

Rebecca Wright interviewing Master Hooper

57:53

Rebecca Wright My name is Rebecca Wright, a pupil barrister and a member of Inner Temple. I am here today on Wednesday the 23rd October 2013 to interview Sir Anthony Hooper benchler at Inner Temple. We are conducting this interview at Inner Temple down in the education and training department. We are here today to focus principally on Master Hooper's recollections of and interactions with Inner Temple but we will also discuss some of the highlights of his illustriously good career. Master Hooper if we could start at the beginning, what made you choose a career at the bar?

Master Hooper I was ... my father was killed early in the war, my mother had absolutely no money but I had the advantage of a good education thanks to the Royal Air Force benevolent fund. That ran out when I was 18 and I had very little money. My mother had no money either and there was a financial assistance available as what was called an exhibitioner at Trinity Hall, Cambridge. By then also I had decided that I would like the law because I had a great uncle who practiced from a firm of solicitors in Redhill where I was born, and I'd seen his nameplate on the window and in fact the firm is still there, so I thought well I'll try the law.

RW You went to Cambridge to study law.

MH I went to Trinity Hall to study and did my undergraduate degree in law and followed by a year away and then came back for a postgraduate LLB.

RW Where did you do your year away?

MH My year away I went to the United States and I worked on a ski resort in Washington state, about 40 miles out of Seattle, looking after the top of the ski lift and then from there I went round the world in a motorbike via Japan, Vietnam and then slowly back to England.

02.22

RW So it wasn't law related.

MH It was not law related at all. By then actually I had thought of not doing law but going into the secret services. One of the things of going round the world as I did was to visit some of the embassies and by the time I got back I decided law rather than the security services.

RW Why was that?

MH I just probably thought it was more exciting and less bureaucratic.

RW So you trained at Cambridge. Can you describe legal training particularly the advocacy training that you received?

MH There would be no advocacy training in those days at all. Indeed in my first year I was studying Roman law and I had to write an exam in Latin – something I couldn't do today, I can hardly remember any Latin. But I did have some extremely fine tutors there, particularly in taught law, criminal law, one of the greatest criminal lawyers that has ever been taught me criminal law.

RW Who was that?

MH It was a man called JWC Turner who wrote that the major works, some I suppose 50 years ago now.

RW So did you feel prepared for a career at the bar when you left Cambridge.

MH Not really no, I don't think I did although to be fair perhaps more so by the time I'd come back and done my LLB which I did in conflict of laws and international law. But as I came towards the end of that course not knowing what to do, still undecided, I wasn't a member of the Inner Temple or anything at that stage.

04.00

I then decided to apply for and got a teaching job at the University of Newcastle. So I taught law, conflict of laws, other subjects in Newcastle University for three years and about my last year, I took the bar exams which in those days involved no course at all. You self-studied, you just learnt it and I came down to take my bar exams and I was taking them in Grey's Inn or no Lincoln's Inn and I remember that as I went in to do the exams the great Lord Denning came by and he wished us all luck and I had the luck and I passed the exams. By then of course I had or perhaps a little after, I completed my dinners, that hasn't changed, there was 12 dinners a year. I don't know how much it's changed but certainly my friends and I would always try and choose a group of four or mess or whatever it was called which would include at least two non drinkers, and that may not have changed either. I remember going from some of those dinners in quite a cheerful state.

RW Were you picked out as pupils in these dinners? I've heard horror stories of pupils having to stand up and recite...

MH My career was so different you see. I got called to the Bar in 1965. I ate all my dinners, did all of that, I was then called to the Bar in a remarkable ceremony which I think thankfully has disappeared. There were so many people being called to the Bar that 5 people were called forward by seniority and we all held hands at the front while the Treasurer who was certainly well beyond the age of any compulsory retirement told us that it was to be the happiest night of our lives.

06.07

I did not publicly disagree with that proposition but privately I did.

RW Why was that?

MH I think I've had better nights than call night.

RW So what did it actually involve call night, when you were called?

MH It was simply five people were called forward and they took it on behalf of everybody. So it's a long way removed from the very pleasant family oriented open welcoming ceremony that is developed today, often in the Temple church, which is a wonderful occasion. Those days it really wasn't!

RW Do you have any recollection of the gardens and the buildings at Inner Temple?

