliver annually a course of lectures on the theory and practice of conveyancing". Furthermore, "every candidate, who applies for admission into this Society, shall produce to the examiners a certificate of his having attended a course of these lectures". Bell was invited to write a proposal about the contents of the course and the method of its delivery. In November of the same year the Society approved his plan and appointed Bell to deliver his course.

Bell was the eldest of a remarkable set of Edinburgh brothers. His brother George Joseph was the notable jurist who would write *The Principles of the Law of Scotland*. His brothers Charles and John were well respected surgeons and authors of medical texts. At the time of his proposal, Robert Bell was best known as the collector of decisions from the courts for use as teaching materials for the Society. This was a controversial role since Bell did not have the approval of the judges. Lord Cockburn recalls in his *Memorials of his Time* (1856) that Bell was "taken into the judges' robing room, and admonished to beware". Cockburn gives as an example of judicial stupefaction at Bell's reports the objection of Lord Eskgrove that "the fellow taks doon ma very words". Even so Bell managed to publish *Cases decided in the Court of Session: from November 1790 to July 1792*. In 1794, Bell stopped collecting decisions when he took on his conveyancing lectures.

Conveyancing teaching was not new to the Society. Short courses of lectures had been offered throughout the 18<sup>th</sup> century but these did not have the formal



*Cockburn gives as an example of judicial stupefaction at Bell's reports the objection of Lord Eskgrove that 'the fellow taks doon ma very words.'*

approval of the Society. Bell's approach was different because he wanted to create something that had officially sanctioned status. The educational programme he created was based on two sets of lectures. A first series of fifty lectures covered deeds, heritable rights, and real diligence. A second set of 30 lectures covered movable rights and personal diligence. Students who paid their fees and attended both sets of lectures were entitled to a certificate.

Bell published books on various practical subjects as well as guides for practice. Bell wrote his books for law students and practitioners but his works also had appeal for non-lawyers.

Bell became an Advocate in 1812 and combined his practice at the bar with his legal education activities. After his death in 1816, Bell's brother George Joseph took over the conveyancing lectures until a new lecturer could be appointed.

The WS Librarian Macvey Napier took responsibility for the conveyancing lectures at the WS Society at the end of 1816. Napier became the first holder of the Chair of Conveyancing at the University of Edinburgh when it was established in December 1824 and held the post until his death in 1847.

From our perspective today, conveyancing in Bell's time appears as an exalted, learned and noble calling, one appropriate to a "science" in the Age of Enlightenment. By comparison, conveyancing today is rather more mundane, technocratic and increasingly commoditised. The difference is down to progress, albeit some aspects of progress have a tendency to make us feel more wistful than grateful. Thankfully we live today in a more open, equal and universally educated society where property ownership is not just the privilege of a few. A by-product of the political, social, economic and demographic changes associated with property ownership in Scotland may be that conveyancing has become less rarefied and more everyday. But this latest contribution by Euan Sinclair and Ann Stewart, just as much as Bell's work, is a mark of the enduring ethos of members of the WS Society.

*“Books serve to show a man that those original thoughts of his aren't very new at all.”*

Abraham Lincoln

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Bell's publications included: *Lectures on the solemnities used in Scotland, in the testing of deeds* (1795), *Outlines of the course of lectures on conveyancing, established by the Society of Clerks to the Signet: With a concentrated view of the clause of deeds* (1800), *A treatise on leases: explaining the nature and effect of the contract of lease and pointing out the legal rights enjoyed by the parties* (1803), *A system of the forms of deeds used in Scotland* (1811-1817), and *A treatise on the election laws, as they relate to the representation of Scotland, in the Parliament of the United Kingdom of Great Britain and Ireland* (1812). His most important work, *A dictionary of the law of Scotland: intended for the use of the public at large, as well as of the profession* appeared in 1807.

### LEGAL STUDIES IN THE DIGITAL AGE

#### Modernising fundamental Scots law authorities

The WS Society is contributing to a collaborative project run by the Edinburgh Legal Education Trust to reprint a number of the seminal texts of Scots law. The Trust operates within the auspices of the School of Law at the University of Edinburgh to promote the advancement of legal education in Scotland.

*The result is a reading experience combining a sense of historical context and authority with a sense of renewed contemporary relevance.*

The objective of the innovative project is to make rare institutional texts, which are still in use and applicable today, more accessible to law students and practitioners alike and, importantly, at low cost.

