It is a Long Way to Middle Temple or How I spent my year in London

By Lisa Tomas, Fox Scholar 2002-3

As legend has it, F. E. Smith, a well known barrister who later became Lord Chancellor, once defended a bus driver against claims that his negligence had caused injury to a young man's arm: "Will you please show us how high you can lift your arm now?" Smith asked the plaintiff. The young man obediently raised his arm to shoulder level, his face contorted with apparent pain. "Thank you," said Smith. "And now, please, will you show us how high you could lift it before the accident?" The man's arm shot above his head. Case closed.

Sadly, I cannot regale you with similar tales of my own legal prowess in the English Courts, but I have shared this anecdote for two reasons. First, to illustrate, albeit humorously, the extremely high quality of advocate the system produces. Second, to convey the sense of community and history that is felt amongst barristers. Each generation of barristers stands on the shoulders of those who have preceded them. Names of well-known figures regularly pepper everyday conversations and serve as yardsticks by which to measure one's own skills. Leaders at the Bar, past and present, are treated as heroes and villains; their legend survives their careers. Pupils still sit wide eyed, listening to their elders spin tales of cross examinations by George Carman or of being led by Lord Wilberforce. During our Pupils' Advocacy Training weekend at Cumberland Lodge with the Benchers of the Middle Temple, you could hear a pin drop as, we, the new generation of advocates, hung on every word of the Benchers' war stories. Although they had argued their first cases close to a half-century earlier, their experiences as advocates were still fresh and relevant to us. They took as much joy in regaling us with vignettes of the sweet taste of victory and bitter pill of defeat as we enjoyed taking it in.

A Little Background…

Lest you think that all of my rational judgment became clouded by the stars in my eyes, I will temper my comments by saying that I am only too aware that the close and closed community of the Bar is a double edged sword. As of 1 March 2003, in a country with a population of over 60 million, there were 10,300 barristers admitted to practice at the Bar of England and Wales. The odds of successfully becoming one, needless to say, are not great. The world of the Bar has been difficult to penetrate by those outside of the system. There are a few stereotypes of barristers. One caricature is of a privileged, well read, Latin quoting, public school oarsman in a bespoke suit. Another is of the absent-minded eccentric type who wears the same ratty three-piece with threadbare shirts, who will never make eye contact with you, but who can boil down the doctrine of laches so that it reads as simply as Dr. Seuss. Or alternatively there is the type who makes Dr. Seuss read like a treatise on the doctrine of laches. If you imagine that I encountered these types over the course of my year – then you would be…well, right. In my view, two of the strongest influences on the selection and self-selection of these "characters" to the Bar are the cost of training and the intellectual demands of the profession.

First, the costs of pursuing a career at the Bar are significant. A year of bar school can cost well over ten thousand pounds, and is typically paid by the student before he or she has secured a pupillage. Save for a handful of chambers, pupillage barely pays a living wage. A pupil's train fare to court is often greater than the fee he receives. Only a small percentage of Bar students

actually become pupils, and of those an even smaller proportion are successful in seeking tenancy. The whole system is riddled with insecurity and after years of training and thousands of pounds spent and income foregone, one may or may not be taken on by a set of Chambers and may or may not be successful in getting instructions from solicitors to build a lucrative career. As such, it has traditionally been the privileged sons of the upper classes that filled the Inns. No one at the Bar would deny it. But the winds of change have swept across most professions in the last several decades and although it may be more resistant than some, the Bar has increasing numbers of non-traditional candidates and increasing efforts are being made to encourage heterogeneity. As Fox Scholars, we had the unique and fortunate position of being parachuted into leading sets of Chambers and welcomed as honourary Middle Templars. But the sight of the familiar anxiety- ridden-chain-smoking pupil was not lost on us. We felt newfound appreciation for the higher levels of comfort and security we experienced as articling students in Canada.

