

## PROFILE OF HECTOR BARCILON



Hector Barcilon was born in Egypt in 1908 and became a naturalized British subject in 1930. He studied at Victoria College, Alexandria, Clifton and Cambridge and was called to the Bar in England in 1931. He practised at HMB Counsellor Court in Egypt until 1938 when he took up private practice in London.

At the outbreak of WWII Mr. Barcilon was called up and commissioned in the Royal Artillery. He served in the Far East until he was taken prisoner by the Japanese – During the period of his captivity as a prisoner of war, he was forced to work on the infamous Siam Railway project. After the cessation of hostilities he served in the office of the Judge Advocate General and in 1950 was released from service with the rank of Major. He continued to serve in the Judge Advocate's Office as a civilian until 1952 when he resumed private practice in London.

On 27 March 1956 he was appointed to the post of Solicitor General in Bermuda and he held that position until his appointment as the first Bermuda Puisne Judge in 1965. Mr. Barcilon also served on the Law Reform Committee, the Bermuda Bar Council, the English Speaking Union, was the first Rent Commissioner and also served as the Administrator of Government Employment's Health Insurance Scheme.

Upon his resignation from the bench in 1980, the then Governor, the Honourable Sir Peter Ramsbottom, said his service had been "outstanding". Following his resignation from the Bench he joined Smith Bernard & Diel as a Senior Legal Consultant in 1981, leaving the post in 1985.

Mr. Barcilon died in 1988 following a struggle with cancer. Upon his death it was said by Peter Smith that Mr. Barcilon "set a very high standard of advocacy because of his integrity and skill together with his vast knowledge of law and the Rules of Evidence" and that "he had an incredible knack for exposing justice where it was.....woebitide anyone lying in the witness box". Peter Smith also said that Mr. Barcilon would "surely find out". However, Mr. Barcilon had a fine reputation in the legal fraternity for being scrupulously fair with an unmatched ability for dealing with other people.

It is hoped that the memory of this great man and his contributions to Bermuda and Bermuda law will continue through the Annual Hector Barcilon Memorial Moot.

## **BAR COUNCIL'S ROLE AND HOW THE MEMORIAL CAME ABOUT**

The first Memorial Moot took place in 1990. Spearheaded by Andrew Martin, Narinder Hargun and John Riihiluoma who sat on Bar Council in the early 1990s together. They wanted to remember the legacy of their dear friend Hector by bringing together the Lawyers, Judges, Magistrates, and the Law students in a fun and relaxing environment which in turn fosters respect and a lasting relationship within the legal community and the Judiciary.

Law students are invited to sign up for the moot. Students having completed the LPC or BVC course may also sign up. Students should not apply if they have already started a pupillage.

The event takes place almost yearly with the winning teams names added to the Hector Barcilon Memorial Shield. There are prizes and momentos to each participant.

## **MOOTING RULES**

### **Generally**

1. The moot shall take place between two teams, the 'appellants' and the 'respondents'.
2. Each team shall consist of a maximum two advocates and one researcher.
3. It is the appellant's responsibility to introduce the advocates and the case.
4. The moot will be judged by a panel of 3 consisting of a Judge and two members of the Legal fraternity.
5. The facts of the moot are as set out in the problem and are not subject to dispute.

### **Timing**

6. (a) Speeches shall proceed as follows and be timed:
  - o Each lead advocate is permitted ten minutes and the junior eight minutes. The right of reply (which is optional) is five minutes.
- (b) Any advocate exceeding the time for their speech shall have this counted against them by the Judge.
- (c) The speech time includes the time taken to answer questions from the judges.
- (d) You will be advised by the time keeper as to when you have one minute left by way of a board saying "one minute". At the end of that one minute you will be prevented from making anymore submissions and thus should use that time to wrap up.

## **Authorities**

7. (a) Each team shall be entitled to refer to a maximum of five case law authorities during the course of their arguments. This does not include any statutes, texts or articles which must be a maximum of three.

(b) Four copies of the Skeleton Argument and authorities to be provided to the Bar Association for distribution to the Judges and opposing Counsel 3 clear days prior to the moot taking place.

## **Judgment**

8. (a) At the end of the speeches, the judge shall declare which team is:

- o The winner of the legal case and
- o The winners of the moot, who will not necessarily be the team for whom judgment is given on the law.

(b) The team that is declared winner of the moot shall be the advocates who have presented their case with the greatest oral skills and legal clarity.

## **What is mooting?**

The simplest way to describe a 'moot' or 'mooting' is the oral presentation of a legal issue or problem. It is perhaps the closest experience that a student can have while at college or university to appearing in court. As many first year law students will be aware, the legal profession (be it as a barrister or as a solicitor) is an increasingly difficult one to enter. Application forms for legal professional courses, solicitors' firms and barristers' chambers often demand that a candidate has, and can provide evidence of, their advocacy or mooting experience whilst at university (over and above any of the more traditional areas of advocacy such as debating). So for the sake of your future career it is worth gaining some mooting experience whether or not the activity is compulsory at your law school.

Mooting as an exercise may enhance your overall understanding and knowledge of particular areas of law and also enhance overall confidence in public speaking, general research, and presentation skills. In other words mooting experience can benefit every student whether or not they plan to follow a traditional legal career path upon graduation.

