



NEWSLETTER : MARCH 2006

Programme

Unless marked otherwise, the following meetings are free to members and guests.

Location maps are now always available on the website.

All are welcome but for those meetings where the organiser's telephone or email is given, it would be helpful if you could please let them know of your intention to attend.

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| Monday,
6 th March | Joint SCL/SCS meeting
“Notices of delay and disruption under construction contracts”
Speaker: Denis O’Driscoll
Venue: Rochestown Park Hotel, Rochestown Road, Cork
Organiser: johnlyden@scl.org.uk | 6.30pm |
| Tuesday,
7 th March | “Construction industry well served by the legal process?”
Speaker: Michael Blacker
Venue: National Liberal Club, Whitehall Place, London SW1 | 6.15pm |
| Friday,
10 th March | Annual Conference in partnership with RICS and Leeds Metropolitan University
“Developments and Changes in Construction Law”
Speakers: The Hon Mr Justice Jackson, Paul Darling QC, Brian Eggleston, Professor Peter Hibberd, Professor Anthony Lavers
Venue: The Royal Armouries, Leeds
Cost: £90 including VAT per delegate – booking form on website.
For queries, contact: 01924 229 300 or yhr@rics.org | |
| Tuesday,
21 st March | Tour of The Royal Bank of Scotland (further details to be announced shortly)
Organiser: lindypatterson@scl.org.uk | |
| Tuesday,
21 st March | “Insuring the integrated team”
Speaker: Steve Bamforth
Chairman: Alan Jenkins
Venue: Hambleton Suite 1, The Rose Bowl, Southampton SO30
Organiser: marianharris-deans@scl.org.uk | 6.00pm |
| Wednesday,
22 nd March | “Pre-action protocol for arbitration and adjudication”
Speaker: John Tackaberry QC
Venue: Wragge & Co, 55 Colmore Row, Birmingham B3
Organiser: arulsevaratnam@scl.org.uk | 6.15pm |
| Wednesday,
29 th March | Joint SCL/King’s College, London event
“The Great Delay Analysis Debate II”
Protagonists: Alastair Farr, Steve Briggs, John Hammond & Keith Pickavance
Venue: The Great Hall, King’s College London
Cost: £20 per person
Please note that this event is now fully booked – for queries, contact Silvi Smith on 020 7421 1976 or ssmith@fenwickelliott.co.uk | 6.00pm |

Tuesday, 4 th April	“New CDM regulations” Speaker: Gillian Birkby Venue: National Liberal Club, Whitehall Place, London SW1	6.15pm
Tuesday, 4 th April	“ ‘Equivalent Project Relief’ in PFI. Is there a future? The implications of Midland Expressway -v- Carillion” Speaker: Hamish Lal Venue: Pariser Building, Floor E Room 22 University of Manchester Organiser: peterfenn@scl.org.uk	6.30pm
Tuesday, 2 nd May	Presentation by the authors of the 1 st and 2 nd SCL Hudson 2005 prize winning papers: “ <i>Right building – wrong place? Wrong building – right place?</i> ” by Philip Britton “ <i>Repudiation, termination and quantum meruit</i> ” by Julian Bailey Chairman: Anthony Lavers Venue: National Liberal Club, Whitehall Place, London SW1	6.15pm
Thursday, 4 th May	Speaker: Nerys Jefford (title of talk to be announced) Venue: Bristol University Organiser: simongoss@scl.org.uk	6.15pm
Tuesday, 9 th May	“A little about time at large. Calculating a reasonable time in the absence of a completion date” Speaker: Keith Pickavance Chairman: Jocelyn Taylor Venue: Nabarro Nathanson, 1 South Quay, Sheffield S2 Organiser: jocelyntaylor@scl.org.uk	6.15pm
Wednesday, 10 th May	“A little about time at large. Calculating a reasonable time in the absence of a completion date” Speaker: Keith Pickavance Venue: Mitchell Library, North Street, Glasgow G3 Organiser: lindypatterson@scl.org.uk	6.15pm
Tuesday, 16 th May	“Negligent participants in construction projects: The duty of care problems” Speaker: Peter Aeberli Chairman: Martin Green Venue: Brunswick Lecture Theatre, Leeds Metropolitan University Organiser: jonathanhawkswell@scl.org.uk	6.15pm
Wednesday, 17 th May	The Society’s AGM and Annual Dinner (for SCL members only) Venue: Middle Temple Hall, London WC2 A flyer and booking form will be sent to all members in due course.	6.00pm
Thursday, 25 th May	Speaker: Anthony Bingham (title of talk to be announced) Chairman: Jeremy Williams Venue: Hugh James Solicitors, 114-116 St Mary St, Cardiff CF10 Organiser: alisonshort@scl.org.uk	6.15pm
Tuesday, 6 th June	“Olympic Projects. International Dispute Resolution – from Beijing to London” Speaker: Adrian Hughes Chairman: Jonathan Hosie Venue: National Liberal Club, Whitehall Place, London SW1	6.15pm
Wednesday, 7 th June	“Looking forward to not looking back. Avoiding differences and disputes” Speaker: John Burgess Venue: The Rosebowl, Southampton SO30 Organiser: marianharris-deans@scl.org.uk	6.00pm