Many sets of Chambers recruit heavily from Oxbridge (the familiar expression used to refer to Oxford and Cambridge collectively). These institutions are recognized worldwide for producing top level creative thinkers. The accessibility of these institutions is a currently a matter of some controversy in England. As someone who couldn't name more than two colleges at Cambridge before coming to England, I am in no position to speak to the substance of the debate. But regardless of their origin, the barristers who ended up in Chambers by and large were extremely talented, mentally disciplined and tireless workers. Once I got past the fact that I would never have a similar stock of knowledge of world history or the right line from Cicero to capture the moment and would probably catch only one in three literary allusions, I was able to admire the members of the Inns for the rare breed that they are. My pupil masters passionately discussed and debated the finer points of our cases with me. They married law and literature with the result of making *Alice in Wonderland* relevant to shipping contracts and weaving Wilde into skeleton arguments. One fellow had an uncanny facility with the All England Law Reports and could blindly reach out to the shelves that lined his room, as we would be discussing a way to resist a security for costs application, and almost instinctively find the exact case on point, without so much as uttering Quicklaw.

These observations may come as no surprise, since England is one of the world centres for litigation. Contracts are negotiated between foreign parties that specifically choose the law of England for the resolution of disputes based on the strength of its reputation. I was told by one High Court judge that sixty per cent of litigation has at least one foreign party. It follows that envelope pushing, complicated, multi-jurisdictional cases end up in the Royal Courts of Justice. As such, the training of young barristers is rigorous and demanding and requires a core understanding of fundamental legal principles. Computer searches of key terms as the mainstay of research are not encouraged. I once heard a Canadian judge say that if a Court hadn't considered the point in the last forty years, he didn't want to hear about it. In England, century old cases are regularly presented before the Court and the authoritative texts have typically been around for at least that long. Judgments regularly consider fundamental principles of the law and in preparing for hearings, my pupil masters were not satisfied to hear of the "three part legal test" on a given point. They were also quick to ask: "why is that the test?" to understand from whence it had evolved.

My Year in Review:

Before I get too far ahead of myself, I will return to the fundamental principle of this exercise: my year at the Bar. As a Fox Scholar, I was essentially a pupil in Chambers. Pupillage is officially described as the final stage of training for the Bar consisting of "practical, on-the-job training" under the supervision of experienced barristers. Pupils seek "tenancy" in chambers, which is basically an invitation to join a set of Chambers at the end of the year-long interview. For the benefit of those who have never set foot in the hallowed Inns, Chambers are groups of barristers, and tend to comprise between 20 and 60 self-employed barristers. The members of a Chambers share the rent and facilities. Their work is secured by "clerks" [pronounced something closer to "clarks"], who are a strange hybrid of sales agent and personal assistant. Members of chambers typically contribute to common expenses by paying a certain percentage of their gross income and each retains the balance of his or her fees. These are only a few of the many differences in the practice of advocacy between Canada and England that I encountered. While the rest are too numerous to detail in full, I will share a few of the most memorable by way of explaining my year as a Middle Templar.

In his autobiography, former head of Essex Court Chambers and Lord Justice of Appeal, Sir Michael Kerr recounted the advice of Lord Justice Scrutton to a barrister in the Court of Appeal:

> We are having some difficulty in following your submissions and wonder whether you might like to put them in some sort of order. Logical order would obviously be best, but this is clearly not to be hoped for. Alternatively you might consider a chronological presentation. But if this is also too much to ask, at least try alphabetical.

To condense my adventure at the Bar into any sensible order over a few pages is a near impossible task, but with apologies to Lord Scrutton and others for occasional meanderings, I will endeavour to recount it as clearly and logically as I am able.

4 Pump Court:

In October 2003, I arrived at 4 Pump Court to begin the first leg of my "pupillage". Although I had successfully completed a year's articles in Toronto, it may as well have been my first taste of the law for the jitters I felt that day. I joined the other 4 "tenancy seeking" pupils at a meeting with the head of the pupillage committee and the head clerk for a brief orientation. The head clerk in chambers was an amazingly polished and efficient woman named Carolyn McCombe. She had previously read law and worked as a solicitor before crossing over to head up the business side of the practice. She was a legend and a force to be reckoned with in a largely male dominated field.

Three of the four pupils at 4 Pump Court were Oxbridge trained and the other had been a doctor in the armed forces in a previous incarnation. They were an impressive bunch to say the least. We all sat in a small room around a wooden table. Two green glass bottles of water occupied the centre of the table. These would come to be a familiar sight at every "conference" or "con" as client meetings were known. One bottle of "still" and one bottle of "sparkling". There was also the telltale plate of biscuits - not cookies - that would become a source of comfort during long cons.

