

At the bar

Sharing knowledge, e

Sue James speaks to her housing law heroes, Jan Luba QC and Nic Madge, about their lives in the law, from school to the bench.



Sue James

'People have problems that need solving, they need justice, so in some ways nothing has changed. It's people, law and justice.'

Nic Madge

Sitting in the Hoop and Grapes in Farringdon, I was inspired all over again. 'Be the best that you can be for the good of others less fortunate than you' was the message from Nic Madge and Jan Luba QC. They were my housing law heroes and I wanted to know their stories. They accepted my invitation for a night out with the offer of free-flowing wine.

Nic grew up in a small mining town in the West Midlands. He says: 'It was so rare for someone from my school to do law or go to Cambridge that the local newspaper sent someone along to interview me.' He told the reporter, 'I want to do something that combines an intellectual discipline with working with people,' but what he soon began to understand was 'the importance of justice'. This arose during a summer in Belfast between school and university. 'I was working on a kids' play scheme, predominantly Catholic kids in the Lower Falls. It was here that I saw the worst housing conditions that I have ever seen. And having seen those conditions, my politics changed.'

Jan says: 'By my mid-teens I was living virtually independently, in council housing in Lambeth.' He considers himself lucky to have got a place at the local boys' grammar school in Clapham. It was here that he decided to study law, after a trip to a local court where the headmaster sat as a magistrate. 'I was excited after the visit,' he says. 'I had worked out that I wasn't very practical. I wasn't good at science. I couldn't fix motors. But this experience rather motivated me.'

Nic went off to Cambridge while Jan stayed closer to home at the LSE, where they had similar experiences. Black-letter law didn't attract them. Jan says: 'Most of the lectures were concerned with something called a "fee entail" and "settled estates", and if it wasn't that, it was "What happens if a ship's cargo falls overboard?" But I wasn't terribly interested in any of that. It had nothing to do with the community or social class from where I came.' Nic found his law degree frustrating. 'My friends who were studying English and sociology were writing creative or political essays but I wasn't able to use my imagination,'

he says, although now he recognises 'it was a really good legal education'.

From fairly similar beginnings, both decided they wanted to work in law centres. They had been inspired by the radical lawyers of the 1970s. Jan knew he was working towards getting professionally qualified so he could take back his skill to his community, and by that time he had 'become sufficiently politically motivated to want to change the world'.

After rejections from Lambeth and West Hampstead, Nic got a job at Camden Law Centre, where he was told he would have to do housing law, rather than juvenile crime or care proceedings. Jan joined Stockwell and Clapham Law Centre doing education and housing, but the latter pretty much took over, as the need was greater. So for both, housing work was partly by design and partly by chance.

The job Nic loved the most was at Camden Law Centre. For Jan, it was '13 years of wonder' in law centres, Citizens Advice Bureaux and the National Housing Law Service, which he started with Russell Campbell and Derek McConnell.

Central to their work in law centres was what Jan describes as 'the go-to place for radical lawyers': Legal Action Group. 'Through the *LAG Bulletin* you could find out what legal tools were being used to improve housing conditions and apply them yourself.' This was especially true of prosecutions under the Public Health Act 1936. Jan recalls the first time he took a magistrate to a property: 'So we went to the top flat in a tower block in Wandsworth with a flat roof and no insulation. I had told the magistrate to bring an umbrella although rain wasn't predicted. The reason becoming apparent on entering the flat: the ceiling rained droplets of condensation.' Through LAG, they were able to share ideas, and it was through the learning and sharing of experience that the Housing Law Practitioners Association (HLLPA) was formed.

I wondered if HLLPA was where they met. There seems to be a difference of opinion on this question, but they settle on Nic's version: a conference in Brick Court Chambers while

'At the bar' is a new series of articles in which Sue James, winner of the outstanding achievement award at the 2017 Legal Aid Lawyer of the Year awards, interviews friends of LAG in informal settings and over a glass (or two!). See next month's issue for an interview with some of LAG's founders.

Empowering people



Jan Luba QC and Nic Madge: brave and courageous, and together more than the sum of their parts

Jan was a pupil to Tessa Moorhouse. Jan says his pupillage was 'a great success, and I loved it, but there never was the plan to stay there, just to qualify as fast as possible, and return to front-line work'. Nic reminds Jan that on his last appearance in court, at the end of pupillage, he told the judge: 'I'm retiring from the bar.'

Jan feels 'blessed to have lived through an exciting time where black-letter law was being used for the first time specifically for those most disadvantaged. Access to justice for this group had not previously been available'. It became possible because of the law centre movement and the availability of legal aid. Nic recalls the Legal Aid Board telephoning him to check the number of emergency certificates he had obtained for clients in the preceding two days - 183 - after a men's hostel had closed down.

Campaigning and test cases were central to the work of law centres in those days, and were instrumental in local authorities and other official bodies changing their policies. Nic says: 'A series of judicial reviews I took changed the way in which rent officers handled sham

'It's less important to me that we haven't changed the world - but if we've helped one person, or several people, get access to justice then it was worth it.'

Jan Luba QC

Rent Act evasion agreements'

Nic was also instrumental in the start of court duty schemes. He explains: 'Camden Law Centre, finding out when possession days at the county court were on, would hang around and represent tenants, raising defences that were unique at that time!' They formalised this with the court later when Nic went to a meeting with the chief clerk - a formidable woman who (he confesses) terrified him. He told her: 'We are going to make your possession list more efficient, we will find out whether

there is a defence, we will say whether the case can be argued.' All before the 1980 Housing Act brought security of tenure for council tenants.

