

Memoirs of a Radical Lawyer

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Extract

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‘MICHAEL, YOU SEE WHAT
YOU WANT TO SEE!’

From Finchley to Philosophy

It was a strange-looking bottle – tall, narrow, square-shaped – and according to the label, it contained Camp Coffee. I had discovered it in my favourite childhood retreat, the larder set into the wall beneath the stairs at 73 Naylor Road, and there could be no mistaking that it was number 73, as my father Frank had painstakingly carved the two numerals, in large relief, in the top of the privet hedge a few feet from our front door.

Our kitchen was what an estate agent would call ‘conveniently compact’, and my mother Marjorie always referred to it as the scullery. Yet somehow this tiny space managed to contain a large white enamel sink, a gas cooker that gave off more gas than rice puddings, and a bulbous silver American-style fridge, taller than me and adorned with an enormous metallic bronze handle. Stick four wheels on it and it might have passed for a Cadillac or a Buick.

Alongside that fridge was my haven, the recessed larder, shelved from floor to ceiling. Most of the shelves were empty, but there was always a small store of carefully preserved items, preciously obtained during that late-1940s era of ration books: a jar of home-made gooseberry jam from the allotments on the other side of the Northern Line at the bottom of our garden; packets of digestive biscuits; tins of corned beef, spam, sardines and condensed milk; sugar, tea – and coffee.

Not instant coffee or beans, let alone ground coffee. This coffee, in its strange bottle, had ‘chicory’ written on the label, which left me

little the wiser, and what really intrigued me was that no one – not my parents, or my older brothers – ever seemed to drink it.

I speculated that maybe it had turned solid over the years, or maybe the fact that nobody went near it had something to do with its odd name. Whatever the reason, for ages it had apparently remained untouched by human hand, until I found it. From time to time I would take down the bottle from the shelf and scrutinise its label, which depicted a tented, exotic Far Eastern location with a resplendent gentleman in a turban holding an embossed gilt tray, perfectly placed in the middle of which was a bottle of Camp Coffee.

That bottle on the tray bore exactly the same label, showing the same man, complete with turban, tray and bottle. And the bottle on the label of the bottle on the tray also showed the man in the turban, and *his* bottle had the same label – and so on, and so on, and so on . . .

One day, my mother found her inquisitive eight-year-old in the larder, holding my father's magnifying glass close up against the label. 'What on earth are you up to?' she exclaimed.

'Well,' I replied, 'does it ever end? Or is it down to the skill of the artist?' And I asked her, if you reversed the process, with ever larger bottles and larger and larger labels – some the size of the larder itself – how large could the bottle get?

Amused by these random perceptions, my mother observed, 'Michael, you see what you want to see!'

Now this was not exactly my Stephen Hawking moment of parallel universes, let alone the calculus of the infinitesimal, but unwittingly I had stumbled into a world unknown – and it wasn't so much my own ruminations as my mother's reaction to them which struck a chord.

What she said bothered me then, and still does – and it lies at the heart of forensic science, the area of the judicial process with which I was to become so deeply involved in later years. For a sizeable proportion of what passes as science depends upon the eye of the beholder and is highly subjective, and the perception of physical phenomena is hugely susceptible, both consciously and unconsciously, to all sorts of personal beliefs and predilections. Without rigorous awareness and precautions, such a situation can

have disastrous consequences, including, particularly in my area of the law, wrongful conviction and imprisonment.

Born on 12 October 1941, when Gerald was sixteen and Ken fifteen, I was the Last Chance Saloon. A Blitz baby, I still retain clear memories of wartime London in the blackout: all our windows blocked in with hardboard and blackout blinds; the corrugated-iron Anderson shelter covered in sandbags in next door's garden, into which we were herded during raids; my Mickey Mouse gas mask in its brown cardboard box, the red string handle looped around my neck; and, perhaps most ineradicably of all, the shrill terror of the air-raid sirens.