In many jurisdictions law remains a hierarchical profession. Senior ranking members attain privileges through the accumulation of years under one's belt. Privileges are earned through sweat and time. At the Bar in England, my experience was no different. The first lesson that every pupil learns is that his or her perceived value in Chambers is roughly the equivalent of a houseplant. There is an extremely funny account by Alan Lenczner QC, a seasoned veteran of our own Bar who spent a very brief time in London on a temporary call. He remarked that following a hearing he became "aware that a chap was following two paces behind and appeared to be straining his right ear to hear the conversation". When the fellow was summarily dismissed upon return to Chambers and not included in lunch plans, Lenczner asked the barristers who the chap was. He was told that he was a mini-pupil. Lenczner further inquired why he hadn't been introduced to which he was told that "one wouldn't bother". Pupils rank only slightly higher in the scheme of things. By the end of my time in Chambers, each of the pupils and I could swap stories about shakily pouring tea in cons and ensuring water glasses were full or of gracefully making one's exit as the barristers and solicitors headed off to a celebratory dinner to which one was not invited. Pupils were typically seen and not heard in "cons" and so we sought refuge in the ubiquitous biscuit plate referred to above. I once observed that we were served different biscuits during a con where Queen's Counsel or "silks" were in attendance. It was later confirmed that the quality of biscuit served was in direct proportion to one's rank.

I had heard horror stories of Chambers, including everything from near hazing to virtual neglect by pupil masters. One fellow recounted a tale of being called in front of his head of Chambers for having committed the egregious error of turning up to Chambers without a waistcoat under a single breasted suit. Another spoke of a pupil master who said upon his arrival – without looking up from his table: "I did not want a pupil but they made me take you. You will not speak to me unless I first speak to you". I was a bit fearful of what lay in store for me as visions of Dickensian figures and Victorian manners danced in my head. I am very happy to report that my fears were quickly laid to rest when I met my pupil masters; each was an extremely skilled advocate and a gentleman. I grew quickly to like, admire and respect each of them.

At 4 Pump Court, I sat with Michael Douglas QC. It is generally not permitted for a pupil to "sit", as it is described, with a Queen's Counsel, but given the fact that I was not a formal pupil, the exception was made. Michael was a wonderful introduction to the Bar as he made the adjustment to the new and very different customs and habits extremely easy. Pupils typically share rooms with their pupil masters. This was an entirely foreign concept for me as the only time I set foot in partners' offices during my articles was by invitation for the few moments it took for them to provide instructions for my next assignment. I was ushered into Michael's fair sized room that appeared smaller than it was due to the floor to ceiling cases of books, binders and bundles. What wall space was left was lined with assorted W.M.S. Turner scenes. He sat behind his desk that was littered with various folders and files and a computer with which he looked slightly less than comfortable. Michael was in his early fifties and had become a father past the bloom of youth. His beloved infant daughter Amy's picture featured proudly on his desk. As I entered his "room" – not office, I looked around, wondering where I was to sit. There was a chair that faced his own at the other side of his desk. That was my seat, I was told. If I reached out across the desk, I could easily touch the other side. I plugged in my laptop and set to work nervously, keeping my head down so as not to inadvertently catch the eye of my new pupil master. As days passed, the unfamiliar became less so and I grew to enjoy the banter and not fear the long silences that became a natural part of sharing a very close space. I grew to recognize

when Michael was not to be disturbed and when he was eager to discuss an issue. We chatted about life and the law, in no particular order. I learned that pupils did not knock on the door to enter, nor was it expected or even appreciated to always extend a salutation when entering or exiting the room.

Michael and I mused about differences in the law between Canada and England. When I proudly handed in my suggested solution to a client's dilemma, he laughed that only Lord Denning and I would support a constructive trust as a remedy in England. I also heard of some of the Bar's less laudable traditions. One afternoon, Michael took me to lunch to celebrate the settlement of a particularly thorny case. Instead of heading back to Chambers after our hearty repast, he turned up towards Fleet Street and ushered me into a low-lit room that featured a row of stools along a dark bar and a group of tables and chairs at which, ironically, very sobre looking men appeared to be sipping copious amounts of claret. We had entered the legendary El Vino's. It is said that the infamous watering hole even featured in the tales of Rumpole under the name of Pommeroy's. I was proudly advised of the establishment's famous long and bitter campaign to maintain the refusal of service to women. Apparently, in the 1970s women picketed El Vino's since it did not allow women to drink at the bar, only at tables. Although I was told that times had changed, I was, nevertheless, ushered to a table.

