THE INTERESTING WORLD

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Chancery barristers practise mainly from chambers in Lincoln's Inn. Some practise from chambers out of London. The Chancery Division of the High Court, headed by the Chancellor (Master Etherton), is in the Rolls Building in Fetter Lane. Chancery cases are also heard in the High Court sitting out of London and in the county court. The Chancery Bar has a distinctive ethos reflected in its professional traditions. The Chancery Bar Association holds an excellent annual conference, organises lectures and seminars and makes official representations when consulted on proposals for changes in the law.

Chancery barristers advise and represent clients on all aspects of property law. They are not, on the whole, as specialised as other barristers. Property is everywhere and is of many kinds. It is central to the activities of most political, social and economic institutions and is treated as a basic human right protected and respected by law. Property disputes include not having enough of it (insolvency); having it taken away (fraud and other scams of every description and, I suppose, tax); ways of passing it on to others (inheritance, conveyancing); getting together with others to preserve it or exploit it (companies, partnership, trusts); creating and exploiting it on an international scale (intellectual property); using it against business rivals (competition law); and so on.

DISPELLING THE MYTHS

The gulf between the commonly held conceptions of the Chancery Bar and what might cautiously be called reality is astonishing. The first myth is that it is all paper work and that Chancery practitioners lead a miserable monotonous life stuck at a desk. (John Mortimer QC was dismissive of barristers 'condemned to a life in the Chancery Division'.) As a junior Chancery barrister 'condemned' for 24 years, I was in court almost every day – more often, I suspect, than either Mr Mortimer QC or his junior, Mr Horace Rumpole. Shackled to a desk I would have dried up, curled up and dropped dead in less than a decade. Of course, the desk is where all good counsel do their serious preparation and win most of their cases, but the Chancery barrister, like any other, goes off to court to bring the case to life.

According to the second myth, Chancery counsel make rotten advocates for whom even audibility is an affectation and who are clueless about cross-examination. The myth is put about by people who have never sat in the Chancery Division as much as I have and marvelled at complex cases argued with lucidity and elegance by Peter Oliver QC, or Peter Millett QC, or Lenny Hoffmann QC, or Andrew Morritt QC, or Donald Nicholls QC. All of them successfully led me at the Bar and later held high judicial office with distinction.

Next is the 'deadly boring' myth: Chancery is thought of as 'a waste land' empty of human interest, 'a handful of dust' to be shunned at all costs. In reality Chancery cases about fights over inheritance, boundaries, plagiarism, tax demands and so on hold as much, if not more, human interest as cases about people being run over, or ships colliding with one another in mid-ocean, or people being bashed over the head, or power crazy bureaucrats going seriously ultra vires in the noisy arena of public law.

SPECIALISATION

'Specialist' is also a misleading label, if it is intended to consign the Chancery Bar to the margins. All legal practice is specialist to some extent. Contrary to the impression made by some boastful chambers brochures and wacky web sites no-one can honestly claim to be an expert in everything, or even in many things. In general, barristers, even in Chancery, specialise in advocacy. As for particular areas of practice, Chancery barristers are, on the whole, less specialised than most, certainly less than most solicitors, whose firms have grown so gigantic that individuals are confined to compartments of legal practice.

The self-employed advocate will survive Tesco Law and all the other attempts at mass-produced legal practice, because there is a human need to be met as long as hearings are held in courts. The serious long-term problem is premature specialisation and over-specialisation. This trend leads to the

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early stifling of professional experience, usually self-inflicted for short-term advantage, but with long-term detriment to the system and serious impoverishment of the experience of individual practitioners.

Many threads weave a more striking pattern than a single thread. The answer to over-specialisation is to have several different specialities. In Chancery, practitioners tend to assemble and develop over the years a portfolio of specialities. Of course, a barrister must be honest and cautious in claiming too many areas of competence. It is also hard work constantly learning new things, but counsel are supposed to be learned in 'The Law', and not just aim to be a prospective Mastermind contestant operating in a tiny corner of the Law's vast and magnificent estate. The multi-speciality way leads to a better understanding of the parts, as well as of the whole, of the Law and ultimately to more rewarding practice at the Bar.

THE RIGHT ATTRIBUTES

'Intellectual rigour' is a horrid myth. It does damage to recruitment, if it puts off sensible, honest and industrious people, who did not do as well in the exams as some others did. Some Chancery chambers are rumoured to take only Firsts. Great for the Firsts, but I tend to agree with John Mortimer's father that: 'No brilliance is needed in the law. Nothing but common sense, and relatively clean finger nails.'

Of course, Chancery cases require patient intelligence, clear thinking and hard work, but so do all forms of advisory work and advocacy worthy of the name. What are as important in the long run are good health and sheer stamina, a disposition to make the best of things even in the worst of times, an ability to take tough decisions under pressure, and sufficient strength of character not to commit the more degrading sins that beset the Bar: pomposity and self-importance, greed and complacency, short cuts and overweening ambition, and that ultimate professional treachery – putting personal interests before the clients'.

The prospect of 'loads of money' is a myth that may lure some people to Lincoln's Inn. I have no idea what other people are paid. All I know is that, as Junior Counsel to the Treasury in Chancery for eight years or so down to 1989, I was certainly not overpaid for the amount of work that I did. Though there were no loads of public money for me, the financial and professional compensations were, in the long run, reasonable rewards for the satisfaction of public service. My benefactor was the Prime Minister, who led the most litigious government of all time. I was in court almost every single day: getting unions banned (the GCHQ case), injuncting publications by ex-security personnel (the *Spycatcher* case), compelling journalists to disclose their secrets (the *Guardian* case on journalists' sources), the battle over the sovereignty of Parliament in the EU (the Factortame case), the repatriation of the Canadian constitution, the legal status of Berlin before the Wall came down, the unravelling of dizzy tax avoidance schemes, the privatising and deregulation of the UK and the auctioning off of the valuable bits – oil, gas, telecommunications, the Crown estate, handing over Hong Kong, hitches in the Falklands War, contested legacies to the British Museum, and so on.

My soft spot was for two specialised, though very different, areas of Chancery law, almost by accident. The first is copyright, which happened to be the speciality of the chambers I first joined in 1965. The second is charity law. I did not practise it before 1977 when, out of the blue, I was appointed Counsel to the Attorney-General in Charity Matters. Copyright brought me into litigation about James Bond and charity into unusual arguments about whether atheism was a religion and whether football was an education.

IN CONCLUSION

What matters is the intrinsic value and interest of the work itself, regardless of the speciality, the immediate outcome or the financial reward. The whole Chancery experience is a satisfying affair of sanity, which makes demands on the imagination, as well as the intellect, in order to find ways through problems to sensible solutions on the other side.

In Chancery practice the challenging parts are often not the law itself, though fathoming what it means can be quite a feat, but the tactical decisions: how best to open the case, what selection to make of what really matters, how to be as simple, concise and clear as possible, and how to avoid those defensive trawls through absolutely everything to a state of exhaustion. That approach may satisfy completists: it certainly does not appeal to anyone else, or even to justice.

Those who are attracted to this interesting world should get hold of the current Chancery Bar Association Directory, fix up several mini-pupillages, persevere and be prepared to perspire in the hunt for a pupillage and a tenancy, to be disappointed and, when setbacks occur, to pick themselves up, dust themselves down and start all over again. ■