

Harold G. Fox Education Fund Scholarship 2005-2006 Final Report
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In keeping with one of the great traditions of the Bar—both Canadian and English—I am writing this report only shortly before the appointed deadline, over two months after having returned from London. I had of course planned to finish it earlier. But having waited I am pleasantly surprised to find that I have much more to say now than I would have had weeks ago; it is only since I have returned to Canada and started appearing in court (albeit in a very modest capacity) that I have begun to fully appreciate the immense value of the Fox Scholarship to an aspiring advocate.

A brief overview

My first three months were spent with Paul Stanley at Essex Court Chambers. Paul practices at a commercial and chancery set, and he brought me in on a number of the briefs on which he was working. Paul was very willing to give me surprisingly substantial assignments from the outset—my first work for him was to do a first draft of some pleadings in a commercial case relating to a claim for nearly one billion U.S. dollars. On another occasion I drafted advice to solicitors in a fascinating intellectual property dispute. Most memorable, though, was assisting at a trial between a Welsh dairy farmer and his feed provider in Wales. It was an outstanding experience for me; the brief was relatively small and I essentially played the role of the junior at the trial. The location presented some challenges—an eight-hour commute, an hotel aptly described by Paul as “shambolic” and only instant coffee. But the experience was invaluable, and it was also tremendously fun.

My experience with Paul taught me the benefits of the pupil-master system, and the way in which a pupil learns about the Bar and the techniques of advocacy from exposure rather than instruction. The experience really changed the way that I think about advocacy, especially the persuasiveness of understatement, which I saw Paul use to great effect on a number of occasions.

During my term with Paul I also attended the Cumberland Lodge advocacy weekend with students from Middle Temple. It was an experience which is deserving of a report of its own. It was a fantastic weekend, though not without its challenges. I would recommend that future Fox Scholars make the effort of committing to memory a short poem or (for the bold) song to recite in public if called upon to do so. Suffice it to say, I did not.

My term with Paul ended in December, and I returned to Canada for the Christmas vacation. Unfortunately, during the holidays my girlfriend fell ill. I was very graciously permitted by the Trustees to remain in Canada with her for several months as she began her recovery.

When I returned to England in March, I immediately started the Pupil’s Advocacy Course, during which I joined a small group of pupil-barristers for two weeks to learn and practice the basics of forensic advocacy. During practices the method of instruction was

to focus on one flaw in an advocate's performance, give the advocate feedback on the problem and then permit him to try the exercise again. Though sometime a humbling exercise, I can attest that I still remember nearly every criticism I received and I often catch myself in court just as I am about to make one of the same mistakes again.

After completing the course I marshalled with His Honour Judge Gordon at the Old Bailey. Judge Gordon was a great host and a truly formidable legal mind. When I started with him he was in the midst of a truly fascinating murder trial. The evidence at times sounded like the screenplay for a mafia movie. The experience of watching from the bench as very skilled and experienced silks made submissions to Judge Gordon and addressed the jury in closing speeches was actually revelatory. Things look entirely different from the bench, and many of the lessons of the Pupil's Advocacy Course were brought home as I saw experienced advocates practice (and even occasionally break) the rules we had learned.

After marshalling for Judge Gordon, I left to spend the remainder of my time with Anthony Temple QC at 4 Pump Court. Tony is a Scholarship Trustee and, gathering from the reports I have read from previous scholars, a pillar of the Fox Scholarship experience; he was certainly that for Sheila and me. In addition to being a true gentleman he was, as *de facto* representative for the UK Trustees, a tremendously gracious host. While there are many different portrayals of the profession, to me Tony will always be the quintessential barrister. A sharp mind; wit and charm; kindness; and, most notably, impeccable judgment and decisiveness. It was these last two qualities, present in many barristers but exceptionally well developed in Tony, which most made an impression on me. I will never forget Tony questioning a client in conference and cutting to the heart of a matter in a few minutes. Once he had the information he needed he would (to use his words) take a view of the matter—invariably the right one—and move on. Why dally?