Even now, sixty-odd years later, whenever a siren goes off I find the sound very unsettling. For in my mind it still heralds a wave of German bombers passing over London – bombers, moreover, that following their raids on the railways around King's Cross were quite likely to dump any remaining bombs on the streets around our house. I clearly remember the drone of these planes as they passed the anti-aircraft battery at the top of our road, the sky brightening as the searchlights hunted for them and the ground rippling with shockwaves from the pursuing guns. I have a constant reminder on my desk, a chunk of bomb which hit King's Cross station, retrieved by Gerald and now used as a paperweight.

In spite of the mayhem going on all around, mine was a very secure and modest upbringing, by parents who were far from wealthy, in Whetstone, then (as now) an unpretentious north London suburb, but an area with its own place in history as the village where, during the Wars of the Roses, soldiers sharpened their swords before the Battle of Barnet in 1471.

My father had lost his left leg in October 1917 while serving on horseback in Palestine with the City of London Yeomanry, gunned down in a hail of Turkish machine-gun bullets; he was then twenty-one years old. I remember him as a tall, imposing man of silent disposition, both conservative and Conservative at the same time. There were odd flashes of humour, such as when he would use a pencil to tap out a rhythm on his false leg while sitting on the London Underground, much to the consternation of fellow passengers. Sometimes, for a joke, he would dislodge the false leg

from his stump – and, as his leg seemed to grow longer and longer, so did my embarrassment.

His civilian career was with British Railways, and during the Second World War he had a critically responsible job controlling the nocturnal movement of emergency rail traffic at a secret headquarters in Gerrards Cross in Buckinghamshire. This entailed my mother driving him there – a distance of some fifteen miles – in complete darkness, save for the cat's eyes in the road. Because of the wartime dangers, I was left asleep and alone at home, in the firm expectation that I wouldn't even know she had gone. I can still vividly remember one night when I was about three, and as usual was tucked up in bed at number 73, with Mrs Kimber the next-door neighbour listening out for me, should I wake up.

On this occasion Mrs Kimber didn't hear my crying when I was awakened by the noise from the anti-aircraft guns. Frightened by their persistent pounding, I called out for my mother. Nothing. I called again. Still nothing. I was rapidly beginning to find the lack of any response more distressing than the hammering from the guns, so I got out of bed and walked around the house in total darkness in search of my mother. No one could be found, and in complete panic I made for the front door. Being just too small to reach the handle, I dragged a telephone directory across the hall and, clambering up onto it, managed to open the door – and walked into a terrifying outside world where there was no light and no people, just unspeakably awful noise. It was plain to me that I was the only person left alive on Earth, and I began screaming – at which point Mrs Kimber finally heard me, scooped me up from the pavement and took me into her house to await my mother's return. After that, I always went with my parents in the car for those blacked-out drives to Gerrards Cross – journeys which in the dead of night, I found rather exciting.

On account of my father's work he was entitled to special rations, including bananas, and obviously felt that, with no bombs actually dropping on our house and enjoying a more comfortable existence than most others, we were in a privileged position. Therefore my mother stockpiled our banana ration so that they could be distributed among the less well-off families she came across as she carried out her duties in the London Ambulance Service.

Bundled into the back of what she called her ‘sit-up-and-beg’ Ford Popular – polished royal blue – I was taken to various addresses, where, since she clearly considered it quite inappropriate for me to come in with her, she ordered me to ‘sit tight’ while she deposited brown paper bags containing a banana or two to each of the families.

I could never quite understand what it was about these bananas which meant that those families could eat them, but I could not. Did they contain some mystical property that transformed the inhabitants into super-humans? In this and other simple ways, without having to preach the gospel, my parents led by example and gave me small but telling lessons in how to care for others without making a meal of it.

Theirs was a very stiff-upper-lip world, but one imbued with a strong sense of fair play and propriety: my brothers both away fighting for their country in the services; church every Sunday; the *Daily Telegraph* as preferred reading (in addition to sympathising with its politics, my father liked to practise his calligraphy by copying the font); no television (at least until the mid-1950s), only the wireless and *Workers’ Playtime*; roses and irises in the garden. It was all thoroughly middle-class and conventional, and thoroughly English.

