

Independent Law Review

Volume 1 Issue 1 • January/February 2004

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In this issue

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- to suggest an article or interview;
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- to submit a preview or report on a meeting;
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Contents

Volume 1 Issue 1 • January/February 2004

5 Editorial & Introduction to the Editorial Board

Features

6 Two Modest Proposals for Constitutional Interpretation

D Langwallner, Dublin, Ireland.

10 Are Member States Subject to the European Convention of Human Rights for Acts Within the Scope of EU Law?

A Lowry, Dublin, Ireland.

15 Accurate Legal Research

A series of articles highlighting methods of research and sources of legal information.

Fiona de Londras, Dublin, Ireland.

Regulars

9 Bulletin Board

A free resource section, where readers may post messages to our 4,000 readers on topics such as research, reunions, books etc.

18 Conference News

Latest updates from the conference scene, news from academic bodies & societies plus details of prizes or awards.

19 Courses & Conferences

Advertisements for courses, meetings and conferences.

21 Diary

Detailed list of courses, meetings and conferences in the legal calendar.

22 Web Review

Details of law related websites compiled by Cian Murphy, Cork, Ireland.

23 Web Directory

A directory of law related websites and commercial websites.

24 Reader Enquiry Service

25 Recruitment

Lifestyle

26 Scotch Malt Whisky Society Review

G Mackie, Mullingar, Ireland.



Front cover illustration by
Bob Dewar, Fife, Scotland.

		<p>For further information contact Regis Calard at BlueChip on +44 2890 466460 or email regis.calard@bluechiptechnologies.com</p>
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Rory McShane & Co. Deploys Digital Dictation

County Down legal practice Rory McShane and Company has deployed the G2 Speech digital dictation and speech recognition system from BlueChip Technologies and have already achieved significant savings.

After an initial pilot deployment, in March 2003 G2 Speech was rolled out to all 17 staff in the Newry office of the practice as the platform for document production, replacing the existing tape system and has handled over 3000 documents in the last six months. The combined use of digital dictation and speech recognition technology has demonstrably reduced the time and cost of document production.

“The system benefits are clear and within 6 months of deployment we have already improved our fee earner / secretary ratio, meaning that G2 Speech has delivered the benefits anticipated” commented Founding Partner, Rory McShane.

Digital dictation, using the existing office computer network to transfer dictations from author to support staff, is achieving rapid

acceptance within the legal profession as a better platform than analogue tapes. Replacing the existing analogue tape system with digital dictation means that:

- Work is immediately available to support staff without delay;
- Dictations which are urgent are automatically prioritised;
- Problems such as lost/broken tapes are completely avoided; and
- Work is automatically spread across the support staff group avoiding bottlenecks.



McShane and Company also uses speech recognition technology in two ways.

Firstly BlueChip integrated speech recognition to the existing Amicus Attorney case management software in use at McShanes, enabling case notes

etc to be dictated directly into Amicus without typing, giving the fee earner a time saving.

Secondly while a dictation is being transferred by the office computer network from author to support staff, the server based speech recognition technology converts the document into text which only requires final editing. The high accuracy rates consistently achieved means that this substantially reduces the time taken to complete a document.

By harnessing the benefits of speech recognition technology in this way the solicitor creates a document in the same way as before, a feature which is unique to the G2 Speech system.

Rory McShane, Founding Partner concluded, ***“We believe that a law practice is a business like any other commercial enterprise and to remain successful, cannot be allowed to become static, either in the service it provides or in the manner in which it conducts its business. G2 Speech has helped us progress in that regard.”***



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A journey of a thousand miles must begin with a single step

Lao-Tzu (604-531 BC)

Welcome to the first issue of *The Independent Law Review*

Mr Philip P Burke, Barrister at Law, & Head of Law School, Griffith College Dublin.

It seems appropriate that this inaugural issue of *The Independent Law Review* coincides with the beginning of a new calendar year. In my capacity as Editor I have resolved to be mindful of the words of the American comedian Fred Allen who remarked to writers who had heavily edited one of his scripts, "where were you fellows when the paper was blank?".

This publication will endeavour to present clear, impartial and non-partisan analysis of matters pertaining to the Irish legal systems, north and south, for those who work within them. Issue One includes an article by David Langwallner, which advocates a principled approach to constitutional adjudication, positing Chief Justice Keane's minority judgment in *Sinnott v. The Minister for Education* (2001) as a laudable example. Anthony Lowry considers the true ambit of the European Convention on Human Rights and investigates the consequences of conflict between the Convention and provisions of European Union law while Fiona De Londras, in the first of a series of articles, explores various methods of carrying out effective legal

research, paying particular attention to web based legal resources. Grant Mackie will then share with you the delights of the Scotch Malt Whiskey Society in his article 'Butterscotch and Rum Baba'. This mixture of academic and lifestyle features aims to reflect the healthy balance of work and leisure we all aspire to but, alas, rarely attain.

Forthcoming issues will include a consideration of the Irish courts' development of the duty of care principle in negligence and the *res ipsa loquitur* doctrine. The ramifications of the Competition Authority's Indecon Report (Assesment of Restrictions in the Supply of Professional Services, March 2003) on, *inter alia*, the provision of legal services in the Irish Republic and proposals in England to abolish the title Queen's Council will also be explored. The Review will also feature interviews with a variety of legal academics, jurists and practitioners.

Philip P Burke,
Editor,
The Independent Law Review,
January 2004.

Introduction to the Editorial Board

Editor

Philip Burke, LLB (Lond.),
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Mr Burke is a graduate of the University of London. He went on to complete the Barrister at Law degree at the Honorable Society of King's Inns, Dublin. He is a practising barrister and has taught various subjects for the University of London's LLB degree. He is Head of The Professional Law School at Griffith College Dublin and Joint Head of the College's Undergraduate Law School. He has recently written a textbook with Val Corbett on the Law of Torts (*Roundhall Thomson, January 2003*). Philip Burke is Editor of *The Independent Law Review*.

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Ms. De Londras qualified with a first class honours BCL from University College Cork in 2002. She has recently completed an LL.M, also in UCC. Her thesis was entitled 'Genocidal Sexual Violence: Experiences, Perspectives and Legal Responses'. She was a College Scholar and Ronan Scholar from 2002 to 2003 in UCC, and during that time tutored in criminal law. She is currently a full-time lecturer in Griffith

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Cian Murphy is in his second year of University College Cork's BCL programme.

His interests include Constitutional and Information Technology law. He has worked in the offices of Henry PF Donegan & Son, Cork and has served as both Recording Secretary and Webmaster of the U.C.C. Law Society. Cian was a member of the Irish Schools Debating team that won the World Schools' Debating Championship in Singapore in 2002. In 2003 he became the Irish and International Champion of the John Smith Memorial Mace debating competition on behalf of the Law Society, University College Cork. Cian is the Web Review Editor for *The Independent Law Review* and will contribute a review of interesting websites for our readers.

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Two Modest Proposals for Constitutional Interpretation

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The proposals contained in this brief note may or may not be described as modest but strike me as very important. They are that judges articulate what they are doing in constitutional cases in a philosophically and jurisprudentially cogent fashion and that in so doing they might usefully consult the ideas of the American jurist Ronald Dworkin as to the obligation to decide constitutional cases on the grounds of the community's values of moral and political principle.

It strikes me as particularly pressing in that a certain transparency in judicial approach will assist our understanding of what values a particular judge is trying to inculcate via the constitutional text. Thus we will be able to assess whether and to what extent that judge reflects the values that we as a community aspire to in interpreting the constitutional text. It would also seem to me that this would have the added benefit of understanding the judge's role as an important public educator in our community.

It is true to say that certain judges do not believe that they have any role in framing or formulating values, or at least social and economic values, but such a view seems to me misconceived in the light of a constitution that speaks often in delphic and abstract tones.

For example the preamble invokes the values of 'Justice, Prudence and Charity', the Constitution is studded throughout with the value of 'The Common Good.' Article 43 refers to the value of 'Social Justice.' Such concepts do not easily lend themselves to a strict linear definition (indeed they are arguably incapable of such a definition) and are the subject of intense jurisprudential argument and speculation. My simple suggestions are that we ascertain in a clear way what judges mean by such phrases in constitutional adjudication and that judges come clean by informing us as to the philosophical and jurisprudential basis for their decisions and the particular brand of political and social morality contained in their decisions. Or, as the American Jurist Ronald Dworkin would have it, that they inform us as to the arguments of moral principle in their judgements.

It is of course the case, as I have indicated, that some judges deny that in constitutional adjudication they are involved in any analysis of principle or policy. Principle and policy, they argue, are matters for the legislature. The judge who adheres to judicial self-restraint or self-abnegation indicates that it is not part of the judicial function to formulate values. A particularly brilliant and superbly presented statement of this is the judgment of Hardiman J in *The Sinnott* litigation¹ where the learned judge observed apropos the legal and political philosopher John Rawls:

"In the last quarter century, there has arisen another point of view

whose major manifestation in a quasi legal context is found in the works of the American academic John Rawls. It subordinates politics to a theory of justice, seeming to view political philosophy as a branch of jurisprudence. Theorists of this view consider that they can provide a body of principles which can be interpreted and applied by courts, to the virtual exclusion or marginalisation of the political process. Preferably, but not essentially, the mechanism of this process is to enshrine the selected principles in some form of code or charter. Failing this, one can try to imply them into older texts. The political process thus avoided or marginalised is regarded as too diverse, clamorous, and populist in values to be worth preserving as more than an inferior organ of government.

In my view, conflicts of priorities, values, modes of administration or sentiments cannot be avoided or ignored by adopting an agreed or imposed exclusive theory of justice. And if judges were to become involved in such an enterprise, designing the details of policy in individual cases or in general, and ranking some areas of policy in priority to others, they would step beyond their appointed role. The views of aspirants to judicial office on such social and economic questions are not canvassed for the good reason that they are thought to be irrelevant. They have no mandate in these areas. And the legislature and the executive, possessed of a democratic mandate, are liable to recall by the withdrawal of that mandate. That is the most fundamental, but by no

“ a certain transparency in judicial approach will assist our understanding of what values a particular judge is trying to inculcate via the constitutional text ”

means the only, basis of the absolute necessity for judicial restraint in these areas. To abandon this restraint would be unacceptably and I believe unconstitutionally to limit the proper freedom of action of the legislature and the executive branch of government.”

The great advantage of such a statement is that it is a very clear judicial leaning above the parapet. It is a clear, eloquent and unequivocal statement of what the role of the judiciary ought to be.

However, it seems to me that there are certain problems with this set of observations. First, is there anything wrong with judges deciding cases on issue of principle as Rawls and Dworkin (whose views are echoed in Hardiman J’s opinion) contend? Second, if a judge is interpreting a particular word in the Constitution, for the sake of argument let us deal with the word ‘justice,’ would we not hope and expect that the judge would find a principled interpretation of what that concept entails? Third, how can you interpret in any meaningful way the word ‘justice’ without having a grasp of moral and political principle? The word ‘justice’ is simply not capable of a pat and easy definition but requires detailed elucidation. Fourth, surely judges when they interpret the abstract and normative provisions of a constitutional text are precisely engaged in the task of which Hardiman J denies, they are engaged in policy and principle. Of course, the fundamental question is what type of policy or principle or justice they are seeking to interpret into the constitutional text. It seems to me that what Hardiman J is doing is expressing a certain type of judicial philosophy and that is that matters of policy and principle are matters for the legislature. Indeed, one might argue that Hardiman J’s judgement itself reflects a policy, that of judicial defence to the legislature. But is it a judgement of moral principle?

Indeed, one must crisply and carefully distinguish, as Dworkin does, between what is a policy and what is a principle. A policy is only a goal or a majoritarian calculus. A principle is something that an individual is entitled to as a matter of right and morality. If a principle involves a claim that an individual is

“ judges [must] come clean by informing us as to the philosophical and jurisprudential basis for their decisions and the particular brand of political and social morality contained [therein] ”

entitled to a decision as a matter of right and morality is this not something within the purview of the judicial function and does it not defeat any policy considerations, even those of the legislature.