MH No because unlike today you weren't taking a full time course in London. I was teaching in Newcastle so I'd come down for the weekend, eat my dinners, I'd return to Newcastle where I'd do my studying, I came down to do the final exams but

that wasn't the end because having reached 1965, I then sent a letter to a number of universities in North America because I was fed up with the weather in Newcastle and asked for a job. Extraordinarily – it shows how things have changed so dramatically – I literally received a telegram from the University of British Columbia saying do nothing we'll take you. So on the basis of a CV and my background, they employed me, no interview nothing, whereas today from start to finish an application to teach at university whether successful or unsuccessful would take probably 6 to 9 months while it went through all the various committees. The world has changed – not always to the better.

08.02

RW How did you find British Columbia?

MH I loved British Columbia. I taught there real property, which ... land law, and international law and towards the end of my three years there I decided that I would like to become a member of the bar, of the law society as it's called then because it's [fuse?] profession of British Columbia and in 1968, 69 I was admitted, a member of the British Columbia Law Society of Barristers and Solicitors and I appeared there and again appeared in the Canadian Supreme Court in front of what was then I think 9 judges. So I enjoyed my... having done three years there I went into practice there with a big major law firm in Vancouver called Russell and Doumeler and did one case which involved a construction contract in the peace of a country over a dam, a dispute between British Columbia hydro and the contractor of a building of a hydro electric system and dam. And from there I hadn't yet practised. I hadn't done my pupillage yet and I would be in trouble in modern days because time would start to run against me. But time didn't run against you in those days. So from there I went to teach as a Visiting Professor in the University of Laval in Quebec city, and that was the first time I really taught criminal law because I was asked to really establish a criminal law school in Laval. I taught in French to French Canadian students in a very French Canadian part of Quebec, namely Quebec City. By that time I had edited a book on criminal law which was published in about 1967, 68.

10.05

No longer published – it's called Harris's Criminal Law. It was used predominantly by police officers, anyway it's no longer published but my name still appears on the 21st edition of Harris's Criminal Law. I taught there for a year and a half and then I went to Toronto where I taught at Osgoode Hall law school and I became a full Professor and by now was really specialising in criminal law, criminal procedure, although I did other topics – I did a major course in aboriginal, as it was called then, aboriginal rights, indigenous rights, and that I enjoyed very much. In 1974, I returned to... 1973, decided I would come back to England and practise as a barrister. In 1973 in the summer I did my first two months pupillage with Christopher Barnett, later Christopher Barnett QC in Norwich and Colchester chambers on what is now called East Anglia Chambers. Of course I was on a North American salary as a full Professor so I wasn't doing too badly during my first two months pupillage. Then I returned in January and I did a further four months in January 1974 and then I started practising in about April May 1974. My first day, many pupils don't have this – my first day when I was able to appear on my own, albeit still a pupil, I had a Crown Court jury trial, of a driving whilst uninsured, or driving whilst disqualified and a not guilty plea.

12.02

There I was, on my first day, I had already been an advocate because I had done some advocacy in British Columbia, I had appeared in court on quite a big case in British Columbia. So we are now up to the summer of 1974 and I spent two and a half, three years, practising in East Anglia, really with no link to the Inn because I wasn't living in London. No realistic link to the Inn. In 1976, 77, I decided that I had had enough of East Anglia and I wanted to move to London. Then I finally made my link back to the Inner Temple because I became a tenant in 5 Paper Buildings, which is no more than 75 yards from here. Which was a criminal set of chambers and did a mixture of prosecuting and defending; had traditionally been a prosecutors chambers and the Head of Chambers was John Matthew who was one of the great advocates and senior treasury council at that time. I was now finally back in the Inner Temple.

RW In 1973, why did you decide to come back to the UK at that point?

MH I bought a house in Suffolk, which had been constructed in 1387; I decided I wanted to come back and live in that house which was a very cold house, right up on the prairies of North Suffolk. Life was quite hard because although I had quite a good life, now money was running out fast and I remember having to go and put a motor scooter on the train and I would go down through parts of Essex and there I would take my motor scooter off the train, a little vesper or whatever it was and I would come to Malden in Essex, I remember one of my early cases was in Waltham, all those places – Essex. But I was actually based in Norwich, very beautiful, near the Cathedral in Norwich.

14.25

RW How was the advocacy in British Columbia compared to ...

