



NEWSLETTER : APRIL 2007

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.

- Monday,
2 April
- Please note change of date for this meeting***
“Turnkey Contracting: what do Owners want and what do they get?
(A comparison of treatments under the FIDIC Silver Book and the new
ICC Turnkey Conditions of Contract)”
Speaker: Jonathan Hosie
Venue: National Liberal Club, Whitehall Place, London SW1 6.15pm
- Tuesday,
1 May
- SCL Hudson Prize 2006: Presentation by the authors of their first and
second prize winning papers
1st “*What Lies Beneath*” by Julian Bailey
2nd “*Variations, Time Limits and Unanticipated Consequences*” by Ronan Champion
Chairman: Professor Anthony Lavers
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm
- Tuesday,
15 May
- “Time at large: calculating a reasonable time to complete in the absence
of a completion date”
Speaker: Keith Pickavance
Chairman: Andrew Maccuish
Venue: Lecture Theatre 118, Civic Quarter, Leeds LS1 6.15pm
Organiser: jonathan.hawkswell@scl.org.uk
- Wednesday,
16 May
- AGM & Annual Dinner at Middle Temple Hall
*See separate item below and the flyer and booking form
attached to this newsletter* 6.30pm
- Tuesday,
5 June
- Joint SCL/Society of Construction Arbitrators Meeting***
“The Rise and Rise of 'Time-Bar' Clauses: the 'Real Issue' for
Construction Arbitrators”
Speaker: Hamish Lal
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm
- Wednesday,
6 June**
- Joint SCL/King's College event***
“The Great Delay Analysis Debate”
Venue: The Great Hall, King's College, London
Cost £25 per person (to include drinks reception)
See flyer and booking form attached to this newsletter 6.00pm

Thursday, 7 June	‘Global Claims’ Speaker: Jeremy Winter (chairman & venue tba) Organiser: arul.selvaratnam@scl.org.uk	6.00pm
Thursday 7 th June	Speaker: Tony Bingham (talk title tba) Chairman: John Burgess Venue: Jury's Inn Hotel, Midsummer Boulevard, Central Milton Keynes, Buckinghamshire MK9 Organiser: judith.bird@scl.org.uk or michael.gerard@scl.org.uk	6.15pm
Tuesday, 19 June	Speaker: Tony Bingham (talk title and venue tba) Chairman: Jocelyn Taylor Organiser: jocelyn.taylor@scl.org.uk	6.15pm
Monday, 2 July	“Duties of Care: When and How Much?” Speaker: Nerys Jefford Chairman: Professor Anthony Lavers Venue: National Liberal Club, Whitehall Place, London SW1	6.15pm

The AGM and Annual Dinner

The AGM will take place at Middle Temple Hall at 6.30pm on Wednesday, 16th May. See separate item below on this year’s election.

After the AGM, pre-dinner drinks will be served – in the gardens, if fine – followed by dinner itself in the magnificent 16th century Middle Temple Hall. The hall where the first recorded performance of Twelfth Night was given.

The annual dinner is the one function of the year reserved for SCL members only and we hope that as many of you as possible will be able to join us. We particularly urge those new to the Society, or those of you who have never been before, to come along to this very friendly function and meet your fellow members.

The price is £80 per member (this includes pre-dinner drinks and wine). A flyer giving details of how to book is attached to this newsletter.

AGM and Council Election 2007

After many years service as the organiser of the London programme, Jonathan Hosie has decided to stand down from Council. Councillors Anthony Lavers, Jocelyn Taylor, Lindy Patterson and Keith Kirkwood will be seeking re-election.

Would you like to stand for Council? Most members of council are likely to say that being on Council is enjoyable, fun and also hard work (not necessarily in that order). There are no precedents or protocols on Council membership, the current Chairman is a Solicitor, the previous Chairman was an Academic/Barrister, and the one before that was an Engineer. The one thing they have in common is a sense of humour and an appreciation of good wine! The strength of Council is its diversity of backgrounds and experience, it is up to members to ensure that this diversity remains. Council members typically attend up to six Council meetings per year and join one or more subcommittees in areas such as the SCL Hudson prize, the talks programme, social events programme, TCC, CIC, policy matters, ethics and IT.