Indeed, contrary to the judgement of Hardiman J, judges do engage in evaluating moral principle. For example let us confine our discussion to the self same *Sinnott* case and to the judgement of the Chief Justice. The Chief Justice in establishing and recognising the education rights of *Sinnott* made the following observations:

“Where in the spectrum can it be said with any semblance of truth that the plaintiff passed from childhood to adulthood. So far as the evidence in this case goes, virtually none of these stages is of any significance in his case. He is one of a relatively small category of people in our society who, because of their mental handicap, can never enjoy life in all its diversity and richness but to whom at least a measure of happiness may be available . . . No principled basis exists either in law or in evidence for the contentions advanced by the defendants that a person in his position ceases to be in need of primary education at age 18, at age 22, or at any age in the future which can be identified with any precision. I am accordingly satisfied that the plaintiff was entitled to a declaration that the first named defendant was obliged by Article 42.4 of the Constitution to provide for free primary education for the plaintiff appropriate to his needs for as long as he is capable of benefiting.”

It seems to me that the Chief Justice is consulting principle as a

basis for making a decision on social and economic matters. The sense of the passage suggests that there is no principled basis, given Mr Sinnott’s condition, for denying him constitutional protection. Indeed in many respects the views of the Chief Justice are echoed in the ideas of the contemporary jurist Ronald Dworkin and indeed John Rawls.

Of course it might be objected that there is a fundamental mode of interpretation of the constitution which is jurisprudentially and philosophical adequate and that is the utilisation of natural law. A claim of a violation of a natural law right would trump any consideration of legislative or other policy. Thus in *Ryan v. The Att. Gen.*,² Kenny J said:

“[Natural law] is both anterior and superior to positive law or man made law. There are many personal rights of the citizen which follow from the Christian and democratic nature of the State which are not mentioned in Article 40 at all.”

The problem of course is trying to get an agreement as to what natural law entails. Is it natural law, as Kenny J intimates, that stems from the values of Christianity or is it a secular version of natural law more obvious in the substance of the right to marital privacy recognised in *McGee v AG*?³ Further, there are other difficulties in that *inter alia* natural law claims that its values are immutable and universal.

Such doubts ultimately led to the rejection of natural law thinking in constitutional adjudication. In *Re Article 26 and the Regulation of Information (Services out of the State for Termination of Pregnancies Bill) 1995*,⁴ the court stated apropos of the

contention that the natural law trumped any provisions for abortion information, that:

It is fundamental to this argument that, what is described as the natural law is the fundamental law of this State and as such is antecedent and superior to all positive law, including the Constitution and that it is impermissible for the People to exercise the power of amendment of the Constitution by way of variation, addition or repeal, as permitted by Article 46 of the Constitution unless such amendment is compatible with the natural law and existing provisions of the Constitution and, if they purport to do so, such amendment had no effect. The Court does not accept this argument.

Instead the court relied on the values of 'Justice Prudence and Charity' contained in the preamble:

The judges must therefore as best they can from their training and their experience interpret these rights in accordance with their ideas of prudence, justice and charity. It is but natural that from time to time the prevailing ideas of these virtues must be conditioned by the passage of time.

From a consideration of the case law which recognised the existence of personal rights not enumerated in the Constitution, the court concluded that:

It is manifest that the Court in each such case had satisfied itself that such personal right was one which could reasonably be implied from and was guaranteed by the provisions of the Constitution, interpreted in accordance with its ideas of prudence, justice and charity.

This judgement puts a quietas to natural law and replaces it with 'Justice, Prudence and Charity', that

is changed and developed teleologically in evolving personal rights. However, and crucially, this does not make us any the wiser as to what those values of 'Justice, Prudence and Charity' are? Where do we derive or develop them?

It is suggested that such values of 'Justice, Prudence and Charity' can usefully be derived and developed from an assessment of what is required by the community as a matter of moral principle and that in this respect the judiciary might usefully consult the ideas of Ronald Dworkin, best encapsulated in his book *Law's Empire*.⁵

For Dworkin, the nature of legal argument lies in the best moral interpretation of existing social and legal practices. The judge makes the best decision that fits the settled law by trying to find the point or purpose of our legal and social practices. Such a process of creative or constructive interpretation entails that judges try and find a value for the practice that proposes human interests and goals.

*"constructive interpretation is a matter of imposing purpose on an object or practice in order to make it the best possible example of the form or genre to which it is taken to belong."*⁶

Dworkin makes the analogy between a chain novel where the writer of a subsequent chapter interprets it in accordance with the sense of the previous chapter and a judge who is faced with the task of deciding and interpreting a law case. The judge is interpreting the previous practice by ascertaining its point and making the best possible sense of it so that the story of the law can be continued in a principled fashion. Thus Dworkin rejects the

doctrine of original intent (that we should decide cases in terms of the intention of the founding fathers of the constitution, another prevalent aspect of the Sinnott case where that case relies so much on the doctrine of historical interpretation) in that it does not make the best moral and political sense of a practice or understand the purpose of point of it, nor does it continue and develop the legal story of the community.

Further, for Dworkin, law is not just a system of rules but also encompasses principles. A principle is a right, an issue of justice and fairness or some other dimension of morality (thus moral argument is central to the law). A policy is a standard or goal to be achieved. Principles (rights) trump goals and claims of right are not defeated by a simple appeal to a policy or by blind adherence to a rule. Law speaks in one voice in a principled and coherent way. Thus good legal argument should be coherent and justified in principle, producing a single vision of justice.

For Dworkin judges make decisions that are integrated into the existing body of law. Judges look at questions of 'fit' and 'substance' to determine whether a matter falls within the existing body of law. It is not just a question of fit between a theory and the rules of the institution but also of substantive political philosophy as well. Our judgments must fit with institutional practice so that we speak with a principled voice, or as Dworkin says of a mythical judge:

*"He also needs convictions about how far the justification he proposes at the interpretive stage must fit the standing features of the practice to count as an interpretation of it rather than the invention of something new . . . Finally, he will need more substantive justifications about which kinds of justification really would show the practice in the best light."*⁷

Further, Dworkin argues that the value of integrity is violated if a judge (Dworkin's model judge is called Hercules) does not choose the best interpretation from the standpoint of political morality. Integrity looks to the question of community, that we have a concern for the well-being and equality of others including their independence (that we do not dictate what others

“ the search for moral principle should be an essential component of the judicial function in elaborating on a constitutional text ”

think about politics and ethics). Only by linking legal argument with the idea of a genuine political commitment can law have a moral content.

*“Here then is our case for integrity, our reason for striving to see, so far as we can, both its legislative and adjudicative principles vivid in our political life. A community of principle accepts integrity . . . the commitment necessary to make a large and diverse community a genuine rather than a bare community: the promise that law will be chosen, changed, developed and interpreted in an overall principled way. A community of principle, faithful to that promise, can claim the authority of a genuine associative community and can therefore claim moral legitimacy – that its collective decisions are matters of obligation and not bare power – in the name of fraternity.”*⁸

Further, according to Dworkin as far as the judge is concerned:

*“The adjudicative principle of integrity instructs judges to identify legal rights and duties, as far as possible, on the assumption that they were all created by a single author – the community personified – expressing a coherent conception of justice and fairness.”*⁹

And in a pithy summary
*“According to law as integrity, propositions of law are true if they figure in or follow from the principles of justice, fairness, and procedural due process that provide the best constructive interpretation of the communities legal practice.”*¹⁰

It seems to me that a Dworkinian judge in determining constitutional matters will find values located in a principled interpretation of the law and the morality of the community and that he/she will at the least try to decide a case on such an issue of

moral principle and not abandon the need to vindicate constitutional rights in deference to a policy value such as separation of powers. Of course, different judges, will no doubt reach different conclusions as they attempt to resolve issues of moral principle but at least the search for moral principle should be an essential component of the judicial function in elaborating on a constitutional text.

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Are Member States Subject to the European Convention of Human Rights for Acts Within the Scope of EU Law?

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Although the ECHR cannot directly apply to the acts of the institutions of the European Communities, the recent case-law of the European Court of Human Rights has raised questions concerning the application of the Convention to areas within the scope of EU law. The object of this article is to examine the legal implications of the Court's position for the Member States of the EU and, in particular, the doctrine of supremacy of EC law.

In this regard, it may be observed that the Convention applies to all areas outside the scope of EU law. A more controversial issue, and the focus of the present article, is the extent to which the European Convention of Human Rights applies to areas within the competence of the European Court of Justice. In particular, the following question will be addressed: can the European Court of Human Rights over-rule a decision of the European Court of Justice to the effect that the actions of a Member State are in accordance with the general principles of EC law and, specifically, the fundamental rights of the Community?

The origin of the protection of fundamental rights, as one of the general principles of EC law has been given detailed consideration elsewhere.¹ In general, the court looks to fundamental principles common to the legal systems of the Member States. Following this analysis, the court looks to the ECHR and the case-law of the ECHR for further guidance. Since all of the Member States of the EU are also parties to the ECHR, the provisions of the latter are, by definition, common to the legal systems of the Member States. Indeed,

particular attention has been given to the ECHR by the ECJ in the development of its jurisprudence on fundamental rights.²

In terms of the scope of EC law, the court considers two factors to be of relevance in assessing whether a litigant has the right to invoke EC law. In the first place, the court asks whether the circumstances alleged to constitute the infringement of EC law have any connection with the application of the Community provisions the litigants seeks to rely upon. In the second place, the court considers whether the national rules impugned were designed to protect and secure Community rights and obligations. In a given factual context, if neither of these factors brings the matter within the scope of EC law, there can be no possibility of an overlap in the jurisdiction of the ECJ and the ECHR.

The ECJ has applied the jurisprudence of the ECHR to assess the validity of national measures with Community law. This presents the following difficulty; in all matters within the scope of Community law, there is the possibility that both the ECJ and the ECHR will have overlapping jurisdiction to review the validity of acts of the Member States with the rights provided for under the Convention. The question that will now be addressed is whether, on the basis of first principles, the ECHR is legally entitled to over-rule an ECJ decision applying the provisions of the ECHR.

The legal basis for the binding jurisdiction of both the ECHR and the ECJ are the underlying treaties, respectively the ECHR and the collective treaties of the European Union. Since both of these International courts are solely responsible for the interpretation of their own treaties, a divergence in the treatment of human rights by the courts involves, at its most primary level, a conflict of Treaties.

Therefore, in order to establish

which court has over-riding legal authority to determine human rights issues, it is necessary to examine the applicable principles of public international law and, in particular, the rules of Treaty interpretation. In general, the author will refer to the Vienna Convention on the Law of Treaties for guidance purposes only.³

In applying the principles of Treaty Interpretation to the question under discussion, it is observed that the European Convention on Human Rights was signed in Rome on the 4 November 1950 and the EEC treaty came into force in 1957. Since the Convention predates the EC Treaty the doctrine of *lex posterior derogat priori* would appear to apply, an axiom translated as 'the later law abrogates the earlier one'. From this rule one may argue that the 15 Member States of the European Union are no longer bound by the terms of the European Convention on Human Rights *inter se*, in matters within the scope of EC law. This principle is enshrined in Article 30(3) of the Vienna Convention and the Law of Treaties 1969 which provides:

"When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation ... the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty."