At 4 Pump Court, I also participated in a few hearings and meetings with Tony Temple QC, a former head of Chambers and tenacious advocate. His first words of advice to me before departing for an arbitration at which I was to merely observe, was to go and get my own "blue book" from the stationary cupboard. A "blue book" is a unique feature of barristers, consisting of lined or blank sheets bound in a stiff, light blue cover. It resembled a North American child's school notebook, yet no barrister worth his or her salt was ever seen without one. He turned to me and said: "Lisa, even if you are not important at a hearing, you should always look as though you are". The blue book remained at my side for the rest of my year.

Essex Court Chambers:

I started at Essex Court Chambers in the new year of 2004. Essex Court Chambers was in the neighbourhood of Lincoln's Inn, although strictly speaking falling outside the walls of the Inn. Particularly memorable about Lincoln's was its dining traditions. Senior members of the Inn, known as Benchers were introduced one-by-one before dinners in Hall, not unlike the introduction of the starting line up of an NBA team entering the court before a game. In the course of dining, port was served and various toasts were conducted, including the traditional toast to the Queen. I was surprised when everyone remained seated for the toast to the Queen. I was told that this liberty had been granted only to the Royal Navy and to Lincoln's Inn. The former has its roots in safety on the high seas. The latter dates back to a very drunken evening with Charles II where everyone had become too intoxicated to stand. I cannot speak to the truth or accuracy of that story but I can attest to the fact that no one rose for the toast that evening.

Essex Court Chambers originated as a much smaller group of barristers practising at 3 Essex Court in the neighbourhood of the Middle Temple. Due to its success and growth, it was forced to relocate to a set of five buildings on the north side of Lincoln's Inn Fields, a few houses down from the eclectic Sir John Soane's Museum. On sunny days, Lincoln's Inn Fields was packed chock-a-block with barristers and students from the neighbouring London School of Economics.

The contrast between the bohemian undergraduates and the double cuffed, wing tipped advocates was never more apparent than when the two were positioned side by side.

Upon arrival, I was given a tour of the expansive Chambers. I was then introduced to my second pupil master, Vernon Flynn. He had qualified in 1991 and had been described to me as the junior on the "George Michael" case several years before. A significant portion of Vernon's practice was in entertainment and media. I had the privilege of working on some of his entertainment cases. On one film case, we met with a representative of a company who had been named a defendant in a sizable action. As I conducted research on this individual, I learned that amongst several Hollywood blockbusters, he had produced one of my favourite movies. Although the pupil's role in con is to take a note and little else, I could not resist telling this individual that I loved that film. Both he and my pupil master took my interjection in stride, as my pupil master laughed and the client replied: "where were you in the theatres?", remarking that although it had been lauded by critics, it was a box office bomb.

On my first day in Essex Court, Vernon sent me to do some work for his former pupil master, Richard Jacobs QC. Richard's office was on the top floor of one of the five buildings that made up Essex Court Chambers, but not the one where Vernon's room was located. The houses had been connected on the ground floor but on the other floors it more closely resembled a rabbit's warren. Each house still retained its own set of stairs or lift and getting from one house to another on the same level often involved having to return to the ground floor and then climbing a separate staircase. It was confusing to figure out on which floor a barrister's room was situated. I soon realized what H. L. Mencken captured long ago:

> An Englishman, entering his home, does not walk in upon the first floor, but upon the ground floor. What he calls the first floor (or, more commonly, first storey, not forgetting the penultimate e!) is what we call the second floor…

On that first day, I ventured up the endless steps to Richard Jacobs' room. It was very large and his desk was situated at the furthest possible point away from the door. It may have been my imagination, but it seemed to me that day that one need virtually shout to be heard across the vast expanse between desk and door. Richard was extremely welcoming and proceeded to describe his current arbitration and what he required from me. I was trying to absorb the nuances of the insurance contract at issue and the nature of the product liability when he presented me with my assignment. "There is a case, I have been told" he started, "that may be Australian – but I cannot be sure - where a judge says something like 'you cannot have your cake and eat it too' with respect to a waiver". He stopped and looked at me. "Do you think that you can find it for me?" I stood frozen. What to do. What to say. "Yes, of course", was all I could manage. My first assignment in chambers: Australia? Waiver? Cake? Oh dear.

