Welcome to the NOVEMBER Edition of the LEGAL EAGLE.

I hope that you find some stories of interest within.

And feel free to send us your comments and articles for the next edition.

Deadline for Submissions: 6th February 2015

Editor: Christine Traynor
Collaboration with Hugh McDowell

Under the Spotlight
This month Hugh McDowell was selected as the LSDSI Auditor. Check out page 4

inBrief, Casenotes
A new feature on short case notes, this month is M.R. and D.R. v. An t-Ard-Chláraitheoir

Seeking Contributors
We want YOU to write articles for us! Articles of under 1,000 words or illustrations welcome on any subject, from general news, to comedy, to movie or book reviews, to serious legal subjects. Please send to christine.traynor@kingsinns.ie—our

The Path to Pupillage
Inside Advice
By Sean Rafter

A combination of factors made me want to qualify as a barrister. I was always interested in Irish history, and quite early on I noticed that many of the distinctive figures in Irish History were called to the Irish Bar (most of whom also practised, though some, of course, did not). Figures like Daniel O’Connell, Pádraig Pearse, Edward Carson and John Philpot Curran caught my young idealistic imagination. Their idealism and commitment to ideas over everything else appealed to me and I conceived an image of the Bar as the womb of these great men.

My love of history gave birth to an interest in politics, constitutional structures and the rule of law, as I became more aware of the importance in our history of legislation and the courts, my interest in law grew.

Unsurprisingly, I also had a personality that could be described as argumentative; I loved debating. Arguments about ideas, theories, law and philosophy enthuse me like little else and the Bar appeared to be a vocation to argue for a living. I was also encouraged. Teachers told me I’d be suited to the Bar, family friends advised me to consider it and my parents urged me to consider it from a young age.

Continued Pages 6 & 7

New Court Of Appeal
Historic time for the legal landscape
But there are challenges

By CM Traynor

Wednesday 5th November was a new day in the Legal Landscape, the President of the new Court of Appeal told the court that while “justice was the essential requirement, efficiency and justice are complementary and not alternatives”.

Opening the court’s first sitting, Mr. Justice Sean Ryan said they had no misconceptions about the scale of the challenges.

Continued Page 13

Please send any comments or articles to christine.traynor@kingsinns.ie
The Editorial Board of the King’s Inns Student Law Review are pleased to announce the launch of Volume IV.

The Volume was launched by Attorney General Máire Whelan SC in the Bar Room at the Honorable Society of King’s Inns on Wednesday the 26th of November at 6.30pm.

With Karen McLaughlin Co-Editor in Chief, and the Editorial Board, KISLR IV

SUBMITTING YOUR WORK TO KISLR
The King’s Inns Student Law Review (KISLR) is not accepting submissions at the moment. Please check back in 2015 for a wonderful opportunity for students to showcase their legal writing to a wide national and international audience.

Trinity College Dublin Law Student Colloquium
This is a reminder that the seventh annual Trinity College Dublin Law Student Colloquium is now seeking abstracts from students of all levels who wish to present a paper on any law-related topic. Submissions by undergraduate students are especially encouraged.

The Colloquium is an all-day event and will take place at Trinity College Dublin in the Law School and Graduates’ Memorial Building on Saturday, 7th February 2015. Tea/coffee and lunch will be provided and there will be a generous wine reception after the keynote speech, the Brian Lenihan Memorial Address. The address is in honour of the late Brian Lenihan, a former student of the Law School and Scholar of Trinity College who went on to have a distinguished career as a Senior Counsel and a Minister of the Irish government. Last year’s keynote speech was given by Michael McDowell SC, one of Ireland’s foremost barristers and a prominent member of Irish political life, and chaired by the Hon. Mr. Justice Clarke of the Supreme Court. This year’s keynote speaker has yet to be confirmed.

An application can be made to speak at the Colloquium by submitting an abstract. An abstract is a short summary of the paper which the speaker intends to present. Abstracts from prospective speakers should be between 350-400 words in length and should be submitted via the Law Student Colloquium website before 5pm on Thursday 4th December.

To contact us with queries, please email law.student.colloquium@gmail.com, and check out our FACEBOOK PAGE tcdcolloquium
Sporting activities in King's Inns!

1. **RUNNING CLUB**
   Having been in contact with the Law Library running club "The Bar Flies", they are looking forward to students of King's Inns joining them this season. They train every Saturday morning in the Phoenix Park and cater for all levels of fitness. The Calcutta Run will be held next May, this is a legal fundraiser with members of the Law Library and Blackhall also taking part. Distance is 5/10K.

2. **HELL AND BACK**
   For anyone brave enough, Hell and Back is on the 25th of January 2015. It is a 10K obstacle course not for the faint hearted but a great day out all the same! If this is not your thing don't worry, come along for the hot whiskeys after!!

3. **RUGBY**
   Fergus O'Higgins has already been in touch with you regarding the upcoming rugby match against the Law Library. This is one of the highlights of both the sporting and social calendar in King's Inns. Anyone who is interested in playing, please do get in touch.

4. **HOCKEY**
   The women's hockey match against the Law Library will take place next May. I will be in touch with you with more information closer to the time.

5. **SOCCER**
   Blackhall are keen to have a friendly soccer match. They have a mixed team so it will be open to all to get involved!

6. **TENNIS**
   Blackhall have 5 mixed doubles teams and are interested in a "mini tournament".

7. **TAG RUGBY**
   The King's Inns tag rugby team enters the same league as teams from the Law Library. We will enter the Summer league, last year was the first year of tag here and it was a great success!