Under Article 30(4)(a) of the Vienna Convention, it is also provided that where parties to the later treaty do not include all parties to the earlier treaty, the rule enunciated in Article 30(3) applies to the parties to the later treaty *inter se*. This principle applies insofar as the later treaty is intended to cover the same subject-matter as the earlier treaty.⁴ The question therefore arises whether the EC treaty was intended to cover the same subject-matter as the ECHR. The following statement by McNair clarifies the operation of this rule:

"Where the parties to the two

treaties said to be in conflict are the same, an allegation of conflict raises a question of interpretation rather than a rule of law; the parties are masters of the situation and they are free to modify one treaty by a later one.⁵

The ECJ was mandated with interpreting the EC treaties, and concluded that the protection of fundamental rights,⁶ including those contained in the ECHR, forms part of the general principles of EC law. Arguably, the *lex posterior* principle therefore applies and the EC treaty abrogated the ECHR in matters within its ambit, making the ECJ the institution with primary responsibility for the protection of human rights, within the scope of EC law.

However, this initial analysis is not, in the author's opinion, determinative of the issue. Leaving aside the question whether 'fundamental rights' constitutes equivalent protection of Convention rights, and presuming that the EC Treaty does, in this regard, cover the same subject matter, there are nevertheless compelling arguments for holding that the *lex posterior* axiom should not apply in this context.

The first, and most obvious, is Article 307EC, according to which:

"The rights and obligations arising from agreements concluded before 1 January 1958 or, for acceding States, before the date of their accession, between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the provisions of this Treaty".

Given that the convention qualifies as an agreement, concluded prior to 1st of January 1958, creating 'rights and obligations', this provision would appear to leave the 'rights and obligations' contained in the ECHR intact and unaffected by the entry into force of the EC treaty. Indeed, the Vienna Convention expressly endorses such an interpretation stating:

"When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail".⁷

For a definitive interpretation of Article 307 EC, the case-law of the ECJ must be examined. In the case of *Commission v. Italian Republic*, the European Commission brought an action to determine the correct tariff

rate on imported tubes, valves and lamps for radio receivers. The Italian government sought to rely upon the 1956 GATT Conference agreement, to charge higher tariffs than those required under the EC treaty. The ECJ held that the term 'rights' referred to the rights of third states arising prior to the 1st of January 1958, and these were not affected by the entry into force of the EC Treaty. By contrast, the term 'obligations' referred to the rights between Member States *inter se*, and the Member States relinquished those rights by entering into the EC Treaty. Therefore, the Member States remained bound by obligations to third party states since such States had not relinquished their rights by entering into the EC. In Public International law terms, this judgment reflects the axiom *pacta tertiis nec nocent nec prosunt*: a treaty applies only between the states that are parties to it. As Sinclair explains:

"The maxim pacta tertiis nec nocent nec prosunt is supported by general legal principle and by common sense. In so far as a Treaty may bear the attributes of a contract, third States are clearly strangers to the contract".

The extension of this rule to acts of the institutions of the EC was established by the ECJ in *Attorney General v. Burgoa*.⁸ This case involved an alleged violation of Irish fishery waters by a Spanish fisherman. The latter was prosecuted for fishing 20 miles from the Irish coast in contravention of Council Regulation 373/77,⁹ which granted Ireland a 200-mile fishing limit. The defendant sought to rely upon the 1964 London Fisheries Convention, which provided for a 14-mile limit. The court upheld the fisherman's claim stating:

"[Article 307] must be interpreted as meaning that the application of the Treaty does not affect either the duty to observe the rights of non-member countries under an agreement concluded with a Member State prior to the entry into force of the Treaty or, as the case may be, the accession of a Member State, or the observance by that Member State of its obligations under the agreement and that, consequently, the institutions of the Community are bound not to impede the performance of those obligations by the Member State concerned".¹⁰

Therefore, the ECJ has ruled conclusively that neither the

provisions of the Treaty nor the acts of the institutions, including, presumably, decisions of the court, can interfere with the rights of non-member states. Applying this ratio to the case at hand, Member States of the ECHR, that have not acceded to the EC, are entitled to the full protection of the Convention. As a matter of principle, this conclusion dictates that the ECHR has over-riding jurisdiction to protect human rights, in cases involving non-EU Member States, and their nationals, irrespective of whether a question of EC law is raised.

However, there is a further argument to be made, to the effect that the Member States of the EC did not, in fact, relinquish their rights under the Convention, when those states acceded to the EC Treaties. This line of reasoning is based upon the nature of the European Convention on Human Rights itself. The following passage from *Jacobs and White*¹¹ appears apposite in this regard:

"The State parties are indeed presumed to have a collective interest in the maintenance of human rights, and the guarantee created by the Convention is a collective guarantee based neither on subjective rights nor on reciprocity. The conditions for bringing an inter-state application are therefore entirely novel by comparison with the classic system of state responsibility, which implies that the plaintiff state is the injured party, even if only through the person of one of its nationals. Under this system of collective guarantee introduced by the Convention, any state party can bring an application under Article 24, without itself or its nationals being victims of the alleged violation. It may do so, for example, purely on humanitarian grounds. Article 25, in making provision for the direct right of action of individuals before an international organ against their own or another government, was an even greater innovation."

The idea that the 15 Member States of the European Union could simply isolate themselves from the other Convention countries in the context of a system, such as that created under the European Convention on Human Rights, seems open to question. The *lex posterior* axiom appears more appropriate in the case of ordinary treaties, which apply 'the classic

system of state responsibility'. However, the principle is not so easily applied in the context of a treaty designed to ensure collective maintenance of human rights as opposed to the observance of international obligations solely on the basis of reciprocity.

One could therefore argue that the nature of the system of protection enshrined in the European Convention on Human Rights precludes the possibility of Member States of the European Union segregating them from the jurisdiction of the European Court of Human Rights by the enactment of the EC Treaty. The collective nature of the enforcement of human rights under the Convention, as reflected in Articles 24 and 25 ECHR, would be undermined were Member States subsequently entitled to derogate from the Convention inter se by enacting a later Treaty. This position arguably conforms to the axiom *pacta sunt servanda*, a principle that has been expressed as follows:

"a treaty in force is binding upon the parties and must be performed by them in good faith".¹²

Accordingly, an application of the rules of Treaty interpretation arguably leads to the conclusion that the ECHR has over-riding jurisdiction to interpret and apply the provisions of the Convention, in matters within the scope of EC law. However, there are serious practical and legal implications were the ECHR to adopt this position. In practical terms, a litigant could challenge a finding of the ECJ before the ECHR. This right of appeal would not be limited to direct decisions of the ECJ, but would extend to preliminary rulings, since a litigant could challenge decisions of domestic courts applying said rulings. From a legal perspective, the prospect of subjecting judgments of the ECJ, interpreting of the EC Treaties and the acts of the institutions, to an appeal from another court, seriously undermines the doctrine of supremacy, the cornerstone of EC law.

In assessing the approach of the European Court of Human Rights to this question, it is necessary to consider the orthodox position with regard to the dual applicability of the ECHR and EC law. The admissibility decision of the European Commission of Human Rights in the case of *M & Co. v. The Federal Republic of*

Germany¹³ has, until recently, been the authoritative exposition of the legal status of the EC under the Convention. The applicant company sought to claim that the execution of a judgment of the ECJ, imposing a fine for anti-competitive practices by the FRG, infringed the applicant's rights under Article 6(2) and (3) of the ECHR, respectively the presumption of innocence and the right of an accused to defend himself. The Commission rejected the company's action stating:

"...the transfer of powers to an international organisation is not incompatible with the Convention provided that within that organisation fundamental rights will receive an equivalent protection",

Having cited the 'equivalent' protection of fundamental rights in the jurisprudence of the ECJ, both in general and in the context of the specific case at hand, the Commission concluded:

"The Commission has also taken into consideration that it would be contrary to the very idea of transferring powers to an international organisation to hold the Member States responsible for examining, in each individual case before issuing a writ of execution for a judgment of the European Court of Justice, whether Article 6 of the Convention was respected in the underlying proceedings".

This decision has been interpreted as absolving Member States of the EU from responsibility for securing rights guaranteed by the Convention, in areas within the scope of EC law, provided the ECJ continued to offer 'equivalent protection' of Human Rights.¹⁴

However, an apparent turning point in the jurisprudence of the ECHR occurred in the case of *Matthews v. the United Kingdom*.¹⁵ This case concerned an alleged breach of Article 3 of Protocol No. 1 of the ECHR, which provides in essence for the right of every citizen to vote in free elections. The applicant was a Gibraltar national who claimed that Council Decision 76/787, and its incorporating domestic legislation in the UK, infringed her right to vote by excluding Gibraltar nationals from voting in the election of representatives of the European Parliament. In upholding the applicant's claim, the court stated:

"The Court observes that acts of the EC as such cannot be challenged before the Court because the EC is not a Contracting Party. The Convention does not preclude the transfer of competences to international organisations provided that Convention rights continue to be 'secured'. Member States' responsibility therefore continues after such transfer".¹⁶

On first examination, this statement seems to contradict entirely the decision of the Commission in *M & Co. v. FRG*. The continuing obligation to secure Convention rights, even after the transfer of competence to the ECJ appears irreconcilable with the view that Member States are not obliged to examine each individual ECJ decision the State executes, for compliance with the ECHR. However, the Court was careful not to go so far as to say that a decision of the ECJ could be challenged before it, pointing out that the impugned legislation was not a 'normal' act of the institutions of the EC, and could not, therefore, be challenged before the ECJ.

Although the question whether a right of appeal existed from decisions of the ECJ to the ECHR was left open in *Matthews*, further elucidation of the status of judgments of the ECJ in Convention law was to be found in a series of applications to the ECHR seeking relief on the basis of discrimination on grounds of sexual orientation.

Preceding these applications, the ECJ had examined the question whether discrimination on grounds of sexual orientation constituted sex discrimination for the purposes of Article 119 EC and, specifically, Council Directive (EEC) 75/117, which provided for equal pay for men and women, in the case of *Grant v. South-West Trains Ltd*.¹⁷ The plaintiff had brought proceedings before an industrial tribunal, alleging that her employer's refusal to grant travel concessions to her female partner constituted sex discrimination under EC law. In the course of rejecting the plaintiff's claim, the court examined the provisions of the ECHR in some detail, stating that the neither the ECHR nor the Commission had recognized discrimination on the basis of sexual orientation as being unlawful under the Convention. The Court concluded:

*“It follows that, in the present state of the law within the Community, stable relationships between two persons of the same sex are not regarded as equivalent to marriages or stable relationships outside marriage between persons of opposite sex. Consequently, an employer is not required by Community law to treat the situation of a person who has a stable relationship with a partner of the same sex as equivalent to that of a person who is married to or has a stable relationship outside marriage with a partner of the opposite sex”.*¹⁸

The ECHR subsequently examined the same question, in substance, in the case of Perkins and R v. the United Kingdom.¹⁹ Here, the applicants alleged that their discharge from the Royal Navy had been made on the basis of their sexual orientation, on the grounds that the action complained of constituted an unjustified interference with their private lives, contrary to Article 8 of the Convention. The position of the first applicant is of particular significance in the present discussion. The latter had brought judicial review proceedings claiming that the blanket policy against homosexuals serving in the armed forces was irrationality and, moreover, contravened EC law and the ECHR. The High Court acceded to the applicant’s request to refer the question of the ECJ for a preliminary reference. The administrator of the ECJ subsequently wrote to the High Court enquiring whether the court wished to withdraw its reference, following the decision of the ECJ in Grant v. South-West Trains LTD. Since the High Court agreed to withdraw its request for a preliminary ruling, the ECJ had not ruled directly upon the issues raised in Perkins & R. However, the author believes that the decision of the ECJ in Grant was at least indirectly challenged in the

application to the ECHR, since the ECJ had ruled upon the substance of the questions of law raised in the latter applications.

The ECHR upheld the applicants’ claims recalling that, in its earlier judgment in Smith and Grady v. The United Kingdom²⁰ ‘it found that the investigation of the applicants’ sexual orientation, and their discharge from the armed forces on the grounds of their homosexuality pursuant to the absolute policy of the Ministry of Defence against the presence of homosexuals in the armed forces’. Although the case-law of the ECJ was not explicitly referred to, the judgment of the ECHR demonstrated that the Court could overturn the substance of decisions of the ECJ, by refusing to apply the ratio of the ECJ’s decision in Grant.