Another early discovery for the pair was the availability of out-of-hours judges. Jan tried it. The judge made an injunction order and Jan phoned the council officer responsible in the middle of the night. To which she replied: 'If you've got a judge in the middle of the night to make an order, then I'm the Queen of Sheba.' The next day in court proved interesting on an application to commit her for contempt.

Having a drink one night on the 'Cally Road' (Caledonian Road, London, where Jan then worked in a welfare rights unit), they swapped ideas. Nic's was 'Recent developments in housing law' (which continues to this day, albeit with a truncated title - see page 39) and Jan's was *Defending Possession Proceedings* (DPP, currently in its eighth edition). The driver behind both was sharing knowledge to empower people - which included their contributions to LAG training. Jan says: 'Part of the reason we wrote DPP was because it gave rise to a fantastic opportunity

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Jan Luba QC

for young lawyers, with a level of commitment, to use tools that had not been previously used at all to achieve results, which at the time were thought breathtaking.'

As I go to the bar for the second bottle of wine, Jan reminds me that arranging to meet in a pub wasn't as easy then as it is now: 'The internet hadn't been invented, nobody had computers, and there were no mobile phones. We were operating in a different information exchange environment that is inconceivable by young people today.'

A lovely example of this bygone age arises in Nic's account of how the *Stent v Monmouth* case was reported. Spending a weekend in Wales, he popped into the local newsagents to find 'Tenant wins court case' emblazoned across the front of the *Abergavenny Chronicle*. He bought it (of course) and read that Mr Stent had got the council to replace his door. The Court of Appeal decided that after years of the council repeatedly fixing a defectively designed door, 'repair' required it to be replaced. It was an important case and they were the first to report it, in 'Recent developments'.

They were also working out-of-hours providing emergency access to lawyers. This would involve Jan turning up in his PJs (under his court suit) at 3 am. If the police refused to attend the unlawful eviction, he would get the client to say, 'My brief is at the scene and he's in his pyjamas', which apparently would always work.

Nic tells me his first work suit was paid for with a £24 benefit order. He was at the benefit office being questioned about his failure to find a job after three months of signing on. The interviewer asked: 'I don't understand, you're really well qualified - why haven't you got a job?' Nic replied: 'It might be partially because of what I'm wearing. It's the suit I got when I was 16 for the sixth form dance.'

Eventually, Jan left the law centre to delve into the world of benefits. His experience

had taught him that although housing was an important area, 'a more undervalued, unexplored area was what was then called social security law, because that was operating off the spectrum'. It was at this time he found himself jumping into a car on Saturday mornings in 1984 to give benefits advice to the striking Kent miners.

Jan will also be remembered for being at the forefront of the developments in human rights law. Although he feels 'sadness that I lived through a time where we could have had human rights before the HRA, but we didn't', Jan repeats his feeling of being fortuitous in his timing: 'Yes, I was very lucky, again, to be there at the right point in time, the right bend in the curve.' I question whether that is luck, to which he replies: 'It's about the combination of the skill you have acquired and the underlying zeal to achieve change for the greater good.' He also likes to keep things. He tells me he has just thrown away 15 years' worth of legal aid key cards (rather reluctantly, I suspect).

Nic became a judge early in his career. He thinks judging has many of the same elements as working in a law centre: 'People have problems that need solving, they need justice, so in some ways nothing has changed. It's people, law and justice.' When a solicitor at Bindmans, he had been asked to stay behind after a case, thinking he'd done something wrong, when the judge asked him if he'd ever thought of becoming a deputy judge. He sees it as a service, like all the other jobs he has done. When asked about his son, Sam (a barrister and a LAG author himself), he tells me he didn't encourage him to become a lawyer but he thinks he will become a better one than his father, as Tom, his other son, will become a better writer. 'The aim should always be for children to do better than ourselves.'

Jan, now also a circuit judge, feels they were very lucky. They were exciting times. 'We want to inspire the next generation with the enthusiasm we had,' he says. Nic agrees but is more cautious: 'It was a very different age. We had grants for university. We were not worried about our future. We could put our jobs and our commitment before anything else.'

I think that at whatever point in time Jan and Nic had come along, there would have been change. They were brave and courageous and together they became more than the sum of their parts.

But did they change the world? After three bottles of wine between us, Jan says: 'In a sense, it's less important to me that we haven't changed the world - but if we've helped one person, or several people, get access to justice then it was worth it.' ■



Jan Luba QC, 1986



Nic Madge, 1982

Hero

Nic Albie Sachs
Jan David Watkinson

Favourite court

Nic The old West London County Court
Jan House of Lords, Judicial Committee

Favourite haircut

Nic I've only ever had one
Jan Derek McConnell's in the 1980s

Favourite animal case

Nic Claim for the cost of a dead parrot in Willesden County Court
Jan *Sutton HT v Lawrence* (1987) 19 HLR 520 - a dog and housing case!

Favourite jukebox single

Nic 'I Was Not Born To Follow', Dixie Chicks
Jan 'We Are Family', Sister Sledge

Favourite drink

Nic Coffee (if I can only choose one)
Jan Red wine

Favourite law TV/film

Nic LA Law
Jan This Life

'A series of judicial reviews I took changed the way in which rent officers handled sham Rent Act evasion agreements.'

Nic Madge

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