MH I don't think I had enough experience. I should say that later I was to do a lot of advocacy training in Ontario with some of the great Canadian advocates who were absolutely first class. In the mid-80s I returned every year for a number of years to teach advocacy in the Canadian environment, at Osgoode law school as a visitor.

RW You were obviously working in civil law jurisdictions as well as...

MH No mostly crime. The 5 Paper Buildings were almost exclusively crime.

RW Did the Canadian system even in Montreal is that the French?

MH I didn't practise in there, I wasn't a member of the bar of Quebec, I was a member of the bar of British Columbia so I practised in British Columbia but only one court appearance there really and one in the Supreme Court of Canada.

RW How did you manage that Crown Court trial, your first trial as a Crown Court?

MH I loved it, it was quite strong. The trial was in front of the Recorder, the very well known John Marriage QC, one of the great advocates of all time so it was rather fun and who I knew, so I did my trial in front of him.

RW What are your memories of pupillage, obviously it's quite broken up...

MH Pupillage was great fun but I was now...I'm now 30 years old, so I'm not your pupil of 21, 22.

16.08

I was treated with perhaps more respect given my age and academic background, than some pupils are.

RW How did you come about getting your cases in the early point of your career.

MH I think in those days there was a lot of work. One of the advantages of starting for 2 and a half three years in East Anglia is that unlike London you are known far more quickly. As you know a barrister is only as good as his or her last case and in a small community like that you do a case well. I remember actually I have a vivid memory of the case that really expanded my career. I was in chambers and there were two briefs, I had been instructed to appear before the High Court judge out on circuit on a sentencing case and then... no I hadn't been, a colleague of mine had been and he had also been instructed to prosecute some burglars in front of the Crown Court so he couldn't do them both. He took the case in front of the High Court judge but I therefore got the burglary case. The burglary case turned out to be a major assault on the Norfolk police for dishonesty and all that kind of thing which I think was probably ill-founded allegations and I prosecuted but in effect, quote, defended the police, and they were so thrilled with what I had done that that led to a major case which lasted almost a year. So it's ...

18.00

The bar is one of those things where you can have, quote, lucky break, but because this barrister chose who is senior to me, he wanted to do in front of the High Court judge, I actually got the case which was of considerable interest and which the police were much more interested in and the men were successfully convicted and the jury disbelieved the allegations against the police and that led to major case. The second longest case ever tried in England. The first was a case called the Lime Ford Case which was tried in Bury St Edmonds, and gone on for three or four months, which I was not involved in although many people I knew were. This was called the **Brigard** Mill case which went on for three months and a second trial for two months and that kept me going for a long time and gave me huge experience of some of the best advocates. I was led by John Marriage. Number Two was James Crespi, one of the great, extraordinary advocates of my day. One is just lucky.

RW Obviously you had wonderful mentors, people to look at, how did you improve your advocacy skills. Did you practice at home much?

MH No I never practiced at home but I did it right to the end of my career as a barrister was I watched my opponents. I learnt from them. So if my opponents did something which I thought was good I adopted it; if they did something I didn't think was good, then I would teach myself a lesson not to do the same thing. Advocacy, the wonderful courses and fully accept the desirability of the courses but advocacy actually comes from day in, day out appearance in court. In magistrates court, minor cases of the crown court to start off with and watching people and you gradually learn what it means to become I hope skilful advocate.

20.17

RW Did you receive any good pieces of advice from mentors?

MH No I don't think I did, I think I just watched and taught myself, these were competitors to a certain extent so why would they. But you know you learn the short sharp questions, you learn the techniques of cross examination. All the things that a good advocate... you do it day in day out. So when I moved to London in 77, as I say to 5 Paper Buildings and then my ... it was a very bad start because on my first day the clerk sent me to Bow Street Magistrates Court to represent some hopeless person who I could only speak to through the cell door. I went back to the clerk and said look I've been in practice as a barrister for two and a half three years, I've been

a Law Professor, I'm not going to go on to go to Bow Street, I want better work than that; but I think he was just testing me. You know what barristers clerks, the old fashioned kind, they tested you out – are you prepared to do it, if you say yes, and then come back and say I'm not doing it again, they somehow respect your opinion. That's really rather changed because those barrister clerks have become practice managers and are much more educated. My clerk in those days was a wonderful man but he had left school at 16 and by the time he retired he was earning two to three thousand a year, a percentage cut of the chambers.

RW Did you have a good relationship with him?