The only outstanding issue concerns the question whether decisions of the ECJ can be challenged directly before the ECHR, a matter that has arisen for consideration in the case of Bosphorous v. Ireland.²¹ The decision of the European Court of Human Rights in that case should settle the question whether, as a matter of Convention law, the decisions of the European Court of Justice can be directly reviewed under the Convention. However, given the Strasbourg Court’s earlier decision in Grady v. UK, it appears likely that this question will be answered in the affirmative.

In the event that the Strasbourg court concludes that it has jurisdiction to overrule a decision of the European Court of Justice, this could pose a significant threat to the doctrine of Supremacy of EC law. If, for example, the validity of an EC measure is challenged before a Netherlands Court on the basis that it infringes a Convention right forming part of the fundamental rights of the EU and the

matter is then referred to the European Court of Justice pursuant to Article 234 EC and the latter upholds the validity of the EC measure. Should the Dutch court believe that the preliminary reference decision is contrary to the Convention as interpreted by the European Court of Human Rights it will be placed in an invidious position. To apply the ECJ’s decision renders the Netherlands subject to the duty to make just satisfaction for any harm that ensues as a result of the operation of the Community measure. Whereas, to refuse to apply the provision renders the Netherlands open to Article 226 EC proceedings or, indeed, the need to pay damages for breach of EC law to anyone who suffers damage as a result of their refusal.

References

1. See Craig and De Burca, EU Law, 3rd Ed., at pp 319-327.
2. An example of this trend can be seen in the case of Huls AG v. Commission, C-199/92P, [1999] I-4287.
3. The Vienna Convention on the Laws of Treaties does not have retroactive effect. Therefore, its application to Treaties ratified prior to the convention coming into force must be confined to those provisions where the Convention codified customary international law.
4. Article 30(1) of the Vienna Convention on the Law of Treaties 1969.
5. McNair, Law of Treaties (1961) at p.219.
6. See the ERT Case, C-260/89.
7. Article 30(2).
8. 1980 ECR 2808, 2 CMLR 216.
9. 1977 OJ (53) 1.
10. Attorney General v. Burgoa, see not [x] above, at pp. 215-6.
11. The European Convention on Human Rights, 2nd ed. at p.7.
12. See Vienna Convention, Article 26 and Ian Brownlie, Principles of Public International Law, p.613.
13. Application No. 13258/87.
14. See Judge Laenarts, Fundamental rights in the European Union, (2000) 25 ELR575, at p.584.
15. Application No. 24833/94, [1999] 28 EHRR 361.
16. *ibid.*, at p.396.
17. Case C-249/96, [1998] All ER (EC) 193, [1998] 1 CMLR 993.
18. *ibid.*, at para. 35.
19. Application Nos. 43208/98 & 44875/98, Judgment delivered on the 22nd of October 2002.
20. Application Nos. 33985/96 & 33986/96, Judgment delivered on the 27th of September 1999.
21. Application No. 45036/98.

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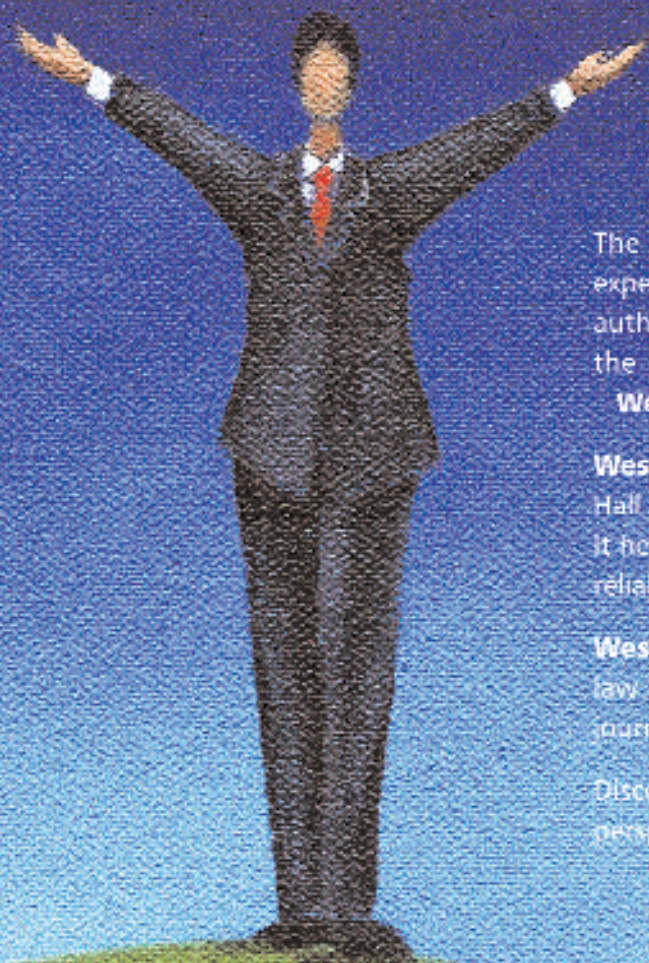
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One of the most important things about good research is accuracy, and in a legal system as dynamic as ours, keeping abreast of the changes that come with this dynamism is a fundamental part of accurate legal research.

Whether as a student, academic, solicitor or barrister every lawyer is regularly engaged in research and writing. The purpose of this series of articles is to highlight methods of research and sources of legal information that will make this process of researching and writing a more effective one. Effective legal research is, by definition, thorough, precise and strategic, and therefore in order to ensure that the research work you do is effective, it is essential that you are familiar with different research strategies, various sources of legal information, and effective methods of consolidating this information into a cohesive and logical argument.

In order to achieve this objective this series of articles will concentrate on a number of specific areas. This article will be primarily concerned with methods of research, where to start a research project, and where to find the most accurate and up-to-date information in order to ensure that your research is both effective and time and labour efficient.

In Issue 2 the research article will concentrate on helping the reader to overcome particular difficulties that face researchers of Irish law, primarily researching Irish statute law. Given the large variety of classes of statutes that have been and sometimes still are applicable in Ireland, it can sometimes be difficult to be thorough in our statutory research, and this article will help us to counteract those difficulties.

In Issue 3 the focus will be on researching international human rights law. This area of the law has now become particularly important for legal practitioners as a result of the European Convention on Human Rights Act 2003, which has placed the case law of the European Court of Human Rights firmly at the centre of Irish law. This article will also look at methods of researching and sourcing the case law that has resulted from the Human Rights Act 1998 in the United Kingdom.

The research article in Issue 4 will concentrate solely on researching and using the law of the European Union, which is produced in such massive volumes that it

can be exceptionally difficult to carry out a thorough search of this legislation and find the information you seek. In order to counteract this we will look at the different primary and secondary sources of law that can be used to point a legal researcher in the right direction when it comes to this voluminous body of the law.

The penultimate article, in Issue 5, will focus on the new way to research the law: online. The internet is home to a number of exceptionally valuable and thorough legal research tools and in this article we will explore the effective means of using these large databases. We will also consider the kinds of research tools that are run by various publishing houses in connection with particular areas of the law.

In the final article we will consider effective methods of legal writing, which should be useful and instructive for students, academics and practitioners in consolidating all of the information they have sourced by using the research methodologies considered in the previous five articles.

Starting a research project

As a general rule the best place to start when approaching a research project of any kind is in the core textbook on the topic you need to research. Not only will using core texts as a starting point give you a basic summary of the law as it stands, but it will also alert and refer you to other valuable secondary sources of law¹ such as supplementary text books, articles and reports. Reading the basic text can also alert you to the main cases and statutes relating to the area of law you have to research, and thereby direct you to the primary sources of law² that you should read, analyse and (in many cases) apply to the factual scenario

with which you are dealing.

You can find out what textbook you should consult on any given area by either running a search of the British Library Catalogue available on <http://blpc.bl.uk>, or any of the online catalogues of libraries in third level institutions in Ireland. These library catalogues are usually available to be searched online and accessible through the main website of the particular institution. You can also access bibliographies of certain subjects online – the Irish Law Site offers bibliographies in a number of broad subject areas and is available at <http://www.irishlaw.org>.

As the majority of main textbooks go out of date very quickly, and as the law changes relatively quickly in many areas, it is important that any lawyer researching a particular subject area or topic ensures that the information on which they depend is recent. There are a number of resources one can use to keep themselves up to date on different areas of the law.

The Irish Current Law Monthly (Round Hall) is published in eleven issues (and an index), and is conveniently organised according to subject areas, and therefore it can be relatively easy to use this resource in order to discover what the most recent

decisions are in any particular area. It includes digests of all cases of the High Court and Supreme Court, reports on the progression of cases through the courts, summaries of all new Acts of the Oireachtas, reports of the progression of Bills through the Oireachtas, summaries of all Statutory Instruments and references to journal articles of interest in particular areas of the law. A yearly subscription to the Irish Current Law Monthly will cost you €635, but it is available for consultation in the vast majority of law libraries, and also in a number of public libraries. This online research tool from Round Hall is available at www.westlaw.ie.

In addition the Annual Review of Irish Law is published yearly by Round Hall, and is also very accessible and easy to use because it is separated by subject. The Annual Review of Irish Law contains summaries, analysis and discussion of the important cases from the Circuit Court, High Court, Supreme Court and Court of Criminal Appeal in all subject areas. It also contains outlines of the most important Acts of the Oireachtas and Statutory Instruments and, where necessary, a detailed analysis and discussion of the provisions of the Act or Statutory Instrument and its proposed purpose. In addition any proposals for change from the Law Reform Commission are also regularly discussed in the Review, which is edited by Raymond Byrne and Professor William Binchy. The Annual Review of Irish Law 2002 will be published in December 2003 and will cost €185.³

The most useful annual review of case law in the United Kingdom is probably the All England Law Reports Annual Review. This Review contains summaries and analysis of all of the cases reported in the All England Law Reports, All England Law Reports European Cases, All England Law Reports Commercial Cases, Butterworths Company Law Cases, Simon's Tax Cases and Butterworths Medico-Legal Reports throughout a particular year. It is published by LexisNexis UK, and the 2002 Review was published in April 2003, and is available to buy for £65 (sterling). It is also available to consult in the majority of law libraries.

As well as using annual and monthly reviews in order to ensure that your legal research as is up-to-

date as possible, law reviews also offer a good source of information to the legal researcher. The majority of specialised law reviews (i.e. reviews that concentrate on one particular area of the law) contain within them case notes of the most important recent cases, and also articles and editorials discussing and analysing recent legal developments in that area of the law. In the context of Irish law there are a number of very important specialised legal reviews and journals that a researcher should consult.

Among these specialised legal journals and reviews some of the most valuable are the Irish Criminal Law Journal, The Commercial Law Practitioner, Irish Journal of European Law, Irish Intellectual Property Review, The Medico-Legal Journal of Ireland, The Conveyancing and Property Law Journal, Irish Planning and Environmental Law, The Family Law Journal and the Irish Journal of Family Law. Almost all of these journals include a section for recent case law.

In addition to these specialised law journals, there are also a number of very valuable and thorough general law journals that a legal researcher should consult at the outset of any piece of research, namely The Irish Law Times, The Irish Jurist, Dublin University Law Journal, The Bar Review and The Law Society Gazette. The number of general legal journals continues to grow in Ireland, with publications such as the Cork Online Law Review (<http://colr.ucc.ie>) and The Independent Law Review beginning to make a major contribution to legal research and discourse.

