Anglo-American Scholarship Report 2019

I would like to begin this report by thanking Middle Temple for selecting me to take part in this year’s exchange program. Many of my predecessors have gone on to have wonderfully successful careers both in the US and the UK. I am therefore very aware of the value that this scholarship carries and I am proud to have been the 31st Anglo-American Scholar to visit Des Moines, Iowa. I would also like to thank Master Nick Critelli for his incredible generosity, both in terms of the scholarship itself, but also for sharing so much of his wisdom and knowledge with me. I feel very lucky to have been able to spend so much time with him, learning from his many years of practice both in the UK and the US.

During the six weeks that I spent in America I experienced a wide variety of legal work in many different practice areas. It would be very difficult for me to write about everything that I saw and all of the lessons that I have learnt. Therefore I have decided to limit this report to a handful of observations and important lessons that I have taken from this experience.

Civil Litigation

There are two major differences between civil trials in the US and UK. The first is the presence of a jury and the second is in relation to costs. In the UK juries will only be used to try civil matters in very limited circumstances. In the US it is far more common for a jury to be used to determine facts and the amount of any damages to be awarded.

In Federal Court I observed a complex contractual dispute which was being tried by a jury. Initially I was concerned as to how a jury would be able to determine the issues given the complex fact pattern and legal principles involved. The questions that needed to be answered would not have been out of place on an undergraduate law exam paper, yet a lay jury was tasked with answering those questions. Despite my skepticism, the jury returned a verdict which demonstrated an understanding for the principles and their application. This was in part due to the exceptional advocacy that the trial attorneys had to display. Being able to distil complex ideas and present them simply is an important skill. I hope that from my conversations with the advocates involved and by watching them in court I am now better able to develop those skills myself.

My second observation is in relation to costs. The general rule in the UK is that the unsuccessful party will pay the costs of the successful party. This is a foreign principle in the United States. Generally in the US each party is responsible for their own costs. This means that the need to pursue alternative methods of dispute resolution in order to save money is taken even more seriously than in the UK. Litigation is a very expensive affair in the US and therefore settlement before trial is even more common than it is at home.

Mediation

Having briefly mentioned methods of alternative dispute resolution (ADR) I think now would be a good time to briefly discuss mediation. Since the Jackson reforms, the need for lawyers in the UK to advise on and participate in mediation and other forms of ADR has grown dramatically. As legal practice in the UK continues to change, I felt it was important for me to spend some time observing a mediation in the US. I hoped that this would help me better understand the roll of the lawyer in the process. I also hoped that I would be able to better understand the role of the mediator, allowing me to consider a more diverse future practice which may include providing mediation services.

In many family proceedings in the UK the parties are required to attend a MIAM to determine the suitability of mediation in those proceedings. In Iowa this requirement is taken further, with court-ordered mediation in private family law proceedings not uncommon. I was able to sit in on one of these mediations and shadow the mediator as she moved between rooms to talk to the parties. I have been able to gain a real insight as to the usefulness of mediation as well as different techniques that lawyers can adopt in order to achieve a favourable result for their client.

Criminal Trials

Towards the end of my visit I was able to sit in on a criminal jury trial in which the defendant was charged with burglary in the third-degree. The procedure in criminal law is fairly similar to that at home, notwithstanding the regularity of objections made by counsel on both sides. However there is one major difference between UK and US criminal trials. Before a trial in the United States the attorneys are required to take part in the jury selection process, the results of which can have major ramifications on the entire trial itself.

During this process one of the potential jurors admitted to being a victim of burglary herself. She said that she would find it impossible to try the defendant fairly given her preconceptions and experience with this offence. If she had been a juror in the UK her bias may not have been discovered and she would have sat in judgement of the defendant, potentially rendering any conviction unsafe. I have not yet fully explored all of the arguments for and against jury selection, however I found the process itself fascinating. As well as legal analysis, lawyers in the US must engage keenly in social and psychological analysis in order to help select a panel of jurors capable of trying a case fairly and without prejudice.

Case Preparation

As technology continues to develop there is a growing pool of digital systems which can help improve legal practice and add value to a practitioner’s service. Master Critelli spent a lot of time showing me how this technology works and how I can incorporate it into my future practice. By utilising this technology I now feel better prepared to analyse a case, identify its strengths and weaknesses and build a more robust strategy to further my client's interests.

Inn of Court

Master Critelli was kind enough to take me along to dine at the Blackstone Inn of Court. The society was formerly chartered in 1988 and was the first Inn of Court in Iowa. The Inn and its philosophy has been heavily influenced by Master Critelli and his association with Middle Temple. The purpose of the society is to provide education and develop a collegiate environment between its members. One tradition at the dinner was a toast, with members toasting “Domus and absent members”. This is a tradition that all Middle Templars are familiar with, although it did feel a little unusual not toasting the Queen. Having said that, I cannot say that I was entirely surprised by that particular omission.

I had the honour of speaking briefly to the members of Blackstone Inn about my time in America and about my experience with Middle Temple. I have many lovely memories of dining at Middle Temple and I have met some wonderful people there. The benefits associated with membership of an Inn is evident in the fact that the traditions of Middle Temple have found their way across the Atlantic and have been adopted by the American Bar.

Culture

While the main purpose of the scholarship was legal education, I think it would be a shame for this report to ignore the cultural education I received in the US. The one thing that really did strike me about America was its size. Before I visited I naively envisaged regular day trips to San Francisco, Nashville and New Orleans. Before my trip I had no appreciation for just how vast the US is. So much of what you see in America is dictated by its size. Everything there is larger than life. Therefore I had to limit my travels to Iowa’s neighbouring states.

In total I visited five different states in the Midwest. I watched soccer in Kansas, ate world famous barbecue in Missouri, went to university for the day in Nebraska and got lost for a weekend in Chicago, Illinois. In Iowa I went to watch a few baseball games, the rules of which I never really managed to understand. I was told that baseball is fairly similar to cricket, although any comparisons that were made I quickly forgot. Unfortunately I missed out on visiting the celebrated Iowa State Fair, but the weekly downtown farmers market was a great way to try fresh local produce. I was told that Iowa’s biggest exports are corn and insurance policies. Although I didn’t spend any time with insurance providers, it was impossible to miss the incredible oceans of corn covering the state, growing as far as the eye could see.

I thoroughly enjoyed my time in America. I have made many new friends that I hope to keep in touch with in the years to come. This scholarship has opened my eyes to the great many possibilities that are available to lawyers in the UK as well as the true value of the Inn and our professional legal education. As I said at the beginning of this report, I feel very privileged to have had this incredible opportunity and if I was allowed to apply again next year I would. I really do hope that the 32nd Anglo-American Scholar enjoys their experience in Iowa as much as I did.

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