MH Yes I did, we always got on well, very well. That's essential. Always get on with everybody starting with ushers in court, court clerks, clerks in your chambers. They're important. Always nice to clerks.

22.09

And ushers and to ... I remember going into a court in Ipswich and there was this tall, very good looking man now in his mid 50s and straight, thin, straight back. And he said, good morning sir. And I said, I think I recognise your voice and he said, well I recognise you and he was my Regimental Sergeant Major when I was in National Service as an officer cadet in Mons Officer Cadet School and this wonderful man who had been feared by us all, he was an usher in Ipswich Crown Court and we got on very well, talked a lot. It was extraordinary to think that the man who had me as an officer cadet in Aldershot, this hugely powerful man who could discipline you and did discipline me on many occasions, I turned around and he was the usher in Ipswich crown court some years later. Sergeant Major **Smarley** his name was.

RW Did he help you in court at all?

MH We talked a lot, I don't think he was a great advocate necessarily but it's important for a barrister to get on with people and people forget that. Some barristers are very arrogant and snobbish. It's the ushers that tell you things, the usher that tells you not what the jury are thinking but simply some reflection on how the case is going. You always want to listen to everybody.

RW When you returned to London in 1977 did you say?

MH About 1977, yes.

RW How did you begin to build a relationship with Inner Temple at that point?

MH I think not as much as I should have done and I really rather regret it; I mean I would dine in the hall, and attend events but I don't think there was that in those days as much of a link between the barristers.

24.10

Now the Inn goes out to encourage people to come and teach. I don't remember any ... it may be my fault, maybe I dismissed it. I think that's dramatically changed. A barrister like that... today with the Inn will get invitations, attend things, start moving in to ... so I wasn't very heavily. Sadly I look back on it now, nowhere near as involved. It also was because I went abroad. I'd go to Canada every summer to teach advocacy there. I did all the courses that you had to do. But I regret not being more involved and essentially it was my fault. Then I became... I didn't become a bencher until shortly before I was appointed a High Court Judge in 1995. I never really understood, because I had had so much of my time in Canada, I couldn't understand

what Michaelmas, Trinity and Hilary ... I didn't understand what they were. I couldn't understand things like Bench Table. It didn't mean anything to me. And master and all that, it wasn't the world I'd ever really lived in.

RW What does it mean to you now?

MH I know Michaelmas is in autumn because it's connected to Michaelmas daisies, but I'm not sure about the other two and never have been. But I became much more involved with the Inn when I became a bencher although perhaps still I could have become more involved than I did.

RW In what way did you become more involved?

MH I did for example trips to Cambridge for these recruitment drives where we get out and talk to Cambridge students, I did that. But I didn't play a huge role in life; I sometimes regret that I didn't play more. I was very busy.

RW How were you able to go every summer to Canada and still maintain a practice?

26.21

MH I would take two weeks off of my practice and simply say I was going to do that and it was wonderful work, I loved the teaching there. I did in fact in about 84, I took a whole term off, and did a sabbatical term in Canada at Osgoode Law School because I was still never quite certain about where I wanted to go. And then I suppose I was made silk in 87 and I don't remember for example when I was silk in 87, I don't remember, maybe I've just forgotten it, any sort of dinner for silks. Whereas today when you are made a silk you are welcomed into the Inn. I think it changed for the better.

RW Why is that better?

MH The welcoming notion you know, when there's huge talent out there you need to be able to take advantage of it.

RW You were appointed to the High Court in 1995.

MH 95. And I then within a year, I was appointed presiding judge of the North-East Circuit which is Newcastle, Leeds, Sheffield, Hull, York, Doncaster. I travelled a lot so again from the point of view in life, half my time I was out of London. I was well away. You don't drop down from Newcastle when you have a trial to the inn.

RW Do you think that's... do you think better links need to be made between London and other...

28.05

MH I think the Inn is again doing that but it's hard because if you have a meeting of the Benchers or one of the many committees it's quite hard to involve people. I think for a while they had a video link, I don't think many people were really interested. Trouble is a barrister, you're getting on with your life. 5 o'clock in the evening the case for tomorrow has just arrived and you've got 3 or 4 hours to get it ready in order to pack a court in the morning.

RW Did it take much adjusting moving from one side of the bench to the other when you became a judge?

