

# Iain G. Mitchell QC

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## Areas of Practice

Administrative & Constitutional Law, Agriculture, Alternative Dispute Resolution (ADR), Appeal Court, Arbitration, Banking, Bankruptcy & Insolvency, Boundary Disputes, Building & Construction, Building Contract, Charities, Civil Liberties, Clinical Negligence, Commercial Law, Company Law, Competition Law, Consumer Credit, Conveyancing, Copyright, Crofting Law, Cy-pres Schemes, Damages, Data Protection, Defamation, Directors Disqualification, Discrimination, Ecclesiastical, Education, Electoral & Political, Employment Law, Enrichment, Environmental, European Competition Law, European Law, Executry, Fatal Accident Inquiries (FAI), Freedom of Information, Health & Safety, Human Rights, Information Technology, Inhibition & Adjudication, Insurance, Intellectual Property, International Private Law, International Public Law, Judicial Review, Land Court, Land Tenure, Landlord & Tenant, Lands Tribunal, Legislative Drafting, Licensing, Local Government, Media, Mediation, Medical Negligence, Mental Health, Multiplepointing, Parliamentary, Patents, Personal Injury, Planning, Proceeds of Crime, Professional Negligence, Property Law, Public Procurement, Public Sector Regulation, Reparation, Road Traffic, Roads, Sequestration, Trademark, Trusts & Succession.

**Year of Call:** 1976

**Year of Silk:** 1992

**Devil Masters:** A.G.C. McGregor QC; Herbert A. Kerrigan QC

**Qualifications:** LL.B (Hons) University of Edinburgh, 1973; Certificate in Christian Studies (University of Aberdeen) 2006; FSA Scot 1973; FRSA 1988.

## Biography:

Iain Mitchell is strong in IT and Intellectual Property, though his practice ranges over most areas of private law. His work is informed by extensive practical experience in business, the charitable and voluntary sectors, politics, and his keen interest in the arts and heritage. His sensitivity to commercial realities has frequently been commented upon and this, together with his substantial experience, enables him to develop innovative solutions, giving holistic advice which places the needs of clients in a wider commercial setting.

One client described Iain Mitchell as "inquisitive, perceptive and open-minded, and these qualities make him extremely effective."

After he spoke at a conference recently one audience member commented that "Iain Mitchell exudes confidence and knowledge and when he speaks you want to listen".

## News:

In December 2009 Iain Mitchell appeared for the Faculty of Advocates Free Legal Services Unit to help bring to a close a nine year legal battle on behalf of Mr Bvunzai in his racial discrimination case. Lord Reed said, "The willingness of

counsel and solicitor to provide their services reflects the best traditions of the legal profession and was of great assistance to the court." The case attracted coverage in the press and these articles can be viewed by clicking on each publication's name: [The Scotsman](#), [The Firm Magazine](#).

## **Cases:**

### **Reported Cases:**

During 2007, two cases in the House of Lords: *Clarke v Fennoscandia Ltd* 2008 SLT 33 (enforcement of foreign decrees); *Moncrieff v Jamieson* 2007 SLT 989 (succeeded in establishing the existence of an accessory right of parking in the circumstances of the particular case. In doing so, Iain Mitchell also established in principle the existence in Scots Law of a servitude of parking, and in English Law of an easement of parking. Click here for [full judgement](#).) Over 50 other reported cases, including: *Connelly v G A Group Ltd*. 2004 SLT (Sh Ct) 5 [Legal Aid]; *Mutch v Mavisbank Properties Ltd*. 2002 SLT (Sh Ct) 91 [land and servitudes (easements)]; *Dieter Rossmeyer v Mounthooly Transport* 2000 SLT 208 [E.U. Law - freedom of movement]; *Ranaldi v City of Edinburgh Council* 2000 SLT 297 [administrative law - taxi licensing]; *Cullen v Cullen* 2000 SC 396 (Court of five judges) [legal aid - expenses]; *Smith, Ptnr.* 1999 SLT 5 [company law - insolvency]; *Pascoe-Watson v Brock's Executor* 1998 SLT 40 [testamentary capacity - facility and circumvention]; *The Royal Bank of Scotland plc v Shanks*; *Shanks v The Royal Bank of Scotland plc* 1998 SLT 355 [personal bonds; heritable securities]; *Thomas Menzies (Builders) Ltd. v Anderson & Menzies* 1998 SLT 794 [prescription and limitation - claim against company auditors]; *Osborne v Matthan* (No 2) 1998 SC 29 [parent and child - trans-racial fostering].

### **Recent Unreported Judgments:**

*Macrobert v Smith* A2130/01 (Lord Nimmo Smith 28th March, 2003) [Wills and Trusts]; *MacAuley v Advocate General for Scotland* (Lord Philip, Lord Marnoch and Lord Wheatley, 11 July 2003) [Military Law]; *Profile Software Limited v Becogent Limited*, CSOH 28. A1340/03 (Lord Kingarth, 16 February 2005) [software licensing]; *MacAuley v Advocate General for Scotland*, CSOH 106. A2514/01 (Lady Paton, 12 July 2006) [Medical Negligence].

## **Publications:**

Formerly Executive Editor of the *Scottish Parliament Law Review* (Greens) and Joint Editor of the *E-law Review* (Greens) in which capacities Iain Mitchell also wrote various editorials and articles;

Joint Editor of [International Free and Open Source Law Review](#);

Various articles in *Green's Family Law Review*, *The Journal of the Society for Computers and Law*, *Multimedia und Recht*, *The Business Edge* (Supplement of the National Post, Toronto) and others;

*Electronic Evidence*, Second Edition (Chapter relating to Scotland) (Butterworths Law, April 2010).

## **Appointments:**

Temporary Sheriff 1992-1997; Chairman, Scottish Lawyers' European Group; Chairman, Faculty Information Technology Group; Chairman, Scottish Society for Computers & Law; Qualified Mediator: The Mediation Bureau (1995); Mediation Forum Ireland (2006); Member of the Scottish Council for International Arbitration; Freeman of The Worshipful Company of Information Technologists; Member of the Honorary board of ITM Lecturers, Institut für Informations-Telekommunikations- und Medienrecht Westfälische Wilhelms-Universität Münster (for more information see: <http://www.uni-muenster.de/Jura.itm/hoeren/> )

## **Further Information:**

Extensive involvement in the charitable sector, including, amongst other appointments, Chairman of Perthshire Public

Arts Trust, Chairman of North Queensferry Community Council and lay reader, Church of Scotland. Recreations include walking, travel and writing.