



Society of Construction Law

To promote the study and understanding of construction law amongst those involved in the Construction industry

Summary Chairman's Report 16 May 2003

Summary

The Society has enjoyed an active year, with some high profile initiatives. In July 2002 we chaired a joint conference in London and hosted the European Society for Construction Law annual meeting; in October we launched the SCL Protocol; the President's Reception took place in November, at which Sir Philip Otton awarded the President's Medal; and we have hosted an excellent series of meetings, with papers published both in hard copy and on the website. We now have 1,552 members.

Membership

Membership has increased substantially during the course of the last year. 382 members have joined the Society in the last 12 months. Not all members have renewed their subscriptions, and we have noted that in some cases the hardened market for marketing budgets has restricted some of the larger firms who previously held multiple memberships. The total number of current members is 1,552, of whom 138 have not yet renewed their membership. Of these, just over 50% are solicitors, with the other 50% being made up of quantity surveyors, barristers, engineers, other consultants, architects, and other professional groups, in order of declining numbers.

The number of members took a particular surge forwards in October 2002, when 84 new members joined, which we attribute particularly to the launch of the Protocol.

Meetings

Meetings were held throughout the United Kingdom and the Republic of Ireland, with the titles of talks including:

“Old dogs, new tricks”

“Restitution”

“Partnering under the NEC”

“Why contracts go wrong”

“HGCRA – How is this 4 year old brat doing?”

“I have no direct contract with the wrongdoer – how can I sue in 2002?”

“Counting the cost. The impact of cost capping, the CPR and ADR”

“Construction law – relationships and communications. Achieving the best for you and others”

“Playing with fire and the Contribution Act: What the JCT really meant”

“The liability of contractors for fire causing damage to work prior to practical completion”

“PPC 2000 – The Full Monty”

“PFI/PPP – documentation and risk management, the D&B contractor’s perspective”

“Aspects of professional regulation – the Architects’ Registration Board”

“Construction Tenders – EU Procurement Regime, Common Law and the Irish CONDOC system”

“Extensions of Time”

“Arbitration with the benefit of the Construction Act”

“Delay and Disruption: The Society of Construction Law Protocol”

“Same Damage – Same Problem: Contributions after the Brompton Hospital case”

“Rethinking construction – doing it differently at Terminal 5”

“Will the hardening insurance market affect property development?”

“The Panatown v McAlpine litigation: still going strong 14 years on!”

“The ‘Be Collaborative’ Construction Contract”

“How to succeed in adjudication: the adjudicator’s view”

“Relational contracting under the NEC: a model, framework and analysis”

There was also a debate in Newcastle in May on “This house believes that arbitration has no role for the domestic construction industry”, plus the joint conference in conjunction with King’s “Delivering Infrastructure: International Best Practice”

Council thanks all of the many speakers who have contributed to these events.

Website

In the last year we have made further strides forwards in developing the SCL website. I urge all members to visit the website if they do not already do so frequently. As well as providing an excellent source of information both for members and those enquiring about the Society’s activities, it presents the Society to an international audience. The statistics speak for themselves: the website averages approximately 5,000 visitors each month, of whom about 50% are from the UK, 17% from the United States, 14% from Australia, and the remaining percentages coming from all corners of the world. We are averaging approximately 2,000 papers per month being down loaded from the website, with a further average of approximately 450 copies of the Protocol still being downloaded each month. In addition, we have a further 400 visitors or so each month, to the ESCL website.

One of the major steps forwards in the information on the website in the last year is the addition of a suite of administration pages accessible to members of Council, providing up to date information on matters such as membership, income, bookings for events etc.

The SCL's online "shop" continues to provide services for members to renew membership, buy tickets such as to the Annual Dinner. Already this year over £20,000 worth of transactions have been undertaken in this way.

I would like to extend special personal thanks, and also thanks on behalf of Council and all of the membership, to Richard Bayfield and to the Society's webmaster, Edward Peters, for their continuing dedication to developing and maintaining the IT aspects of the SCL.

Papers

A total of 28 new papers have been published on the SCL website in the last 12 months, including the papers delivered at the joint SCL KCL conference. A total of 30 papers have been printed and circulated to all members.

The library of papers on the website continues to be an excellent and valuable resource, and I am extremely grateful to Frances Paterson for her continuing work on behalf of the Society in editing, coordinating and preparing for publication these papers both in hard copy and on the website.

SCL Delay and Disruption Protocol

After an extensive process of consultation, the Protocol was published on 16 October 2002. The Protocol exists to provide guidance to all parties to the construction process when dealing with time and delay matters. Its publication marks an important new step for the Society of Construction Law, being the first such document which the Society has published.

It is fair to say that its publication has not been without controversy; Council believes, however, that it is an important document sitting firmly within the constitutional objectives of the SCL, and its relevance is ably demonstrated by the extensive enquiries we have in relation to it.

Over 6,000 people have registered on the website to receive information in connection with the Protocol, and even in the first four months of this year, approximately 1600 people have registered. Many of these are for purchase of the Protocol by non-members; Council agreed what we considered to be a modest cost for obtaining the Protocol, in order to cover to some extent the overheads, but in order not to discourage its wider take up.

Discussion events have taken place throughout the United Kingdom and abroad, in relation to the Protocol, some of these being organized by the SCL Drafting Committee, and others independently by consulting groups.