MH Yes oh yes. Hugely because I had always been I think I could say quite a strong advocate now... I remember some of my cross-examinations that I did I remember them now with some embarrassment and I don't think today I would allow myself, as a judge I wouldn't allow myself to cross-examine in that way because things have quite rightly changed. So when I became a judge it was quite difficult because you'd been leading the fight, I was in many big cases, huge cases. All of a sudden you're on the other side and someone else is doing the trial work until such time as you get your summing up. But as a judge you gradually learn to keep reasonably quiet. I was never very good at keeping quiet but I kept reasonably quiet.

RW Can you describe some of the cross examination that you maybe shouldn't have undertaken?

MH I think there was one... in fact it was cartoon, it was so well known that there was a cartoon in the Observer which related to my cross-examination. It was in a big case called the Blue Arrow, which involved a rights issue which it was alleged that the NatWest bank, UBS and others had misled the public as to what was happening in the rights issue.

30.20

I had to cross-examine a senior employee of the company whose shares were being issued. He was one of those witnesses who saw nothing, heard nothing and smelt nothing albeit that he was in the room while all this was going on but he couldn't remember it. They were on about the 24th floor of the NatWest tower, that's still there and he was high up and I put him on the perch of the window and then I came back all the time: when you were on your perch, did you hear this? And of course he heard nothing. So I was suggesting to him that he knew much more of what was going on because the allegation was that his company had been deceived and my case was that they hadn't been deceived, they knew perfectly well what was going on. I remember cross-examination of two very senior people in the same case in the NatWest bank. They were saying that they didn't understand the figure. These were the chairman, chief executive, people of that level. My client was alleged to have misled his own senior management and so they were called to say they didn't really understand what was going on, they didn't understand the figures. I discovered that I managed to get hold all their receipts for their expenses. Although they couldn't understand these figures they certainly understood how to do their expenses after a golfing trip.

32.06

I thin today when I look back on it, I'm not at all sure that it was right. My client was convicted anyway so... although we won in the Court of Appeal, got it quashed.

RW You've been involved in very big, quite emotionally charged case as a judge as well.

MH Both as a barrister – I prosecuted a man called Duffy whose nickname was the 'railway murderer', 'the man with laser eyes', a major serial murder, a very difficult case, extremely difficult. I defended him, blue arrow, as a judge I tried the Hillsborough police officers. I tried one of the early euthanasia cases involving a doctor, so I've had many difficult trials, and that was a great privilege. And Damilola Taylor, which is a very famous case – the first trial where the jury acquitted two; I acquitted one on a point of law and the prosecution offered no evidence. Of course ultimately the jury's verdict was vindicated by the discovery of DNA evidence involving other people.

RW How have you managed to cope with the level of pressure and media scrutiny that have come with those cases?

MH It's a good question. You have to be very careful. I think I was lucky during the earlier part of my career. Maybe even as a High Court Judge, there wasn't the media scrutiny there is today. When I started, and really towards even maybe as I became a High Court Judge, the media sat in court and reported the cases. By the time I'd been a few years on the bench, and certainly by the time I was in the Court of Appeal, the media were looking for stories to tell.

34.12

I remember once in the Court of Appeal criminal division where I could see no journalist in court, and I assumed there was no one there and I made some flippant remark, not in an inappropriate case but it was a fraud or something and my judge on my right made an even more flippant remark, to counsel, to lighten the proceedings because we each do 12 cases a day, you needed something. Anyway the journalists picked it up, sold the story and I was all over the national press the next day. So therefore after that I always leaned right forward to see whether there was anyone tucked away right under the bench. You learn to be careful. You have to think. You have to ask yourself, should I be saying the? Why not keep your mouth shut? I remember a case which I tried as a judge in Hull and it was a horrific murder case, absolutely horrific and the family were devastated about the loss of their daughter in dreadful circumstances – she'd been killed and then she'd been cut up and dug into the ground. It was as bad as you'll ever get. We were in the middle of the trial and there was a bank holiday coming up for the weekend, so three days. I said to my clerk who was a wonderful man – I said to him, Tim I think I'll tell the jury to go away and forget about... the jury were very tense because the evidence was so dreadful: have a relaxing time and forget about the case. He said to me, sir I wouldn't do that if I was you. Tomorrow, Saturday, is the anniversary of the deceased's death and the parents won't like that. I thought it was a wonderful example of how something which I was saying was going to say, to help the jury, would have in fact affected and hurt the deceased's family.