Headed by Professor Kenneth Reid, the project began last year with the publication of *Bell's Principles*. The process involves using the latest technology to reproduce the text of the original editions, by scanned or digital image, in a modern series of books. The book is then available to buy at a reasonable cost – *Bell's Principles* for £30.

The digitalising and publishing process brings the books to life, giving them a fresh image and clean feel whilst faithfully reproducing the original with all the splendour of period graphics and typeface. The result is a reading experience combining a sense of historical context and authority with a sense of renewed contemporary relevance. From a practical point of view, these authoritative texts can be consulted without either wearing gloves or getting dirty fingers. As well as the printed

editions, the project also involves plans to have the texts available online, as a further step. The project mirrors a number of initiatives taking place at law schools and law libraries in North America.

The WS Society will be providing a number of original editions from the Signet Library for digitalising, including:

- William Forbes, *The Institutes of the Law of Scotland*, vols 1 (1722) and 2 (1730).
- John Erskine, *An Institute of the Law of Scotland* (1<sup>st</sup> edn, 1773).
- Henry Home, Lord Kames, *Principles of Equity* (3<sup>rd</sup> edn, 1778).
- William Bell, *Dictionary and Digest of the laws of Scotland* (7<sup>th</sup> edn, 1890).

The next series of texts will be published in summer 2012 and will include new introductions written by leading academics, commissioned by the Trust to mark the occasion of the republications. For more information on the project, or digitalising the WS Society's historic resources, please contact [library@wssociety.co.uk](mailto:library@wssociety.co.uk)

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### CALL FOR SOCIETY "ORCHESTRA"

Earlier this month, the Society sought responses from members interested in participating in a WS Society orchestra. Jacqueline Fordyce, herself a musician, is behind the move: "The Society's values – excellence, integrity, permanence – apply to all of its activities. A musical ensemble must embody these values if it is to carry the Society's name. It should strive to achieve the highest standards of quality befitting our reputation for excellence. It should be respectful of our heritage yet enhance the enjoyment of our buildings by all. It should foster our collegiate ethos and provide long term opportunities for cultural development and charitable involvement. All of these things form part of a vision for a WS Society orchestra".

The aim is to form an orchestral or other instrumental ensemble (according to the availability of players) to perform a predominantly classical repertoire. Jacqueline says: "The hope is that a core group can be drawn from the Society and that "guest" participation will be drawn from the wider legal community. A key objective will be to identify opportunities for collaboration with special guest performers such as singers and instrumental soloists. We are particularly keen to seek the involvement of young and upcoming musicians".

As a general guide, it is envisaged that core participating musicians should be able to perform at a level approximating ABRSM Grade 5 or equivalent and to commit to monthly rehearsals and scheduled public performances (perhaps once or twice per year).

*If you have been inspired to participate, as a musician or otherwise, contact Elaine Young on 0131 225 0658 or by email [eyoung@wssociety.co.uk](mailto:eyoung@wssociety.co.uk)*



Jacqueline Fordyce

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### CLUB QUARTERS

#### Valuable membership benefit

The WS Society is a member of Club Quarters, a chain of hotels for private use by guests and employees of member companies. Club Quarters offer a full range of services including hotel rooms for short or long-term stays, studio apartments and meeting rooms in 14 properties located in London,



New York, Chicago, Boston, Washington DC, Philadelphia, San Francisco and Houston (visit [www.clubquarters.com](http://www.clubquarters.com)).

WS members and their families may use Club Quarters for business travel or family trips. Rates starts at £144 in London for week day stays and £67 for weekends and holiday periods. A repeat guest programme is also available which includes a "night on the house".

For any further information including members online booking details please contact Claudia Marshall on 0131 225 2936 or by email [cmarshall@wssociety.co.uk](mailto:cmarshall@wssociety.co.uk)

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## SIGNET ACCREDITATION

**Newly accredited lawyers celebrate success in latest assessments.**

Signet Accreditation is the WS Society's programme to accredit Scottish solicitors in specialist areas of practice. The programme has been running for four years and has attracted much praise for its innovative approach.

The assessment process is practically based and is designed to test not only technical legal knowledge in the area of specialisation, but also skills that are vital for overall effectiveness from a client perspective, such as communication, commercial awareness and relevant non-legal knowledge and insight.