## **What to Expect**

A typical moot problem is concerned solely with a point (or points) of law and how you present it. In this instance it will take the form of a case heard on appeal from a lower court with the grounds of appeal clearly stated. Be prepared to be on your feet, either presenting your argument or answering questions about your argument, for the amount of time allotted.

The 'moot' will consist of two teams made up of a maximum of two advocates and two researchers for each team. The advocates are essentially leading and junior counsel, although the

'mooters' may be judged as individuals or as a team. The moot will be presided over by a panel made up of a Supreme Court Judge and two other eminent attorneys who will deliver judgment at the end of the moot on the law and on the result of the moot itself (see rules of Moot).

It is necessary for the mooters to prepare their arguments in advance of the moot and to select the most appropriate legal authorities (cases, legislation, learned articles etc) in support of their argument. The rules of mooting require that the skeleton argument and authorities be exchanged with the opposing team in advance of the moot.

The moot court will reflect, as far as possible, a courtroom scenario. Supreme Court number 3 is the usual venue. The two teams of mooters sit at separate tables, taking turns to present their arguments to the moot court.

For the moot, the mooters are required to maintain the appropriate courtroom manner (remembering, amongst other things, to address the court and fellow counsel in the accepted form which is “My Lord” for *all* members of the judging panel and “Colleagues” or “My Friends” for team members. Opposing Counsel may be referred to as “Opposing Counsel for the Appellant” or “Opposing Counsel for the Respondent”. Further, to add a touch of authenticity to the moot, the participants will wear gowns (but not wigs or tabs).

### **Preparing for a moot**

Begin by reading the problem carefully in order to ascertain the precise grounds of appeal. The grounds are stated in the body of the problem. It is perhaps a good idea to re-write the grounds of appeal in your own words in order to ensure that you understand the essence of what you will be arguing before you commence your research. It may sound obvious but ensure from the start that you and your moot partner(s) know which side you are arguing for (i.e. either the appellant or the respondent). Co-operation is essential because it will be detrimental to your chance of success in the moot if other team members are unsure what is being argued.

Having decided what view you anticipate will persuade the judges, you must now work out how your argument is to progress to that conclusion. Arrange each discrete point in a sensible order and then number them accordingly. Generally, assume that the moot judge is familiar with the area of law in question and do not commence your argument on too basic a level. It may also be an idea to start with a point of law that is uncontroversial in order to find your feet before considering issues upon which you are likely to be questioned and contradicted.

Begin your research by consulting any textbooks with which you are most familiar. Then check the footnotes — they are often helpful. Having ascertained which footnotes are relevant, make a note of the particular principles/points of law to which the particular footnote refers and write against each point the name of each statute, case, article, or book to which you are being referred. That will give you a start but expect many gaps in your research at this stage. You may also wish to consult old editions of text books (as this can contribute to the understanding of the points of law at issue by placing them in their historical context). Then continue by researching all the references that you have unearthed carefully making a note of any gaps in the research as they appear.

Textbooks are not of course designed as aids to mooting and consequently they might be too general and thus of limited assistance. If this is the case, you will need to consult one of the practitioner texts—such as the relevant volume of Halsbury’s Laws. Other publications worth consulting in the initial stages of your research are Atkin’s Court Forms and The Encyclopedia of Forms and Precedents. In order to ensure that you are up-to-date don’t forget to check Current Law and its yearbooks and citators and Current Law Statutes Annotated.

Finally check LEXIS, WESTLAW, or any other internet service to which you have access for the most recent developments (although citing of information from internet retrieval sites in moot speeches should be avoided). The Internet, however, provides a rich source of other useful information (eg statistics). By this stage you will probably have to cut down the material — you may be limited by the moot rules as to the number of cases and authorities that you may refer to but it is best to concentrate only on the most relevant cases and avoid excessive citation of authorities in any event.

Be brief and make your submissions as intelligible as possible, avoiding excessive use of legal jargon. When formulating your arguments, bear in mind basic issues such as the doctrine of precedent (for instance, if the moot is in the Court of Appeal, do not propose inviting the court to overrule a decision of the House of Lords in order to facilitate your argument — although you might ask the court to distinguish any such troublesome case).

Make a proper note of the full citations for any cases etc upon which you intend to rely — for easy reference during the course of your speech. Be sure also that you can give a page reference for every passage cited from a judgment. Do not refer to authorities for the sake of it — because the judge may question you in detail on any particular case mentioned. Therefore be prepared to recite a precise proposition of law that you think any case cited is authority for. Take care when referring to secondary sources and above all remember that you are not writing an essay! Finally, after all that — do not read out your moot speech. It is an aide memoir only. The moot will test not only your ability to present the argument but also your response to questions and flexibility when interrupted by the judge.

### **Research Facilities**

The Supreme Court has adequate facilities that you should be able to utilize during the day. Alternatively if you are currently doing a summer placement at one of the local law firms you should be able to use their facilities. If you are employed, for example, at Appleby, then you may use the library in addition to your team members who may not be at the firm. You will however be responsible for their conduct. No books are to be removed from the premises.

You may find it helpful to attend Court to get an idea of Bermuda courts and also visit Supreme Court Number 3 where the event has been held for the last several years.

**Teams**

**Team 1 - Appellant**

Name	Position	Stage of education
	Advocate	
	Advocate	
	Researcher	

**Team 2 - Respondent**

Name	Position	Stage of education
	Advocate	
	Advocate	
	Researcher	