Tuesday, Joint SCA/SCL meeting (further details to be announced)
4th July Venue: National Liberal Club, Whitehall Place, London SW1 6.15pm

SCL Olympic Brewery Lunch

The annual SCL Brewery lunch was held on 17th February at the Brewery in Chiswell Street; this year with an Olympic theme to celebrate the success of the 2012 London Bid. Over 400 members and guests attended. Chairman Professor Anthony Lavers gave a brief review of the Society's recent work in the regions, where Cardiff, Belfast and Newcastle have benefited from new Co-ordinators and re-launch events with high profile speakers. He also gave an update of recent international developments; he had visited Singapore and Malaysia SCLs in the last few months, while the New Zealand and United Arab Emirates SCLs are now setting up their first activities.

The first guest speaker was Dalton Grant, one of the great British athletes of the last 20 years and one of the team of Ambassadors who helped to secure the London Bid's success in Singapore. International high-jumper Dalton, a gold medallist at the 1998 Commonwealth Games in Kuala Lumpur, spoke of the profound impact which he expected London 2012 to have on the next generation of British athletes and on the people of London for whom the facilities and regeneration will be a legacy.

Picking up on Dalton's reference to funding needs, Mike Heath, Chairman of the British Athletics League, informed the audience that Dalton had agreed to offer his own Olympic outfit to the highest bidder to help meet the acute need of a competitor at the forthcoming Commonwealth Games. A joint bid from Atkin and Keating Chambers beat the reserve price but the winning bid was finally made by SGB.

The stage was then set for the second guest speaker: Jack Lemley, newly appointed Chair of the Olympic Delivery Authority, in one of his first public engagements since taking on the role. Mr Lemley, emphasizing the tightness of the timeframe, addressed procurement and especially dispute resolution issues which confront the Authority and those working with it to deliver the Olympic and Paralympic facilities and infrastructure. Mr Lemley drew on his experience of leadership in procuring the Channel Tunnel, of which project a number of members and guests also had personal experience.

The SCL Olympic Brewery lunch was also attended by Graham Watts of CIC as guest of the Society and representatives of Construction News, Building Magazine and Chartered QS. With an attendance of over 420 members and guests it is believed to be the largest event to date in SCL's 22 year history.

The Great Delay Analysis Debate

The Great Hall at King's College, London on the Strand was the imposing setting for a novel and stimulating event organised by the Society of Construction Law and the Centre for Construction Law and Management on 18th October.

A full house of over 250 leading quantity surveyors, claims consultants, lawyers and other construction professionals were given a fascinating comparison of the different techniques for assessing the position and entitlement of contractors and owners in the event of delay. Chairman, Dr. Julian Critchlow gave the history of the unhappy project, in which work had come to a standstill in exceptionally bad weather when the contractor's water pumps broke down and the excavations collapsed. The employer meanwhile had asked for redesign of waterproofing and instructed the use of a proprietary product, which was delivered late and took longer to apply than the contractor had allowed. A whole range of other mishaps occurred, from an alleged error in the setting out, resulting in a need for additional excavation and backfilling, to late release of the reinforcing bar bending schedules. Despite weekend working by the contractors' reinforcement fabricators, work finished seven calendar days after the contractual completion date.

Alastair Farr, representing the contractor, argued for the 'as planned impacted' approach which would not only put his client in the clear, but would give rise to a substantial claim on his behalf.

Opposing this, on behalf of the employer, Steve Briggs adopted the “As planned versus as-built’ method, which showed the contractor to be in serious trouble, and facing the imposition of liquidated damages.

The engineer, in the shape of John Hammond, agreed with neither Alastair nor Steve and proposed to deal with the dispute which they referred to him using the ‘as-built but-for’ test. Since this left neither party satisfied, the matter was referred to adjudication. Julian Critchlow, doubling as adjudicator, had called on an advisor, Keith Pickavance, who recommended the ‘time impacted’ method.