The Irish Legal Information Initiative, run by University College Cork in co-operation with BAILII, contains a very valuable index of articles in Irish Legal Periodicals, which allows a legal researcher to run a search by keyword and be referred to recent articles in Irish journals dealing with that topic, thereby greatly reducing the amount of time a researcher needs to spend searching through hard copy indexes and journals in order to find some relevant material. This index can be accessed via <http://www.irlil.org>. Online electronic databases such as LexisNexis and Westlaw also allow a researcher to search their huge collection of sources by topic and keyword, and these databases and electronic resources will

be discussed in full in the Research Article in Issue 5.

There are also a number of online resources that can ensure that a legal researcher is completely up to date when it comes to case law. Both the British and Irish Legal Information Institute (<http://www.bailii.org>) and the Irish Legal Information Initiative (<http://www.irlil.org>) offer full indexes of recent reported and unreported cases from Ireland and the United Kingdom. BAILII also contains the decisions of the Irish Competition Authority and the Irish Information Commission, as well as the reports and consultations papers of the Law Reform Commission (also available on <http://www.lawreform.ie>).

Therefore it is clear that as well as consulting a basic text book on any area of the law, it is also vital that legal researchers have recourse to the resources that update the law in between the publication of various editions of core texts. These resources take many forms – from monthly or annual reviews, to almost daily updates on online resources such as BAILII, Westlaw or LexisNexis.

One of the most important things about good research is accuracy, and in a legal system as dynamic as ours, keeping abreast of the changes that come with this dynamicism is a fundamental part of accurate legal research. As we have seen, there are a myriad of resources available to students and practitioners in order to ensure that keeping up to date is as easy as possible.

Reading List:

O'Malley, Sources of Law, 2nd Edition, (2001, Dublin; Round Hall)
Tunkel, Legal Research: Law-Finding and Problem-Solving, (1992, London; Blackstone Press Limited).

Websites:

<http://www.bailii.org>
<http://www.irlil.org>
<http://www.lexisnexis.com>
<http://www.westlaw.co.uk>
<http://www.irishlaw.ie>
<http://blpc.bl.uk>
<http://colr.ucc.ie>
<http://www.consilio.co.uk>
<http://www.roundhall.ie>
<http://www.butterworths.ie>

1. Secondary sources of law are sources of law that do not generally emanate from a state body, and are almost never binding in court. The most common examples of secondary sources of law are textbooks and academic articles.
2. Primary sources of law are sources that emanate from some official body – either the State or an international organisation – and are usually binding in court. The most common examples of Primary sources of law are case law and statutes.
3. See <http://www.roundhall.ie>

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The Society's newest venue (opening Spring 2004) is a beautifully restored Georgian townhouse on one of the capital's main thoroughfares. It's the perfect place to meet friends and colleagues for a coffee or a wee dram, to dine in style or host a soiree or conference that will not be easily forgotten. The top floor has two members' flats.



GOOD COMPANY MEMBERSHIP

In response to the growing number of organisations who are using our services to entertain either privately or commercially, the Society has devised a special Membership Package to ensure maximum benefit, flexibility and value for money. Good Company Members enjoy many benefits including:

- u membership cards for colleagues and guests
- u dedicated, professional service with excellent event organisation and support
- u discounted rates for facilities and events and much more...

A WEE GEM IN THE HEART OF LONDON at 19, Greville Street, London

Ascend a flight of stairs and step into the Society's calm, relaxed premises in Hatton Garden. With rooms available for private events and meetings, Greville Street is ideally placed to mix business with pleasure.



To find out more please contact us...
Edinburgh – 0131 555 2266 events@smws.com
London – 020 7831 4447 london@smws.com
www.goodcompany.smws.com

Conference News

In this section we intend to carry news from academic associations, societies and interest groups as well as announcing awards and prize winners. So if you're organising an annual meeting or conference, or if you're attending a meeting, which you feel our readers would appreciate, then get in touch. Contact Patricia McDonnell at Independent Law Review Tel/Fax: 00 353 (0)44 333 41 or by Email on ilr1@eircom.net

Irish Association of Law Teachers' Annual Conference

PREVIEW Venue: Derry, Northern Ireland. Date: April 2-4, 2004.

The Irish Association of Law Teachers' Annual Conference will take place in the City Hotel, Derry (Londonderry). It takes place from Friday 2nd to Sunday 4th April, 2004 inclusive. This event will mark the 25th Anniversary of the founding of the Irish Association of Law Teachers.

Papers are welcome on any legal or socio-legal topic, (from members and non-members alike) the theme of this year's conference is "Law in the Modern World: New Problems, New Solutions". In the 25 years of the Association, much has changed in the landscape of law and legal systems. Law Reform, codification and consolidation, as well as fresh caselaw, have transformed legal rules and legal systems both at home and abroad, sometimes beyond recognition.

In other areas, however, legal change has been more muted, with the result that some legal rules appropriate to former times may sit uneasily with the realities of the 21st century. Thus, the more established legal disciplines (such as property law or equity) may equally be the subject of a worthy paper, given that the rules of former times still apply in many cases to modern property transactions and contracts. How do these rules cater to the realities of the 21st century?

Papers are welcome on all legal topics, but in particular in the following areas:

- Law and Information Technology (incl. e-commerce and m-commerce)
- Human Reproduction, Genetics, Biotechnology and Law
- Criminal Law

- Family Law, Marriage Law and Child Law
- Media (especially new media) and the Law
- Cultural Diversity and the Law
- Human Rights Law

This conference thus seeks to examine, under a variety of headings, the role of law and laws in our modern, complex and heterogeneous society, both at home and abroad.

For further information please contact:
Dr. Fergus Ryan, (President of the IALT),
Dublin Institute of Technology,
Aungier Street, Dublin 2,
Ireland.
Tel: +353-1-402-3016
Email: fergus.ryan@dit.ie

4 Nations Young Solicitors Association 2004 Conference

PREVIEW

Venue: Newcastle-upon-Tyne, UK.
Date: May 13-16, 2004.

Every four years a multi jurisdictions conference is held jointly by Young Solicitors organisations in Northern Ireland, Scotland, Republic of Ireland and England and Wales. The last, a "Millennium" Four Jurisdictions Conference, took place in 2000 and was hosted by the Northern Ireland Young Solicitors Association in Belfast. It proved to be one of the biggest and most successful ever. The association extended a welcome to more than 350 delegates, some of whom had travelled from as far a field as Estonia and Slovakia. It was a wonderful weekend on both an educational and social level. A full programme of lectures was arranged for the Saturday seminar session. This was followed by the usual Black Tie Gala Dinner that evening.

Next year's 4 Nations Conference will be held in Newcastle-upon-Tyne, UK. An increased attendance is expected this year. Information on the academic programme will be available from the organisers in the near future.

For further information please contact:
Catherine Calvert,
Secretary NIYSA,
c/o Samuel D Crawford & Co,
105-109 Victoria Street, Belfast, BT1 4PD,
Northern Ireland.
Tel: 028 9059 5300.
Email: catherine@sd Crawford.co.uk

Four Jurisdictions Family Law Conference 2004

PREVIEW

Venue: Belfast, Northern Ireland. Date: February 20 – 22, 2004.

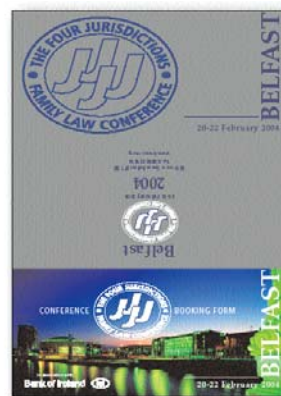
The next Four Jurisdictions Family Law Conference, which is being jointly promoted by the Law Society and the Bar Council of Northern Ireland, will be held at the Hilton Hotel Belfast from the 20th to the 22nd of February 2004. By rotation this conference comes to Northern Ireland every four years with the Republic, Scotland and the English Northern Circuit hosting it in the intervening years.

The conference provides an excellent opportunity for Family Law Practitioners in these islands to be brought right up to date with the latest in family law issues and provides a great opportunity to network with colleagues from all over the UK and Ireland.

The Organising Committee has put together an interesting and informative conference programme. Topics included are pre – nuptial agreements with Peter Duckworth, family law and human rights with Ursula Kilkelly and the relocation of children with Professor Nigel Lowe. The newly appointed Northern Ireland Commissioner for Children, Nigel Williams will also talk about his role.

An entertaining social programme has also been put in place with a Reception and Fork Buffet Supper on the Friday evening in the Royal Courts of Justice and an opportunity to tour the New Bar Library. On Saturday evening there will be a Reception and Gala Dinner Dance in Belfast City Hall. There is also an optional visit on Friday afternoon to Hillsborough Castle.

Further information and booking form can be found at www.lawsoc-ni.org

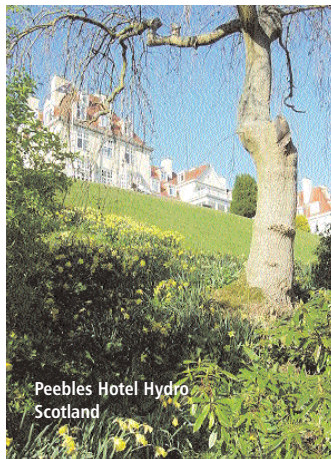


Northern Ireland Law Society Conference 2004

PREVIEW

Venue: Peebles, Scotland.
Date: March 26-28, 2004.

This year's Northern Ireland Law Society Conference will be held at the Peebles Hotel Hydro Scotland. The Conference theme this year is Money Laundering. The venue is a privately owned resort hotel with a magnificent elevated location providing wonderful views across the Tweed River Valley and the Scottish Borders. This award winning hotel provides an excellent range of leisure activities on site as well as an ideal place in which to explore the historic Border towns or go shopping in Edinburgh only 50 minutes away. The hotel is particularly well suited to families with its own designated children's play room and facilities in addition to a superb indoor leisure complex and health club.



Further information and booking form can be found at website www.lawsoc-ni.org

Are you organising an annual meeting or conference you would like to tell our readers about? Or would you like to write a report on a meeting or conference of interest to our readers?

Then contact Patricia McDonnell at Independent Law Review
Tel/Fax: 00 353 (0)44 333 41 or by Email: ilr1@eircom.net

NIYSA hosts European Young Lawyers Dinner

PREVIEW

Venue: Belfast, Northern Ireland.
Date: February 18, 2004.

The Northern Ireland Young Solicitors' Association (NIYSA) will once again have the pleasure of hosting a dinner at Belfast Castle for a delegation of young European Lawyers who will be visiting Northern Ireland for a one week study tour organized by the British Council. We would hope that our guests at the dinner will also include senior members of the British Council, members of the Junior Bar and the Chairman of the Belfast Solicitors' Association.

This annual dinner has long been one of the highlights in the NIYSA's social calendar. Those who have attended in previous years will be aware that after dinner it has become customary for the Euro Lawyers to stand before their peers and perform a song from their home country. Last year in particular, we were treated to some polished and hilarious cabaret performances. The evening's entertainment then continues with a disco until the wee hours.

We would encourage any Northern Irish young solicitor to attend this lively evening for great food, wine and entertainment.

Information: Nuala Sheeran c/o Mills Selig Solicitors,
21 Arthur Street, Belfast BT1 46A, Northern Ireland.
Tel: 028 9024 3878
Email: nuala.sheeran@nilaw.com

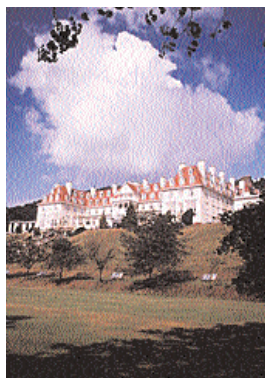
2004 Northern Ireland Law Society Conference

President: **John W Pinkerton**

The Conference theme this year is
Money Laundering

A privately owned resort hotel with a magnificent elevated location providing wonderful views across the Tweed River Valley and the Scottish Borders. This award winning hotel provides an excellent range of leisure activities on site as well as an ideal place in which to explore the historic Border towns or go shopping in Edinburgh only 50 minutes away. The hotel is particularly well suited to families with its own designated children's play room and facilities in addition to a superb indoor leisure complex and health club.