36.17

And I didn't say it; so I'm always very grateful to my clerk. I think you have to think about these things. It's not easy.

RW Now how do you feel about the media tweeting and reporting on the spot now?

MH It has changed so much. It was a completely different thing. The media weren't after judges, they reported what judges said and accepted it whereas now, there's – if we can find a judge saying some silly remark there's headlines the next day and news. Well that's life and you have to put up with it and just change your conduct accordingly.

RW Just to move on with your career, in 2004 you became a Lord Justice.

MH Actually in 2003 I put my notice in and resigned because I'd done 8 years as a High Court judge and I'd sat not only in crime but I'd also sat in the Employment Appeal tribunal, I'd done a huge amount of work in the Administrative Court and to a lesser extent the Divisional Court. I'd really had enough; I thought no. Anyway a bit later I got a phone call saying would I like to go to the Court of Appeal. Now that's all changed because I was made a High Court judge, it was Lord McKay who is a member of this Inn, asked me to be a High Court Judge and then Lord McKay also...

no Lord Faulkner, 2004, the Lord Chancellor offered me a place in the Court of Appeal, whereas today it's competitions, you have to have examinations for some appointments and you're formally interviewed.

38.17

The recent round for the Lord or Lady Chief Justice – Lord as it turned out – they had to write an essay. I never had to, in I think happier days.

RW So you didn't have to apply, did you do any training?

MH None. Oh as a Judge I did training but not in the early years – later on, rightly so, there was much more judicial training that came into place.

RW Do you think the way Judges are selected now is good?

MH I have my doubts about it.

RW Why?

MH if you take the Recorders thing. The Recorder was always a very important step for someone who wanted to try out being a part-time judge. Nowadays Recorders do an exam and if they fail the exam that's it, finished. Not so long ago there was an exam where extremely competent people, all of whom were not only good advocates but in my view would have made good judges, all failed the exam. I'm not sure that exams and interviews... when you're choosing the new Lord Chief Justice of England and Wales do you really choose it be reference to an interview? We've left tracks behind us, judgements and decisions and administrative skills. So this is not a new view of mine. I've always been sceptical about the use of interviews as a method in a judicial environment. It causes morale problems too, because everyone knows you've applied, because you have to put an application in, then everyone knows you've been interviewed, then everyone knows you haven't succeeded, whereas in the old days it was some kind of magic system. It had its faults too, I'm not trying to defend the old system either.

40.15

But nonetheless it was a more civilised way of going about things.

RW So you were appointed to the Privy Council in...

MH That comes automatically and then I just sat once in the Privy Council – I always wanted to sit once before I retired. A great friend of mine is a registrar there. I said to her, will you make sure I get one case. I did a murder case in July 2012. I gave the lead judgement in the case and laid down some new law; that was my last case, it was rather nice.

RW What jurisdiction was that?

MH It was murder; murder from the West Indies. I got rid of a common law rule, which is called 'the rule against self serving evidence' which the Americans still stick to. Think it's not a good rule; the rule says you cannot bolster your own credibility by reference to what you said earlier. There are exceptions to the rule; I've always thought it a silly rule because what really matters most of the time is what the person said immediately at the time. Fact that they're giving evidence many months later: I like to be able to go back and now you can to what they said at the time.

RW You've obviously worked in many different jurisdictions; I understand you've also worked in Brussels.

MH I had an office in Brussels in 1977 called Stanbrook and Hooper and what is extraordinary is in those days, whereas today barristers can be partners – in those days you weren't allowed to be partners but there were exceptions for practising in Brussels. So I was a partner in a Brussels law firm.

RW As an aside really, but how is your French so good?

MH I learned it in the summer that I was going to teach in Quebec.

42.05

I went early and I just learned it in front of the television, in front of the radio. It was the moon landing that year so what are we in, 68? I watched the moon landing on the French channel.

RW So can you say the line of landing on the moon in French?

MH I think that was probably left in English that dreadful line – one small step for mankind or whatever it was.

RW Well that's a shame.

[background: East Africa...religious people in California]

MH One of the things I did... one of my specialist areas while I was at the Bar, as a senior junior and then as a silk, was minority religion. I represented the scientologists in major cases both here and in the United States; the Moonies; and the **Bagwanis, the Rajanese Begawan**. It was an area of my practice, which gave me a great break from criminal law; made me money, which was always important; and also was fun.

