

Shared Heritage; Shared Values
Attending the American Bar Association Annual Conference
Boston, MA. 8 – 10 August 2014

David Juckes

Opportunities for recently-qualified barristers to network with lawyers from other jurisdictions are rare. Still rarer are opportunities to go abroad for such events. I was fortunate indeed, therefore, to be the recipient of funding from LCLCBA and the Bar Council – see more below - to attend the American Bar Association's Annual Meeting in Boston, Massachusetts.

The choice of Boston for a venue (the venue changes each year) was powerfully symbolic in two ways. Firstly, the city has great historical significance both in terms of the foundation of the United States and the maintenance of the rule of law. This was highlighted by an appearance at the General Assembly (the main plenary session) from the second President of the United States, John Adams (as portrayed by an actor). Adams had defended the British soldiers who had fired upon protesting Loyalists in the 'Boston Massacre' of 1770. He secured acquittals for six of the eight accused, braving the opprobrium of his fellow citizens to defend those men. The case stands as an example of the tradition of a fair and fearless defence for all: a value shared by all in the common law world.

The choice of Boston was also particularly poignant in light of the Boston Marathon bombing on 15 April the previous year. The indomitable spirit of the city and its resilience in the face of adversity was clear to see. Whether deliberate or not, the choice of venue was a powerful vote of confidence in the city.

The sheer scale of the event was staggering. At any particular time upwards of 10 different CLE (i.e. CPD) sessions could be taking place, given by one of the 22 practice sections within the ABA or one of its 7 divisions. The conference sprawled over Boston, taking place in some of the most prestigious venues throughout the city. I lost track of the number of exhibitors setting out their wares in the exhibition hall.

Discussions and speeches focused on issues shared by many lawyers across the Atlantic. The President of the ABA, James Silkenat, spoke powerfully at the General Assembly

on access to justice. There was concern over an oversupply of lawyers graduating from law school, but there was also a large number of people who were unable to get access to the legal assistance they needed. Both issues will be familiar to many lawyers in England. The ABA was developing a programme to address both issues by matching recently admitted lawyers with those of modest means in need of legal assistance. I look forward with interest to see the results.

A further shared concern discussed in the conference was delay and costs in the legal system. Having been involved myself in several applications consequent upon the recent civil procedure reforms in England and Wales, I was interested to hear how the rulemakers in the Federal justice system had decided to approach the issue of reform. In a session entitled "*Making Litigation Cheaper and More Efficient*" members of the Rules Advisory Committee for the Federal courts discussed proposed alterations to the Civil Rules. The rules were to be changed to emphasise effective case management by judges, who would engage more often and take greater control of the case. There was also greater focus on proportionality in discovery (i.e., disclosure). Importantly, Rule 1, the core rule in the Federal courts, was to be amended to emphasise that parties as well as the courts had a responsibility to employ the rules to ensure the just, speedy, and inexpensive determination of every case.

I spoke with one of the judges who had been involved in the changes, and was interested to hear that he had read the Jackson Report. Discussing the issue of sanctions, the learned judge said that the Committee had considered that the existing range of sanctions in Federal court was effective. The rulemakers decided the emphasis should be on early case management and getting judges engaged. Experience had taught that increasing the circumstances in which sanctions could bite led to a large amount of satellite litigation. Civil litigators in England may well share such sentiments.

A session entitled "*Oral Advocacy on Television*" presented by the Litigation Section provided greater levity while still being educational. Craig Turk, writer and producer of shows such as *The Good Wife* and *Boston Legal*, moderated a highly entertaining session in which a panel of judges and lawyers considered extracts from legal TV shows including *Law and Order* and *Ally McBeal*. Although the shows were clearly not examples of real-life practice, the panel considered that there were certainly lessons that could be learned from our TV counterparts. The power of pacing, the use of pause and cadence, and the importance of keeping

submissions short and to the point, were all evident in what we watched. I was pleased to learn that Mr Turk had watched and enjoyed British legal shows such as *Rumpole of the Bailey*.

The conference had been designed specifically to maximise opportunities for networking. My first event was a joint networking evening held by the Litigation Section and Young Lawyers' Division at Boston's famous "Cheers" bar (based on the well-known TV show). There are very few events at which junior lawyers can network with their contemporaries and I very much enjoyed discussing and comparing life as a recently-qualified lawyer with my new American friends.

Lawyers from all over the world attended the conference. During my time at the event I met practitioners from India, Canada, Australia, Hong Kong and Japan. The ABA's International Law Section hosted a networking event for the conference's international guests. This was an excellent way not only to meet lawyers from many jurisdictions, but also to meet American attorneys with an interest in international practice and law.

The Bar Council had a strong presence at the conference and hosted a reception on the Sunday of the conference at the British Consulate in Boston. The event was jointly hosted with the American Counsel Association, the oldest association of independent law firms in the world. It was a great way to make the acquaintance of many attorneys with an interest in English law.

The centrepiece networking event was the President's Reception on Saturday night. Lawyers from across the States mingled and danced to excellent music. The good food, friendly people and jovial atmosphere made this much more than simply another round of business-card swapping.

This was a conference on an enormous scale with so much for attendees to see and do. I came away exhausted but with new associates, friends, an appreciation for the warmth and hospitality of the American Bar and a strong sense of its commitment to the rule of law.

Next year marks the 800th Anniversary of the signing of the Magna Carta by King John I. The Magna Carta holds a special place at the heart of both the UK and US legal systems and is the cornerstone of our shared heritage. The ABA used the conference to draw attention to this important anniversary and it formed a key part of the proceedings. From 11-14 June 2015,

the ABA will be hosting a series of events in London to commemorate this anniversary. I would urge anyone interested in US law or the shared traits within our systems to find out more about the ABA's programme. I certainly vouch for the welcome you will receive.

I extend my sincere thanks to the Bar Council and to my sponsoring Bar Association, the LCLCBA, who between them funded two-thirds of the cost of travel, accommodation and subsistence under the International Legal and Professional Development Grant Programme – open to all barristers under 7 years' call.

Hailsham Chambers | 4 Paper Buildings | Temple | London | EC4Y 7EX
September 2014