

Amy Street interviewing Master Schiemann

1:36:25

Amy Street I'm Amy Street, it's Thursday 26 September 2013 and I'm at the Inner Temple interviewing Master Schiemann. Master Schiemann could you introduce yourself and give your name and date and place of birth

Konrad Schiemann My name's Konrad Schiemann and I was born in Berlin in Germany on the 15th September 1937.

AS I'm going to come on to ask you some questions about your career in law and your life in the Inner Temple, but could you tell me something about this journey that took you from Berlin to studying law?

KS Yes I can certainly do that. I was in Berlin throughout the war being bombed by the British and we got out, my mother and I, a fortnight before the Russians entered Berlin and she put me on her bicycle and bicycled down to Munich where I had a grandfather and I remember greeting the American troops as they invaded that part of the world by waving a white handkerchief – I think I was seven at the time – to indicate I had no hostile intention, which fortunately they accepted and I survived that. In due course she came back to Berlin, in as it turned out a vain endeavour to find her husband who'd fallen at the front a fortnight before the end of the war. She by that stage, most of her friends having been hanged, shot or bombed or dying in one unfortunate circumstance or another, she herself lost I think her will to live and she was hungry and died.

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So I was left an orphan – but she left me to an uncle of mine who had married an English wife before the war, had spent the war here and he kindly took me into his family. So as a nine-year old boy, I sailed across and landed at Tilbury and was taken off to Birmingham where I went to school. At that point, I was just put in the back of an ordinary primary school and told to get on. I didn't speak any English except the word for 'chocolate' and 'thank you' which I'd learned with the soldiers, but it took about six months or a year I suppose before I was pretty well indistinguishable from most other small boys. Having got myself a place at King Edward School Birmingham, and went from there through schooling and then I went to Freiburg University for a while to brush up my German, because it wasn't customary to talk German in public immediately after the war in England, it wasn't really the language of choice. I then went into the British Army and came out, went to Cambridge, and was there seduced by the Inner Temple's meals, which they made for the students. In those days the route to the Bar was not through any serious examination – there was a formal examination but it was one for which I prepared by correspondence course without correspondence, in the sense that they sent me all the questions and answers, and I sat by a lake in Italy with a friend of mine and we ploughed our way through the questions and answers, which was full of questions, such as, how many days between the filing of a defence and the filing of a reply? How many days between a reply and a rebuttal? It was all very boring but it was very easy and it was difficult to fail.

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So in due course I passed that, I was still at Cambridge at the time, but the important thing was to eat enough dinners – that was the real qualification, a gastronomic qualification rather than an intellectual one.

AS I'd like to come back to the dinners, but first to fill in a couple of gaps. When in this journey that you describe was the first time that you thought about law?

KS Well I had intended at one stage when I was about 18, I thought I might become a priest, and by the time I'd finished the army, I was rightly convinced that I was not a very good person, and wrongly took the view that this disqualified me from being a priest. So I then had to cast around for something else to do. I had a history scholarship to Cambridge, but I didn't feel like doing history. There had been law in my family for 400 years or so on my father's side and for a couple of hundred years or so on my mother's side. My uncle was a qualified lawyer although not practising as such at that particular time because as a German lawyer you couldn't get an occupation in England during and immediately after the war. As I say I really was genuinely – sounds silly – but I thought at the time this sounds a rather fun thing to do, to go down to the Inner Temple and eat in London. In those days – young people now find it difficult – but if you were at Cambridge you assumed you would get a job. No one I knew worried about jobs or what job they would get; they had the feeling that the world was at their feet.

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AS What did you do specifically to find out about getting a job at the bar?

KS That came later. You start off with all these dinners. I did my exam before I'd finish eating my dinners. But I couldn't be called until I'd finished eating the dinners. Then I was still at Cambridge after I'd been called because I stayed on to do a second degree. It was during that time that somebody came up from the Inn, to give a talk to the Inner Temple Students Association or some such body and there was a dinner there – and he fixed me up with a pupillage, in those days that was the way things were done. I'd never met the man before in my life but he made it his job to help anybody who was at Cambridge who wanted to go to the Inn.

AS Do you know who he was?

KS I'm afraid I cannot now remember. I do know the person who called me, a judge called Mr. Justice Finmore, who was very kind to me. Again he didn't know me but he came from my school. I think he'd been told by my old headmaster to look after this young man, who wanted to go into the law. So not merely did he call me but he also allowed me to sleep in his flat in the Temple, after the choral night ceremonies, which were as bibulous then as they are now.

AS What are your memories of your call?

KS They're relatively clear.

08.00

The call took place in the then very newly rebuilt Temple Hall, that had been destroyed; it was however in operation. We sat in full rig at the tables on benches, in those days there were still benches everywhere; it was an entirely male thing and always a source of mild male amusement that the girls had to swing their legs together over the benches which wasn't all that easy sometimes. My memory of the night was that next door to me was sat a chap whom I'd never met before but whom, it turned out, was the son of Helmut James Von Moltke, a barrister of this Inn and a

who was hanged by Hitler, but the son had survived and there by sheer chance, I don't know whether the Inn arranged it or it was pure chance, he was sitting next to me. Since he and my father had shared an office in Berlin before the war, I thought this was a rather strange coincidence. Many, many years later, when I was already a bencher of the Inn, I arranged a service to commemorate the 50th year of the call of his father by the Inn, in 1938, which was fun; people came from all over the world.

AS Did you spend the evening sharing memories?

KS We just sat and talked; I can't remember any details. There was a book which one used to be given in those days on call out, called Boulton, on Etiquette at the Bar,

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which introduced one to some of the more arcane customs of the Bar at the time. And taught you that you had to wear a hat if you were going to practice as a barrister, and the reason for that was to raise it to a judge if you should happen to meet him. There were rather fewer judges then and people allowed to call themselves judge were effectively only High Court judges. I don't think there were circuit judges, there were then county court judges, they were called judges, but now the term judge has been given a much wider currency. In those days you were expected in any event to recognise the High Court judges and the judges of the courts of appeal and to raise your hat to them when you saw them coming in your direction. Some were easier to recognise than others because they were all wearing top hats, which you still saw in those days but not many, it was already dying out in the early 60s.

AS I'm interested in the etiquette and the dining... this world that you came into. Do you remember the first time you came to the Inn and began to experience all that?

KS Not specifically, no but I do remember the form of the dining was very regular and strict. You sat in messes of four and I'm ashamed to say what remains most clearly in my memory is that for each mess of four there was provided a bottle of white wine, a bottle of red wine and half a bottle of port. The more astute among the students would seek out persons who looked as though they might be Muslims and therefore teetotal

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Even those with poor command of maths were able to work out if there was a teetotaler amongst the four that left this much amount for the rest. They were very jolly evenings, very informal but unlike the present day you never throughout my dining time – I never got to talk to a single judge or a bencher, or for that matter a single barrister. There were in those days no form of monitoring such as one has now, basically it's not very difficult, the Inn takes care that when you come in you have somebody who will guide you through things. In those days that was completely lacking, the Inn played a much smaller part than now; I think things have improved enormously and I'm rather pleased that they have.