Anyone who would like to get involved in any of the above, drop me an email ellen.o'brien@kingsinns.ie or if you see me around the place feel free to ask me. Or if there are any other sporting suggestions I would be delighted to hear them and hope that they can be accommodated!
The Law Students’ Debating Society of Ireland (LSDSI) is the academic student society at King’s Inns.

The primary objects of the society is the discussion of legal, historical, and general subjects contributing to and assisting the furtherance of the legal education of its members, the organisation of debates and moot court competitions, sports and entertainment.

Having graduated from the Diploma in Legal Studies in May, I am now undertaking the Full-time BL course. Over the last two years, I have seen how important the LSDSI is in enriching the academic and social lives of the students of the King’s Inns.

The LSDI is made up of people from a very diverse range of backgrounds and ages, and I have nominated a committee which represents this diversity and ensures that all class groups have the opportunity to mix and socialise with one another outside of the classroom environment.

Throughout the two years in the King’s Inns, I have gained a strong sense of what is deliverable and what is not.

I would encourage all students to get involved with college activities and I have involved myself in college life at the Inns and would be more than willing to offer advice to all students.

I represented the Inns in the Irish Times Debating competition, the Eoin O’Higgins Moot, and the Telders International Mooting competition. I was involved in the writing for and editing the Legal Eagle, I played in the annual rugby matches against the Bar Council and against Blackhall, and last year I organized the King’s Inns first ever tag rugby team.

As a result of these experiences, I have gained a good understanding of how the King’s Inns work and how great the extra-curricular activities in the King’s Inns are.

I am keen to keep the strong social traditions of the King’s Inns going this year.

I have prepared an outline of all upcoming events which is found on page 2/3.

As many of you will be aware, the Christmas Ball is the single biggest social event on the King’s Inns calendar, and we look forward to another great event which will be held on the 20th December 2014.

Mooting and debating is a core component of student life at the King’s Inns. Siobhan Buckley (this year’s mooting convenor) and I plan to coordinate the mooting and debating calendar with Sean O’Quigley to ensure that all events run as smoothly as possible and all students get ample opportunity to hone and improve their public speaking skills.

As I want to ensure that students get as much support and advice, I have arranged to invite barristers – both practising and non-practising – to address us on the professional opportunities available to those graduating from the Inns. I think that it would be fantastic to hear from barristers who are established at the Law Library and from devils who are just starting their careers.

I would also encourage any students looking to help out with the LSDSI to get in touch. We need as many volunteers as possible, and in particular, if you’re interested in helping with the organisation of the Christmas Ball, please email either myself or Niamh Ryan (niamh.ryan@kingsinns.ie).

If you have any queries, please drop me an email at hugh.mcdowell@kingsinns.ie.
100 Years Ago

By CM Traynor

Bernard Joshua Fox

Born on the 3rd of February 1886, was an only son of Herman and Dora Fox, of 19 Twickenham Street, Belfast.

He was educated in Belfast Royal Academy and Royal University of Ireland and later married in 1911, with two sons

Notable Dates
1914-1915: Called to Irish Bar
1939: Called to Inner Bar of Northern Ireland (QC)
Nominated as Legal Adviser to the Government of Northern Ireland
1939-1944: He was appointed Chairman for the Price Regulation Committee, NI
1944—1960: became County Judge for Antrim and Recorder of Belfast
1957: Joined the Northern Ireland Teachers Salaries Committee
1961: Nominated to the Northern Ireland Coal Inquiry Committee
1964: Awarded Commander of the Most Excellent Order of the British Empire (CBE) And received and Honorary LLD from Queens University of Belfast

His Recreation included Golf and Bridge

Died in 1977

At the recent Guest Dining in King’s Inns, we had the pleasure of meeting with the Auditor of the Class of 1968 and his fellow colleagues from that year.
Talk Of The Devil

Path to Pupillage!
Inside Advice

Continued from Page 1

The first few weeks have been a whirlwind. I am very tired, but very happy to be this far. In some ways, I feel I have learned more here in my first month than some of my years at university. Generally this learning has been restricted to procedure and evidence, though researching a very discrete topic to prepare a memo for legal submissions is a great opportunity to deepen your knowledge of the law. I am very fortunate to have a fantastic Master, and I have also had the opportunity to work with two Senior Counsels already. I have spoken in court more times than I can remember and have dealt with a matter on my own. Small things in the larger scheme, but big steps when you’re starting off.

I have made the decision to commute from Kilkenny for the first time, so my average day starts at 5:30. I catch the 6:40 train from Kilkenny and am in the CCJ around 8:30. I get the list and check my Master’s diary for the day. I then check the list and pull out the relevant files. Usually I try to read through the files and make sure everything is in order. If it is a simple matter, such as a ‘new mention’ or a ‘for mention’, I can deal with those matters myself. If we have a trial, I might be in the library researching or finishing a memo on some particular legal issue that has come up during the trial or which is the subject of legal submissions. Often I have to run errands, get books or print cases. When we don’t have a trial my mornings are nearly always in court doing what could be described as case management and sometimes there will be a sentence hearing later on in the list which I might be holding. When there is no trial, the afternoons are given over to research, drafting, doing advice on proofs and or consultations.

When a trial is on it can be hectic as you don’t know what each day will bring and it might be necessary to do some last minute research for legal submissions the next morning. It varies when I finish, though I usually leave on the 5:30 or the 6:30 train. On the return train journey, I read files of upcoming case and sometimes I might have some work to do in the evening when I get home.

I don’t come from a legal background, so there was no road laid out for me. I was determined to find my Master as soon as possible, but didn’t quite know what way to progress. I was keen to go straight to circuit so I set about finding a Master on circuit immediately. Through a family friend, I eventually got a Circuit Court Master.

