

Scholarship gives new lawyers a year at the Inns of Court

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IF RECENT ARTICLES in legal periodicals and the blizzard of advertisements posted in the *Ontario Reports* are any indication, a hot thing for young lawyers to do is to practice in London with City firms. But what if you're a young advocate without an interest in the intricacies of structured finance or aircraft leasing? What if you'd rather spend a year with the real-life equivalent of Rumpole at the bar?

The answer, or at least my answer, was to apply for a Harold G. Fox Scholarship for a year of training with barristers of the Middle Temple in London. The scholarship was established to allow up to three newly called Ontario lawyers the opportunity to receive a year's training at the Inns of Court in the same manner that U.K. barristers are taught the basics of advocacy. During my year in London, I assisted on cases heard before the English Court of Appeal and European Court of Justice, among others, sat with a judge at the Old Bailey, and met the Queen, the latter of which, though an extra-Legal experience made an equally strong impression (albeit a surreal one).

English barristers have trained and practised at the Inns

of Court for over 500 years: indeed, in his *Reports*, Coke described them as "the most famous University for profession of law only". By the beginning of the 16th century, four Inns emerged as centres for learning and practising the law: Lincoln's Inn, Gray's Inn, Inner Temple and Middle Temple.

Apart from their historical significance, the Inns are also an important part of a barrister's day-to-day existence. In large part, it is the Inns which are responsible for maintaining the practice environment of the bar. The four Inns regulate entry into the profession, and oversee the training of young barristers. In addition, professional conduct is also regulated by the Inns, through a combination of written rules and custom. The Inns also maintain the physical facilities within which most members of the bar practice, acting as landlord to most sets of chambers in London, and also operate libraries for the bar's use. By virtue of this, each Inn plays more than a simply symbolic role in practice at the Bar. As the Fox Scholars are based in Middle Temple, the tradition of the Inn was drilled into us on a daily basis. We were reminded of the fact that the first performance of *Twelfth Night* took place in Middle Temple

Hall, with Shakespeare himself assuming one of the roles. For those of us keen on cabals, the link between the Knights Templar and the legal profession was also often mentioned. (Even I fell for this. I do have numerous copies of the History of the Knights Templar for sale, if anyone's interested. Please phone me and say the secret password.)

In the United Kingdom, advocacy is still, by and large, the exclusive province of barristers, although solicitors have been granted limited rights of audience before lower courts. The profession is still split, and barristers are still not permitted to accept briefs directly from the client, except in a few special cases. Rather, the client wishing to pursue litigation must retain a solicitor, who then in turn selects one barrister (or more) to argue the case. From a practical perspective, this means that the time of a banister is largely spent performing tasks directly related to advocacy, including court appearances, the drafting of pleadings and necessary legal research. Relations with the client, pre-trial examinations, document review and most other pre-trial preparation are the responsibilities of solicitors. While I thought that the prospect of being freed from document

review was beguiling, the idea that a barrister had to rely on someone else to prepare the case was quite frightening, from my perspective, as to some extent, counsel would have no choice but to hope instructing solicitors were competent.

Senior barristers are given the title of Queen's Counsel, which, as here, entitles them to wear robes of silk and sit closer to the Bench in Court. In addition, the designation also carries additional practical significance, as QCs are generally expected to restrict their practice to advocacy and providing legal opinions, leaving drafting and other tasks to junior barristers. Administration of sets of chambers is usually the responsibility of clerks, who maintain the office facilities, negotiate fees with solicitors, and perhaps most importantly, direct work to members of chambers, especially junior barristers. Thus, young barristers find themselves at the mercy of individuals who are not barristers, but who have the sole power of distributing a brief. This could explain why the clerks' room was the only air-conditioned room in chambers.

Barristers practice in sets of chambers largely located in or adjoining the grounds of the four Inns. Though the majority of barristers in the U.K. practice in London, all those practising at the Bar must be members of an Inn no matter where in the U.K. their practice may be. All barristers in private practice are independent practitioners, as partnership arrangements are not permitted. As in North America,

there is a degree of specialization, with some sets consisting of barristers practising criminal, family, commercial or other types of litigation exclusively. The largest sets of chambers have roughly 50 to 60 barristers practising under one roof in buildings which, although internally renovated in modern style, nonetheless maintain the patina of age. The set of chambers I spent most of my time in, for example, had a small gated elevator with a maximum capacity of three people. Resort to the elevator was infrequent, though, because the building was four stories high.

I quickly discovered two things about practice at the bar in the United Kingdom. Firstly, professional courtesy is still seen as a "good thing" and not as a sign of weakness. Some commentators feel that this is due to the supposedly rarefied social atmosphere of the bar. A better reason, I think, has to do with the way the profession is organized. The Inns of Court play a much greater role in the day-to-day existence of a barrister than provincial law societies do with respect to their members. As barristers are forbidden to enter into partnerships, the institutional atmosphere of the law firm is absent. Barristers therefore rely heavily upon the Inns for informal cues relating to professional conduct as well as contact with their peers. The Inns, in turn, maintain the rules governing how members of the profession are to treat each other. An intriguing combination of tradition and peer pressure

serves to maintain an atmosphere of civility between counsel and between bench and bar.

I was also struck by the close relationship between the bench and the bar. Roughly, there are only 6,000 barristers in practice throughout the U.K. The centralized nature of the U.K. profession allows judges and counsel greater opportunities to interact on a frequent basis, both professionally and socially. This increased familiarity had a positive effect upon the relationship between judges and barristers, which I found was characterized by judges relying heavily upon, and, indeed, trusting counsel in a manner which is uncommon in Canada.

While writing this little note, scores of little anecdotes about my time in Chambers came to mind: using Lord Devlin's own set of law reports to do research, sitting with a judge at the Old Bailey, the ritual of dining at Hall are but some of these. Of course, I am now in a completely different practice environment. I sit in a comfortable office on the umpteenth floor of a downtown skyscraper, surrounded by the latest office technology and high speed elevators.

The beauty of the Fox Scholarship, at least for me, was that although it showed me a legal practice I had only read about and barely believed existed, I learned things which have helped me in my very different practice back home.