AS Were we talking about the dining, the qualification of getting to the Bar but the more important qualification of doing the dining. Was there any training for the qualification that you had to do?

KS No there was no form of training such as one now has, in how to speak in public or anything of that kind.

AS So you did the course by correspondence so you didn't go to Bar school.

KS I didn't go to Bar school; as I say I did it by correspondence, but I wrote to the people saying I don't want to bother you by sending you these draft answers and your correcting them. You just send me your pro forma correct answer and they said well that's fine. Hand over your £80 and that's all it was. Sorry it sounds terribly lackadaisical.

14.11

My German friends are always horrified by how I came to be a barrister in those days.

AS So you mean you were able to find a correct answer as it were to the question you were going to be asked

KS They gave you the answers printed out for the help of the markers, so they got it right; so you learned the question, and learned the answer. We bathed in the pool in the heat of the Italian sun – it was absolutely gorgeous.

AS How did pupillage work, what was that like for you?

KS The Inn fixed me up, as I think I mentioned, with a pupillage with Oliver Martin straight across the road here at 3 Temple Gardens, we are now 1 Temple Gardens. I engaged myself to a twelve-month pupillage with him. He was a chap with a very wide experience in family law or divorce as it was known in those days and he also did a certain amount of knock about and running down cases and such like. I was supposed to spend twelve months with him but he shared with someone called Graham Air, another barrister who specialised in planning law and took the view that the sort of work that Graham Air was doing was more interesting to me than the sort of work that Oliver was doing. I didn't quite know how to go about this but eventually picked up the courage and said to Oliver Martin, do you think it would be possible for me to swap – stay in the same room because they shared a room – and do six months of his work. He said yes of course, no problem. So that is what I did.

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In those days you had to pay a pupillage fee, which was 100 guineas and then I think on top of that, some 10% to a clerk, which was actually a lot of money in those days, it really was. In those days it was generally accepted and everybody did it, it was just what you did. By the time I got to the age of taking pupils, seven year later or whenever it was one felt rather embarrassed about it and in any case £100 was worth a lot less as there'd been several deflations so I forgave my pupils their fee because the rate of tax on their new fee was also very high. I meant far more to them than to me. I was by no means the only person at that stage doing that. Five or seven years later it became improper to ask for a fee so nowadays that's gone.

AS Was getting tenancy a difficult thing, a formal process, how did that work?

KS In those days it was quite easy to get a pupillage but much more difficult to get a tenancy but even then I think much easier than it is now because there were no scholarships given to you by chambers, so when you entered chambers, they gave you certain amount of room but they didn't give you any money.

18.01

And quite frankly it never occurred to me that they should. The climate was completely different in those days. I had the feeling I was very privileged to be allowed to be there. I went when I got the tenancy – which wasn't in my pupillage chambers but they found me a tenancy on a floor below. I had wanted to work as a barrister doing European Community law, because the United Kingdom was on the point of joining the European Community in the early 60s when I was coming to the Bar and I thought I'd be rather well placed to do that because of speaking other languages. To imagine my horror and surprise when the critic De Gaulle said *non* and the United Kingdom didn't enter. Therefore the practice that I thought I might be able to build up never eventuated and so more by accident than design I landed up as a town and country planner. In those days I remember being told by people, well you can make money that way but if you ever want to become a judge, that's hopeless. These trestle-table advocates as they were known because you argued in town halls around the country without wigs or gowns or anything. But I didn't want to become a judge in particular – that never occurred to me, so that didn't put me off!

AS Did you hold out hope that your European Community plan would come off?

KS No I didn't actually at the time put it out of my mind and said well there we are, got to do something else. I hadn't actually done anything towards my European Community, it was just an idea that here I had something to offer which the next chap didn't, which was in a way the name of the game as a young barrister, as you know you have to advertise in so far as you can such talents as you've got.

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In those days self-advertisement, such as is absolutely normal now, was totally forbidden. You were really not supposed to mix socially at all with solicitors. The idea of inviting them to chambers such as people do now when they get silk – would have horrified people at that time. There was still a slight snobbishness *vis a vis* solicitors who were expected to have come from a lower order of society and one just didn't advertise oneself in a manner that could be at all obvious. That said of course you needed to advertise yourself so the way of doing it, which was generally adopted, was that during the conversation about a particular case that you were doing, you'd try to mention that you'd done a similar case for the Westminster Bank or whoever it might be and generally indicate that there were some quite important people who were clerks of yours. That was about as much as you were allowed to do. The idea of eating an evening meal with a solicitor would have been... I never did it, not once!

AS What do you think about the change?

KS Oh it's obviously much more sensible now; and indeed the whole social structure of society has changed. That has some disadvantages but on the whole the advantages match the disadvantages. But it wasn't rigid in my day – I came with absolutely no English formal standing, save that by that stage I'd worked my way through Cambridge and that gave one a standing in society. But I had no relatives here.

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I never spoke to any judge and I didn't know any Queen's Counsel; there it was. You could get up the ladder that way but it was rather a matter of luck.

AS Were you conscious of that yourself, were there other people around you saw with connections?

KS I must have been fairly conscious of it because the chambers I was in was chambers that had never had a judge on the bench so they didn't really move in the upper circles of the bar. They weren't the big sets like 4 and 5 Essex Court which did the shipping work. In those days House of Lords cases, I don't know I'd think three out of four were shipping and commercial cases. The sets of chambers that did that work were able to attract the brightest and the best amongst whom I certainly didn't count myself nor did anybody else. The rest of us roamed across the fields and did pretty well anything that came our way.

AS Do you remember your first case?

KS No I don't specifically. Actually, now I come to think of it, I think certainly my first case of significance, after I'd finished pupillage – in those days you could do cases during pupillage and I did do some. I remember doing one in a Magistrates' Court for a man who was being sued by his erstwhile wife, I think, for maintenance of the child.

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It gradually became clear that he was totally deaf and this was in the middle of the hearing – it became clear he hadn't been following any of what had been going on. Perhaps I was acting for the wife and not for him; he was acting for himself and he hadn't put any question nor disputed anything she said. It came clear after about an hour and a half that the reason that he hadn't disputed was because he hadn't heard it! Magistrates' Court cases were absolutely full of complete surprises but the first case that I remember with any clarity was one I got at 9 o'clock at night when I was rung up and told that somebody was feeling too ill to do a case next day, would I do it and would collect it from him in St John's Wood... and so I did. I worked at it all night. It was a planning case. Imagine my horror when I discovered the following day that my opponent was my pupil master who I thought of as god in this particular field. He didn't give me an inch of grace. The new Town and Country Planning Act had come in a month before and I knew the old sections and not the number of the new; every time I got a section wrong he'd immediately be up – and say I think my learned friend is trying to refer to section 13; this generally became rather irritating, but he was quite entitled to do it. More by luck and judgement I won the case, which made me feel terribly pleased.