The most recent successful applicants to be awarded accreditation are:

### *Commercial Property*

Gregor Duthie  
Biggart Baillie

Ashleigh Farrell  
Biggart Baillie

Andrew Martin  
Biggart Baillie

### *Commercial Litigation*

David Halliday  
Halliday Campbell WS

Lynn McMahon  
Halliday Campbell WS

### *Employment*

Robert Phillips  
Simpson Marwick

The successful candidates will receive their awards from the chair of Signet Accreditation, Lord Cullen of Whitekirk, at a ceremony on 1st February.

Writing recently in the *Scotsman*, Jeremy Peat, former Chief Economist at RBS and BBC Trustee for Scotland, who has been on the board of Signet Accreditation from its earliest days, said:

"When I was approached to join the board I was immediately struck by the overall calibre of the board, but also impressed by the fact that this was an example of the legal profession voluntarily seeking to raise its standards. This was not wholly an exercise in lawyers themselves reinforcing what they like to see in other lawyers. It was a genuine attempt to encourage lawyers to better understand and satisfy the client from the client's perspective... The Signet Accreditation is a great opportunity for lawyers and their firms to differentiate themselves in a truly meaningful way, and is something that all solicitors in Scotland should be considering as they challenge themselves to be the very best that they can be".

*"... a great opportunity for lawyers and their firms to differentiate themselves."*

**Jeremy Peat  
Board Director  
The Signet Accreditation**

# The vision thing

Robert Pirrie says the WS Society's Vision and Strategy document has implications not just for how the Signet Library evolves as a service but also for how the building's use must evolve.

In the last edition of the magazine Caroline Docherty and I explained the significance of the Vision and Strategy document adopted by the Council of the WS Society. That document sets out the enduring purpose and values of the WS Society. The Vision and Strategy is essentially our "road map" – apologies for that overused expression – for the reinvention and renewal of the WS Society for the 21<sup>st</sup> century. All very well but what does this mean in practice?

The first thing to say is that nothing will be at the expense of our role as a law library and custodian of a significant non-legal collection, including a large antiquarian element. On the contrary, the changes we have made, and those we are contemplating, are our own version of the changes being made to libraries up and down the country as they evolve their purpose and use for the digital age. That means recognising that legal research is becoming more and more about intelligent searching authoritative sources in a vast and unknowable sea of information on the web, and less and less about linear assimilation of hard copy. Some might, perhaps with good

reason, deplore the intellectual implications of these changes, and despair of a younger generation's apparently diminishing attention span, but that would be to overlook the positives. Like most progress, some of it is good and some of it is bad. Generally speaking, things get better.

So it is with legal research. It is surely a good thing that the laborious and time consuming process of assembling the current law and practical know-how from hard copy sources can be replaced by instantaneous search results from a well informed click of a mouse or touch of a screen – the key words being “well informed”. Not good news if you are frozen in time – that's why they call it “disruptive technology”. It will put you out of business if you don't move with the times. A “library” in the 21<sup>st</sup> century has to become a very different place if it is to replicate the usefulness and value that it had in the 19<sup>th</sup> century (when the Signet Library was built) and for most of the 20<sup>th</sup>.

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*IF THE SIGNET LIBRARY IS ONCE AGAIN TO BE A BUSTLING AND BUSY PLACE – and we cannot afford for it not to be otherwise the building is not being of enough use to enough of our members – THEN WE HAVE TO LOOK AT HOW IT IS USED.*

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This is why we are placing more emphasis on electronic resources and finding ways of digitalising older material so that we can make it more widely available. We have to be creative and collaborative in how we do it. You can see the benefits of this approach – thanks to the support of the National Archives of Scotland - in the articles

in this magazine on the Routhead Collection, a fantastically rich and human collection that will remain obscure, dry and unappreciated beyond a narrow cognoscenti unless we find ways to digitalise and publicise. That is also why you will also read about our collaboration with the Edinburgh Legal Education Trust by providing early editions of Scotland's founding legal works.

**B**ut the evolution of the Signet Library is not just about the services we offer to our members and wider stakeholders. It must also extend to the building and how it is used. If the Signet Library is once again to be a bustling and busy place – and we cannot afford for it not to be otherwise the building is not being of enough use to enough of our members – then we have to look at how it is used. The building is our most valuable and visible asset. It is intrinsic to the Society's identity. And yet the reality is that too many of our members do not use the building or get any value from it. That must change.