This upbringing encouraged unquestioning loyalty to Queen and Country. Ours was a household of servicemen and women. Gerald was an artist by temperament and a talented draughtsman, but to satisfy the patriotism of my father, and almost out of spite to ‘prove himself a man’, he joined up in 1943, and eventually became the bass drummer in the regimental band of the Scots Guards: the bass drummer was the lynchpin of the band, as it was he who had to keep the marching rhythm going. I remember, years later, Gerald teaching me to drum on a stool between my knees, with a cork mat on top to soften the noise. I still dabble on the drums.

Ken, the happy-go-lucky brother, but still fifteen years my senior, volunteered for the Fleet Air Arm and served on HMS *Ocean*, an aircraft carrier in the Mediterranean. He survived too and returned to work on the railways, which pleased my father. Ken was a good sportsman and played football for Loughton. Then he met a blonde bombshell and fell hopelessly in love. Even Mother and Father were captivated by her *joie de vivre*. One morning my mother woke to find a note from Ken: he had left to catch the P&O liner to South

Africa, because the bombshell had dropped him. He planned to work on the railways in Africa, and in fact did so for the rest of his life. I remember being pushed into the car as we rushed down to Southampton to try and stop him. As we arrived on the dockside we were in time to see the ship pulling away. Mother cried; Father was mutely distraught. I was ten and, not knowing how else to console them, bought a big plant from the shop at the end of the road the next day. It was small solace, compared with the joy he brought into our lives on regular visits back home with his wife Sylvia and their five effervescent children. I loved the startled look of disbelief whenever I was introduced as uncle while still wearing short trousers.

The service mentality pervaded our home right into the late 1950s. By this time I was at Highgate and my behaviour at school was generally so good that I was nicknamed 'Goodchild' by my school mates. I volunteered for the Combined Cadet Force (CCF) – to avoid music appreciation on a Tuesday afternoon. I was proud of my uniform. Gerald taught me to Blanco my belt and gaiters and to melt boot polish to get a mirror shine on my boots. Mother sewed creases in my trousers so that they were always razor sharp. I chose to specialise in developing one of the elite squads of twelve boys – the CCF Drill Squad. I was quite tyrannical. But as a result we were really good and gave exhibitions at school Open Days. We were *so* good I was invited to Sandhurst on a special course. At seventeen I became one of the Army's first ever Junior Under Officers (a special rank had been created between non-commissioned officers (NCOs) at school level and commissioned officers who went to Sandhurst). Interestingly one of the course tests at Sandhurst involved standing up and speaking off the cuff for two minutes on an unknown subject. This was the first time I realised that I could speak in public – mind you, for two minutes! Perhaps if things had turned out differently I might have ended up a Colonel in Iraq . . .

Aside from her largesse towards the local poor, my mother mostly kept herself to herself, which made it all the more astounding when she took on the local Finchley constabulary over the issuing of a parking ticket.

This was a mother who loved Ivor Novello; who considered it her public duty to become a blood donor; who embroidered kneelers for

the church; who was shocked to the core when I was sent home for a week from Holmewood Primary School for gripping the hand of my girl partner with too much enthusiasm in the snaking line on the platform of Totteridge station; who later cajoled me into joining the Young Conservatives, principally so that I should learn the quickstep and ‘meet the right type of girl’ at their dances. For years she did her bit for the local Conservative Party, addressing and sticking down envelopes containing election messages and manifestos, inveigling her youngest son to help her deliver them, and canvassing for the local MP, one Margaret Thatcher – who, after each election, would invariably send a glowing note of thanks for my mother’s efforts. (I’ve often wondered whether I could have changed the course of history by dumping my entire supply of election leaflets into the nearby Dollis Brook.)