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AS What was the name of the chambers where you got tenancy.

KS They were called 3 Temple Gardens, which was their address. In those days you didn't have names for chambers or indeed trademarks in the way that our now being... logos, which are now popular, but in those days that was unheard of.

AS As things developed, how did your European Community plan get back on track?

KS It didn't really. All the time I was at the bar, I only did one European Community case and that was as a junior and the silk took me in as a kindness, not because of anything I had to contribute. We did fly out to Luxembourg in his plane – he flew his own plane, it was ridiculous. He flew us out there and we made an interlocutory application and one can still, I discovered when I eventually became a judge there, you can still see the reference to the case, it does still exist in the files. But that's the only case I did at the Bar. As a judge, when I eventually became a judge, I did some cases, and then when I went to the court of appeal, I was asked by the then Master of the Rolls, whether I would take charge of... have oversight over all

the cases that were going to go to Luxembourg. I had the insolence to say to him, I'd love to do that, I'd find it very interesting but it does involve a fair amount of reading of things in French and various other languages, would it be possible for me to be excused the Court of Appeal Criminal Division which is the court which does a vast amount of appeals and it's very hard work indeed, mastering the facts of each particular burglary or assault of whatever it was.

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To my delight and surprise he said yes. So I started doing that in rather more seriousness. Whether at that stage they already had in mind that I might in due course might become the English judge in Luxembourg – they might well have done. I remember my uncle being told the reason I was made a judge at all in England was because eventually in might do that job in Luxembourg because by that stage we'd joined the community.

AS How did that come about that someone was talking to your uncle about that, do you know who it was?

KS Yes I do: it was a chap who was then in the Court of Appeal called Michael Carr. He and my uncle were both interned together during the war in the Isle of Man. There was a time when the invasion was threatened of these islands by Hitler, it was regard as a serious possibility. Hitler in a well-known phrase said 'collar the lot' and every single German was sent off to the Isle of Man. I don't know whether I said Isle of Wight earlier – it was Isle of Man. They were put in this huge encampment of barbed wire, round a lot of boarding houses.

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Some were from Jewish extraction, others were convinced Nazis who happened to find themselves here; they were all put together, huggermugger. That's where these two met; oddly enough it's also where uncle met my wife's grandfather and in due course our relationship arose out of that meeting.

AS So that takes us back to how it was that you became a judge; I think you said before you didn't initially have much interest in that. How did that change?

KS I was at the bar and after a while things seemed to be going quite well; I was wondering whether to apply for silk. I was then approached by the then Treasury junior, who was Harry Woolf, later became Chief Justice, also Master Woolf of this Inn. He was then I think the government Chief Advocate, the Treasury devil, and he had persuaded them that he really had done so much work that they needed some assistance and so half a dozen Treasury imps as they were affectionately known were appointed, of whom I was one. They said to me, well look, would you like this job, but if so you must withdraw your application for silk. I thought that would be rather fun and through it would be rather fun to become Treasury devil if that opportunity offered, so I withdrew my application. Then two years later Harry Woolf went on to the bench and his job became free,

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but I wasn't chosen to do that job; Simon Brown was, he's a master of the Middle Temple. So I revived my application for silk and that went through. It was actually the most anxious time of all my time at the bar. I'm wondering whether I would get silk, once the application was in, which fortunately in those days didn't cost a penny to put the application in – but it was known that you put applications in and you lost a fair amount of face if having put in an application you didn't get it. I remember being

slightly ashamed of the fact that it was difficult for me to pass a day without at some point or another wondering whether or not this was making good progress. Fortunately it did go well and so I didn't have to do it again as some people did. Then when I became a Queen's Counsel that also seemed to go rather well; I had quite a lot of High Court practice. Again Harry Woolf, who by this stage was a judge, he came up to me again and said, wouldn't you like to apply to be a recorder? Because they were just beginning what is now standard – they system of training people up to become judges by making them temporary judges for a while; these recorders. So I said oh that sounds rather fun; I was very flattered. So I applied to become a recorder and got back a rather brusque letter saying you start as an assistant recorder not as a recorder.

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My head of chambers said no assistant recorder, no that's Siberia, you'll never be heard of again, don't ever apply to be an assistant recorder. So I went to Harry Woolf, and I said, well I've had this advice, and he said no, no, I've made enquiries, no this is a new system, it doesn't mean it's the end of the road for you if you're an assistant recorder, it's just a necessary step. So I did that, and I hadn't done any crime at the bar at all, I'd literally done about four cases, so found myself summing up to jurors and trying to run criminal trials which to my great surprise I did enjoy very much. I liked explaining things to people off the street – why the law was as it was; what the crucial facts were which they had to decide. I never felt the temptation which I think quite a lot of judges do feel, or did feel, to guide the jury in the direction the judge thought they ought to come; I never did that. No that's unfair, I did in one or two cases, to secure the acquittal of people who were manifestly guilty and I felt that it would be very embarrassing if they were found guilty and I had to impose a prison sentence which would serve absolutely no purpose whatever and that the good sense of the jury would prevent this from happening, but no judge could possibly come to the same conclusion as the one I hoped the jury would come to, if one was applying a strictly legal test.

36.03

AS Can you give any examples of the kind of case you're talking about?

KS Yes, one case was of a man who was to be tried for rape of his wife. This was a wife of 40 years standing. They lived together, they had children, and as sometimes happens in marriages, when they got to their late middle age she got more bored with sexual activity than he but they reached an agreement whereby she expected to be left alone except on Fridays when he could sow his oats and anything else he cared to sow. This arrangement evidently worked perfectly satisfactorily. But one day he went out for a drink with the lads and after it went home to bed on Wednesday and forgot which day of the week it was. She reminded him of the day of the week but he had his wicked way as the saying goes. They both turned over and went to sleep, had breakfast together and he went off to work, thinking no more of it. And imagine his surprise when the police turned up at his place of work and hauled him off under arrest. It turned out that his wife had gone to her mother, as was her wont on a Thursday and explained over lunch what had happened, and her mother said but did you tell him it was Wednesday, you did, in that case it's rape – as it undoubtedly was. She said you owe it to you, you must go to the police, you can't let this slip. So she went to the police, the police did what they had to do; they arrested him, they put him in a hostel, awaiting trial and in due course the case came up to be tried before me.

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I looked at this. I was relatively new to crime and it was clear that the man had behaved badly but I said to my fellow judges who work at the Crown Court, what's the punishment for this? They said you can't give him less than three years in prison; I said, I'm not going to do that, it's out of all proportion. That was my view; you may say it's an unregenerate view, but that's my view. I asked for the records of the hostel to be brought to me and there I saw that every day the wife visited her husband in the hostel. Well that's not all that odd but when she came to give evidence, I asked the prosecution are you sure you want to go on with this, they said yes, and they did. She gave her evidence, she told it was I just told it to you. And the husband was asked if he had any questions, he said no my wife's a very honest woman, if that's what she says happened I'm sure she's right; I'm afraid I've no memory because I'd drunk too much. I said to her, and this is perhaps a bit naughty: I've seen the visiting records, can you tell me why did you go and see your husband. She said, well I love him, I want him back again; I don't know why they took him away from me. I looked across at the jury – eyes going up to the heavens and after that I said to the jury when I came to sum up, I said Members of the jury this is the definition of a very serious crime of rape, read it to them, you have to decide whether this man behaved like a boor that night or whether he is guilty of this very serious crime.