Once elected to Council then the normal period of office is either 2 years or 3 years depending on the number of retiring members amongst other factors.

If you would like to know more about the work of the Council before deciding whether or not to stand, please contact the Chairman Nicholas Gould on 020 7421 1986 or nicholasgould@scl.org.uk or contact any other officers of the Society, who will be happy to give you further information. If you would like to stand for election to Council, please contact Jackie Morris on admin@scl.org.uk to let her know. If you decide to stand, the procedure is as follows:

- 1 You must be a paid up member of the Society.
- 2 You must be nominated and seconded by a paid up members of the Society.
- 3 You must provide the following information:
 - (a) Your name
 - (b) Your work/practice address
 - (c) Your professional qualifications, if any
 - (d) The names of your proposer and seconder
 - (e) The year you joined the Society (if you cannot remember, then admin can help)
- 4 You must also provide an election statement, not exceeding 100 words (by Tuesday, 10th April)

Paid up members will be able to vote by postal ballot or, alternatively, at the AGM to be held at 6.30pm at Middle Temple Hall on Wednesday, 16th May. More details on election arrangements will follow shortly.

SCL President's Reception

The President of the Society of Construction Law held his reception on Tuesday, 17th October 2006 at Ironmongers Hall. It commenced at 6.30pm and around 90 people attended.

The President, Sir Anthony May QC, was introduced by the Society's Chairman, Nicholas Gould. The President then awarded John Tackaberry QC the President's Medal. Two honorary memberships were awarded, one to Peter Fenn and the other to Richard Bayfield.

John Tackaberry QC has been an avid supporter of the Society of Construction Law, since his involvement in its formation. He has published many papers, and spoken on many occasions for the Society. His most recent publication "International Dispute Resolution" is a two volume work collecting together reference material in respect of international and domestic ADR. Bernstein's Handbook of Arbitration and Dispute Resolution Practice is now in its fourth edition with John as the lead author and Arthur Marriott as his co-author.

Peter Fenn is an academic at the University of Manchester (formerly UMIST). In respect of the Society he is the regional co-ordinator for Manchester. The impressive thing about Peter is that he has been the regional co-ordinator for Manchester for many years, and during this time he has continued to organise events with a great deal of enthusiasm. He regularly organises lectures which are held at the University of Manchester, and ensures that local construction specialists speak as well as those from other parts of the country. He has continued to organise the SCL Manchester events for many years and shows no signs of stopping.

His publications are numerous, and include an SCL paper: "Why Construction Contracts go wrong (or an aetiological approach to construction disputes)".

Richard Bayfield is a past Chairman of the Society (2003-2004). He shared the usual two year chairmanship with Christopher Miers (Christopher was the Chairman between 2002 -2003). Richard's impressive characteristic is that he has for many years dedicated a large amount of his time to the Society. It was his efforts that originally started the website with of course the technical expertise of Edward Peters, our webmaster. Richard Bayfield was also highly instrumental in the SCL Delay and Disruption Protocol. He dedicated a large proportion of his time to the drafting of and of course the many discussions that eventually resulted in the published Society Protocol.

When the Vice Chairman resigned unexpectedly, Richard agreed to return as a Vice Chairman for seven months. This was almost immediately after handing over his Chairman. This was a particular sacrifice for Richard, as a sole practitioner, who had only just finished his term of office. Nonetheless, he gave his loyal support at all times.

He has also been an enthusiastic contributor to the ethics initiative, which of course is very much due to his own high personal standards of integrity.