The audience then voted on the motion ‘This house considers that the ‘time impacted’ method is the most appropriate technique for the analysis of delay in construction disputes’. The motion was defeated.

The respective experts were then given a further opportunity to carry on the debate, attacking the other methodologies and advocating their own. The audience, acting as an arbitral tribunal, still defeated the motion, although now by a significantly smaller majority. However, when asked in turn which of the four methods they favoured, none could command a clear majority and each had a loyal band of adherents.

The Great Delay Analysis Debate was voted a huge success by those attending. The re-run (see below) for the benefit of a substantial waiting list and others who missed out in October is already sold out.

The Great Delay Analysis debate to be published

Members will see from the report above that due to the unprecedented demand for tickets for the October 2005 Great Delay Analysis Debate at King’s College, the event is being run again 29th March.

After the re-run, the series of papers will be published as 'The Great Delay Analysis Debate' (paper number 130). Copies will be sent to all members, and will be given to those attending on 29th March, and further copies may be purchased for £6 plus £2.50 p&p for UK, £5 p&p for rest of the world (it will also be on the website). The debate is based on a typical construction scenario, the protagonists present divergent views, basing their arguments on different delay analysis methodologies. If you want to fully understand the differences between the impacted as-planned method of analysis, the as-planned versus as-built method, the collapsed as-built method and the time impact method - look no further!

SCL Junior Members

If you are under 40 or new to the world of construction law, then you can register as a junior member. The junior committee arranges site visits, conferences with King’s College London and social events such as the summer Boat Trip on the Thames. This year’s Boat Trip will be on Thursday, 13th July – booking details to be announced shortly.

To register as a Junior Member, log in to the SCL website (www.scl.org.uk) in the usual way, choose the 'Members' link at the top, and then the 'Junior members' link on the left. You will find an explanation of Junior Membership, and a simple form to register. You do not need to enter your name/details, as these are already recognised by the website after you logged in; you only need to confirm your eligibility by giving either your date of birth, or stating that you are junior in your area of expertise. Nicholas Gould, SCL’s Vice chairman, is responsible for the Junior members and he can be emailed on nicholasgould@scl.org.uk

SCL United Arab Emirates

SCL UAE is holding its inaugural meeting on Sunday, 26th March 2006 at the API Auditorium, Ground Floor, API World Tower, Sheikh Zayed Road, Dubai from 5 to 7pm. The subject is “Tendering and Risk in the UAE” and the speakers are Michael Grose and Peter Shaw. A panel session will be held with Guy Elkington, David Dale, Abdul Rahim Al Khawaja and Jubeir Shamte and this will be Chaired by Richard Harding, the SCL UAE Chairman. The SCL UAE now has its own website at www.scl-uae.org and further details of the meeting can be found there.

ICE Seminar

There will be a half-day seminar at the Institution of Civil Engineers at 1.45pm on Monday 3rd April on the new ICE Conditions of Contract Target Cost Version and 2006 version of the ICE Arbitration Procedure. Cost is £75 (+ VAT) per person, including a free copy of the Contract, Guidance Notes and Procedure. To book your place, contact Mrs Adetola Cole, email: contractsanddisputes@ice.org.uk

The Norman Royce Prize Paper

The Society of Construction Arbitrators has announced that they are to institute an annual prize in memory of the late Norman Royce. A prize of £2,000 will be awarded to the author of the best paper on a topic relevant to or touching on domestic or international construction disputes, including, but not limited to, their resolution and avoidance; and the lessons to be learnt from them. The closing date for entries is 1st July 2006. Further details can be found on the SCA's website at www.arbitrators-society.org

Renewal of membership 2006

Many members have already renewed their subscription for 2006. Thank you. For those who have not yet done so, a reminder that subscriptions are now due. If you did not receive, or have mislaid, your renewal invoice, then Jackie Morris can email a duplicate copy to you. A reminder also to those member who live and work abroad that you can choose to renew either as a full member, or as an overseas e-member *but please note that if you choose to renew as an overseas e-member, then you must pay online; online payment is the only payment method available to e-members.*

Out of date contact details

A reminder that there has been an increase in the number of emails returned to us undelivered. Please don't forget to let us know when you change any of your contact details. If you move firms, then you take your membership with you, providing we know where to contact you!

If we lose touch and your name is removed from the membership list then – although you don't have to go through the application process again – you will be required to pay the full joining fee (currently £165) to be reinstated to the membership list. We don't need a formal letter of notification from you – an email to Jackie Morris at admin@scl.org.uk giving your change of postal address, telephone, fax and email is all that's needed.