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You can see that is twisting, but I don't regret it at all. But you asked me if I'd ever tried to guide juries and I did in that case I must say.

AS You moved into a different role in the Court of Appeal. I mentioned it in this progression from the barrister, being a judge, then I've missed a stage because you were then a full time judge in the High Court.

KS Yes I was a High Court Judge for eight or nine years and there I did a lot of criminal cases, about a third or so of my time was spent doing that and another third was spent doing what is now called judicial review which was very much a grey area in the 70s, 80s and 90s. I did a lot of that. Indeed was told when I was appointed by the then Lord Chancellor that that is what I would be doing. I enjoyed that – found it very interesting. That was the time in my life that I worked hardest, as a judge, in the event because you really had not merely a case to try each day if not two or three, before the cases started you had half a dozen applications for leave, permission to bring the case initially and I had to look through it and see if it was an arguable point.

42.00

Some of these, including brought by litigants in person, in handwriting, required an enormous amount of work just to get on top of it, because the litigants in person, what you can find is the person has an understandable grouse which gets magnified out of all proportion, but in the middle of all the magnification, there is on page 17 fairly clear evidence of a legal mistake made by someone, but it is tucked right away in the middle of it, because he being untrained doesn't see the significance of it. So you have to work hard to get on top of those cases. It's an intriguing difference between English and the German top courts that in Germany and at any rate in some of the top courts there's a limited number of people who have the right to address the court, they're all chosen special barristers, who are qualified – and you have the same sort of system in the Conseil d'Etat in France, their administrative court if you like. But we have an open door to litigants in person, the feeling being that the citizen must be able to have access to justice, and legal fees in England are so expensive that not everyone can afford them and legal aid is so limited that not everyone who can't afford legal representation can get it. And in those circumstances justice

requires that at least they have the chance to address the judge in person. In some ways the litigant can be at an advantage by doing it himself,

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because any decent judge will work overtime to make sure that the chap gets as good a run as the material permits.

AS So to fit in this work, preparing, reading all these cases, what kind of hours were you working as a judge during this hardest period?

KS I didn't often turn up before 9 o'clock in the morning in the court, which meant leaving home rather before that but I didn't often leave before seven in the evening and I'd quite often take stuff home with me and after making some music with my family and having dinner, I'd retire for a couple of hours to get on top of it. Occasionally if it was a really difficult day I'd wake automatically at five and settle down and do some more. I had an internal alarm bell where if I wasn't up to doing the case I just woke up earlier. It didn't stop me going to sleep, some people can't go to sleep until they've done everything. When I felt sleepy, always went to sleep but woke up automatically in the morning in time. I work best under time pressure of that kind.

AS Did it intrude into your weekends?

KS Oh yes every weekend one worked at least one day. I wasn't strict at keeping Sunday free from work, but I didn't usually work two days but quite often I did at that stage in my life.

AS Was that a harder period of work than you'd had to do when you were at the Bar?

KS Certainly harder than when I was in silk.

46.00

Certainly harder than my middle time as a junior when I was five years call or so and had got over the immediate anxieties, which beset one at the beginning of one's career. The year before I took silk, I did work very hard because I was very anxious to parade my talents such as they were before as many High Court judges as possible.

AS And then you moved onto the Court of Appeal. Was that another change in terms of your working life or was it very much a continuation of being a judge?

KS No, it's a very different feel. For a start you aren't in charge of your own court. The wonderful thing about being a High Court judge is that you are completely in charge of your court, and if it comes easily to you to take charge that shows and people co-operate. It's rather like being a schoolmaster: people can sense immediately whether this is a chap you joke with and play up to and throw paper pellets around or whether this is someone who requires good behaviour. I think I was lucky enough to fall into the second category. I never really had any problems in terms of behaviour in court. So there you are, you're in charge and you can do things, occasionally you can do things which are a bit naughty but which you think serves the ends of justice. In the Court of Appeal it's all rather different in the sense that you no longer have the feeling that you're in charge, you're not.

48.03

Initially when you start somebody else is presiding and it's very nice to have their guidance because they're very often much more experienced than you are or somewhat more experienced. You have to fit in with them and that was a very different sort of experience. At times to me almost a trifle shocking. I remember being told by one presider in a criminal case – I've completely forgotten what the case was about but I was very junior then and he said he would write a judgement which in those days was much rarer; when I was a first instance judge 90% of the judgements I gave, I gave straight off without reserving and that again was one of the things you drafted an outline the night before so as to be able relatively effortlessly to give a judgement. I remember being told of the senior judge was very experienced in the field and very good – would produce a draft and show it to us. The custom in that particular court was, and I believe still is, only to have one judgement whereas in every other court as you know dissenting judgements are permitted. He produced this judgement and I looked through it and he gave it to me, and as the most junior judge he asked my opinion first. I said I thought I was jolly good, and I was very happy with it, but there was a problem – it seemed to me what was said in paragraph 57 was logically inconsistent with what was said in paragraph 14.

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I remember that he absolutely beamed at me and said you're absolutely right, but I think it'll do, don't you? That seemed to be the general opinion and both paragraphs in due course appeared in the judgement. You can't see that happening in France because their logical consistency – if you say to somebody 'ce n'est pas logique', it's not logical, it's an absolute killer!

AS Were there any particular judges in the Court of Appeal you felt helped you, gave you guidance or had a particular working relationship?

KS That would depend on the particular field. The most distinguished person that I worked with in my own field of being a total admirer without reservation was Lord Bingham as he became, Tom Bingham – he was just superb. We weren't personal friends but I was just lost in admiration at the way he did his work, which was brilliant. Absolutely astonishing ability to keep everything in his mind. I remember we were both at the bar together, this is going back; he was a fairly senior barrister and I was middling-junior and were for similar interests in the same case but for different parties. I said to him, well I think that you ought to go first if you would and he said yes, he'd be happy to do that. I said do you think you could tell me what it is you plan to say, I'm going to do a, b, c d, and I listened to that.

52.08

I said, I'm very happy to follow that with a broad outline but I've got one other argument which you don't mention, and it's this: and I explained the argument to him. He looked at me with those piercing eyes of his and says, yes, well to make that argument you'd need to establish a, which we can do. Then establish b, which we can do. Then establish c, which can do. Then one has a choice, you either take route d or route e. if we take route d, you need to establish x, which we can do, but then you'd need to establish y, and I just don't see we've got any evidence of that at all. So we can't use that route; if you take the other route... and he went on like this and after a while he said, no, I don't think we should do that: he completely convinced me. It was masterly, like a chess tactician, and he did it all the while looking at me with those piercing eyes as though he was seeking to get his brain to go across to mine; I fear he failed! But I was very impressed by him at the bar and even more impressed by him as a judge.