However, as he wasn’t on the approved list of Masters, I couldn’t devil with him in my first year. I spoke with a family friend in the legal profession and he advised me spend my first year in Dublin. I printed off the list and set about finding a Master by sending out hopeful emails with my CV attached. I wasn’t making much progress, so I started to lean on legal friends for an inside track. To my dismay I was finding that most of the good barristers were already taken, even by November.

In the end I got lucky. My sister is a cellist. She also teaches. It so happened that one of her students was a barrister. Taking it upon herself to look out for me, she told him that I was struggling to get a Dublin based Master. In an act of kindness, he took it upon himself to track a Master down for me. He did just that and through him I connected with my Master. I met with him for a very informal interview. He explained to me what he did - criminal practice prosecuting for the most part - and what he expected from a devil. I told him a bit about myself. It was all very relaxed and we got on well.
I was the only person on the prosecution bench. ‘You expect me to start... what me? I can’t open this trial. I mean I don’t know that much...’ were the thoughts going through my head. I rose, gazing thinking ‘what do I do?’ I opened my mouth to speak. Nothing. “May it please the court, judge it would appear that counsel are not in the court room”. She looked at me bemused. “It would appear that they are outside the courtroom.”, I continued grasping at straws. She was losing patience. I turned to the defence begging for help, the Defence Silk turned and smiled at me enjoying it all. When you panic you forget the most simple things. All I had to do was invite the court to rise when I went to get my Master and the Silk, but all my faculties had disappeared, “Perhaps the court might wait for the return of Counsel?” I suggested. The lady judge turned bright red and lost her cool with me. I’m sure she thought I was messing her about. She stopped talking. She was raging. I thought she was going to judicially behead me. I sat down wishing the ground would swallow me up. Then after a few moments, she looked up, “Perhaps the court shall rise until counsel can be bothered to attend.” She was staring right at me. I felt very foolish. In truth it wasn’t all a big deal. My mistake was not ‘inviting the court to rise” until counsel returned. “Courts rise Seán” chided my Master, “courts never wait”. Some things only come with experience.

I can only speak for my experiences in the CCJ, but for the most part, people are very friendly, encouraging and kind. Everybody is very keen to help you, even if it is a little difficult to sum up the courage to ask sometimes.

Most people tend to have or aspire towards having a secondary form of income. I have a few hours tutoring criminal law in UCD every week and I teach French to secondary school students on Saturdays. A friend of mine, also devilling in the CCJ, lectures, another friend waitresses on Saturdays and another is living off their savings.
STUDENT LIFE: HOW FIT ARE YOU
Maintaining your fitness is important in staying focussed. Regular physical activity is key to brain function. That’s just normal everyday physical activities, like running the stairs, walking and cycling for at least 30 minutes a day. Besides these daily activities, try to do cardiovascular and Strength and Conditioning training at least 2 times a week. It will not only stimulate your learning capabilities today, but you will benefit all round and it will significantly reduce the risk of mental declination.

INTERESTED IN SPORTS AT THE KING’S INNS
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BOOK REVIEW
Ellen O’Brien

Ian McEwan’s latest novel ‘The Children Act’ could be forgiven as being a script for a legal television drama. Following Judge Fiona Maye, a High Court judge who presides over cases in the family court, I was immediately hooked. The novel opens with a judgment handed down by Judge Maye concerning the surgical separation of conjoined twins bearing a striking resemblance to the case of In Re A (Children) (Conjoined Twins: Surgical Separation) [2000] 4 All ER 961. The novel is written from inside Fiona’s awareness allowing the reader to understand her logic as she applies them to legal facts as well as to the problems that confront her private life. From the outset, Fiona’s marriage is in turmoil, her husband Jack announces that he would like to embark upon an affair with a younger woman. Devastated Fiona does not have much time to dwell upon these facts as an emergency case arises and needs her immediate attention.

The case is concerning Adam, a young seventeen year old Jehovah’s Witness battling leukaemia whose parents are refusing to consent to a life-saving blood transfusion. The details of such cases will be familiar to many law students which lead to a legal battle and the decision ultimately rests on a judge as to whether a transfusion should be performed. Fiona has to put her marriage crisis to one side where once more she makes work her priority as this sensitive case needs her full attention. McEwan transports the reader to the court room where counsel for the hospital and Adam are making their legal submissions for or against granting the transfusion. Deciding that she cannot come to a decision without meeting the child in question, Fiona travels to the hospital to meet Adam. Like most seventeen year olds, Adam is adamant he knows what is best for him, even if this involves dying. Fiona and Adam bond over a shared interest in music and poetry.

Fiona’s judgment has an impact not only on Adam’s life but also on her own. One wonders if it is ever possible to make a disconnect between your working life and that of your private life. As a judge are you bound to doubt yourself as to whether you made the right decision? The reader is brought through the aftermath of Fiona’s crucial judgment to her time away from London on circuit while the prospect that her marriage may be over is never too far from her mind.

The Children Act will draw you in from the beginning. From case law to life at Gray’s Inn this novel is packed with legal facts and terminology. McEwan’s level of research and attention to detail is remarkable as if Judge Fiona Maye was writing a memoir of her experiences. It is clear the author enjoys the reality side of things before adding his element of fiction. As part of his research McEwan spent a lot of time with a High Court judge in London, where the origins of The Children Act came from a case this judge presided over.

The Children Act is a must read for all legal eagles!
inBRIEF


On November 7th 2014, the Supreme Court overturned a High Court decision of Mr Justice Abbot which allowed the genetic mother of twins born through surrogacy to be registered as their legal mother on their birth certificates. Seven judges of the Supreme Court (each delivering a separate judgment) split 5-2 in favour of allowing the appeal, with Mr Justice Frank Clarke and Mr Justice Liam McKechnie dissenting.