Miraculously, or perhaps by the grace of AUSTLII, the online Australian legal index that grew to become a trusted advisor over the year, I managed to locate the case by the end of the day. The case was the 1927 New South Wales decision in *Haynes v Hurst*, and the statement by Long Innes J. is worth repeating: "A man, having eaten his cake, does not still have it, even though he professed to eat it without prejudice".

The head of Essex Court Chambers was Gordon Pollock. The mere mention of his name inspired controversy and discussion. An unquestioned leader at the Bar in every sense of the word, he is described kindly as "uncompromising". The stories of his cross-examinations were recounted in the same vein as those of the conquests of the Knights of the Round Table. He was vociferously disliked and disparaged by some at the Bar as strongly as he was admired by others. One member of chambers remarked about Gordon Pollock's almost zealous belief in his own case to say that he appeared almost not to see any other view than that of his own client.

Lunch traditions:

Vernon enjoyed taking a proper lunch break and I was the fortunate beneficiary of the "pupil master pays" principle. I was Vernon's grateful and eager guest for too many lunches to count and beyond his generosity, I will always remember the insight and wisdom imparted by him and his regular lunch companion, Patrick Green, a barrister at Harcourt Buildings. There were no bounds to the conversations and we regularly discussed issues of the day, social mores, legal quandaries and the unwritten rules of life at the Bar. One of our regular lunch haunts was the hall at Lincoln's Inn. Barristers traditionally dined at their Inns for a hot lunch. Seating was mostly a free-for-all at long wooden tables reminiscent of school days. Daily selections of soups, salad and roasts were written on the menu, the rotation of which we grew to know by heart. The ever patient waitresses took our orders and hurriedly served the two or three courses to ensure that we would be done by the time court resumed at 2pm.

Lunch was a very important part of the day. To those of us who trained in Toronto's vast towers, lunch meant a styrofoam container from one of many food courts. In London, outside of the "school dinner" lunches at the Inns, the overwhelming majority of lunch options in and around the Temple are sandwich shops. There are two main varieties of sandwich shop frequented by barristers. The typical English sandwich shop was at first blush rather unappealing. Various bowls of filling are situated behind a glass counter, the contents of which are spooned between two slices of bread or "bap" as buns are known. The fillings are invariably mayonnaise based and include meat and curry and sweetcorn and tuna and often combinations thereof. Bacon is almost a mandatory staple. Fresh vegetable toppings generally cost extra, offending the North American "free garnish" sensibility. They are often accompanied by bags of crisps and washed down by a Coke. This is worthy of mention if only for the ability of rail thin young barristers to consume such a fat and sugar laden diet. The more modern option is the chain sandwich shop, the most popular of which is known as "Pret" (pronounced with a hard "T"), short for "Pret a Manger". Pret features trendy sandwiches, salads, soups and sushi served in extremely attractive mini paper shopping bags with handles. The sandwich fillings flirt in the realm of the exotic and include such delicacies as wild boar pate. There is a premium charged to eat inside of the sandwich shop, again, shocking to North American sensibilities. The cost of an average Pret lunch runs easily into the double digits when converted in Canadian currency, but as Fox Scholars we quickly learned to stop doing the mental conversion. At lunchtime, you could always expect a "queue" – not line up – at Pret and to run into at least three people you knew, in true Sesame Street style.

Arbitrations:

A large part of Vernon's practice consists of arbitrations. He also teaches a course in arbitrations at the LSE. To assist him in his preparation for the course, I called and emailed various Canadian law schools to see what was being taught in Canada. Following my informal poll, I was surprised to report that I discovered no law school courses in Canada were devoted solely to arbitration. This discovery highlighted the difference in significance of arbitration between the two jurisdictions. Arbitrations are very popular and prevalent in London and they form a mainstay of many a commercial barrister's practice. I was amazed by the ability of the parties to craft and/or abridge rules in arbitrations to suit their needs and by the variety of styles adopted by decision makers in these proceedings.