RW How did you get into that area of law?

MH You know I don't know how I got into it. I cannot remember how it first happened but my major case was for the Moonies, where the Attorney General sought to strike the Moonies off, as not entitled to charitable status and we won, we beat the attorney general – extraordinary. The scientologists, I did an extradition case from here: two people who were extradited to the US. What they'd done: the scientologists broke into the FBI in the United States and they took their files and photocopied them, the big mistake they made is they used FBI photocopying paper rather than their own so they committed an offence of theft over the value of \$100 because it is so much photocopying; if they'd only taken their own paper they would have been alright – remember that.

44.19

RW How has your experiences working in so many different countries – how has that informed your...

MH I've done a lot of teaching, I'd been to China, I'd taught, lectured in France, in the Argentine, I'm now working a lot in East Africa. Unlike many of my colleagues, I've always had quite a lot of reservations about the common law system and I've explored those in various lectures I've given. Still today I have reservations about the common law system as practiced in many jurisdictions. It's a system, which depends upon equality of arms and if you have no equality of arms you have a system which

does not work. The French system, Napoleonic system, is way better – that's a heresy.

RW You've also, at quite an early stage, you were involved in teaching Conflict of Law and International Law. That was a developing area.

MH That was a long time ago and I never practised it. I enjoyed – that was my LLB at Cambridge, I specialised in conflict in international law and I worked with one of the great international lawyers, L.A. Lauterpacht, for him as a research assistant. But I somehow became interested in crime and I never really gave up that interest; it's still my interest.

RW Following from that, from 2005 to 2012 I think you were involved in the criminal procedure rules committee.

MH I was the Deputy Chair but effectively the day the chair of those meetings of the crime procedure rule committee and I'm very proud of the accomplishment of that committee and in particular parts 1 and 3, which we actually drafted ourselves way back in 2005.

46.18

The overriding objectives dealing with cases justly; we sat round, there weren't many of us in those days and we put into it that the overriding objective's to deal with cases justly and that includes acquitting the innocent and convicting the guilty. It was to my knowledge the first time that any common law jurisdiction had used that language whereas in the Napoleonic system it's embedded that that's what you're supposed to be doing. I am proud of that.

RW Do you think it has had a positive impact.

MH I think it has yes, it's both ways. Sometimes silly technical points which prevent the conviction of the guilty need to be dealt with and those silly laws need to be got rid of, silly rules or silly customs. People would say application to call evidence may be at a rather late stage and then you'd look at it from a point of view is that going to help convict the guilty or acquit the innocent.

RW I'm going to ask you a very big question. What are your views on the future of the criminal bar?

MH Totally and utterly dreadful. A brave person who goes to practice criminal law because only 10 or 15 years ago, if you were a junior barrister you got junior cases, you did thefts and burglaries, maybe a minor street robbery, mitigated or you... What's happened is...

48.00

When I started, silks prosecuted all murders, silks prosecuted all serious rapes, or senior juniors. Those people are now drifting away to become judges or go off and do other jobs. The young are now being asked to do cases, which are way beyond their experience. In the long run that will prove devastating. You need to be aware of your limitations. I remember even after about 15 years as a junior, 15, 16 years, my first murder came in to me directly instructed. I thought long and hard before I should take it. In fact it was agreed the man would plead guilty to manslaughter and that plea was acceptable and I mitigated for him at the Old Bailey – but that reservation that I really wasn't ready after 15 or 16 years to do a murder, whereas now people of

5 and 10 years call are doing murders. I think in the long run that will prove disastrous.

RW I was going to ask about your social interactions at the Inner Temple. I don't know if you have particular memories of events that were being held at Inner Temple that you enjoyed or people you've met here?

MH Funnily in the last 6 or 7 years my wife and I have a flat in the Inner Temple, and we have become way more involved in the Inner temple, we attend many of the events; I am now Chair of the Choir Committee and I think it's interesting having started my career miles away in Newcastle then in Canada, then East Anglia, then not close as I should have been to the Inn in my early years at 5 Paper Buildings. I've now become very heavily involved with the Inn and I love it very much.

RW Why do you love it?

50.00

MH I think we're very privileged to be in such a beautiful place in a collegiate atmosphere where still the requirement to be honest, hard working, do your job is enforced through the collegiate system. I hope that doesn't change.