In the High Court, the genetic parents had successfully challenged the decision of the Registrar of Births to refuse to allow the genetic mother to be registered as the legal mother. This decision was appealed to the Supreme Court by the State.

It is clear from the judgments of the Supreme Court judges that there would be no constitutional issue with the State legislating to allow the genetic mother to be registered as the legal mother. However, the Supreme Court was equally clear in its refusal to fill the lacuna in the law by finding in favour of the respondent.

It is interesting to note that Mr Justice Clarke’s dissenting judgment speculated that ‘there may be circumstances where the courts are required to develop common law principles to meet new scientific circumstances’. This interventionist approach was rejected by the majority, with Mr Justice Hardiman in particular reaffirming his view of the separation of powers and rejecting Mr Justice Clarke’s ‘expansive attitude to the courts’ power’.

King’s Inns Intervarsity Golf 2014
Golfers love excuses and I’m a golfer, ergo...

By Dónal O’Riordan

“My practice swing was off”, “a bird chirped on my downswing”, “it was a bit too cold/too warm” - this is the stuff of conversations at 19th holes around the world. But honestly …… cast your mind back to Thursday November 13th, and believe me mine is no ordinary excuse!

A 6.30am start is never pleasant, but when it is heralded with the voice of Met Eireann changing the weather warning from orange to red in slightly more panicked tones than normal and a cross country drive followed by a four hour walk on the edge of the Atlantic coast awaits, things were looking bleak!!

The bright spot on the horizon was the destination - County Sligo Golf Club, a magnificent property, one steeped in history where the greats of Irish golf do battle in the West of Ireland Championship annually. The occasion was the GUI Intervarsity Golf Series and the honour was mine to represent the King’s Inns. Four hours and twenty-six minutes of driving later, followed by a four minute warm up and I’m standing on the first tee about to embark on my Wild West adventure. Usually when describing wet weather golf, I tend to exaggerate for effect, but no exaggeration was needed on this occasion when, for once, Met Eireann’s predictions were horribly accurate!

No words could effectively describe or do justice to the power Mother Nature exerted on us unsuspecting golfers. However my trusty golf bag of many years service, saturated beyond repair, acts as a daily reminder of just how bad it was.

Let’s face it - tales of victory are rarely prefaced with descriptive passages of wild weather! Golf enthusiasts will appreciate the joy experienced in creating shots in Links Golf, using the contours of the land or the wind to slide the ball onto the green or the fairway is golf at its purest and while joy isn’t an emotion that coursed through my veins too often that day, there were occasions of ecstasy in counterpoint with the cold! Having bogeysed the 16th and 17th, a birdie on the 18th as darkness was falling in Sligo made the drive home that bit more enjoyable!

It was a great honour to represent the King’s Inns at Intervarsity level. The institution’s name is synonymous with great names in Irish history and my playing partners were intrigued with my tales of dining. While I finished respectably in the middle of an excellent field of players with handicaps ranging from +1 to 4, it is regrettable that I could not perform better on the day. My thanks to the Dean for allowing me enter the competition and I look forward to the next round in the series in the new year in the K Club, County Kildare, …… and no more excuses!!
The King's Inns Gay Lesbian and Straight Alliance is established in one of the most momentous two years in legislation recognising the lives and relationships of lesbian, gay, bisexual and transgender people in Ireland.

Most prominent is the referendum this spring to give constitutional recognition to equal civil marriage for gay and lesbian couples. Anyone hoping to vote in this referendum should take time to consider its effect. It is our chance to affirm that the love and commitment that a couple have for each other should be treated equally before the law. If we the referendum passes, we should expect to see the enacting legislation passed by the summer, and in force before the end of 2015. With this, Ireland would join seventeen other countries, including most of western Europe. However, referendum campaigns are rarely easy in Ireland; we should expect this to be no different. Everyone hoping to see it passed should play their part to making sure it happens.

The Department of Justice and Equality has published a draft of a Children and Family Relationships Bill. This reform seeks to reflect the diversity of modern family life. Among its provisions is the recognition of the families of children who are raised by gay or lesbian parents. Currently, even though a single person, gay or straight, can adopt, a gay couple cannot do so jointly. This means that children are treated as legal strangers to one of their parents. The same is true when lesbian couples use assisted reproduction. The new legislation will ensure that these families are properly recognised from the time of birth or adoption, and that such children will have a legal relationship with both their parents.

The Department of Social Protection has published a draft of a Gender Recognition Bill, which will allow someone to be legally recognised in their preferred gender. A lot of credit for the pressure for this legislation rests with Dr Lydia Foy, who began legal proceedings in 1997, and finally settled her case this month with the state.

However, while it is a significant step, the proposed legislation has been unfavourably compared with regimes in other countries. In particular, it would be unavailable to those who are currently married or in a civil partnership, and there are no provisions for the recognition of trans children. Hopefully some of these issues might be amended at legislative stages.

The Employment Equality Act 1998 provides protection against discrimination across nine grounds, including sexual orientation, marital status and family status. However, Section 37 grants a derogation to "a religious, educational or medical institution which is under the direction or control of a body established for religious purposes or whose objectives include the provision of services in an environment which promotes certain religious values" where they do so to maintain their religious ethos. In religious run schools and hospitals, this can have a particular chilling effect, particularly on the grounds of sexual orientation or family status. Where 95% of schools have a religious ethos, LGBT teachers can be fearful of being truly open about their personal lives for fear that they will not be hired or promoted. This also has a negative effect on children, deprived of the opportunity to find out that their teacher might be gay, or to hear someone in authority speak out with force against homophobic bullying. Several bills have been proposed within the current Dáil term to amend or delete this section, and the Minister for Education has begun work on such legislation.

