



## John Macdonald QC

Call: 1955

Silk: 1976

✉ [john.macdonald@newsquarechambers.co.uk](mailto:john.macdonald@newsquarechambers.co.uk)

☎ +44 (0) 20 7419 8000

*"The admirable Mr Macdonald...displaying that passionate detachment that characterises the English lawyer at his best"*  
*Bernard Levin, The Times, writing on John Macdonald's defence of the Soviet dissident Yuri Orlov.*

### Practice Overview

John Macdonald is a skilful cross examiner, a persuasive advocate, and a very experienced trial lawyer. He is the senior QC at the Chancery Bar.

In January 2016 John was asked to settle proceedings on behalf of inhabitants of the island of Barbuda alleging that the Paradise Found (Project) Act of the Antigua Parliament, passed to facilitate a massive development on the island of Barbuda, where Princess Diana liked to holiday, is unconstitutional and invalid. The Defendants are the developers Robert De Niro and Kerry Packer, and the Attorney General of Antigua and Barbuda.

He made his name in the Ocean Island case, *Tito v Waddell* [1977] Ch 106 in which Sir Robert Megarry, Vice Chancellor, reviewed 50 years of British Colonial history. John's extensive knowledge of the ways of government at all levels and his great experience as a trial lawyer have been employed across the whole field of chancery litigation and public law. In giving judgment in the Ocean Island case Megarry said:

*"I shall add a word about Mr Macdonald. I hope it will not be thought improper, if I say that however disappointed the Banabans may be at the result of this litigation, they have reason to be deeply grateful to Mr Macdonald for all the skill and effort that he had manifestly put into his tenacious presentation of their case."*

### Commercial Litigation

From 2010 to 2013 John was immersed in complex litigation about the ownership of British Natural Energy (BNE), the only company producing oil in Belize. The litigation involved multiple interlocutory applications in the High Court in Nevis, and in the Court of Appeal of the Eastern Caribbean in Anguilla and St. Kitts, culminating in a trial before Bannister J in the Commercial Court in the British Virgin Islands. John, on behalf of the defendants, defeated a claim by a minority shareholder to be bought out and to wind up BNE. In 2013-4 John was consulted by the Seigneur of Sark, the Channel Island where the traditional inhabitants have an uneasy relationship with the Barclay brothers, who acquired the neighbouring island of Brecqhou. In 2015 John represented a 36% shareholder of a company which owns three of London's most prestigious hotels the Connaught, the Berkeley and Claridge's in the closing stages of a shareholder's dispute, which satisfactory resolved.

In the 1990s John represented purchasers of flats in the development at the old West London Air Terminal. As a result of John's work, the developers were ordered to return substantial deposits paid by 200 of the purchasers, see *Chattey v Farndale* [1997] 1 EGLR 153 CA. In 1999-2000 John Macdonald appeared for the claimant in *Landare Investments Limited v Welsh Development Agency*, a claim of misfeasance in public office against the Agency, arising out of the development of a super market, a trial which lasted 40 days.

### Public law, judicial review and human rights

John Macdonald has appeared in three leading cases in the European Court of Human Rights *Lithgow and others v The United Kingdom* [1986] EHRR Vol 8 329 in which the Strasbourg Court held that nationalisation of the UK shipbuilding industry was permitted under Article 1 of Protocol 1, and that the amount of compensation was within the discretion of the UK government; *Ashingdane v United Kingdom* [1985] EHRR Vol 7 528 a case under Article 6 (the right to a fair trial); and *Al Adsani v United Kingdom* [2002] 34 EHRR 273, where the Court held by a majority of 9 to 8, that torture did not override state immunity.

Highlights of John Macdonald's distinguished career include the defence in 1977 of the Soviet dissident Yuri Orlov. John Macdonald was refused a visa to go to Orlov's trial in Moscow, so he presented Orlov's Defence in the Institute of Physics in London. This was broadcast into the Soviet Union by the BBC, as Orlov's show trial was unfolding in the suburbs of Moscow. Orlov's contribution to the history of the Soviet Union has a new relevance today.

John Macdonald represented the people of Barbuda at the Antigua Constitutional Conference at Lancaster House in 1980 and appeared for the Barbuda Council and Sir Hilbourne Frank, Barbuda's MP, in extensive litigation in the High Court and Court of Appeal in Antigua about land rights in Barbuda. The dispute has troubled the two islands since independence. An appeal to the Privy Council was settled when a new government passed the Barbuda Land Act 2007, drafted by John, which confirmed that land in Barbuda is owned in common by the people of Barbuda.

John has conducted four public law cases in the House of Lords. Two were concerned with statutory construction in relation to caravan sites used by gypsies, *Wyre Forest DC v Secretary of State for the Environment* [1990] AC 357 and *Greenwich LBC v Powell* [1989] AC 995. In *Jones v Swansea City Council* [1990] 1 WLR 1453 the Court of Appeal accepted the existence of the tort of misfeasance in public office and were persuaded to order a new trial to determine whether the proper inference was that a majority of the Swansea City Council had acted with malice towards the plaintiff, Mr Jones. In *Pearce v Secretary of State for Defence* (1988) AC 855 John acted for the plaintiff who alleged that he had sustained injuries during the H bomb tests on Christmas Island because of the negligence of employees of the Atomic Energy Authority. The House of Lords held, on a preliminary point, that the immunity of suit provision in section 10 of the Crown Proceedings Act did not exempt the Minister from liability.

## Information Rights

John Macdonald is the lead author of *Macdonald on the Law of Freedom of Information*, the third edition of which will be published by Oxford University Press in April 2016. John has long been a supporter of the Campaign for Freedom of Information. He has written guidance on the Cayman Freedom of Information Act. Lord Scott of Foscote in the foreword to the first edition of *Macdonald on the Law of Freedom of Information* says "The book has been written as a practitioners' handbook but the commendably simple, clear language of the text makes its exposition of the law as accessible to non-lawyers as to lawyers... John Macdonald and his team from New Square Chambers, Lincoln's Inn are to be congratulated".

## Additional Information

### Qualifications / Education

#### Dual Qualifications

Called to the Bar of Hong Kong (ad hoc) 1980

Called to the Bar of the Eastern Caribbean, (Antigua and Barbuda 1984), (Nevis 2005),( British Virgin Islands 2012)

Called to the Bar of the Cayman Islands (ad hoc) 2010

#### Education

BA Queens' College, Cambridge, June 1954

MA Queens' College Cambridge, June 1965

### Professional Appointments

Trustee, Hon Secretary and then Vice Chair of the Barrister's Benevolent Association from 1985 until 2012

Bencher Lincoln's Inn 1985

### Memberships

Chancery Bar Association

Constitutional and Administrative Bar Association (ALBA)  
Human Rights Lawyers Association  
Justice

**New Square Chambers**

12 New Square  
Lincoln's Inn  
London  
WC2A 3SW

DX: 1056 London/Chancery Lane

**Contact**

+44 (0) 20 7419 8000

[clerks@newsquarechambers.co.uk](mailto:clerks@newsquarechambers.co.uk)

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