RW Do you see a similar collegiate spirit in the Canadian bar?

MH I didn't have enough experience but I think the answer is no because it's a suffused profession and in the United States you have District Attorneys whereas I prosecuted, and half my life I prosecuted, then the other half I was defending so I knew both sides and I have never been in favour which is now slowly coming in here where prosecution is done by the state with state appointed permanently employed council. That's very dangerous, very dangerous to the point of view of disclosure, of unfairness and then if you add into that, in the United States, electing your prosecutors, then I think the dangers become even greater. How long it'll stay here, barristers in private practice prosecuting, on Monday a big trial at the Old Bailey, one of the biggest trials involving the hacking cases; it'll be prosecuted by a barrister in independent practice. That's a high profile trial, a difficult trial, huge issues arise in it and it's wonderful to see that it's being prosecuted by a barrister who is self-employed in independent practice, who's doing his job but know the limits, he's a minister, he will be, I know him well, a Minister of Justice not simply out to get the result.

52.00

RW I'm just going to ask you a couple more questions about the future of Inner Temple. You've been involved introducing at the Bar the Equalities Code.

MH Yes very much so.

RW Why did you decide to become involved in that initiative?

MH I became a member of the race relations committee. You have to now go back a very long way because the bar again has changed fundamentally. In the late 70s, early 80s, there were not many ethnic minority barristers. What there were a number of older men, and I say men, on the whole men, who had been often Attorney General in Ghana or Nigeria, there'd been a coup or something and they'd returned to this country. They were not the modern barrister. What was missing completely was the involvement of the Asian and the Afro-Caribbean British community. When I started there weren't many women. In my chambers there were

three or four of us, we had no women at all, this is now 1978, 79; and I remember a meeting where those of us who were the rebel rump were saying we must have women and we put two women forward who were absolutely first class, now both incidentally both silks. There was a huge fight that there shouldn't be women in chambers. The two legendary in my view answers, the clerk, who was quite old fashioned, said that he would like to send these women barristers to King's Lynn which is right up in northeast Anglia but who would cook their husband's breakfast. Now you're shocked by that.

54.14

The other man said, I'm really concerned about the lavatory seats because they will not leave them up. That was the level when I started. Ethnic minorities were not being brought in, it was very cosy, far too much. The cousins and the sons coming into chambers. The equality code is again for me, by the time it came in I was Chairman of the Race Relations Committee, was a huge achievement on the part of not many members of the bar. We had to fight the commercial bar, who wanted the old practices to go on. We said, what you've got to do is change your whole recruiting skills. Today it's standard practice. You don't ask people who their mother and father is; you don't know where they've come from. You look at them as objectively as you can; you don't just look for Oxford and Cambridge; you look for people from other backgrounds. The change there has been phenomenal and wonderful change. It started with a great Benchers in these chambers, Henry Brooke, who was heavily involved in changing the Discrimination Act so it was unlawful to discriminate against a tenant or pupil and once that was in force you could then build the rest of the edifice on it. I think when I look back on it that is a huge change. It was going to come I'm sure inevitably but it was nice that we led the way. We were the first profession ever to have an Equality Code. The doctors didn't have it, the dentists didn't have it, the accountants didn't have it and nor did the solicitors.

56.00

We had the first ever Equality Code. I remember the Daily Telegraph getting very angry about it, talking about the quotas, you've got to select on merit – all those arguments with which you are totally familiar, were all pulled out against us. We said no, we're not saying quotas, we are saying targets, we're saying you shouldn't have a system where X percent of the country is from the ethnic minorities and yet chambers don't reflect that percentage in any way at all. And that's changed.

RW There are obviously still come obstacles to overcome; do you think Inner Temple can play a role in promoting again?

MH I think it does. Now it's through discipline proceedings. If you do discriminate, against a pupil for example or a pupil gets sexually harassed, that's serious problems now, that's suspension from the bar or striking off completely. The world has changed.

RW Final question. Do you have any other recollections or comments that you want to make about Inner Temple?

MH I think I have to say the garden is a central part of the Inner Temple for me. The change four or five years ago with the new gardener Andrea Brunsendorf, she has completely revolutionised the garden. I always feel it slightly ironic that Andrea who had a very hard life in East Germany has come here to this place which suffered so much damage in the war and has created the most beautiful garden.

RW Thank you.