This week, the report of the Garda Inspectors showed the need to address many of the deficiencies in protecting the position of victims in the criminal justice system. Action in response to this will be prompted by the EU Directive on Victims' Rights, due to be implemented by all member states by November 2015. Among its many provisions include mandatory monitoring of crimes affecting particular minorities, which will improve Garda knowledge of how to tackle homophobic or transphobic crimes. Speaking this week, Mark Kelly, Director of the Irish Council for Civil Liberties said, "More action is needed, including the development of a national implementation plan for the EU Victims' Directive. By ensuring that this Directive is fully implemented, Ireland has a real opportunity to blaze a trail for victims' rights."

Between all of these measures there is then a lot of reform to look forward to.
As we celebrate ten years of a smoking ban in Ireland, the Tobacco Smoking (Prohibition) Regulations 2003, came into effect from March 2004, banning smoking in workplaces, public houses/bars and restaurants. In recent years the popularity of electronic cigarettes (e-cigarettes), or also medically referred to as, Electronic Nicotine Delivery Systems (ENDS), has become a growing trend across the US, UK and Ireland alike. As the market is largely unregulated, the industry is ripe for companies to maximise on unrestricted advertising. This type of unregulated advertising is a dream to companies, especially tobacco companies who have long been stringently restricted in their advertising due to the health hazards of tobacco. They are reported to be making billions on electronic cigarettes. The downside to this type of unrestricted advertising comes with great health risks to consumers. Those targeted include young people and those who have never smoked before. The US and International survey has reported a double in numbers of middle and high school kids using e-cigarettes from 2011 to 2012. The UK has also produced reports on the uptake by children. The attraction is the variety of flavours available on the market appealing to young and old alike, such as flavours like bubble-gum, strawberry and taramisu. Even celebrity endorsements are being used to promote e-cigarettes. It was noted that e-cigarettes were used during the 2014’s Golden Globes by Leonardo DiCaprio and other celebrities.

**Medical and Legal Debate**

This article aims to explore the medical and legal implications of both sides of the debate. On one side of the debate, e-cigarettes are a welcome alternative to normal tobacco lit cigarettes and, may reduce smoke related diseases and deaths in the long run. Producers of e-cigarettes argue that the product should not be banned in the same fashion as ordinary smoking in public places as such a prohibition would punish those trying to quit. On the opposing side of the debate, is the argument that the lack of regulation of e-cigarettes is jeopardising the consumer’s health and poses great risks in the long term, many of which are largely unknown at this time.

Critics argue that it undermines the smoking ban and that e-cigarettes are often being used as an alternative to rebel against the smoking ban in public places by re-normalising smoking through vaping. The ‘vaping’ e-cigarette’s is causing great confusion among the general population, as from a distance it is not always evident if someone is smoking a lit cigarette or an e-cigarette. There is also the addiction debate, which argues that the habit of smoking is not being broken, only switched or substituted with the e-cigarette. Without regulation, the health risks associated with heavy metals and carcinogenic materials found in the e-cigarettes pose great risks to the user albeit that the long term risks maybe less than normal cigarettes. Then, some argue that e-cigarettes poses a risk of relapse, to those people who have previously quit smoking and, as the temptation to replace the normal cigarette with a perceived ‘healthy’ e-cigarette is greater. 

**Medical Opinion**

In general, the medical profession is cautious to embrace e-cigarettes as their long term implications are largely unknown. However, there is one whose view is very different: GP, Dr. Ruari Hanley. Dr. Hanley argues for the pro e-cigarette side of the debate, advocating that if e-cigarettes were welcomed in Ireland they could save hundreds of lives. He states that “stubbing out e-cigarettes will condemn smokers to death.” Dr. Hanley believes that restricting the use of e-cigarettes is “highly irrational” and could condemn thousands of people to premature and preventable deaths.

**Public Places and Transport**

Generally restaurant and bars have been reluctant to ban e-cigarettes on their premises until such time that the laws are in place as they do not want to lose customers. However, they do have the discretion to do so and some exercise it. As it stands Irish Rail, Bus Eireann and Dublin Bus have put a ban in place of ‘vaping’ e-cigarettes on public transport to protect passengers and employees alike. Jane Cregan, PR manager for Irish Rail says they decided to ban e-cigarettes as customers were not happy with fellow passengers using these devices in the confined environment of a railway carriage.

**History of E-cigarettes**

Electronic cigarettes, also known as e-cigarettes or Electronic Nicotine Delivery Systems (ENDS), were invented in China in 2003 and designed to provide inhaled doses of vaporized nicotine. They were first introduced in Europe around 2005 and their popularity has been growing ever since. Electronic cigarettes are comprised of a “re-chargeable lithium ion battery and a battery powered atomiser which produces vapour by heating a solution of nicotine.” The producing of nicotine from a vapour solution rather than by burning tobacco means that e-cigarettes vapour is free from many of the toxic chemicals found to accompany nicotine in cigarette smoke. Not all electronic cigarettes include nicotine although these are less popular to the consumers of the product. The possible implications of nicotine and other contents of the product are discussed below.