AS In the Court of Appeal are there any cases that stand out for you as most memorable or significant?

KS I remember one case, which was eventually of great significance, which was part of the Factortame litigation so far as European law is concerned. That established that the UK Government would have to pay compensation to some Spaniards for a manifest breach by the United Kingdom of European Community rules. That was very much as impressive case, for me an interesting case to see. I quite enjoyed the odd cases where I found myself in a minority in the Court of Appeal and did a dissenting judgement. I enjoyed those, the details of the case won't be of any interest to you but to argue against one's colleagues in the hope of persuading the House of Lords was quite interesting. My attention was drawn the other day by someone to a Privy Council case in which this dissenting judgment of mine had been adopted. The case that I was in went to the House of Lords and there they were split, but either unanimous or practically unanimous that I was wrong in my dissenting judgement. The Privy Council was not formally bound by the Court of Appeal, and felt that the House of Lords was wrong and that Schiemann had been right; that sort of thing gives you minor pleasure as a judge. I must say when I read the appeal, when I read the House of Lords judgements, from the case where I dissented, I had the feeling perhaps they probably have a point, yes I got that one wrong.

56.07

A lot of cases at that level, there is no answer which is manifestly right but somebody has to decide on an answer which somebody has to think has fewer disadvantages than the other course.

AS Just taking you back to Factortame – that was the case, the series of cases at that time were very much cases of the court saying this is the answer, working out what the answers were in these cases of conflict. From an outsider looking in it seems that they're really quite a significant times for our constitution. Were you conscious of that at the time?

KS Oh yes very much so. The first Factortame judgement, concerned with whether or no one could get an injunction against the Crown if the government had gone in breach of European law, and we had a tradition that no junction could be obtained against the minister, but ministers would do the decent thing. In that ... when that judgment came out in which I wasn't involved, I happened to be in Paris on a month's sabbatical with the Conseil d'Etat in Paris and one of the councillors there said to me, that is a very important step. It was intriguing. So that was one part of the problem, but then later on when it was a second set of litigation to establish whether or not we were in fact in manifest breach and when that had been decided there were several references to the Luxembourg court and that had been decided then came a third set of litigation as to how much damages should be paid.

58.11

It was a case and we did have a feeling, yes one is really helping to establish in all the European countries one by one, are coming to a point where they have to accept that if you are a member for the European Union, it can only work if everybody obeys the same law. You cannot have different interpretations of the law in each country and still claim you are members of the same club following the same rules.

AS I'd like to move on to the Inn, because there came a time when you became more involved in the running of the Inn as a bencher. How did that... come about?

KS I in fact had very little to do with the Inn as a junior and as a young silk because my chambers moved from 1 Temple Gardens to Gray's Inn when I was still a very junior junior. I became a member of Gray's Inn as well and so I used to go and eat in Gray's Inn and use the Gray's Inn library and really had nothing to do with the Inner Temple at the time. I then became a Queen's Counsel and I was then asked whether I would like to become a bencher of the Inner Temple. I think in those days generally you were asked whether you would like to become a judge or ask whether you would like to become a bencher; you didn't have systems for putting forward your own name.

1.00.10

There were no doubt systems whereby you could suggest to a friend that he might put your name forward but there was nothing as organised as one has nowadays. I became a bencher of the Inner when I was still at the bar as a Queen's Counsel and at that point, I ceased to eat so often in Gray's Inn and ate more often in the Inner Temple. Then I forget how long it was between the time when I became a bencher – I think it wasn't very long, I think it was fairly soon after I became a bencher that I was made a High Court judge, it think about nine months or a year later, and then I did play quite a part in the Inn, and started to enjoy very much indeed.

AS What did you enjoy?

KS I enjoyed to my great surprise I was on the Scholarship Committee as you know, and at first this looked as though it would be rather a dreadful bore because you had three Saturdays or something which you had to give up entirely to interviewing these young hopefuls for scholarships, but I felt I had got a scholarship from the Inn in my day and I should do my best to make that possible for others too. In fact I found though it was a bore writing a Saturday out of your life, particularly if it meant you then had to work throughout Sunday to get ready for Monday, I found it very stimulating and the people so nice.

1.02.03

It was very pleasant and interesting work and my colleagues were fun to be with. What we always found was, and I think this is true of any interviewing process that I've been involved in since, is that if you have 20 people you have about three or four who are manifestly outstanding, three or four who are manifestly not seriously in the race and a mass in between, between whom you might just as well spin a coin. But you have to go through the decision making process and try and reach some sort of agreement as to how to go ahead, which we did but we were by no means all of one mind in relation to every candidate. There were various attempts at that time to try and formalise the process rather more which probably were quite a good idea. I became chairman of this committee and I somehow never found the time to attend the proper training to make quite sure that I didn't disadvantage anyone unintentionally, which one can do. One of my colleagues pointed out when I was singing the praises of a particular man who had come through, who was most unusual chap, and he had made a skill of carving the Quran. He was a Muslim by training and actually carving the words of the Quran is a religious act.

1.04.00

He was describing how he did this and I was fascinated. He was a most civilised and interesting chap, or so I thought. I was saying this and the debate with the colleagues afterwards and they said, you know Konrad you've got to be fair about this, most of the people here come with a legal degree and so we ask them legal questions and

the answers that they at the beginning of their time give are banal, you've heard them before and they have nothing new. Here you have something which is totally new, you're fascinated by it, understandably so and we agree with everything you say but you can't give this chap a huge advantage for not having the basics which the others have managed. I could see the force of that point and it's useful if there's five of you to have people correcting those unconscious biases.

AS So who were your colleagues at that time on the committee with you?

KS I can't remember and they changed from time to time because I was chairman of the Scholarship Committee for a long time. I never joined any other committees and became in due course a Treasurer, when you're an ex-officio member of every committee except for the Wine Committee, for some reason lost in the midst of history which I didn't choose to investigate. You only joined the wine committee by invitation of the existing members of the Wine Committee and since they did a very good job, nobody interfered with their processes.

AS Did anybody ever invite you?

KS No they never did, probably rightly so. I've not got the sort of mind which can recollect with crystal clarity the 1934 which I have drunk in distinguished company.

1.06.04

I remember thinking it was rather special but with that useless general description I have to content myself as being unfitted for the job of sommelier.

AS And then the role of Treasurer...

KS That was great fun. That I enjoyed hugely. It was hard work, I was still in the Court of Appeal at that stage and I said to them, look, I have to be in the court at 9 in the morning effectively to get ready for my 10 o'clock hearings, so if we're going to have, as we need to have, a daily meeting at 8, I would like to have a flat in the inn, where I can lay my head because part of being Treasurer is (a), getting up early in the morning, we used to have meetings at 8, and part of it is attending lots of functions in the evenings, all of which have to be fitted in with a fairly busy life. By this stage I was presiding in the Court of Appeal so there was really quite a lot of work to do. They provided me with the flat in Hare court which was very nice and I had a wonderful time there. You're inducted by being taken round all the different departments of the Inn, from the carpenters, to the plumbers, electricians, cooks, porters, and you see how they do their work and how they do it. You probably don't know this but it is still quite medieval in its organisation of some departments. The plumbers and the electricians who look after the quite considerable estate that the Inn has here, they've been with the Inn for years and they always appear with someone else and the someone else is some person they're training and some people are here for their third generation – it is really quite medieval.