Nicholas Gould
Chairman

Papers

Enclosed with this newsletter is a hard copy of Mr Justice Jackson's published paper entitled "*The Tower of Babel: What happens when a building contract goes wrong*". Overseas e-members will receive this paper by email and it is also available on the SCL website. A number of other papers are in the publication pipeline and will be available shortly.

Director, Centre of Construction Law, King's College London

The Centre of Construction Law within the Law School at King's College London is seeking a new Director from the start of January 2008. Philip Britton, Director since 1999, is standing down at the end of December 2007. The post is presently part-time (up to four days a week equivalent), allowing other professional activity.

The Director has overall administrative and financial responsibility for the well-established and self-funded Centre, staffed by a small and committed group of colleagues with strong links to practice. The Director also teaches on the London and Singapore MSc programmes. A new MSc in the Gulf is now being planned with the British University in Dubai (BUiD). The Director's post enjoys unusual scope for leadership and innovation.

The process of filling this high-profile post is now under way, with a plan to select the new Director by September 2007. Anyone who would like to explore suitability – for themselves or for a suggested candidate – is welcome to contact Philip on 020-7848 1661 or philip.britton@kcl.ac.uk ; or Professor Phillip Capper on 07802-309010 or phillip.capper@lovells.com Formal advertisements, job descriptions etc will follow shortly, to be posted on the King's website: www.kcl.ac.uk

Centre of Construction Law, King's College London Certificate in Construction Adjudication

New post-experience part-time taught programme: first intake September 2007

- New eight-month (September-April) Certificate programme, for existing and would-be adjudicators and advisers to parties to adjudications – qualified lawyers and construction professionals
- Four taught modules, covering the basic legal principles applicable to construction, the special features of construction law and adjudication procedure
- Includes a mock adjudication and decision-drafting exercises
- Tuition in London on ten to twelve full days each term, mostly Thursdays, Fridays and Saturdays – accessible to those outside London
- Academic staff led by Professor Phillip Capper, Nicholas Gould and John Barber, supported by other leading practitioners
- Unique specialist library; online facilities also available to students
- Most teaching shared with the prestigious London MSc in Construction Law & Dispute Resolution: credits can later be used towards the MSc
- Discount on fees for SCL and Adjudication Society members

Applicants must have a degree and/or acceptable professional qualifications, plus significant relevant experience.

Register your interest by emailing Sue Hart at susan.hart@kcl.ac.uk by 30 April 2007.
For further information, phone Sue on 020 7848 2643 or Linda Jones on 020 7848 2685.

SCL Policy Document – comments invited

Below is a draft policy document concerning the relationship between the Society of Construction Law and similar societies in other countries.

As you may know the Society of Construction Law has and is becoming more international. We now have affiliated societies not just in Europe but also in the Far East. We are currently in the process of forming other societies in other jurisdictions, and Council felt that it was appropriate now to have a policy document setting out the Society of Construction Law's broad policy in respect of these new affiliated societies.

The Council's intention is to adopt this policy at the AGM on 16 May. If you have any observational comments, then we should be grateful if you could provide them to Frances Whitehead at: franceswhitehead@scl.org.uk on or before the 16 April 2007.

Nicholas Gould
Chairman

**DRAFT POLICY DOCUMENT CONCERNING THE RELATIONSHIP
BETWEEN THE SOCIETY OF CONSTRUCTION LAW (“THE SCL”)
AND SIMILAR SOCIETIES IN OTHER COUNTRIES**

Introduction

1. Clause 4(d) of the Constitution of the SCL provides that, in furthering the objects of the SCL (namely to promote for the public benefit, education, study and research in the field of construction law and related subjects), the SCL may engage in:

“(d) Establishing relationships, associations and liaison with other persons and other bodies both within the United Kingdom and overseas with similar or related objects and exchanging information and studies and results concerning all matters relating thereto”.

2. Since its own foundation in 1983, the SCL recognises that a number of similarly named societies¹, the majority adopting a logo similar to that of the SCL, have come into existence.