**Scientific Research: content of e-cigarettes**

Dr. Michael S Orr identified that the non-pharmaceutical grade nicotine may have higher levels of toxicants such as tobacco-specific nitrosamines (TSNA). These are known to be the most potent carcinogens present in e-cigarettes. A consulting firm evaluated the TSNA levels in one brand of e-cigarettes with a 16mg cartridge dated Nov. 2007. They found the TSNA level in the cartridge was 8.18ng/g, which was around four times higher than the levels contained in the Nicorette gum 4mg piece. Another interesting finding is in the investigation of cytotoxicity, the toxic effect on cells. The e-cigarette aerosol in human embryonic stem cells, where the cytotoxicity was not due to nicotine but actually the flavourings. For example, Cinnamon Ceylon had high cytotoxicity while Bubble-gum was non-cytotoxic. The US Food and Drug Administration (FDA) carried out research on a number of e-cigarettes cartridges and concluded nicotine was present but TSNA levels were very low.

In contrast to the FDA’s last point Dr. Richard Casdorph who is well renowned, albeit controversial, for his writings on the Toxic Metal Syndrome: how metal poisonings can affect your brain, stated “in large amounts those martyred by dementia are showing the results of toxicity from mercury, aluminium, lead, cadmium, arsenic and other heavy metals.”
E-Cigarettes…
Legal and Medical Implications

US position
Global attention has seen the rise and availability of e-cigarettes. The US has reported a rapid increase in sales of e-cigarettes and analysts expect that to double from approximately $1.7 billion reported in 2013. As the research and data is limited to the long term health risks of e-cigarettes, the World Health Organisation (WHO), Tobacco Free Initiative released a statement, “recommending that consumers should be strongly advised not to use any ENDS products until a product is deemed safe, effective (as a smoking cessation) and of acceptable quality by a competent regulatory body”. The US Food and Drug Administration (FDA) has not yet regulated them but proposes a warning label on them and a ban on sales to minors. A heart association group in the US strongly called for regulation of e-cigarettes to quickly prevent another generation becoming addicted to nicotine. It identified e-cigarettes as a “gateway” drug to addict young people to nicotine by offering a variety of flavours arguing that these are intended to attract young people. As of December 2013, 25 states in the US have laws restricting the sale of e-cigarettes to minors and 6 states have enacted some form of restrictions on e-cigarette use in public places.

US case law
In a US case, the US Court of Appeals for the DC Circuit in 2010, Sottera Inc. v. FDA issued a decision with regard to e-cigarettes. It stated that the jurisdictional line should be drawn between tobacco products and drugs/device products. The court held that products made or derived from tobacco can be regulated under the Tobacco Control Act as ‘tobacco product’ unless they are ‘marketed for therapeutic purposes’ in which case they are regulated as drugs and/or devices.

UK position
In the UK, a report by the Public Health England stated that, despite manufactures claims that e-cigarettes are harmless, there was evidence of toxic substances and in some cases vappours contained traces of carcinogenic nitrosamines and some toxic mental such as cadmium, nickel and lead. These are often referred to as heavy metals that build up in the body and do not leave. Regular exposure to such substances is likely to cause serious health problems such as heart disease, cancer or dementia as Dr. Casdorph observes.

Regulation
The need for regulation of e-cigarettes has been widely argued. In the UK e-cigarettes are regulated under general product safety regulations only. These do not impose strict standards and arguably allow inappropriate advertising to children or non-smoking adults. The UK’s medicines and medical device regulator, the Medicines Healthcare Regulatory Agency (MHRA) announced that from 2016 it intended to regulate e-cigarettes as part of nicotine containing products sold as medicines by function and would be available by prescription from the NHS as a nicotine replacement therapy (NRT). This proposal from the MHRA was prior to the revision of the EU Tobacco Product Directive (2014/40/EU) in 2014.

EU position
In March 2014 the European Parliament and Council moved to end the marketing under general product safety regulations under the new Tobacco Product Directive (2014/40/EU). Under the directive, advertising of nicotine devices that are not licenced as medicines will be prohibited, products will be required to carry health warnings and they will have to meet purity and emission standards. Legislation is expected to be required in Member States by 2016 and full compliance by 2017. That will mean suppliers will have to decide between lower manufacturing costs but greater market restrictions imposed by TPD or accept higher manufacturing costs but have the other benefits associated with medicines licensing.

Irish position
In Ireland the former Minister for Health, Dr. James O’Reilly gave a speech in May, 2014 stating that as e-cigarettes do not contain tobacco. Therefore, they are not currently regulated under Irish Tobacco legislation. However, the open use of e-cigarettes in places where cigarette smoking has been prohibited arguably compromises the general smoking ban. The use of e-cigarettes is no longer permitted in any Health Service Executives facilities or campus. That ban commenced in May as part of the HSE’s Tobacco Free Campus policy. Dr. O’Reilly also added that the Department of Health is reviewing this area in consideration of both sides of the debate recognising that they may be a useful device in achieving smoking cessation but that there is no hard evidence to support this. The intention is that they will regulate the area as appropriate with the aim of protecting the public health of its citizens.

Conclusion
It is evident that there are significant medical and legal implications calling for urgent regulation of e-cigarettes. For example, the components used in manufacturing appear to fall outside accepted quality standards in some brands. Also, the consequences of unregulated advertising pose the risk of e-cigarettes as a “gateway” to nicotine addiction within the younger population. There is a strong argument for urgent regulation within the EU in line with the FDA’s proposal to issue warning labels on the products and ban the sale of e-cigarettes to minors. The EU Directive, TPD states that advertising of nicotine devices which are not licenced as medicines will be prohibited, in Member States. Under the directive the products will be required to carry health warnings and regulate purity and emission standards too which deals with the medical implications mentioned. There is clear merit in the MHRA’s proposal to regulate e-cigarettes as an approved NRT. Furthermore, the use of e-cigarettes in public places undermines not only the smoking ban but efforts to rehabilitate smokers. When both products are hazardous for the user, why should there be one rule for smoke and another for vapour?