UK businesses and associations unite to tackle corruption

UK businesses and associations with interests in the domestic and international infrastructure, construction and engineering sectors have agreed a comprehensive *Anti-Corruption Action Statement* as part of a programme to promote industry-led actions which can help eliminate corruption.

The *Action Statement* has been developed and endorsed by the Anti-Corruption Forum, which comprises the Association for Consultancy and Engineering (ACE), British Consultants and Construction Bureau (BCCB), Institution of Civil Engineers (ICE), Institution of Structural Engineers (IStructE), Transparency International (UK) (TI(UK)), and representatives of the business community.

The *Action Statement* calls on all those with interests in the infrastructure, construction and engineering sectors to take effective and co-ordinated action to reduce corruption, on both a domestic and international basis, and on both the supply and demand sides. It identifies the various categories of participant in the sectors, including governments, project owners, banks, export credit agencies, companies providing the equipment and services for a project, business associations and professional institutions. It recommends preventive and enforcement actions which could be taken by those participants. A copy of the *Anti-Corruption Action Statement* is available on the Ethics page of SCL's website.

How to register on the website as a member

In order to get members' access to the website you must register online as a member. Registration is easy.

Go to the website homepage www.scl.org.uk click Member Registration (listed below the Member Login box on the right hand side of the homepage) and enter your details and a username and password of your own choosing. Your membership number is also asked for (if you don't know it, then admin can tell you).

Thereafter, you can simply log onto the website using your username and password. When you log in you will see a navigation link to 'Members' which is where you can update your contact details, email subscriptions and data protection information – as well as search for information about other SCL members who have agreed for their data to be accessible to other members on the website (currently nearly 1,000 members).

New Website Search Engine

A useful search facility has been added to the SCL website. In the right column of the homepage you will see 'Quick Search'. Enter your word(s) and choose which of three sections to search - 'About Us', SCL newsletters, and summaries of papers. We hope that this facility will make it easier for members to find what they are looking for on the site. The website is constantly being improved. If you have any questions, problems or suggestions, please contact our webmaster, Edward Peters, at webmaster@scl.org.uk

Contributions invited from Members

What construction law related topic would you like to see presented as a talk? Please email your suggestions to Jackie Morris on admin@scl.org.uk and we will do our best to organise a talk in your area. You are also invited to contribute to the newsletter. If you have an item related to construction law that you feel would be of interest to others, then please email text to Jackie Morris at admin@scl.org.uk. A member of Council will thereafter decide whether to include the item in the next newsletter. Please note that we do not accept advertisements or items of a commercial nature.

New Members

Finally, we are pleased to welcome the following new members who joined the Society in February:

Harendran Abhimandran, London
Poupak Anjomshoaa, London
Claudia Barron, Edinburgh
Billie Bingham, London

Don Lakshman Amarasinghe, Dubai, UAE
Nicholas Baker, Savannah, United States
Clare Bennett, Crawley
Fiona Bishop, London

Stephen Brown, Leicester
Sophie Charveron, London
Richard Cochrane, Wimbledon
Matthew Davis, London
Andreas Dracoulis, London
Jonathan Forrester, Belfast
Roland Foster, London
Paul Furlonger, Warlingham
Utamsingh Gopal, Hayes
Charles Ingmire, London
Edward Kirke, Prenton, Birkenhead
Cheng Sung Lee, Singapore
Charlotte Leigh, London
Matthew Lunt, Croydon
Derek Nelson, Falkirk
Sonali Patel, London
David Rees, Chan Ning, China
Emmanouil Sigalas, London
Rob Smith, London
Simon Stebbings, London
Fiona Swift, Newcastle upon Tyne
Yiannis Vacanas, London
Robert Wilson, Edinburgh
Emily Woolway, London

Peter Cassidy, London
Christina Christou, London
Tom Comerford, Rugby
Graham De Roy, London
Peter Dzakula, London
Caroline Foster, Tunbridge Wells
Sandra Foster, Crawley
Rajan George, Singapore
John Hemingway, Boston
Eleanor Kilminster, London
Tom Lawrence, Alexandria, Egypt
James Lee, Tunbridge Wells
Bryan Lightford, Dubai, UAE
Tricia Morrison, Edinburgh
Trevor Nicholls, London
Balraj Pem, Floreal, Mauritius
Tong Seemann, Bonn, Germany
Coreena Smith, London
David Smyth, Ormiston, Australia
Robert Stokell, London
Eleanor Taylor, London
Alan Vincent, Bexhill on Sea
Richard Winson, Haslemere