Lord Kerr’s choice of subject matter for his Reading was inspired by the recent decision of the Supreme Court in *Stocker v Stocker* [2019] UKSC 17 and the challenges confronting judges when required to take on the role of a jury in applying a common sense approach to the meaning of words.

He espoused the need sometimes to stand back from a contemplated outcome and ask: Does this accord with reality? and offered that as justification for being ‘the most frequent dissenter’ in the Supreme Court, while conceding that such an approach had to be handled ‘with care and circumspection’.

But to return to *Stocker v Stocker*, in which Mr Stocker was suing his ex-wife for defamation, when she claimed, in a public comment on Facebook, that he had ‘tried to strangle’ her. What was the single meaning that an ordinary reasonable reader would take from that statement? It was the impression conveyed by the words, not dictionary definitions of the words, that mattered. Ordinary readers did not look at a dictionary when deciding that what they had read actually meant.

As Lord Steyn said in *R (Daly) v Secretary of State for the Home Department* [2001] 2 AC 532, ‘in law context is everything’.

The trial judge had to decide what the reasonable reaction of a Facebook reader – a new class of ‘social media user’ – would be. Not all judges used the various social media outlets available but they were a significant, if not predominant, means of social intercourse between members of contemporary society, and it behoved members of the judiciary, unfamiliar with these phenomena, to become acquainted with them.

The trial judge had concentrated on the verb ‘to strangle’ and found that the dictionary definitions were (i) killing someone by choking them to death and (ii) grasping someone by the throat. Mr Stocker had *in fact* grasped his wife by the throat – he had not *tried* to do so. Since Mrs Stocker was not dead, so the reasoning went, she must have meant that her husband had *tried* to kill her.

As Lord Kerr observed, as a matter of purely logical analysis, that process of deduction was impeccable. However, that was ‘precisely where the dimension of common sense’ intruded. Or, rather, of how practical, real life experience should influence legal outcomes. ‘Why would Mrs Stocker not say that her husband had tried to kill her, if that is what she had intended to convey?’

But, as Lord Kerr said, of far greater importance was the circumstance that this was a Facebook post. It was not a carefully chosen expression. As the Supreme Court said, the fact that the ordinary reasonable reader had to fasten on a single meaning of the words militated strongly against interpreting them as meaning only that her husband had tried to kill her.

Reverting from the particular to the essential theme of the Reading, Lord Kerr asked how a judge should bring into account relevant facts and combine them with legal principle to ensure that they secured a ‘rounded, holistic solution’. While recognising the fallibility of being influenced unduly by what might be seen as the just outcome to a case, Lord Kerr felt that forsaking consideration of the result that a particular decision would wreak was just as objectionable. Accepting that there would be occasions where principle was so entrenched or precedent so strong that departure was impossible, even if that led to an unjust result, Lord Kerr felt that should not deflect a judge from express acknowledgement that an incongruous or
In the latter case, while five of the seven-member court were of the opinion that the law was not compatible with article 8 of the European Convention on Human Rights, the appeal failed because the majority held that the Commission did not have legal standing to make the challenge. The government has since indicated that it would bring forward legislation to make it clear that the Commission would have standing to take such proceedings.

As for the Stocker case, Lord Kerr believed that standing back and taking a broad overview of where one's preliminary view might lead had led the Supreme Court to the correct conclusion – the last thing Mrs Stocker meant was that her husband had tried to kill her.

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**COIC PUPILLAGE MATCHED FUNDING SCHEME**

COIC welcomes applications for matched funding for 2020–21 and 2021–22 pupillages. The scheme helps to provide additional pupillages in chambers, and other approved training organisations, predominantly engaged in legally aided work. Encouragingly, a growing number of chambers are applying for COIC matched funded grants. COIC is set to support 36 pupillages in 2019. This is an impressive improvement on the scheme's first year of operation in 2014, when it supported 14 pupillages.

**How the scheme works**

It is a prerequisite of the scheme that chambers understand that matched funded pupillages are in addition to those they would have offered in any event. COIC match pupillage funding already provided by chambers with a total grant of £9,900 for 2020–21 London pupillages, £7,700 for 2020–21 out of London pupillages, £9,450 for 2021–22 London pupillages and £8,050 for 2021–22 out of London pupillages, to fund the first six months of a second pupillage. Chambers are responsible for ensuring that the total pupillage award meets the BSB’s minimum award for the year in question.

**How to apply**

Applications to match fund 2020–21 and 2021–22 pupillages are invited between 2 September and 21 October 2019. Decisions will be communicated during the week commencing 4 November 2019. Online applications can be made at www.coic.org.uk/pupillage-matched-funding. To find out more please email Samantha Anderson, COIC Secretary: sanderson@coic.org.uk

Nathalie Lieven QC, Chair, COIC Pupillage Matched Funding Grants Committee

**Chartlands Chambers**

We are a small provincial set predominantly with a focus on family law. We have always been dedicated to undertaking publicly funded work. With the cuts in legal aid, we were not in a position to take on two pupils in 2019 without the COIC pupillage match funded grant. The grant was an invaluable help to us in ensuring we continue to build on our commitment in providing barristers to assist publicly funded clients. The initiative is very commendable and will go a long way in opening up the availability of pupillages to those who deserve the same. We are grateful for this positive initiative during difficult economic times.

Waqas Rashid, Head of Pupillage

**Central Chambers**

As a small, mainly publicly-funded set, the financial aspects of offering pupillage were an obvious concern when we were considering the ways in which chambers should grow but the Pupillage Matched Funding Scheme allowed us to take a chance on pupillage and, with the support of the Inns of Court, we have been able to offer this opportunity in a very restricted market. Thanks to the Pupillage Matched Funding Scheme, we can offer a further three pupillages over the next 18 months; opportunities for recent graduates that simply would not have been there without this scheme. At a time when access to the profession is of great concern to chambers, the scheme helps small, specialist sets like ours to offer pupillage in areas being deserted by those solely searching for financial gain rather than a drive to help the disadvantaged.

Joe Lynch, Head of Pupillage

**Park Square Barristers**

Pupils are the future of the profession and vital to the survival of the independent Bar. PSQB has received matched funding which has allowed us to recruit three additional pupils since 2017. As a set dedicated to publicly funded work, the scheme has been vital in allowing us to grow our numbers, maintain exceptional standards and secure a bright future for chambers. This has all been achieved, in an era of continued uncertainty and cuts, with no additional budgetary pressures for our set.

Simon Clegg, Director of Pupillage

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