For more information and for details on sources please contact Maria.Watson@kingsinns.ie
268 civil cases had been transferred by the Supreme Court to the new court and an unquantified number of uncertified appeals will also be transferred.

The first case to be dealt with by a three-judge panel, which will comprise Mr. Justice Ryan, Mr. Justice Peter Kelly and Ms. Justice Mary Finlay-Geoghegan, is the setting of a date for a mother’s appeal against High Court decision over the refusal of domiciliary care allowance for her autistic son by the Minister for Social Protection.

The need for a general Court of Appeal was identified in 2009 by a Government Working Group. More recently, in 2013, the Chief Justice, Mrs Justice Susan Denham explained that the structure of the Irish Superior Courts was not designed to cope with the volume and complexity of litigation now coming before the courts on a daily basis. The Chief Justice noted that the Supreme Court, which can only sit as one or two panels, was the only avenue of appeal from rulings of the 36 judges of the High Court. This bottleneck structure has resulted in delays of up to four and a half years for hearings before the Supreme Court, a situation which the Chief Justice described as “unsustainable” and “untenable”. She further expressed the view that the Supreme Court, as a court of last resort, should only hear cases of public significance or cases where an important aspect of the law or the Constitution is in issue.

In 2013 a referendum to amend the Constitution to provide for the establishment of a Court of Appeal was passed by over 65% of voters. The Act provides the mechanics necessary to establish the Court.

It will be possible in exceptional circumstances to bypass the Court of Appeal and appeal a ruling of the High Court directly to the Supreme Court (“a Leapfrog Appeal”). Permission to bring a Leapfrog Appeal must first be obtained from the Supreme Court and will only be granted if the Supreme Court is satisfied that (i) the High Court decision involves a matter of general public importance; and/or (ii) the interests of justice require that the appeal be heard by the Supreme Court. Accordingly, the Supreme Court will determine the type of appeals it will hear, which will likely be cases which raise constitutional and legal issues of significant importance only.

Going forward, parties wishing to appeal a decision of the High Court will need to carefully consider whether the decision is one which warrants a Leapfrog Appeal or whether the more appropriate route is to go directly to the Court of Appeal.

It is anticipated that the establishment of the Court of Appeal will have a significant impact on the current waiting lists and will greatly improve the overall efficiency of the Irish court system. However, the Act is silent on a number of important procedural and administrative issues in respect of the bringing of an appeal to the Court, such as time periods, filing obligations, court fees etc. Therefore, at this stage, it is not possible to comment on how the new Court will conduct its daily business and what impact there will be on the preparation for bringing an appeal. This will not become clear until the Court has become operational and an initial transition period has passed. We are keenly monitoring this new development and will keep you updated.

By CM Traynor
The LSDSI pub quiz took place on Wednesday November 19th in the King’s Inn pub.

A very strong attendance from diploma, modular and full time classes made the evening a great success, with MC Bryan Lucey bringing characteristic humour (and nuggets of Corrie trivia) to proceedings.

The winning team - Sarah Winston, Ian ‘The Knowledge’ Kelly, Simon Traenor, Caroline Griffin, Liam Lawlor, and under the leadership and guidance of team captain Gerry Kennedy - produced a stunning comeback to emerge victorious, and were rewarded with bottles of wine and some free drinks courtesy of the King’s Inn.

On behalf of the LSDSI committee, I’d like to say a big thanks to our hosts in the pub, everyone who attended on the night, everyone who bought raffle tickets, the generous donations of prizes we received from students and businesses across Dublin, as well as those who helped make the night such a success - Bryan Lucey, William Quill, Siobhan Buckley, Una Nesdale, Joe McGranaghan, Ellen O’Brien, and Niamh Ryan.

Wednesday 26th November 2014, at five thirty, the first ever Gay alliance meeting was held by students at the Honorable Society of King’s Inns Dublin.

The institution, founded in 1541 under a lease from Henry VIII, is Ireland’s oldest legal institution and oldest School of Law.

Many famous legal and political figures over the past centuries have been members of the Society or are former participants in the legal education courses. Its primary objectives are training and educating barristers.

Speaking about the inaugural meeting organised by current student Mr. Bryan Lucey said:

“"This is an historic day for a wonderful institution as we recognise the need for diversity, tolerance and respect for all members of Irish society in particular Gay and Lesbian people, who for so long have been marginalised. It is through our legal system that the greatest changes can be made and it is hoped that trainee barristers will be effective advocates for greater equality for gay and lesbian people. We hope to bring both gay and straight people together in an integrated and collegial fashion.”

There will be further meetings under this King’s Inns group with guest speaker events, social events and other promotional activities. For more information

Media Contact:

Bryan Lucey (086) 8740304, Stephanie O’Connell (086) 3919164 and Sarah Kearney (087) 2342885
Along with shortened days and inclement weather, the encroaching winter promises the imminent arrival to these shores of *Branta bernicla hrota* - the pale-bellied brent goose.

As the Latin trinomial suggests, they are a subspecies and are closely related to the black brent (*Branta bernicla nigricans*) and the almost identical dark-bellied brent (*Branta bernicla bernicla*). However, as neither of these other brent groups generally winter in Ireland one is extremely unlikely to encounter them. Indeed, Ireland is the winter residence for over 90% of the global population of pale-bellied brent geese – some 40,000 individuals – making it the most significant species of waterbird in the country in purely numerical terms.