The SCL’s basic position

3. In furtherance of the discretion conferred by Clause 4(d) of the Constitution, in principle, the SCL wishes to encourage closer ties and co-operation between itself and other similar societies². The SCL hopes that the existing similar societies (and other similar societies that may be formed in the future) will adopt the same view.
4. However, in order to safeguard its object and to ensure that its reputation for independence from commercial interests is not harmed, the SCL believes that it is necessary to identify certain criteria which must be satisfied by the similar societies if closer ties and co-operation is to be promoted.

¹ The societies of which the SCL is aware are: Society of Construction Law Hong Kong, Society of Construction Law (Kuala Lumpur and Selangor), Society of Construction New Zealand Inc., Society of Construction Law (United Arab Emirates) and Society of Construction Law (Singapore).

² This draft does not suggest that there should be a formal affiliation process by which similar societies, upon application and approval, become “affiliates” of the SCL. The reason for this is threefold: (i) arguably the current Constitution does not provide any mechanism for an “affiliate” procedure although it is accepted that a very broad interpretation of Clause 4(d) might achieve a contrary conclusion; (ii) if there is to be a move towards a “federation” of societies then presumably all societies involved will wish to be “equals” rather than “affiliates” of the SCL; and (iii) irrespective of (ii), it is possible that making future co-operation conditional upon affiliation will send out the wrong message to the similar societies.

Relevant Criteria

5. Prior to the encouragement of closer ties and co-operation the SCL, acting by its Council, must be satisfied that, subject to any express requirements of the law of the jurisdiction where the society is based, each similar society concerned fulfils the following criteria namely that:
- (i) Its object is substantially the same as set out in the SCL's Constitution;
 - (ii) Its object is formally recorded in a written constitution;
 - (iii) It is independent from commercial interests and non-profit making;
 - (iv) It is governed by a Council, Committee or similar body whose principal members are elected periodically by the general membership and who are unpaid;
 - (v) Its Council, Committee or similar body is required to act at all times in the best interests of the general membership; and
 - (vi) Its logo is submitted to and approved by the SCL.
6. If the principle of mutual co-operation is established then this will be appropriately recognised on the SCL website and a "link" to the similar society's website will be formally established.

End

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 annual summer Boat Trip on the Thames.

Booking preference for any of the organised Junior events is always given to those who are registered as Junior Members. Don't wait until bookings are being taken for an event, register as a Junior Member now, it is easy to do, as follows:

Log onto the SCL website www.scl.org.uk using your username and password (if you have forgotten what they are, Admin can help). Click on 'Members' and then click 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 – 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 Chairman, is responsible for the Junior members and if you need any further information, he can be emailed on nicholas.gould@scl.org.uk

New Members

Finally, we are pleased to welcome the new members who joined the Society during March:

Nick Brown, Nottinghamshire
Paul Buckingham, London
Richard Coplin, London
Fuad George, London
Caroline Hardcastle, Hull
Simon Hargreaves, London
Brian Hitchcock, Cheltenham
Rosemary Jackson, London
Calum Lamont, London
Peter Main, Norwich
Marc Rowlands, London
Michael Spencer, London
Marcus Taverner QC, London
James Thompson, London
Kevin Tong, Hong Kong
William Webb, London

James Studman, London
Michael Byng, Birmingham
Stephen Furst, London
Jennie Gillies, London
Graeme Roberts, Basingstoke
Tony Hinz, Melbourne, Australia
Simon Hughes, London
Abdul-Lateef Jinadu, London
Thomas Lazur, London
Christopher Harding, Dubai, United Arab Emirates
Jonathan Shahady, North Sydney, Australia
Derk-Willem Brunsveld, Krimpen aan de IJssel, Netherlands
Boban Thilak, Abu Dhabi, United Arab Emirates
Graham Wilson, Dubai, United Arab Emirates
Clifford To, Sydney, Australia