In London there are two main arbitration centres. I was introduced to the older of the two first, known colloquially as Cusells. Cusells is about a 20 minute walk from Chambers past the famous Smithfield's market through Charterhouse Square, just long enough to discuss both the strongest and weakest points of a case. One always hoped that the former were more plentiful than the latter. The story behind the facility is that it was opened at a time when arbitrations were being conducted in church basements. One silk with whom I attended an arbitration recalled an early arbitration pre-Cusells where they had to get the Vicar to unlock the telephone to make a call back to Chambers. Truth be told, the building has seen better days: there is not enough room, it is freezing in winter and roasting in summer and has abysmal coffee and biscuits. However, it is still booked regularly as a location for arbitrations. The overwhelming consensus holds that everyone returns to Cusells for the lavish daily lunch buffet (including wine!). I was told of one barrister that gained half a stone during a lengthy arbitration there. The second main arbitration facility is the modern International Dispute Resolution Centre or IDRC, located only steps from the Temple. It is sleek, if institutional, climate controlled and close to home. The main drawback: no lunch.

The Court of Appeal:

In March, Lord Justice Rose graciously invited me to sit with him at the Court of Appeal. It was an extremely busy time for him as the final rounds of consideration of Silk Applications were underway. I was given my own key to the Royal Courts of Justice and took great pleasure in exploring the many different entrances to the Courts to which the public, including barristers, have no access. I felt that I had arrived when I stepped into the private red-carpeted hallway that opened up onto the back entrances of the Courtrooms. As I entered Court each day through the judges' entrance, I saw the room and the process from a whole new perspective. I was fascinated by the reaction of the judges to various advocacy styles. The single most important lesson I took away from the experience is to listen to what the judges are saying with both their voices and body language and to not be afraid to drop a point. The majority of barristers continued to press a point that obviously found no favour with the court instead of focusing on arguments that the judges did want to hear. As lawyers, we are so fearful about conceding anything, we forget that holding fast can actually weaken us. One of my other highlights was the opportunity to dine in the Benchers room at the Middle Temple!

Lord Justice Rose, sitting with Mr. Justice Morrison and Mr. Justice Leveson was hearing a slate of Attorney-General's References at the time relating to incest. It was an extremely difficult

experience due to the horrific facts involved. Lord Justice Rose took the time to discuss the cases with me and his view on the appropriate sentencing and relevant factors. In one case that involved a series of incidents that had taken place over twenty years ago, it was clear that the victim was in the courtroom that day, as when Lord Justice Rose reviewed the sentence, a woman stood up at the back of the courtroom looking visibly shaken and gave a "thumbs up" sign to the panel. It was an incredibly moving moment.

On my final day at the Court of Appeal, I prepared with Mr. Justice Leveson alone. He had a criminal law background and appeared to have an impeccable command of the area. I have always been very impressed when someone of such a high professional calibre is revealed to be an admirable human being as well. Mr. Justice Leveson was no exception. Only the previous evening he had been to see his teenage son, an accomplished singer, perform at one of London's premiere venues. He proudly copied the review of the performance to distribute to friends and family and revealed himself to be an extremely dedicated and loving father.

One of the applications that day pertained to a case that involved allegations of sexual abuse by one young boy against another other boy. Upon reading the court file, Mr. Justice Leveson asked me for my view on the matter. I could not help but blurt out: "Do you think he did it?" "Lisa," he stopped me, shocked by my question. He politely but firmly reminded me as follows: "Our job as an appellate court is not to ask whether someone did or did not do something. We are not the trier of fact. Our job is to determine whether the correct legal test was applied at first instance". I knew that he was right and felt foolish for succumbing so clumsily to my curiosity. I did not make the same mistake twice.