Booking form and further details on conference are available on website
www.lawsoc-ni.org



**Peebles Hotel
Hydro**

**Scotland
Friday 26th March -
Sunday 28th March
2004**

I.A.L.T. Annual Conference 2004

The City Hotel, Derry, Northern Ireland
April 2nd-4th, 2004

Call for Papers

This event will mark the 25th Anniversary of the Irish Association of Law Teachers.

While papers on any legal or socio-legal topic are welcome, (from members and non-members alike) the theme of this year's conference is "Law in the Modern World: New Problems, New Solutions". In the 25 years of the Association, much has changed in the landscape of law and legal systems. Law Reform, codification and consolidation, as well as fresh caselaw, have transformed legal rules and legal systems both at home and abroad, sometimes beyond recognition.

In other areas, however, legal change has been more muted, with the result that some legal rules appropriate to former times may sit uneasily with the realities of the 21st century. Thus, the more established legal disciplines (such as property law or equity) may equally be the subject of a worthy paper, given that the rules of former times still apply in many cases to modern property transactions and contracts. How do these rules cater to the realities of the 21st century?

This conference thus seeks to examine, under a variety of headings, the role of law and laws in our modern, complex and heterogeneous society, both at home and abroad.

Papers are welcome on all legal topics, but in particular in the following areas:

- Law and Information Technology (incl. e-commerce and m-commerce)
- Human Reproduction, Genetics, Biotechnology and Law
- Criminal Law
- Family Law, Marriage Law and Child Law
- Media (especially new media) and the Law
- Cultural Diversity and the Law
- Human Rights Law

Suggestions for papers should be sent to:

Dr. Fergus Ryan, (President of the IALT),
Dublin Institute of Technology, Aungier Street, Dublin 2, Ireland
Tel: +353-1-402-3016 or by e-mail to: fergus.ryan@dit.ie

Belfast



2004

20-22 February 2004

A very warm invitation is extended to Family Law Lawyers in Northern Ireland, Republic of Ireland, Scotland and the Northern Circuit to the Annual Four Jurisdictions Conference to be held in Belfast from Friday 20th February to Sunday 22nd February 2004. We believe we have put together a very stimulating and informative conference with just the right mix of topical and educational issues along with an entertaining social programme to follow on from the previous conferences in Dublin, Edinburgh and Liverpool.

We look forward to meeting with old friends and making new ones in a very relaxed atmosphere.

Friday 20th February

The Conference opens on Friday afternoon with an optional visit to Hillsborough Castle. The Castle set in the picturesque village of Hillsborough will be instantly recognisable to many as the venue for some of our recent historic political talks.

On Friday evening at 7.30pm onwards, there will be a Drinks Reception and Buffet Supper in the Royal Courts of Justice which is located just across from the Hilton Hotel. This will be an informal evening and we will arrange a tour of the adjacent New Bar Library with all its state of the art facilities. For those with continuing stamina details of local hot spots will be provided.

Saturday 21st February

The Conference Session will get underway in the Hilton Hotel and will encompass, amongst others, the following topics:

- the role of the newly appointed NI Commissioner for Children Nigel Williams
- pre nuptial agreements Peter Duckworth
- family law and human rights - Ursula Kilkelly
- relocation of children Professor Nigel Lowe

Delegates will have an opportunity to participate in active debate throughout the Conference.

On Saturday evening, the magnificent Belfast City Hall will be the venue for the Gala Dinner Dance. Belfast City Council is hosting a Drinks Reception which will be followed by dinner and dancing until late.

Sunday 22nd February

On Sunday morning there is the option to tour Belfast by Black Taxi before starting your journey home.

The Conference fee of £110 includes the visit to Hillsborough Castle, Friday Drinks Reception and Buffet, the Conference Session and lunch and the Gala Dinner Dance.



The New Bar Library Belfast



The Hilton Hotel



Belfast City Hall

Bank of Ireland



Due to the generous sponsorship of our principal sponsor Bank of Ireland, we have been able to keep costs to a minimum. We very much appreciate their sponsorship and that of all our other sponsors who will be acknowledged in our Conference brochure.

Conference Booking Form

Name:

Address:

Tel: Email:

I wish to attend Four Jurisdictions Family Law Conference 2004

The Conference Delegate fee is £110 and includes Friday Evening Reception and Buffet, Saturday Conference Session and Gala Dinner and Dance.

I will be accompanied by:

The cost for accompanying person is £65 and includes Friday Reception and Buffet and Saturday Evening Reception and Gala Dinner Dance.

Special dietary requirements:

Additional activities

Visit to Hillsborough Castle

Delegate Companion

Sunday morning Black Taxi Tour of Belfast
2 hours (£9 pp payable on day)

Delegate fee (£110) Companion fee (£65) Total

Please return completed Booking Form together with cheque payable to Four Jurisdictions Conference Belfast to:

CBPR 229 Mountsandel Road, Coleraine, BT52 1TB
Tel: 028 7035 3217 Email: clair@cbpr.co.uk

To download additional booking forms and to find out more about transport links, Belfast and Conference Hotel go to www.lawsoc.ni.org

In order to assist in updating the database for future Four Jurisdiction Conferences, it is necessary for data protection purposes to indicate consent for the storage of the above information. Please do so by ticking box

To receive further marketing information from our principal sponsor Bank of Ireland please tick box

All Hotel Accommodation should be booked directly with the Hilton Hotel Belfast

The Conference Hotel is the Hilton Hotel, Belfast. A contemporary 5 star hotel in the city centre with an enviable riverside location and excellent Living Well Health Club. Single rooms are £96 per room per night; double rooms are £106 per room per night; executive rooms £126 per room per night. All rates include vat and full Irish breakfast. Please quote the reference Four Jurisdictions Conference when making a reservation directly with the hotel. 50% of the rooms not reserved by 9/1/04 will be released. Remaining rooms will be released by 29/01/04. All accommodation must be confirmed with a credit card.

Hilton Hotel, 4 Lanyon Place, Belfast BT1 3LP Tel: 028 9027 7000 Fax: 028 9027 7277 www.hiltonhotels.com

Diary of Events

If you would like an event listed in the Independent Law Review Diary please send the relevant information to Patricia on Email ILR1@eircom.net or Fax: +353 (0)44 33341 by February 6th 2004.

2004

January

Belfast Solicitors Association Dinner Dance 2004
January 17, 2004;
Belfast, Northern Ireland.
Info: www.
belfast-solicitors-association.org

Irish Association of Law Teachers Mid-Year Conference
January 17, 2004; Dublin, Ireland.
Info: Dr Fergus Ryan, President I.A.L.T., Dublin Institute of Technology, Aungier Street, Dublin 2, Ireland.
Email: fergus.ryan@dit.ie
Website: www.ialt.org

Practical Conveyancing
January 20, 2004; Dublin, Ireland.
Info: The Law Society of Ireland, Blackhall Place, Dublin 7, Ireland.
Tel: +353 (0)1 672 4800
Fax: +353 (0)1 672 4801
Website: www.lawsociety.ie

Costs
January 21, 2004; Limerick, Ireland.
Info: The Law Society of Ireland, Blackhall Place, Dublin 7, Ireland.
Tel: +353 (0)1 672 4800
Fax: +353 (0)1 672 4801
Website: www.lawsociety.ie

Addictions - A Perspective on Individual and Community Rights
January 22, 2004; Dublin, Ireland.
Info: Mary MacMurrough Murphy, B.L., 2 Whitebeam Road, Clonskeagh, Dublin 14, Ireland.
Tel: 01 817 4828.

Protection of the Environment Act 2003
January 28, 2004; Dublin, Ireland.
Info: The Law Society of Ireland, Blackhall Place, Dublin 7, Ireland.
Tel: +353 (0)1 672 4800
Fax: +353 (0)1 672 4801
Website: www.lawsociety.ie

Long Term Care
January 28, 2004;
Belfast, Northern Ireland.
Info: AFP Consulting, 40 Linenhall Street, Belfast, BT2 8BA, Northern Ireland.
Tel: +44 (0)845 600 2729
Email: consulting@aforbes.co.uk

ECHR - A Practitioner's Guide
January 29, 2004; Dublin, Ireland.
Info: The Law Society of Ireland, Blackhall Place, Dublin 7, Ireland.
Tel: +353 (0)1 672 4800
Fax: +353 (0)1 672 4801
Website: www.lawsociety.ie

February

Compliance & Regulatory Risk under the Irish Financial Services Regulatory Authority
February 11-12, 2004;
Dublin, Ireland.
Info: Tel: +44 (0)1323 430816
Fax: +44 (0)1323 430817
Email: susan@infoline-uk.com

Data Protection in Ireland
February 16-17, 2004;
Dublin, Ireland.
Info: IIR Ltd, 6th Floor, 29 Bressenden Place, London, SW1E 5DR, England.
Tel: +44 (0) 20 7915 5055
Email: registration@iir-conferences.com

Recent Developments in Irish Competition Law
February 18, 2004; Dublin, Ireland.
Info: The Law Society of Ireland, Blackhall Place, Dublin 7, Ireland.
Tel: +353 (0)1 672 4800
Fax: +353 (0)1 672 4801
Website: www.lawsociety.ie

Testamentary Conditions in Restraint of Religion: An Anglo-Canadian Perspective
February 18, 2004;
Belfast, Northern Ireland.
Info: Dr Heather Conway, School of Law, Queens University Belfast, 28 University Square, Belfast, BT7 1NN, Northern Ireland.
Tel: 028 9027 3868 or
Email: h.conway@qub.ac.uk

Sorting Out the Rights and Wrongs: Possession and the Protection of Property Interests
February 18, 2004;
Belfast, Northern Ireland.
Info: Dr Heather Conway, School of Law, Queens University Belfast, 28 University Square, Belfast, BT7 1NN, Northern Ireland.
Tel: 028 9027 3868 or
Email: h.conway@qub.ac.uk

British Council Dinner
February 18, 2004;
Belfast, Northern Ireland.
Info: Nuala Sheeran, c/o Mills Selig Solicitors, 21 Arthur Street, Belfast, BT1 46A, Northern Ireland.
Tel: 028 9024 3878
Email: nuala.sheeran@nilaw.com

Four Jurisdictions Family Law Conference 2004
February 20-22, 2004;
Belfast, Northern Ireland.
Info: The Law Society of Northern Ireland, Law Society House, 98 Victoria Street, Belfast, BT1 3JZ, Northern Ireland.
Tel: +44 (0)28 90 231 614 or
visit www.lawsoc-ni.org

Inquests - Old and New
February 26, 2004; Dublin, Ireland.
Info: Mary MacMurrough Murphy, B.L., 2 Whitebeam Road, Clonskeagh, Dublin 14, Ireland.
Tel: 01 817 4828.

March

Through the Looking Glass: Socio-Economic Rights and Positive Duties
March 10, 2004;
Belfast, Northern Ireland.
Info: Dr Heather Conway, School of Law, Queens University Belfast, 28 University Square, Belfast, BT7 1NN, Northern Ireland.
Tel: 028 9027 3868 or
Email: h.conway@qub.ac.uk

The American Constitution, the Supreme Court, and the Death Penalty
March 11, 2004; Cork, Ireland.
Info: Mary Donnelly, Lecturer in Law, Law Department, University College Cork.
Tel: +353-21-490 2857
Fax: +353-21-427 0690
Email: m.donnelly@ucc.ie

Unlawful Sexual Harassment in the American Workplace
March 11, 2004; Cork, Ireland.
Info: Mary Donnelly, Lecturer in Law, Law Department, University College Cork.
Tel: +353-21-490 2857
Fax: +353-21-427 0690
Email: m.donnelly@ucc.ie

The Implementation of EU Criminal Justice Measures in Ireland: Implications for Democratic Legitimacy
March 24, 2004; Belfast, Northern Ireland.
Info: Ms Katie Quinn, School of Law, Queens University Belfast, 28 University Square, Belfast, BT7 1NN, Northern Ireland.
Tel: 028 9027 3370 or
Email: c.m.quinn@qub.ac.uk

Tribunals of Inquiry
March 25, 2004; Dublin, Ireland.
Info: Mary MacMurrough Murphy, B.L., 2 Whitebeam Road, Clonskeagh, Dublin 14, Ireland.
Tel: 01 817 4828.