1.08.12

I don't know if you know William. He's a very nice, very large person who is now assistant porter I think, not quite sure which function he has now but he has been with the Inn for many years, he used to look after the silver which is now to be seen in Hall, but it was then kept and he looked after it and polished and made sure it was locked up after every feast. His mother served at table and she'd been at the Inn, and so one would ask after his mother and I loved this family feeling which the Inn gave. I found going to see the students being educated an absolute eye-opener because it was so much better than the complete absence of education which

existed in my day. The dinners were all very well but they didn't really teach you much about how to be a barrister. I was amazed to attend at Cumberland Lodge, the place where students get the chance of spending a weekend effectively being taught the tricks of their trade, and you would go to a room and see somebody stumbling through a performance of a dressed court, being filmed then having the film in the presence of others shown to him and say well now you criticise your own performance and he would say, well I did this wrong, I did that wrong, I stuttered there didn't I, I was picking my nose good heavens. Then they say right, now we're going to do it again, you try it.

1.10.01

In the course of a day you'd see someone improving enormously through that technique. I was very impressed by that and would no doubt have benefited from it in my time. They were really very, very good and there were a lot of people giving up their time to looking after students in a way that didn't exist in my day. I enjoyed that. Actually running the Inn there are always decisions that have to be made, some of no significance except to the people involved such as disciplinary decisions from time to time when someone had behaved badly. But some of quite considerable significance to the future of the Inn and I enjoyed going round to the persons who were in the relevant committee and discussing it with them and seeing if one could reach an agreement on what was to be done. Practically everything was agreed beforehand as being sensible then one would have the committee meeting which would go through every smoothly and easily. From time to time, I think I can say this, you have one of the decisions that has to be made effectively is choosing the next Treasurer of the Inn. They used long before my time, to be a simple system of Buggin's turn. Then there was introduced, again before my time, an age limit. But also the principle of Buggin's turn was abandoned so there was a genuine choice as it were to be made.

1.12.00

Then there are tensions between choosing a judge who by and large would probably be the more distinguished of the potential candidates, who were all in their 60s, and choosing a barrister, who in the nature of things was closer to what the bar at large sought. I remember suggesting a particular case, it was perhaps right to move over from a judge to a barrister. As you know we have both, but in that particular year, the feeling was well they could put up with two judges in succession and I was perfectly happy to bow to that general feeling but felt it was my duty to put the contrary viewpoint. But that's the type of discussion that one has. We had a very significant one in relation to the site now occupied by the Apex Hotel, where a committee which was before I became Treasurer but I was already on the Executive Committee, which is effectively the committee which runs the Inn, and I was in the assenting party to buying this land for use by barristers' chambers. Then it turned out that the whole thing was much more expensive to develop than had been anticipated and eventually there were planning difficulties which hadn't been foreseen and also the Bar was going through one of the periods where it thought it was going to contract rather than expand and suddenly we decided that this whole thing was not a good idea but by that stage we'd bought the land.

1.14.14

We eventually ended up, this took about five years, with a situation where there's a hotel there but as tenants of the Inn and the whole thing has financially washed its face. There was a time when it looked as though it might not, and that was an anxious time.

AS That's an example of important specific decisions you were involved, overall, could a Treasurer like yourself make a mark – were you able to have a plan as to what you wanted to do or did you just adopt those...

KS I think the answer to your question, can he make a mark? The answer to that is yes. The answer to the question implicit perhaps, did I make a mark? The answer to that is no. I remember when I was starting my Treasurer's year, and saying what is it you want to achieve in your Treasurer's year, what do you want to change. I answered rather lamely, I don't think I want to change anything, to which he replied, thank heavens for that, everybody always wants to make their mark on something. Of course you can just slide and the inn had slid for years in the 70s getting itself into serious financial problems which were then by I think Master Rawlinson took the situation in hand and started imposing age limit and got rid of the Buggin's turn system.

1.16.00

He was supported hotly in this by the Buggins, I forget who it was now but evidently a lovely man who himself would lose out in this process, but who felt convinced it was the right thing to do. I have no doubt the Inn has, in the last 25 years, improved enormously over the Inn that I knew in my first 25 years.

AS What kind of things are significant?

KS The training of the students has changed completely. The Church has changed completely; I've been a churchgoer all my life but I had nothing to do at all with the Temple Church until I became a bencher. In fairness that's partly because I was with my family at the weekend at the other end of London and we went to our local church. But it used to be a church which was only filled when there were memorial services and rare other occasions and now it plays an active part in the Inn; it has a very respectable congregation, and sometimes, yesterday I was there, admittedly again for a funeral and it was absolutely packed and it often is. That's a very exciting to see that grow and the choir has grown enormously. We commissioned during my Treasurer's year the 'Veil of the Temple' by Sir John Tavener, and that was a decision I was pleased to play a part in because I thought it was a distinguished thing that we were doing and we were sufficiently wealthy to be able to do that.

1.18.00

A lot of great music was written being paid for various princes in the 18th and 19th century who had more money than they knew what to do with and spent it on musicians. Town halls don't fall into that category by and large.

AS But Inner Temple was able to...

KS But Inner Temple was able to and it's a thing I'm very pleased to have done. I'm very pleased to have seen it grow. You also have these Muslim-Christian conversations, you remember the Archbishop of Canterbury making this tremendous splash with his lecture on Sharia law and now a book has just been published, edited by the Master of the Temple, Robin Griffith-Jones and there are set out various Muslim positions on this that and the other which I found fascinating, really interesting. He had a seminar which unfortunately I was unable to come to where these people met and talked together and found out what things they had in common which were enormous and I think the Muslim community in England is playing a very positive in what must be for them difficult times. I think the Temple has played some part and I think that a very useful thing to have done.

AS I was interested to hear about the 'Veil of the Temple' commission. Were you there for the performance in the church?

KS Yes I was there, I listened to the all-night performance. As you may know it started at 10 in the evening, went through till 6 in the morning. You didn't have to sit in your seat, you could get up, walk around, go off and have a pee, have a hamburger if you wanted it, and come back in again; very relaxed, rather orthodox church view to church going, not the puritanical sit strictly in your seat,

1.20.11

so I was there for the first night. Then they had, what I call, a wimp's two and a half hour version, which I also attended. We were there, with Claris, with my wife, we were there for a second all-night performance and they were absolutely magical. It was a strange combination of instruments which were being played, largely eastern; a strange combination of texts, some Russian, some Hindu, all sorts of strange things. There were choirboys who were singing at the very beginning and then had to disappear by law, to go to bed, they weren't allowed to work all night – so the composer had to compose in such a way that boys appeared at the beginning in the beginning and the end and they disappeared to the Bishop of London's house where they slept for five hours in the middle and then came back and sang a sort of Easter anthem to greet the dawn and afterwards they processed out into the garden. It was a very moving and special occasion.