Commonwealth Law Conference:

In April, I had the privilege of attending the Commonwealth Law Conference in Melbourne, Australia. I gained invaluable perspective as to the influence of English legal traditions on the rest of the Commonwealth. Who would have thought that we could all be united by the Carbolic Smoke Ball Case? Copies of the infamous advertisement, I was told, feature proudly on law office walls from Vancouver to Kuala Lumpur. The speakers from around the Commonwealth were enlightening and, dare I say, inspirational. Rt. Hon. Christopher Patten, fresh from surgery, arrived on stage in a wheelchair. He left the capacity crowd goose-pimpled as he closed his address with Bolt's famous passage from *A Man for All Seasons* asking Sir Thomas More's age old question: "When you cut down all the laws to get at the devil, when all the laws are flat and the devil turns on you, to what will you turn for cover?" Madam Chief Justice McLachlin affirmed our confidence in the common law, with her view that it was alive and well in answering the question: Wither the common law?

Fountain Court Chambers:

Upon my return from Melbourne, I joined Fountain Court Chambers, sitting with Akhil Shah. Akhil is an aviation specialist and during my time at Fountain Court, I became extremely familiar with the Warsaw Convention. One interesting feature about aviation cases is that there are often several interests involved in a case. There was typically the lay client, who might be an airline manufacturer or carrier, an insurer, a solicitor or two, as well as counsel. This made for an interesting study in law, politics and human nature as I witnessed the various stakeholders

jockeying for position around the conference table. I was also reminded of the increasingly international flavour of practice as the English court was asked to apply Kansas law in one case, and I was duly sent to research consumer protection law in the Sunflower State in Middle Temple library.

Fountain Court originally consisted of the main building facing Middle Temple Fountain. However, it has expanded to take over three other buildings. I sat with Akhil on the second floor of 14 Essex Street. Chambers' library was conveniently situated in the basement of that building, along with a kitchen and eating area. The coffee machine was the social hub of chambers where one could get caught up on gossip and exchange pleasantries. At lunch, a regular klatch of barristers gathered there to wax legal and philosophical.

One Fountain Court tradition that I greatly enjoyed was afternoon tea. Hours spent poring over Halsbury's Laws has a peculiar way of stimulating gastric juices that manifests itself as a nagging thirst and hunger by about three o'clock daily. Fortunately for us, richly steeped pots of strong tea, complete with cosy, were laid out on the kitchen counter together with some sweet morsels at that fateful hour. Even the strongest willpower can only resist teacakes and chocolate macaroons for so long. One interesting feature of tea at Fountain Court is that it was not the social event that one imagines. During my time at Fountain Court I never ran into even one other person at tea. Almost magically, the pots would empty and cakes would disappear. Barristers are, after all, on the whole a solitary bunch.

The Old Bailey:

In May, I spent a week with Judge Gordon in the Old Bailey. At the time, the only knowledge I had of the Old Bailey was that Rumpole had appeared there. I subsequently learned that it was the Central Criminal Court and the Court of the Lord Mayor of London. Judge Gordon and his fellow judges had to attend lunch each day in full robe and wig. Officials of the City also dressed in their official garb, making for a very interesting spectacle. As it was the Lord Mayor's Court, there were official lunches with special guests each day. These guests included, inter alia, captains of industry, artists and members of livery companies. Until I noted their presence as lunch guests, I had not heard of livery companies. They were described to me as philanthropic organizations that date back to the old Guild Halls. The "Companies" are still based on the old trades, including Coopers and Merchant Tailors and Weavers. I understand that there is not much in the way of "coopering" or the like any more at the guilds, save for the occasional trip to a winery, but much charity work is accomplished through these institutions, in addition to social functions. They say that membership is highly sought after and extended by invitation only.

At the Old Bailey, I had my very first taste of criminal jury trials. It was fascinating to witness the selection of jurors, and to observe their participation in the trial. I had the luxurious position of being able to observe for observation's sake so I could note the way the counsel made submissions to the jurors, the was that the jurors received the submissions, the way that they absorbed evidence given by witnesses and the impact of the presence of the accused in the prisoner's box at the back of the court room. I also attended in camera hearings involving a police informant. The timing of the release of the identity of the informant coincided with the informant's family being taken into witness protection. Save for my brief time in the Court of

Appeal, most of my previous legal exposure involved civil proceedings between two commercial parties and damages as the remedy. Even at the Court of Appeal, the process was somewhat sanitized as there were no witnesses giving evidence and the complainant and accused may or may not be present at all. The Old Bailey brought together toe-curling crimes, juries, victims and/or their families and the accused; life and liberty were brought into the fore. I was struck as never before that the law was not only about principle – but also about people.