NI Law Society Conference 2004
March 26-28, 2004; Peebles, Scotland.
Info: The Law Society of Northern Ireland, Law Society House, 98 Victoria Street, Belfast, BT1 3JZ, Northern Ireland.
Tel: +44 (0)28 90 231 614 Website: www.lawsoc-ni.org

April

Irish Association of Law Teachers Annual Conference 2004
April 2-4, 2004; Derry, Northern Ireland.
Info: Dr. Fergus Ryan, President I.A.L.T., Dublin Institute of Technology, Aungier Street, Dublin 2, Ireland.
Email: fergus.ryan@dit.ie
Website: www.ialt.org

The Law of Murder: Myth and Meaning
April 21, 2004; Belfast, Northern Ireland.
Info: Dr Heather Conway, School of Law, Queens University Belfast, 28 University Square, Belfast, BT7 1NN, Northern Ireland.
Tel: 028 9027 3868 or
Email: h.conway@qub.ac.uk

'Let 'em Rot': Understanding Punitive (and non-Punitive) Attitudes Among the Public
April 28, 2004; Belfast, Northern Ireland.
Info: Ms Katie Quinn, School of Law, Queens University Belfast, 28 University Square, Belfast, BT7 1NN, Northern Ireland.
Tel: 028 9027 3370 or
Email: c.m.quinn@qub.ac.uk

May

NIYSA 2004 Conference
May 13-16, 2004;
Newcastle-upon-Tyne, UK.
Info: Catherine Calvert, Secretary NIYSA, c/c Samuel D Crawford & Co, 105-109 Victoria Street, Belfast, BT1 4PD, Northern Ireland.
Tel: 028 9059 5300.

Law and Society Association Annual Meeting
May 27-30, 2004; Chicago, USA.
Info: Law and Society Association Annual Meeting, 205 Hampshire House, University of Massachusetts, 131 County circle, Amherst, MA 01003-9257, USA.
Tel: +1 413 545 4617
Fax: +1 413 577 3194
Website: www.lawandsociety.org

July

NIYSA AGM
July 31, 2004; Belfast, Northern Ireland.
Info: Barbara Johnston, Secretary, NIYSA, c/o Hewitt & Gilpin Solicitors, 14-16 James Street South, Belfast, Northern Ireland.

Are you organising an event?

If you'd like a free listing then contact Patricia on ilr1@eircom.net or Fax: 00 353 (0)44 333 41

Web Review



Cian C Murphy

a BCL Year 2 Student in University College Cork. He has served as both Recording Secretary and Webmaster of the U.C.C. Law Society.

Web Review is compiled by Cian C Murphy who is in his second year of a primary law degree in University College Cork. The section is devoted to reviewing law related websites. Carrying serious and light-hearted reviews of publicly accessible internet pages, it aims to analyse, inform, share good humour and encourage enhanced on line activity and creativity.

Submit your comments, suggestions or address for review by Email to cianmurf@eircom.net

Several years ago, a number of students and staff in the Faculty of Law in U.C.C. dreamt up the idea of an online law review. The dream reached fruition two years ago, when Mr Justice Ronan Keane officially launched the first edition. An Editorial Committee under the auspices of the U.C.C. Law Society publishes the Review once a year. It comprises essays and articles on all aspects of the law, written by students of the College, and the wider legal community.

The Cork Online Law Review - <http://colr.ucc.ie>

Upon entering the site, the visitor is met with an alert which informs you that "This page is best viewed in 1024 x 768". It is built on a background intended to imitate parchment paper. This perhaps betrays the Achilles heel of the C.O.L.R. – it's an online law review that has yet to realise that it's online. While reading fancy script fonts on a marbled background might be all very well were it on paper, it's something of an eyestrain on a computer screen. If this is an attempt at prestige, then it's ill advised – prestige will come from the quality of the Review, not from fancy backgrounds.

Navigation within the site at the moment is divided review by review. As the Review is now preparing for its third edition, it may be time for a rethink. An 'Essays by Topic' page, as well as a search option would not go astray. Equally, the navigation buttons themselves could be updated – the site at present is impossible to view on a 640 x 480 screen, and just about bearable in 800 x 600.

The real strength of the Review is however its essays, which showcase the best written work by students within U.C.C., nicely complemented by submissions from alumni of the Faculty, and other contributors. In years to come, the Review may prove a great mine of early works of some of U.C.C.'s great legal minds. This is already

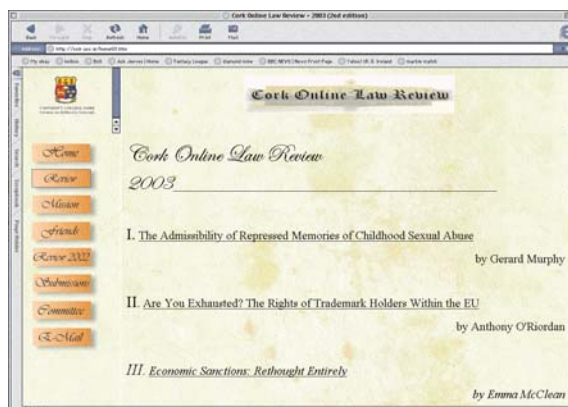
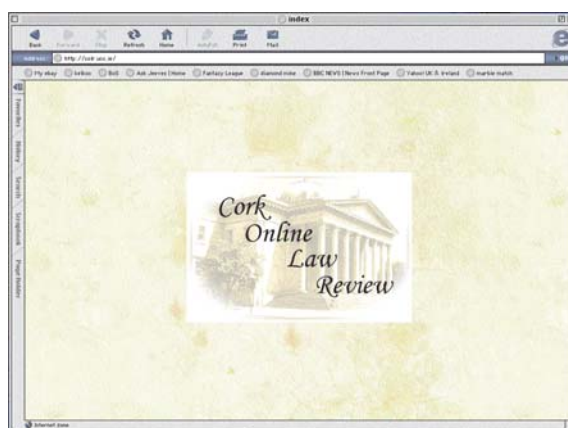
partially true – as the second edition included an essay by Claire McHugh, now a researcher in the Equality Tribunal. Her examination of Ireland's Tribunals of Enquiry will be of interest not only to students of the law of administration, but also to those involved in the Tribunals, and the general public.

Indeed, many of the essays are particularly timely – with Emma McClean's essay on economic sanctions most relevant given current debate over the sanctions in Iraq, and

the effectiveness of sanctions in Myanmar, North Korea, and the wider world. Just as relevant to such cases is Eoghan MacSweeney's submission on the doctrine of humanitarian intervention. It is these pieces on international topics which ensure that many of C.O.L.R.'s thousands of hits a month come from overseas.

Readers interested in matters closer to home are not disappointed either. Articles on evidence, constitutional interpretation and child custody battles ensure that a practitioner in any field would do well to pay the site a visit, as would any student preparing an essay of their own. The essays are published in PDF file format, allowing for easy printing. From the point of view of the Review itself, a standardised formatting of these essays would lead to a much more professional look, but this is true of the site as a whole.

By the time you read this, the closing date for submissions for the Third Edition will have come and gone, and so preparations will be well underway for the launch. With that in mind, a revamp of the technical side of things may be in order. Only if the site realises its potential as an online review, and not just a computerised version of a print edition, will it do true justice to the academic works it houses.



Web Directory

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A website provides little or no benefit if no one gets the chance to hear about it, the *Independent Law Review* Web Directory will provide easy access to your website address from an alphabetical index, giving a brief description of its contents and services.



For further information please contact Patricia at Independent Law Review on Tel: +353 (0)44 33341 or Email: ilr1@eircom.net

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q	Blue Print Appointments	25
q	Law Suit	29
q	Rory P Gormley Accountants & Co	29
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q	Irish Court Hotels	30
q	Griffith College Dublin	32

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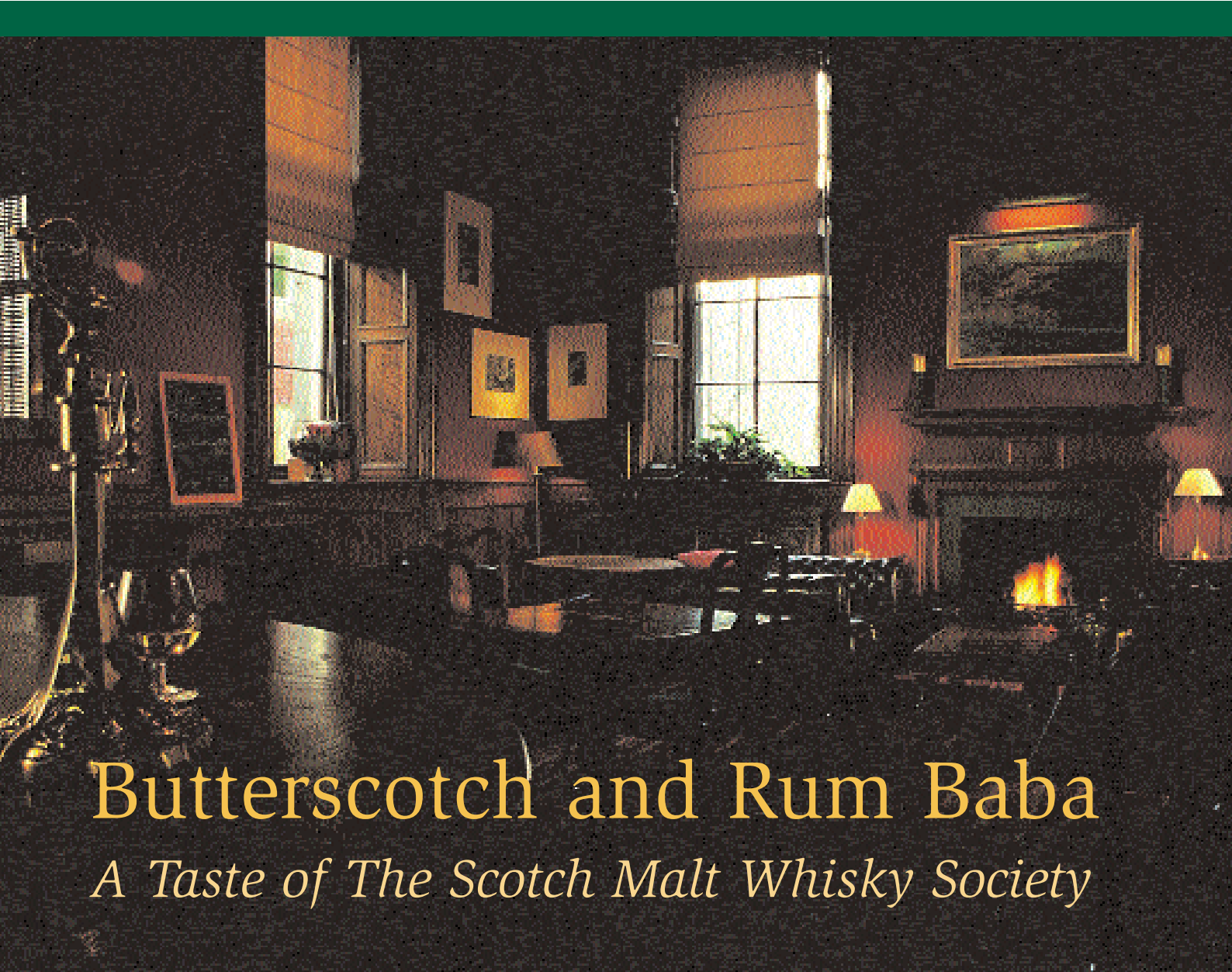
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Butterscotch and Rum Baba

A Taste of The Scotch Malt Whisky Society

Life is about more than work, although this may be an easy thing to forget when you look at the pile of papers sitting on your desk. Just to remind us all of the nicer things in life, Independent Law Review will be bringing you news and reviews of some of the more interesting and unusual places to while away those precious hours of liberty from the office. We start with a journey across the Irish Sea to the picturesque city of Edinburgh...