My mother was pro-Establishment to the core, but falling foul of the law while out shopping one afternoon in Whetstone changed her for ever. A local police officer accused her of parking within the marking studs near a pedestrian crossing, and issued her with a ticket. She insisted that she had done no such thing and, incensed, first refused to pay the fine, and then mounted her own spirited defence in court – when her courtroom *coup de grâce* was calling my father as a surprise witness. Unseen by the police, he had been sitting in the car at the time of the alleged offence, and was now called upon to back up my mother’s story. He had developed a distinctive gait by hopping on his good leg and sweeping his false leg alongside, aided by a walking stick, and I can imagine that making his way through the court to the witness box was a true show-stopper – the stuff of *Perry Mason*.

Mother was acquitted, triumphant, but the ramifications of the case went far beyond that simple verdict. The fact that the police – ‘Bluebottles’, she called them – had been prepared to lie in such a small case appalled her, and ever afterwards she would repeat to me: ‘Never trust a man in uniform.’

It was a formative experience for me, as the case clearly lies at the root of my long-standing suspicion of the police, and my mother’s words still come back to me when I am engaged on cases where police corruption, malpractice or simple incompetence has led to a serious miscarriage of justice. It is not fanciful to consider that it

was my mother's sense of having been wronged – even over such a comparatively trivial matter – that produced in me the anger which has been the driving force of my legal career.

One ever-present motif of my childhood was the railway. By the early 1950s my father had worked his way to the position of Deputy Chief Controller for the Great North-Eastern Region of British Railways. As well as having a railway line at the bottom of our garden, all holiday travel was by rail, and occasionally my father allowed me to accompany him out of King's Cross as far as Potters Bar on the footplate of a steam locomotive heading north.

In the circumstances it will come as no surprise that I spent hours building my own railway with a clockwork Hornby train set. This construction became so complex that, rather than take it down every night, my father made a table the size of my bedroom with a hole in the middle and with my bed beneath, so that I could stand on it in order to operate the trains which occupied the whole of the tabletop. I used cigarette butts to get the effect of steam and torch bulbs for the station lights, which were wired up to a huge square Eveready battery.

I loved that model railway, but even more I loved to cycle over to Oakleigh Park station, where a sturdy iron pedestrian bridge crossed over the main lines, to watch the real thing. Amazingly elegant engines, like the *Mallard* and the *Flying Scotsman*, emerged into daylight from the long tunnels under the hills of north London, as I stood on the iron bridge, positioned exactly above the path of the oncoming train, in order to be enveloped by noise, smuts and smoke. I could hear the locomotives inside the distant darkness, building up a head of stressed steam, which exploded once released outside the tunnel, invariably accompanied by a warning sound akin to a hollow tubular siren. The pitch of this sound seemed quite distinct from the engine itself, changing magically from high as it approached to low as the engine passed beneath my feet. I didn't know then that Christian Doppler had noted this effect more than a hundred years before!¹ These trains were land-speed record-breakers, and by the time the cloud of smoke had evaporated, the train had vanished towards Potters Bar, Hatfield and beyond.

My father worked long hours on the railway to pay for my education at Highgate public school, where I started in 1954. He

had had to fight hard to get where he did, but he never moaned about his lack of leg. I have no idea if he was in pain, since he always maintained a stoical front.

Because his own sporting ambitions were cut short, he took enormous vicarious pleasure in watching my somewhat chequered progress. First-eleven soccer was a treat because my mother could drive him virtually onto the pitch. However, I hardly dared tell him about my other pathetic attempts. Being on the heavy side, athletics was a nightmare, so I focused on fringe activities, such as the shot put and the 'hippy' mile walk. As for boxing, my father was thrilled when he discovered I was heavyweight champion one year. Why hadn't I told him? For one thing, my style was embarrassingly camp; for another, there were only ever two of us competing for the title; and for a third, because Father had a somewhat disarming habit, when his supportive enthusiasm got the better of him, of letting slip his nickname for me: 'Winxie'.