We put a toe in the water last summer with the “pop up” Champagne Bar about which we had so much positive feedback from members – more than anything else in my time as Chief Executive. That initiative had a closer relationship with the events venue side of our business than it did with our legal and library functions – popular as it was with lawyers. The problem with the “pop up” approach is that one-off costs make financial viability marginal. The challenge for us now is to bridge this type of use with our library function – devise a more permanent offering in terms of refreshment and food that sits well within a modern “library” and meeting place that can be scaled up for seasonal offerings during the Edinburgh Festival, Christmas and so on. The Society's Council has authorised exploring the feasibility and we are doing this with our partners, Heritage Portfolio.

For those members and other stakeholders who are nervous of these ideas – even Donald Findlay QC voiced his concern in *Scotland on Sunday* that next we will be selling pizza! – let me assure you that anything we propose will be in keeping with the dignity of the Signet Library. Our vision is about enhancing what we have. It is about giving our members something in which to take even greater pride and derive even greater benefit.

**I**nvesting in wine has been around for nearly as long as the WS Society. With the financial markets in turmoil, investing in tangible assets looks attractive. Charlie Shentall has some advice for those considering investing in fine wines.

Always considered a slightly quirky idea in the past - an uncle perhaps at dinner might mention spending “a few pounds” on laying down wine “as an investment” and this being greeted with a dreamy faraway look from the young “if only I could afford to do that”. Nowadays, however, it has become a far greater force in the investment market, even in spite of the perceived overvaluing by the Asian markets. It is true that, at the very top end, those 1st and 2nd growths seem to have all their value wrung out of them at the start of the *en-primeur* campaign, and there has been a question mark over “experts” predicting a vintage to be “as good as” classics like 1947, something I personally would be very careful about, especially with all the changes in the production of wines where more “modern” methods are used.

In spite of all that, it remains a firm fact that there are around 10,000 Bordeaux houses and a similar number of Burgundy houses, offering two definitive types of solid investment.

The first is to buy wine *en-primeur* for its value, laying it down after its arrival (usually 3 years at the vineyard before entering the UK under bond) and, through



# A CORKING RETURN?

guidance, being happy to leave for a further 3, 5 or 10 years, releasing it for your table when it suits and relishing in the fact that you bought it for half or a third of what the current market price is. Happy days!

The second is to treat it as part of your investment portfolio and here things can get interesting. You happily allocate a certain sum from the amount you intend to invest in any given year, and use independent expertise to buy and store your wine, releasing it for sale when we deem the market will give you the best return on your initial investment. There are small costs involved in the storing of the wines, but these will be offset by the

returns as your wines are released for sale. The essential ingredient here is to choose a respectable firm, preferably local (so you can actually view your physical stock, knowing it is stored safely), and one where the relationship is anchored to people, so you can meet up, if required, to discuss options, seek reassurance and possibly explore different avenues, as if you were... well, a lawyer perhaps!

Please be under no illusions that just because Lafite Rothschild 1982 vintage in 2000 was worth £2,600 and now it sells for £25,500 you will retire happily after a few years of investing. Two major influences affect the value of wine. One, sadly, is Robert Parker Jnr. - his

influence on Bordeaux especially is profound. If he scores a wine 100/100 that wine's value will rocket, if he scores it 70/100 where last year's vintage made 98/100, values will plummet. The second is that global interest in wine has itself rocketed so there are far more people in the mix bidding for that case. Asia, as previously mentioned, can drive the market forward, leaving other investors in its wake. This did not happen with the 2010 vintage, so it was still possible to pick up wines which may produce relatively good returns.

As far as percentages go, expect to invest no more than 5 - 12% of your yearly budget. That ought to produce good results without unduly affecting the rest of your portfolio.

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*Charlie Shentall, Private Client Manager, Cockburns of Leith, is a trusted adviser to the WS Society on fine wines. Charlie advises on the purchase of wine for the WS Society's Annual Dinner which is particularly renowned for the quality of the wine served.*

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Or Contact:

*Charlie Shentall: 07837 244967*

*Tom Gilbey: 07734 993607*

*Ian Macphail: 07767 676559*

*Billy S. Bell, Managing Director: 07730 812153*

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