Nights drawing in, fires being lit, relaxing on the sofa with a glass of Society whisky in my hand. Ahh bliss. This is one of the nicer thoughts of autumn and winter, forget the rain, wind, watching the few hours of daylight through the office window, just give me a glass of single cask, single malt whisky, the company of good friends and an open fire.

As you can probably tell, I'm no stranger to the delights the Scotch Malt Whisky Society has to offer, so when the opportunity to review The Society popped up, I grabbed it with glee. What is The Scotch Malt Whisky

Society (SMWS or the Society) all about? In a very obvious word, whisky. But not your average run of the mill stuff, this is single cask, cask strength, unchill filtered, single malt whisky. Put simply, whisky from one cask, poured straight into a bottle, then into your glass, just as nature intended and simply divine.

To say the Society is simply about whisky is to do it a huge disservice, there are two Members rooms, one in Edinburgh and the other in London, where whisky can be sampled by the dram, more of which later. Self catering flats in Edinburgh that can be rented at very competitive rates, and

there are also countless tastings held across the UK and Northern Ireland where the society comes to those members who can't come to it'. There are also franchises spread around the world.

Nestled in a quiet backstreet, the SMWS is one of the oldest buildings in Edinburgh, with cellars dating back to the 16th century. Originally a store for casks of wine and port coming in from the docks, it has served many purposes over the years, but is now home to a Vintner, a restaurant and The Scotch Malt Whisky Society.

After climbing the stairs to the first floor, you're met at the door,

membership checked and then ushered into the jewel in the crown of The Society. The Edinburgh Members Room. The room itself is large, high ceilinged and filled with an eclectic mix of leather arm chairs, sofas, tables, chairs, and two open fires. There is a welcoming atmosphere to the room that's hard to pin down to any one thing. This is probably one reason why my female friends feel happy to come in and wait by themselves if they are early, or as in this case, I'm the last to arrive. I joined my friends already ensconced in front of the fire, with the promise of Society whisky; it's not hard to entice people away from their desks for an afternoon.

Everyone had copies of the latest bottling list and were comparing tasting notes and illustrations. Selecting your whisky can (almost) be as much fun as drinking it. On a bi-monthly basis the Society produces a list of the latest bottlings. A tasting panel meets to choose the whiskies to be bottled (there's a long list of applicants), and from this meeting, tasting notes are produced. These range from the amusing to the sometimes downright bizarre, "Pan

every glass a new adventure

drops and scampi fries"(23.40), "Madeira cake and vindaloo" (107.9), and quite temptingly, "Butterscotch and Rum Baba"(24.68). Accompanied by illustrations by Bob Dewar (*also our front cover- ed*) the bottling list can give many an amusing and informative moment.

The process of choosing a whisky is made even more mysterious by the numbering system used to identify the whiskies. All the bottles sitting on the wall are green, with near identical labels, and the only real difference between them are two numbers. The first is to identify the distillery, and the second to indicate which cask was used. For example, the whisky 49.13

is from distillery 49 and is the thirteenth cask from that distillery.

The SMWS entered a gentleman's agreement with the whisky industry not to identify the distilleries bottled, to understand why, you need to understand a little of the nature of whisky and its many forms. Single cask whisky is as it sounds, whisky from a single cask. It undergoes very little processing, and is just roughly filtered before being bottled, leaving it at cask strength, roughly 60% alcohol by volume (ABV). Depending on the size of the cask there can be between 200 to 600 bottles from a cask. Each cask produces a unique whisky, often very different from a distillery's better-known proprietary bottlings. Avoiding confusion with brand names is one of the main reasons for the Society's numbering system and because of this, each whisky becomes an unknown adventure instead of journey into brand expectation.

Ah, but back to the real business at hand, sampling the whisky. With bottling list in hand, two of us make a sortie to the bar. With a wall of over 100 identical green bottles, the choice of whisky could be daunting, but one of the great assets of the Society is its



staff. They aren't just employees, but fellow enthusiasts who are willing to spend time with you to help with the choices. So no matter your level of knowledge and expertise, they are willing to lend a helping hand.

Doug Macfarlane the bar manager was on hand to help us; he was busy that afternoon, a busy bar and all the preparations for a whisky tasting and dinner in the adjoining private tasting room. Doug explained that they were busy most nights with corporate work, and that tonight was one of the big banks doing some entertaining. Now I know where my bank charges are going!

Tray loaded up with a half dozen glasses, we headed back, reciting the numbers and positions of the whiskies ready to carefully unload our precious cargo on arrival. Silence descends for a few moments as the first few tentative sniffs and sips are taken, accompanied by a few happy sighs. Water added. More sniffs and sips, the search for the truth of the tasting notes underway, and conversation starts up again. When you look around you can see this process repeated around the room, and then you understand the feeling you sensed when you walked in. Contentment.

Fine whisky is not to be hurried, and the afternoon slips into fire lit evening. The simple task of remembering which whiskies were which on the short trip from the bar becomes ever more difficult. With

every glass a new adventure and fortified with the bonhomie of good friends, no one really minds, after all, its all part of the fun.

Grant Mackie

For further information contact:
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Edinburgh,
EH6 6BZ,
Scotland.

Tel 0131 554 3451,
Fax 0131 553 1003,
www.smws.com

The Scotch Malt Whisky Society has kindly offered a free membership to one of our readers.

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The winner will be announced in the next issue.

Good luck



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Irish Court Hotels

As this is the first issue of *Independent Law Review*, we thought that we should give you the chance to win something special to help us celebrate the launch of the magazine. So we've teamed up with Irish Court Hotels to give you an opportunity to win a fabulous weekend for two at any one of their hotels.

Irish Court Hotels are an Irish hotel chain offering luxurious accommodation at a number of locations in Ireland. Their hotels are located in Ennis, Killarney, Sligo and Shannon and, with over 25 years experience in the business, they are the perfect partners for the *Independent Law Review* in its inaugural edition. If the following tempts you, turn to the Reader Enquiry Service on page 24 to enter a competition to win a weekend for two at one of their luxury hotels. Your entries can be sent by post or fax to us here in the *Independent Law Review*.

RIVERSIDE HOTEL, KILLARNEY

On the Muckcross Road, the main road to Killarney National Park and Lakes and just five minutes from the town centre, this four star hotel offers 69 spacious comfortable bedrooms. At most quality hotels accommodation in plush surroundings is an added extra but at the Riverside Hotel it comes as standard. The hotel offers a range of deluxe rooms and mini suites, and a number of rooms offer a stunning view of the famous Flesk River against the backdrop of the beautiful McGillicuddy Reeks. The Riverside Hotel has a contemporary interior with tasteful furnishings, giving a warm

relaxed atmosphere. Excellent cuisine is prepared by our award winning chef in the 'Bacchus Restaurant', Combined with our fine wines and attentive service you can be assured of a wonderful dining experience.

The Riverside Hotel is the perfect business retreat for a corporate break for your clients or motivational weekends for your staff. The hotel will organise all your leisure requirements including golf, fishing, horse trekking or guided walking tours.

RIVERSIDE HOTEL & LEISURE CENTRE SLIGO

The Riverside Hotel & Leisure Centre Sligo is situated beside the River Garravogue in the heart of Sligo Town. The Riverside Hotel features 66 luxury bedrooms, bar, restaurant, leisure centre and conference rooms. Whether coming to Sligo for business or pleasure the Riverside Hotel offers the very best in hospitality and convenience.

Our accommodation comprises a mixture of standard and executive rooms each elegantly equipped with all the conveniences of a modern hotel. Many rooms have their own balcony offering a view of the river below.

Our beautifully decorated 'Mill Bar' incorporates both traditional

and contemporary designs, with an excellent bar food menu available daily.

The unique design of our bar is carried through to our 120 seater 'Waterfront Restaurant'. With a large conservatory overlooking the river, the restaurant serves an exciting and varied menu that is sure to please the most discerning palate.

To relax and unwind guests may avail of our delightful leisure centre, which features a 12-meter swimming pool, solarium, sauna, Jacuzzi and an extensive and well-equipped gymnasium.

The vibrant town of Sligo offers excellent shopping and lively entertainment venues.

QUEENS HOTEL

Adjoining the ruins of a Franciscan Friary founded in 1242, the Queens Hotel is located on the centre of Ennis town, within easy reach of shops and all local attractions. The Queen's Hotel still retains an Old World charm without compromising on comfort or quality. The hotel features 50 recently renovated bedrooms, a popular nightclub and the popular Front Bar offering an excellent carvery.

Situated beside the Queens Hotel is 'Cruises Pub & Restaurant'. Cruises dates back to 1658 when the building was originally constructed as the residence of John Cruise, a thriving merchant of the time. Dine in a relaxed 'Olde World' atmosphere and savour our specialities of the freshest Atlantic seafood and the choicest steaks. Afterwards relax in the 'safe Haven Snug' with its blazing fire.



All our hotels are new or newly refurbished and finished to the highest standard. Our hotels are centrally located in the most progressive towns and cities in Ireland, allowing us to cater for all types of breaks. If you're looking to escape the hustle and bustle of the work place, we offer a wide range of short break holidays. Whether your interest is romantic, cultural, heritage or something a little more sporting, we have just the package for you. So whether on your own or with your family, we will ensure that your stay is as relaxing, or action packed, as you want.

AUBURN LODGE HOTEL

Auburn Lodge Hotel - Ennis, the traditional musical capital of Ireland, is famed for the warmth of its welcome and hospitality, and nowhere is this more evident than in the Auburn Lodge Hotel, located on the outskirts of the town.

The hotel features 100 bedrooms including executive and bridal suites all finished to the highest standard. With its landscaped gardens and magnificent banqueting suites the Auburn Lodge Hotel enjoys a superb reputation for weddings and conferences. Over the years the hotel has hosted many national and international conferences.

Our Oyster Restaurant with its exceptionally high standard of both traditional and continental fare is a joy to relax in. It offers the freshest of local ingredients, the finest of wines and the friendliest of service to create an elegant and magical dining experience.

Our Auburn restaurant with its wood and brick charm has a more casual atmosphere and is the perfect place to enjoy a quiet meal.

An all day carvery is served in 'Taylor Quigley's Pub' and it is the ideal stop on the N18. The pub's atmosphere is perfect for a sing song, with many famous musicians playing nightly during the summer months. Our golfers bar is available for golf enthusiasts. Local golf courses include: Ennis, Woodstock, Dromoland, Shannon and Lahinch links courses.

KILLARNEY COURT HOTEL

This superb hotel is situated in the heart of beautiful Killarney, just a few minutes walk from the town center. Our 100 bedrooms boast a tasteful neo-gothic style décor and are complete with ensuite.

'McGuillicuddy's pub', with its nostalgic olde world charm, has a wonderful 'Ceol, Ol agus Craic' atmosphere. 'McGillicuddys' Pub prides itself with an extensive carvery and bar food menu.

'Seasons Restaurant' with its exceptionally high standard of both traditional Irish and International fare offer guests a unique and comfortable atmosphere.

For a great start or finish to your day, visit our mini Leisure Suite that includes sauna, Jacuzzi and gymnasium.

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Irish Court Hotels

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The Killarney Court Hotel
Riverside Hotel, Killarney

With over 25 years in the hotel industry our dedicated staff look forward to making your stay a memorable experience.

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