As Father worked harder and harder to pay my school fees, so I saw less and less of him. It was never mentioned to me that he was dying of cancer of the throat – a particularly painful type, as he couldn't swallow easily. I learned later how he had dutifully taken to work the food that my mother had prepared for him, but had been unable to eat it. He wouldn't have dreamed of explaining or complaining, and I never really knew how ill he was.

Such things were hidden, and my mother refused to let me see him either just before or after his death in 1960. She was trying to be kind, but I felt sad that I couldn't be with her, or him, at such a difficult time. I was eighteen when he died and had just passed my driving test, so was able to make a small contribution by driving my mother to the funeral home. She went in. I sat and waited outside.

Shortly after his death I received a letter from a close friend, Bill McGregor. He saw me every day, but had decided he wanted to put his condolences on paper, and wrote movingly of the ways I would miss my father: the times I'd walk into the room and he'd not be in his high-backed mahogany armchair; the times he'd no longer pop into my room at night after work; the umbrella stand full of his walking sticks to remind me of his strange limping gait. It wasn't my father's words I would miss, but his unspoken presence, the lack of him. Bill was so right.

My father never saw me succeed at university or witnessed my later career – and maybe that’s just as well, as he wouldn’t have approved of some of the causes in which I believe. But I wish I’d had long discussions with him, in the way I do with my own children.

Within days of his death I learned that I had failed to gain admission to Peterhouse, Cambridge, where my brother Ken had gone on a Fleet Air Arm scholarship after the war. A few days after that disappointment I learned that I had also failed to get a place at Keele, which was particularly galling because Bill, who had achieved the same O and A Level results as I had, did get in.

I decided not to take this rejection lying down – and now I think that it was a combination of anger, at not knowing my father well before he died, and the seeming injustice of university rejection that propelled me onto a train to Stoke, the town nearest to Keele University.

My father’s boss, a magnanimous railway manager named G. F. Fiennes, had discovered the identity of the Keele admissions tutor and, crucially, had also found out his address. So at lunchtime on the first Sunday after I had learned that I had been turned down, I arrived at Keele, situated on a windswept hill in North Staffordshire, near the towns comprising ‘the Potteries’. The main building was Sneyd Hall, beyond which were wartime Nissen huts converted to student accommodation and teaching rooms, while staff accommodation was in typical 1950s semi-detached suburban houses nearby. I soon found the object of my journey.

Hugh Leech and his wife were enjoying their Sunday lunch when I knocked on their door unannounced, but although he could hardly believe (any more than I could) the audacity of my trip, he had both the good grace and the humour to invite me in to partake of an Angel Delight gooseberry fool, a culinary speciality of the 1960s, and then dug out my file and conducted an interview with me on the spot.

The only question he asked was, ‘What would you do with a million pounds?’, to which I responded, ‘I’d give half to my mother so that she can enjoy things she’s never had, especially as my father has just died. And the rest I’d spend going round the world, instead of coming to university.’

He pronounced, ‘You’re in. When do you want to start?’ – and to

his amazement I replied, 'Tomorrow.' I'd brought a bag containing all the necessities with me. There's a fine line between confidence and arrogance . . .

Keele University was the brainchild of A. D. Lindsay, the political philosopher and author of *The Modern Democratic State*, who wished to re-create a collegiate ethos akin to that of his alma mater, Balliol College, Oxford; and the unusual – and critical – aspect of the course was a compulsory foundation year, which provided all students with a shop window on the world, from astronomy to zoology (sensibly omitting the law). So within weeks of arriving I was looking at the heavens and learning about how recent our existence is, all recorded history being the equivalent of the last few seconds before midnight in the history of the universe on a twenty-four-hour model. That stunning realisation certainly puts everything into sharp perspective and cuts you down to size – and from then on I listened to every new subject with added intensity.

It was only after the first year that you were allowed to select your degree subjects, and most people changed from their original choice – in my case English and history. Instead of English, I was tantalised by philosophy, of which I had no knowledge and little experience, though from childhood I remembered Professor C. E. M. Joad on *The Brains Trust* on the BBC always beginning his answers with 'It depends what you mean by . . .'