On Circuit:

In June, Mr. Justice Aikens, presider of the South Eastern Circuit, invited me to join him on circuit as his marshal for a week in Lewes. I was slightly nervous at the prospect of moving out of town in the company of a stranger, a High Court judge no less, but curiosity prevailed. Lewes is one of the best preserved Medieval towns in the South of England. Lewes Crown and County Court House is situated at the top of a very step hill, beyond which sits Lewes Castle, home of the Earl of Surrey, a line that ended with the death of the 8th Earl back in 1347. I arrived at Court, left my bags in the hallway and was introduced to Mr. Justice Aikens. He was extremely gracious and friendly. He was assigned a room for his stay in Lewes in which he, his Clerk and I were all positioned strategically around a cluster of desks to maximize use of extremely limited space. I was given a bundle of papers to review and a cup of coffee to drink, carefully prepared by the Judges's clerk. His clerk, Roger, capably attended to our every need. What seemed like moments later, the Bailiff knocked on the door letting us know that they were ready for us in Court. On the way to the Courtroom I received hurried instructions that I should sit at the front of the Court. I entered the Court before Mr. Justice Aikens and all assembled in Court looked quizzically at me, attired only in a black lounge suit, yet seated on the bench.

Mr. Justice Aikens was at once a commanding and gentle presence in the courtroom. He showed a great facility with the law, compassion for the humanity of each situation and conveyed the elegance of a conductor, seamlessly weaving together the various instruments of witnesses, counsel, jury members, accused and victims. He listened carefully and was extremely polite but intolerant of tardiness and inefficiency in the system. If counsel arrived late to court, he did not suffer him or her gladly. When a prisoner was brought in late, Aikens J. had the prison van driver brought to the front of the court to determine the nature of the delay.

Our first case was a youth manslaughter jury trial that included some very difficult facts and involved close family relationships. The jury box was located directly to my right. There was an odd intimacy in my voyeuristic position. At the eleventh hour the accused offered a plea. My big murder trial was over almost before it had begun. I received my first research assignment on sentencing practice in the circumstances and we left Court early. I was told that a car would be sent to pick us up and take us to the lodgings. I did not know yet that I would be riding in it alone as Mr. Justice Aikens rode his bicycle home from court.

When we arrived back at the lodgings, Mr. Justice Aikens and I sat down to tea and biscuits and discussed the events of the day. My evenings were filled with extremely pleasant dinners, a visit to the local pub and long walks in the stunning Sussex countryside. Mr. Justice Aikens' evenings were filled with the above in addition to several hours of work each night. I was amazed and humbled by his tireless commitment to the administration of justice. Almost daily, I would read one or another report that he had authored or was reviewing about ways to make the

court system more efficient and effective. I saw him hand-sign letters to newly appointed judges to offer his congratulations. He took time to offer me advice about everything from the meaning of malice in insurance contracts, to success at the Bar, to personal relationships. I felt confident that the South Eastern Circuit was in extremely good hands under his leadership.

It is a tradition that the High Court Judge on circuit was protected by the High Sheriff of the area. Whilst the perils of the open road have lessened in modern times, the High Sheriffs still offer their hospitality to circuit judges. As the judge's "marshal", I was included in the High Sheriff's dinner and experienced a long-standing judicial ritual. I felt as if I had been transported to a period film as we pulled up to his magnificent country residence in the village of Herstmonceux. As I was driven back to the lodgings that evening extremely well fed and watered in my formal attire, I thought to myself: "My God! It is only Monday night".

To sum up…

I confessed from the beginning that this sketch would not be able to convey fully how I spent my year or what it meant to me. I hope, however, that the above series of anecdotes and impressions has provided a tasting menu through which you have grazed and have been left with a flavour of my year. And so I leave you with one of the most important tools that I added to my legal and literary arsenal: the word "jolly". In Canada, the seldom-used modifier conjures up images of a red suited figure who appears at Christmas. In English colloquial usage, jolly intensifies all other adjectives. An Englishman may be "jolly sensible", "jolly bored" or "jolly well tired". In true English fashion, I can do no better than say that my year at the Bar was "jolly well" unforgettable.