I wish to extend our sincere thanks to all members of the Drafting Sub-Committee chaired by Jeremy Winter, and also to John Marrin QC for his final and valuable input.

Universities: Book Grants and Other Donations

As with previous years, the Society has actively sought to encourage universities and other educational establishments to seek funding from SCL for appropriate proposals. During 2002 we gave donations totalling over £14,000 for grants and awards.

My thanks go to Jim Pragnell, who in addition to being our Treasurer still chairs the sub-committee dealing with these matters.

Hudson Prize

As with recent years, entries this year were submitted from all around the world. The winner of the 2002 SCL Hudson Prize was Philip Britton for his paper “Oxalic Acid and the Applicable Law: The Rome Convention and Construction.” Second prize was awarded to Hamish Lal, for his paper “The Doctrine of Penalties and the “Absurd Paradox” – Does it Really Matter in 2003?”. Both of these papers are now published on the website, and Philip Britton’s paper has also been published by hard copy. Hamish Lal’s paper is expected to be published soon. Both Philip and Hamish addressed the Society at the London meeting at the National Liberal Club on 6 May 2003.

My thanks go to the Hudson Prize panel, for their judging of the submissions, and in particular to Anthony Lavers for his continuing chairing of the judging panel.

Consultant to the Society

During the course of the past year Robert Knutson completed his six month consultancy for the Society and submitted his concluding paper. I would like to offer my particular thanks to Robert for his input in various areas during this period.

The Society is committed to moving forwards to employing part time a further key person to assist in the continuing management and progress of the Society, and to support members of Council in their many roles.

SCL Abroad

SCL continues to develop strong links with flourishing and embryonic Societies of Construction Law elsewhere. SCL Hong Kong is now well established; SCL Singapore has been set up in the last year; and SCL Latin America is at least a possibility at this stage. SCL has contributed financially to assist SCL Hong Kong and SCL Singapore in their initial start-up costs.

European Society for Construction Law

SCL hosted the European Society for Construction Law conference in July 2002. My particular thanks go to both Victoria Russell and Philip Britton for their organization of the event.

In addition, meetings took place between ESCL members immediately after the conference. Minutes of the meeting can be found via the SCL website, but to summarise: the Slovakian Society was elected to full membership; Poland and Portugal were elected to observer status, with the expectation that full membership will follow in due course; and the meeting reaffirmed the importance of a bibliography and directory initiated by His Honour Judge Humphrey LLoyd, with the objective of publishing the information in electronic form.

My thanks go to Victoria Russell for her Presidency. Vicky stood down as President of the ESCL, in October 2002, and the new President is Professor Alfonso Hernandez-Moreno of Spain, who is based in Barcelona. The next ESCL event is due to take place in October 2003 in Barcelona.

President's Reception and the President's Medal

SCL hosted a lively reception on 16 October 2002 at which Sir Philip Otton awarded the President's Medal to Professor Ian Duncan Wallace QC for his outstanding contribution to Construction Law. Sir Philip said that the award was to acknowledge Professor Duncan Wallace's enormous contribution to construction law throughout 50 years of his professional life. He had rejuvenated the standard text book Hudson as a co-editor in 1959, and had been an editor for over 30 years. In addition he had also produced an array of scholarship work.

Honorary Members

In 2002 SCL welcomed as Honorary Members Ian Duncan Wallace QC and HHJ Anthony Thornton QC. SCL has also just elected Professor Rudi Klein as an Honorary Member in 2003, and we hope that a formal welcome will shortly be able to take place. The Constitution provides that Council may elect Honorary Members on account of their distinction and eminence, and we are delighted to welcome these Honorary Members.

Brewery Lunch

SCL held our annual lunch at the Brewery in Chiswell Street on 28 February 2003. The event was well oversubscribed, at which Philip Naughton QC spoke on "Mediators are Magicians – a Modern Myth?". I am grateful as ever for the organisation of Helen Garthwaite, Jackie Morris and Elaine Corne in ensuring that this event was a success.

Advocacy Classes

SCL ran a further advocacy class in the Autumn of 2002. We are very grateful to the continuing support of HHJ Humphrey LLoyd QC. My thanks also to Helen Garthwaite and Nigel Jones QC for their organisation, including Nigel's advocacy briefing training to those attending.

Junior Committee of SCL

Following an initiative from Nicholas Gould, a Junior Committee of SCL has been established to focus on events designed for those who are relative new comers to the field of construction law. Its first event will take place in September 2003.

Members of Council and Officers

I would like to say a particular thanks to all members of Council who have supported me in my role as Chairman throughout this past year, and who have actively enabled the Society to move forwards so positively. In particular, I thank the Officers, Anthony Lavers, Helen Garthwaite and Jim Pragnell. I would also like to give my personal thanks to the Society's President Sir Philip Otton, for his continuing leadership and support in all areas. I would also like to thank the Regional Coordinators, who continue to work with Council to ensure that the Society's operations do not remain solely London focused, and for the co-opted members to Council, John Marrin QC, Nicholas Gould, Philip Britton and Charlotte Blake. Philip is standing down this year, due to the extensive activities he undertakes on behalf of Kings College, London. Our particular thanks go to Philip for his energy and enthusiasm, and in assisting us to build and maintain strong links with Kings.

Christopher Miers
16 May 2003