Unfortunately I did not get to see very much of Tony in court. I came to Chambers after the completion of a very complicated trial and during the preparation of an even more complicated matter which would not get off the ground until the autumn. Tony helped me arrange to spend some time with his brother, Victor Temple QC, at 6 King's Bench Walk, one of the top criminal law sets in London.

My time at 6 King's Bench Walk was perhaps the most riveting period of the Scholarship for me. My articling experience was, and emerging practice now is, in criminal law, and the experience allowed me to spend many weeks at every level of court—from magistrates court to the House of Lords—amongst outstanding advocates trying fascinating and often very serious criminal cases.

A particular highlight was my time with David Perry QC (as he now is). It was confirmed to me by many other barristers that I was correct in my impression that he is one of the brightest criminal law barristers currently practicing. He brought me with him to hearings before the House of Lords, the Judicial Committee of the Privy Council and the Court of Appeal, each of which he frequents. David is also one of the kindest and most gracious people I have ever met. He was of course doing me a huge favour by allowing me to shadow him and entertaining (what must have been to him) my

ridiculously simple questions about English criminal law, but he always behaved as though I were doing him a tremendous favour and enduring such great hardship by accompanying him to court. It was a special moment when, shortly before I left 6 King's Bench Walk, it was announced that David would be taking silk after many years of being senior treasury counsel.

My final week was spent at Blackfriar's Crown Court with His Honour Judge Pontius. It was a perfect cap to the year to once again see advocacy from the best possible position: the bench. I arrived at the end of a trial, but it was very valuable to see some of the more mundane day-to-day matters—the sort of hearings in which I would soon be appearing as counsel in Canada—from the bench. I learned that all the same rule of good advocacy apply, with a special emphasis on brevity. I also learned that sometimes even the best advocacy will not save your case, a lesson from which I have occasionally taken comfort since beginning practice myself.

My report would not be complete without also acknowledging the other Fox Scholar, Sheila Varadan. One of the rarely-discussed aspects of the experience is the camaraderie that must frequently develop between the Scholars, both of whom find themselves suddenly a long way from Osgoode Hall. Sheila was certainly a great colleague to have, as well as a good friend.

The Bar

The Bar is far less stuffy that most people think, and I never experienced the sort of snobbery which one is sometimes told to expect. In many ways my experience ran directly counter to the negative stereotype. The barristers whom I met, including many very senior counsel, were all extraordinarily kind to me. There seems to be an ingrained attitude amongst the Bar that a pupil (as I was usually thought of) is a colleague, albeit not yet a very skilled one.

One of the consequences of the respect which pupils are accorded is that barristers did not hesitate to level criticism when it was appropriate. It was understood that you could take it and that you genuinely wanted to improve. During one of the advocacy courses, for example, I was told by an instructor that my habit of saying 'okay' after every answer in examination-in-chief was an intolerable habit and that by the end of my examination he wanted to put his head through the wall. (I have since stopped doing it.) While it was initially a bit of a shock, I certainly learned far more from being criticized than I would have from undeserved praise. In some ways the experience gave us (the students) more confidence because it implied that we were up to the task of doing things properly, even if we were not quite there yet.

As may already be apparent, the advocacy instruction which pupils receive is enviable, and it extends beyond the mechanics of what to say. There was a good deal of emphasis on speech, enunciation and posture. We were even instructed how to dress—like one is going to funeral, we were told.

As a foreigner with a Canadian accent, sometimes the barristers on the advocacy courses were not quite sure what to do with me. Some barristers thought it was a liability to be overcome, whereas others said that my quaint accent was an advantage and that I, like an Irish or Scottish barrister with a nice lilt, could get away with a lot more in a jury address than an English barrister could ever hope to do.

Conclusions

Ten months is a very long time in the professional life of an aspiring advocate who has yet to rise on his own in court. It would be difficult to overstate the effect that my time at the English Bar had on me. Every time I think about a case, draft a document or appear in court I am reminded of something I experienced on the Fox Scholarship. While I cannot say that it has singly transformed me into a skilled and polished barrister, the experience has certainly made me a much better advocate than I would otherwise have been.