AS Is that a stand out memory from your year as Treasurer – are there any other events that are particularly memorable?

KS I enjoyed speaking to the people being called. One of the duties of the Treasurer is to encourage the troops on the day of the fair. I enjoyed doing that. Inevitably there's a certain amount of overlap, but you try to fill them with a sense of occasion which most of them are already inclined to be filled with.

1.22.07

I like writing that sort of thing, so I enjoyed doing that. And the call nights were fun in that sense and I still get to call nights even though they can be a bit tedious at times when you've been to a number of them and a long list of names is called out, it depends which call night you go to. But I found that the tradition of the Bar and the bench has been a solid thing in my life which has helped to give it shape and steadiness which it would be a pity to sacrifice; these things always change and should change bit by bit, but I found simply growing up, dressing in the way that others have dressed before me, rather a moving thing and a way which made you want to behave in the same way as the heroes who'd gone before you had behaved. Now of course a lot of scoundrels have gone before you too, equally dressed but somehow your mind didn't concentrate on that side of the matter.

AS But then there came a point when you left that all behind, temporarily...

KS Not temporarily, completely, in the sense that left that I left for the European Court of Justice in Luxembourg and there one dresses up differently, but much more simply than the simple robe – no wigs. And there I found myself one of 20 – originally 15 but by the time I left 27 judges – that was a bit like the Court of Appeal but more difficult because we were all working in French and we all had very different national traditions of law to draw back on.

1.24.16

There, when we were arguing about how a particular case should be decided it gradually becomes clear that the self-evident truths that you have grown up with, which you've never really thought about, are not necessarily the self-evident truths of your neighbour. And you come across rigidities which rather surprise you at first and I give you an example... the British are extremely good at muddling through in situations without being tied to a principle. Many other countries feel that their salvation lies in principle and the things that have gone wrong in their country's history is attributable to people acting in an unprincipled way. So you'll find for instance that when I was in the Court of Appeal here, I was presiding and by some mischance these things didn't usually happen, but I had allocated to me a case on patent law of which I knew nothing and my two colleagues equally knew nothing. So I knew there were three or four Court of Appeal judges who knew a lot about patents and I rang up one of my fellow presiders and said I see you're sitting with – I forget who, Robin Jacob probably – can I borrow him because I've got a patent case and none of us know anything about it. I see you're doing a running down case, I've got a very good running down man, can we do a swap?

1.26.15

He said of course. And we did it, and that was on the Thursday or so and I started the case on Monday. All went well. But in Germany, if this had come out into the public arrear, the whole proceedings would have been quashed because there the principle that you cannot influence the choice of judge to try your case – and nobody can influence it, not even the equivalent of the Chief Justice – but these things are laid down by law, strict forms of seniority have to be published, the order of lists and you work your way down the list. That principle is something that has to be stuck to in all events because otherwise as happened in Germany, the party picked suitable judges for suitable cases. So there, anybody coming from that background, it would be absolutely rigid about that sort of thing, and I came across in Luxembourg on one occasion, when there was some problem as to whether someone, it may even have been me, should recuse themselves because they had a really rather distant connection with the point at issue. I said, look the simplest thing is for me to exclude myself, and then the problem goes away. The presiding judge of that particular formation said you're not allowed to exclude yourself unless there are proper grounds.

1.28.10

Really, when you think about it, your grounds are so vague, that I don't think you ought to exclude yourself. So I heard the case. But it's a different type of approach to a problem, which we have in common. You'll see for instance that the judges who come from the ex-communist countries, who've been subject to years of having their conversations listened to, they will take very much stronger line on human rights issues, freedom of the Bar for instance when you are dealing with potential legislation which says that a barrister must declare when he gets involved in money laundering activities on behalf of clients – this sort of thing really quite tricky – there you'll find that people who've come from countries who have no human rights record tend to be stricter than those who say, come on we've got to keep some sense of proportion about this.

AS What was it like moving into this new world? We've talked about the different legal attitudes and principals, but what about the new social world, the legal-social world that you'd moved into out of Inner Temple, the London Bar?

KS For me it was easier than it might have been for some because the uncle who originally looked after me in England moved to Luxembourg in the early 1950s when

the coal and steel community was set up and practised as a barrister at the bar there.

1.30.00

Had quite a lot of friends, some of whom still survive, so I used to go over there for holidays so I knew the Grand Duchy and indeed met my wife there, because she was staying with my family to try and civilise them and so when I came back I had various Luxembourg contacts and I think I was probably rather different from most of the other judges in the sense that I regularly invited Luxembourgers to our house and was regularly invited to Luxembourg parties. I didn't find Luxemburgish difficult to understand because it bears a great relationship to German, which was my mother tongue. So I loved the social life, so did my wife and we were always being invited out because you could take part in conversations in several languages and we had an absolutely wonderful time though most of my fellow judges seemed to limit their social life to inviting their fellow judges whereas I confess I on the whole invited people who weren't the people I spent the whole day with, and so invited musicians and architects and painters and people of that kind.

AS Was there a difference in terms of your working life and how hard you had to work in Luxembourg, compared to...

KS It's a totally different rhythm; the English judge's life tends to be that the case comes in on Thursday or Friday; you do it some time the following week and you either give judgements straight away which I used to do certainly when I was sitting on my own.

1.32.00

Or even if you're sitting with others, the judgement would be out within four weeks. Now the system of working in Luxembourg was totally different because you had a, the fact that you were working in 23 different languages, so they had to all to be translated into the working language of the court, which has remained French, and then the system was that there was a presiding, a reporting judge – he was really in charge of the case and did a first draft of the judgement in due course. But long before he did a first draft, when the case came in, he did a report to all the judges as to what the case was about, what the arguments were, and he would suggest as to whether that case ought to be heard by three or five or 13 or indeed 27 judges, depending on its seriousness in broad terms. We would have a weekly meeting where we'd have 20 or so cases which had come in, during what were getting ripe for that decision and we had to decide which way to go. So that was your first introduction to the case when you saw it, at a time when the pleadings from all the different countries involved had already arrived, the judge had analysed it and given some indication as to what he thought it was about. Then you didn't have to decide anything then, you only had to decide what size of formation should hear it. Then you would have usually about three months later, the hearing where there would be argument and you had to beef yourself up again for the hearing in order to refresh your mind as to what it was all about.