If you chose a major arts or humanities subject, as I had, you were compelled to study as a subsidiary a completely different discipline, usually science. This ultimately enabled me to fuse the two, by studying the philosophy of science and its methodology – which was to prove an essential intellectual tool for what was to follow in my legal career. Had I been merely confronted with pure science or mathematics, I would have seized up – the thought of grappling with hieroglyphics and formulae was far too daunting – but the philosophy and methodology of science neatly cut through these symbolic barriers to reach the core rationale of this branch of learning. I remain for ever indebted to this enlightened form of liberal education, which has since been destroyed by the ravages of political short-sightedness and subservience to market forces.

I studied philosophy under the exacting eye of Professor A. G. N. (Antony) Flew, who belonged to the British empirical school

(Hume, Locke and so on) and had a formidable reputation – understandably, as he demanded commitment of the highest order. All argument was subjected to intimate dissection, requiring precise and incisive formulation: the dialectic of thesis versus antithesis producing synthesis.

Flew was initially highly sceptical about my potential, and told me so. And whether he said this in order to provoke me or whether he really thought I was a no-hoper, I was galvanised by his scepticism and redoubled my efforts to prove him wrong. Throughout the course he encouraged me to apply the rigorous discipline of logic, which in the case of science means ensuring that in any investigation there is an adherence to first principles, and in particular that assumptions are identified and challenged. In my legal career this has involved the questioning and exposure of so-called scientific expertise and objectivity, and I take pride in the fact that some aspects of forensic science have become recognised over time as being in fact a subjective interpretation of what appears to be concrete and indisputable – as is art.

At Keele I wasn't exactly the heart and soul of any political party. Having scraped in at the last minute, I did not intend to jeopardise my opportunity by doing anything other than working hard for a degree, while immersion in study was also a way of coming to terms with the death of my father barely one month before I had started there, and the fact that my mother was at home alone trying to do the same. I had to succeed for them.

So for a good while I was completely unaware that Keele had a thriving Students' Union, mostly controlled by a clique at the left-wing end of the Labour Party. This seemed to have little to do with me, until one rainy afternoon towards the end of my first year I was waiting to catch the campus bus going into the Potteries when I was approached by two fellow students, who announced that they wanted me to stand as a presidential candidate in the forthcoming Union election.

As far as I was concerned, I was a nobody, barely more recognisable to my fellow students than the bus stop itself, but that, they insisted, was irrelevant. By standing and getting myself known, although I wouldn't make it to President, I could sweep to power as Secretary against someone on whom they were not too keen. The rain was

getting heavier and my bus was approaching, so in order to cut the conversation short I agreed – and, to my astonishment, duly became Secretary of the Union.

I loved every minute of my time in that role, doing things I never imagined I could undertake: chairing meetings, speaking in public, attending conferences, and even enjoying the quickstep with Princess Margaret, the University Chancellor. (There you go, Mother: that time in the Young Conservatives was not wasted.)

My first stab at public speaking was a debacle. I was so nervous that I wrote it all out, punctuated with studious philosophical allusions, and read it word for word to a stunned Union audience. I fondly imagined that the silence with which it was greeted was a sign of reverence, until I sat down and realised that it was a sign of bemusement and boredom. A lesson never forgotten, and from that day on I have only once written down or read out a public speech.

However, none of this occasioned any kind of political awakening in me, so that when a student whistleblower kindly informed everyone, on special breakfast placemats, of the whereabouts of all the top-secret regional seats of government (which were a central plank of contingency plans in the event of nuclear warfare), I could genuinely tell the Special Branch investigators who came to interview me about whether I knew who had done it that – in the words of the Spanish waiter – ‘I know nothing.’

At the end of my final year Professor Flew told me, with a twinkle in his eye, that I had achieved a first-class grade in philosophy. Well, blow me down! Now it was time to concentrate on my ambition to begin a career in law.