Hrota are the smallest geese to be encountered in the region being only slightly larger than the common mallard duck. Overall the appearance is quite dark but good light and closer inspection reveal subtle tones of brown and grey on both flanks and wings. The head and neck are a silky black with a conspicuous white triangular flash on the throat, there is a distinct demarcation between the dark breast and the grey-buff belly. The rump is almost entirely white being most notable in flight. Vocally they are extremely active, the timbre of the voice being more melodic and higher pitched than the typical ‘honk’ which we usually ascribe to their more familiar domesticated cousins. When flying as a skein (a gaggle on the ground, a skein in the air) one often hears them long before seeing them. The wings are relatively short and are employed with a powerful thrust which is typical of long-migration birds.

Hrota spend the summer breeding season in the Canadian high Arctic with most of the population concentrated in coastal areas of the Queen Elizabeth Islands and parts of Greenland. Bonded pairs usually remain monogamous throughout the life-cycle, exhibiting a high degree of fidelity to nesting sites. The nest itself is a simple shallow depression in the ground lined with moss and down and is fiercely protected by both parents (their main predator being the Arctic fox). A clutch of 3-6 eggs is produced in mid-June with the peak hatching time occurring in mid-July. Like almost all aquatic birds the young are precocial, being mobile and ready to swim as soon as they hatch. Diet mainly consists of inter-tidal eel grass although algae and small crustaceans may also be taken.

Migration usually starts in September with the birds making a remarkable flight of over 3,000 kilometres by way of Greenland, Iceland and the North Atlantic. Almost the entire journey is undertaken in the hours of darkness. Strangford Lough in County Down is their first port of call where they spend several days resting and feeding before dispersing throughout the rest of the island concentrating along the coast, particularly at tidal estuaries. Two small groups will continue their journey onwards to the west of Britain and northern France. It is common for them to pick particular areas of parks and common land to roost at night; as winter progresses and their favoured eel grass becomes less common they are increasingly to be found grazing on farm land, a behaviour they may have learned from other species of migrating geese. They will then spend the ensuing months in the relatively temperate climes of the European winter fattening up for the arduous return journey to their summer breeding grounds.

*Branta bernicla hrota* is a remarkable bird in that it displays astonishing feats of endurance, navigation and adaptability. It is a bird of subtle beauty and thus often overlooked. It is, so far, a great survivor in an age where many of our indigenous bird species are under extreme environmental pressure with great swathes of populations being vastly reduced – perhaps irrevocably so. For my own part, I consider myself extremely fortunate in that a group of hrota has seen fit to roost and graze in my local park for more years than I care to remember. It has always been a source of great wonder (and slight puzzlement) to me that they would make such a journey from the wilds of Arctic Canada to the urbane environs of Drimnagh.

So as the darkness of the days increases, and as the chill of winter becomes all the more pervasive, and as you wend your sorry way to work or college, keep one eye to skies in the hope that you may spot these hardy little birds as they disperse to the coast from their roosting places. The sight of that dark, irregular V-shape contrasted against the grey Dublin sky is a thing of beauty and a true spectacle of the natural world.

Germanicus 28/10/14
Library News

King’s Inns has extended the scope of its electronic resources with the addition of the Civil Litigation module on Bloomsbury Professional Online. This material will now be available to all students through Moodle alongside the pre-existing material. The titles include:

- McMahon and Binchy, Law of Torts, 4 edn
- O’Flon, Practice and Procedure in the Superior Courts, 2 edn
- Barrett, Summary Judgment in Ireland: Principles and Defences
- Forde and Leonard, Constitutional Law of Ireland, 3 edn
- Samad, Court Applications under the Companies Acts
- De Blacam, Judicial Review, 2 edn
- Noctor and Lyons, MIBI Agreements and the Law
- Kelly, The Irish Constitution, 4 edn
- McDermott, Contract Law 2 edn
- Joyce and Madden, A Guide to Expert Witness Evidence
- Heffeman, Legal Professional Privilege
- Dodd, Statutory Interpretation in Ireland
- McDermott, The Law on Res Judicata and Double Jeopardy
- Buckley, Conroy and O’Neill, Specific Performance in Ireland
- O’Neill, Ancillary Discovery
- Courtney, Mareva Injunctions and Related Interlocutory Orders

* Yet to be published

An Garda Síochána

have issued a Crime Prevention Information Sheet on Vehicle Security for Bicycles, you should have received one by email, but here are some Useful Contacts and Links

The Garda National Crime Prevention Unit,
Tel: (01) 6663362, Fax: (01) 6663314
Email: crime_prevention@garda.ie
An Garda Síochána: www.garda.ie
Sold Secure: www.soldsecure.com

Get Involved & Thank You

Thanks to all who contributed to this Issue. If you are looking to contribute please feel free to submit all articles to any of the following:

NEXT EDITION January 2015
Christine.Traynor@kingsinns.ie

Congratulations to all members of the LSDSI Committee

Pictured: Centre Hugh McDowell (Auditor 2014-2015) with Lewis Mooney (Left) and Anthony Quinn (Right), Secretaries
See Pages 4 & 5 for more details

Donate to the appeal

Students at King’s Inns have are supporting many charities

Kelly Richardson thanks all those who donated and especially those students who joined Kelly in her efforts in delivering food to the homeless on our streets. “It was a Big eye opener for all of us and such a great cause”. Kelly adds “If anybody has a night free and would like to help out with friends or family they would be very welcome and very much appreciated, we are seeking volunteers”, Kelly can be contacted by email Kelly.richardson@kingsinns.ie

Ellen O’Brien is organising a TOY APPEAL, there will be a box at the reception area where people can drop in toys. The limit in value per toy is 20 Euro. Ellen said “as Christmas is expensive time, perhaps people could get together in groups of 4 and chip in 5 Euro instead”