1.34.08

Then you'd have the hearing and then you'd wait again another three or four months while the Advocate General prepared his opinion for the court and that also would take that time because it had to be prepared and then translated into French if it wasn't originally written in French and then circulated. Then the presiding judge or the reporting judge rather would say, right, I will prepare a judgement which will

with or broadly follow or disagree with the Advocate General. He would then do a draft judgement which he would then circulate. Then all the rest of us in the formation would write notes which we'd circulate, notes written to everybody in the formation, saying we agreed or we disagreed or we didn't like paragraph 32 or paragraph 37, or couldn't we do this this way and what about changing the whole thing round, and so on. After all those notes had been exchanged, usually the reporting judge would then do another draft judgement, which would circulate again and then there'd be a debate and which might lead to yet another draft judgement and another debate; so the long and the short of it was that the decision making process was spread over a period of about six months or so, and that meant you were always going backwards and forwards. The extraordinary thing is you felt you were working under enormous pressure, and so you were because the time allowed between the circulation and the draft judgement and the discussion of it was usually a matter of days and you had other cases to do.

1.36.06

It seems to me that that was a potential problem. Would it be possible to stop for a moment? I just had the feeling that my wife was coming in, I may be wrong...

11.04

AS Master Schiemann, we're resuming the interview, your wife came back to the flat and we stopped and we're starting again. You were telling me about the rhythm of work.

KS The substance of what I was saying was that it was very much prolonged in the time that one came to judgement, rather less focused so you had to read the same set of cases three or four times over a period of six months or so, which I found a disagreeable method of working. I also personally enjoyed writing my own judgements when I was in England, whereas there the name of the game is to see what you can do to influence the thinking of your fellows, so the final judgement contains as few things to your disadvantage as possible, or to the disadvantage of your point of view, and as many things in its favour. It's very similar to the sort of problems that face the United Kingdom in relation to leaving the European Union. If you come up through the sort of road that I have come, you tend to say, well really what we are concerned with, given that we are going to be affected as we have been in our recent history by what happens in Germany, in France, in the Netherlands and elsewhere, what we ought to do is to have sort of arrangements where we can influence those people to act in a way which is least harmful to our interest. That is the way the Union works rather than cutting yourself off and saying we have nothing to do with you, because you can't get to a situation where you have nothing to do with them.

AS I'm interested in something you said earlier about how your uncle has had a conversation about how perhaps you were the, you'd been spotted as someone who might become the UK's judge at the European Court of Justice. Looking back, how do you see that role as having fit in with your work in the law in general.

02.10

KS Well at the European Court we had some people who were ex-judges, some ex-politicians, some ex-civil servants, some ex-professors. They each brought different skills to the table, and I think I had a much acuter sense of fairness which had been bred through presiding over innumerable trials, than a professor would

have. A professor would have a much acuter sense of the beauty of the law and developing things in such a way that all the parts fitted together. The civil servant would have an acuter sense of how one can actually make this work in practice. And the politician would have an acuter sense of how can I sell this to my electorate? That being their backgrounds, they didn't actually have to do those tasks but that was their mindset because that's the way they grew up. My mindset was, are we behaving fairly when having a hearing for instance in Luxembourg. So it fitted in in that sort of way but I didn't really feel that my judicial training was of enormous help save that a lot of work there was interpreting statutes; statutes are frequently obscure. Community legislation is also frequently obscure, so one learns to deal with these type of problems and with the root question: to what extent can a judge legislate when the legislator himself has left a gap in the legislation. And this is quite a tricky question.

04.09

So one knew the problems, they were familiar problems albeit that the solutions weren't necessarily the same.

AS Do you think having been born in Germany, having that in your background, influenced the way in which you carried out your role as a judge?

KS No I wouldn't have thought so, beyond the fact that I was probably more used on appointment to German ways of thinking and French ways of thinking than most of my colleagues at the Court of Appeal would have been because I had read more of their literature and knew more of their people and could discourse in their languages. So from that point of view it was a help. Otherwise I don't think so, save that I was of course, very benevolent towards the Union, in the sense I wanted to make the thing work and thought this was an important life task – but that I think was shared by the vast majority in any event of my colleagues, possible every one.

AS What was the reaction of your colleagues when you told them that you were going to be a judge at the European Court of Justice?

KS My colleagues at the Court of Appeal, well they split into two. Half said, gosh you lucky man, that really is a fascinating job and you're just the chap for it, the other half said, how on earth did they persuade you to go off to Siberia? Is it Siberia, no it's Luxembourg, for heavens sake, what made you want to do it? It was a very divided reaction.

AS And what had made you want to do it?

KS It struck me that this European Union was a really exciting political project.

06.05

I think it is a wonderful idea if we can somehow or another learn to live with one another without fighting as the continent has done for all these years and to my way of thinking the general community method of working is one which can be usefully adopted as a model elsewhere round the world and indeed to some extent is being adopted in usually watered down, very pale version, but it is an idea of how we can live with one another, even though we don't agree with one another or necessarily like one another, but that is a challenge which the politicians have.

AS How long ago did you leave the European court?

KS Last October, about nine months ago now.

AS So you're now back in the UK, Today we're in your flat in Temple Gardens. I'm interested what it's like – because you've not only worked in the Inn, you've lived in the Inn – what's it like living in the Inn?

KS Oh it's wonderful. I imagine it's like living in the close of a cathedral but the fact is, as you may know, you can't get into the Inn without going through various specific entrances which are manned to prevent intruders coming in at night. When we come in with our car we are always recognised and there's a friendly smile. When one goes into the Inn to eat, one's recognised and there's a friendly smile. You can walk to the Library get a book out and read it, that's wonderful. You can go to the Church and be there and listen to the most wonderful music, always meetings going on and as you walk around the Inn, there are always people greeting you and meeting you and I never go from one end of the Inn to the other without meeting somebody who I know.

08.06

That is absolutely lovely. You feel at home here, I feel at home at the Inn, I've enjoyed the society of the Inn very much indeed, and I think myself enormously lucky to have this room looking out over St. Paul's and the River Thames and feel that I coming as I do from a strange background, have been made welcome here.

AS Just following on from that, as a barrister, it's possible to go through one's career not really being involved in the Inn, after the compulsory training and the compulsory stage that you have to do but you've chosen to be involved. What effect and impact has that had on you overall during your career.

KS I think it has just provided a pleasant other home to live move and have my being in. My wife and I, have been made very welcome and friendly – people here have been very friendly to us and the Inn has wonderfully friendly traditions, which you would probably know nothing of but you'll find that the weddings quite often leave flowers and the Inn will gather up the flowers and bring them to any old widows who happen to be living in the inn. There are lots of little acts of kindness and of love which are performed which are not headline material but just make it a civilised and pleasant place to be.

10.00

AS Before we finish are there any other traditions, secrets that I may not know about? Like that in the Inn...

KS Not that I've... there aren't very many arcane traditions that I can think of. On the whole isn't governed in a secret way I think, all the material is available for anybody who cares to search. When I was your age I never searched, I never looked. But I expect as you're doing this interview with me now you're conscious of some of the things going on in the Inn and so this little bit interests me. I hope you get some joy out of it, as I've got joy out of being a member of this inn and reflecting on its long history.

AS Thank you very much Master Schiemann, it's been fascinating hearing your memories.

KS Thank you, it's been fun to be with you.

