

## THE LATE JOHN SIMS – 1929 - 2020

1. I begin this seriously inadequate obituary for a very splendid man with a plea to all the living. Please take pity on the mugs of the future who agree to write your obituaries and find that records of your life are spotty at best and often largely non-existent. Draft one for yourself. Put modesty firmly aside. Ensure that your version of events is available to the lonely soul lumbered with writing up the past. Remember that even if your colleagues question the narrative your family and friends will loyally embrace it.
2. What is more *do it now*. Carpe Diem. *Especially* in a time pf pandemic. For obvious reasons.
3. It follows that this document is a work in progress. If you dear reader have a contribution on the subject of John, Please send it to Jonathan Pawlowski – [Jonathan.Pawlowski@CollyerBristow.com](mailto:Jonathan.Pawlowski@CollyerBristow.com). He will know what to do with it. Footnotes which simply say MI indicate a point where more information would be useful. Corrections are particularly appreciated.
4. Born on December the 16<sup>th</sup> 1929<sup>1</sup> just as the Great Depression was kicking off in the United States (where the president was blaming it on malevolent forces outside the USA) his path from birth to adulthood – 21 in 1950 - was lived in exciting times; through the depression itself, then the second world war and finally the time of austerity and rationing that followed. Anybody with any degree of sensitivity must have been marked by experiencing those years<sup>2</sup>.
5. In adulthood, he was a tubby figure (in stark contrast to his sister who was short and very spare and who died a short while ago) and might give a distinctly unthreatening – even welcoming - Pooh Bear appearance. And while he was very warm and welcoming he was also and more importantly a man of passions.

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<sup>1</sup> A couple of years after Ray Turner and four days before Geoffrey Hawker – it would appear that dispute resolution in the construction industry is, counter intuitively, good for longevity

<sup>2</sup> In the summer of 1932, the number of registered unemployed reached 3.5 million

6. His great passion was music and especially singing. He spent a great part of every year performing with serious choirs in England and on the continent and passing a great deal of time at the Royal Opera House, where he was religious in his attendance. When he moved from the centre of things to live in Suffolk, it was in large part if not wholly to be in the vicinity of Aldeburgh and to be able to be singing as much as possible.
7. He sang (until well into his 80s) with the Aldeburgh Music Club choir, founded by Benjamin Britten and Peter Pears; and could be found in the audience at almost every classical concert in the area. He was a generous benefactor of what is now Britten Pears Arts (running Britten's legacy and archive at The Red House and a 'cultural campus' at Snape) and of other concert series in the area, notably Concerts at Cratfield, of which he was a long-time Patron.
8. His knowledge of musicians (especially singers) of the past was encyclopaedic, but he also eagerly supported emerging talent (young composers and performers) at masterclasses and workshops at Snape. Thus, after the move, his life reflected more clearly than it had before how much his life was lived to the sounds of song<sup>3</sup>.
9. Another passion was driving. This is not surprising. As he grew up through the thirties he would have imbibed the excitement that came with the boom in private car ownership launched by Henry Ford. Unconcerned with safety, the drivers of the day were enchanted by style. Art Deco put its finger on the look. Sloping windscreens, sweeping wing lines, curved rooflines and pillar-less windows.
10. While in later years he would be seen behind the wheel of more mundane motorcars than a late 30s Jaguar from William Lyons, he still loved driving. Not all that long ago, I found myself as his passenger on a long drive. Naturally nosy I looked in the glove box, and was astonished to

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<sup>3</sup> He had a powerful voice and great projection. Some issue at a CI Arb council meeting drove him to fury and his explosion brought home to everyone there his vocal powers while the cause of the explosion has been wholly forgotten.

find it full of bags of sweets. On my querying this, he explained that he still loved to drive as much as possible but that it was all the more important in old age to stay awake at the wheel. The sweets served a valuable function; and he certainly got through them.

11. He was gay. His long term partner John sadly has also passed on. Although the Wolfenden report was published in 1957, the criminalisation of homosexuality continued for another ten years until the Sexual Offences Act 1967. Even after legalisation, the social pressures remained huge; the issue remained very much alive in large parts of the world and in many communities even today. John would have had all this experience to add to the Depression and the war.
12. By profession John was a quantity surveyor. It used to be said that quantity surveyors were the only ones who had read the contract<sup>4</sup>; and there was a suggestion of nerdish attention to the small print. John was not nerdish – he loved a party - but he was hugely meticulous in his work and his writings. And he was quiet and private – so private as to make the task of an obituary really challenging. His generally quiet demeanour, the privacy, and the meticulousness in an area that does not generate excitement in most people ensured that he gave no hint of the turbulent times through which he had lived.
13. He was game for new challenges and comfortable with a public role. He was a founder member of the SCL when it was launched in 1983 and he wrote one of its earliest papers. More excitingly perhaps, he accepted instructions from Blythe Council to appear not as an expert witness but as advocate for it in a full hearing before a (QS) arbitrator and against a barrister. He undertook the task with enthusiasm and unsurprisingly proved very deft at the business. In the fullness of time, he chaired the Chartered Institute of Arbitrators in 1994-95 and vigorously supported the international drive – getting as far as Australia in the process. He helped Mark Cato found the Arbitration Club and was an early and enthusiastic

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<sup>4</sup> One QS in the 1970s had his suit jackets tailored with an inside pocket to be able to take a copy of the RIBA contacts without folding.

member of the Worshipful Company of Arbitrators. He was a founder member of the Society of Construction Arbitrators and a past President thereof.

14. He had confidence in his opinions. On a Section 69 Appeal, the judge remitted the case to him to consider two paragraphs which the judge had re-written and invited him to hear counsel and to reconsider his award on quantum (query the procedure). He duly heard counsel for some four hours during which he hardly spoke and thereafter formally confirmed his original award. He was also willing to change his opinion if persuaded that a change was necessary – see, for instance. *William Verry v Furlong Homes* [2005] EWHC 138 TCC. He was happy to attack difficult cases as arbitrator – *HOK Sport v Aintree Racecourse* [2002] EWHC 3094 TCC or the MacAlpine/Panatown saga.
15. He took on hard cases as expert too – notably *Merton v Leach*. He regretted the loss of properly reasoned decisions, which he saw as the effect of adjudication compared with arbitration; he was an attentive listener in any circumstance – even picking up, after a short interlocutory hearing at his base in London, grandly situated in Cheyne Walk<sup>5</sup>, the fact that one side was planning to lunch locally. He immediately proposed Tante Claire – clearly regarding a Michelin starred watering hole as appropriate for a mid-week midday repast.
16. He was a prolific writer – books with Chris Dancaster and Derek Simmonds (with whom he also ran a lecture organisation) and an enormously detailed clause by clause series of articles for Building on JCT80 when it came out.
17. To sum him up, a man of passions; a fount of wisdom in his chosen profession; a courageous man willing to take on a public role; a domestic man – his white cat figured large in his stories. His family and his partner have preceded him – he now too has left us but he made his mark. We

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<sup>5</sup> As was Jimmy Fox-Andrews

are the better for having known him.

John Tackaberry QC  
30 January 2021