

IAFL Studentship Report

This is now the fifth year that the IAFL has offered a fully-funded studentship to those studying family law at the University of Cambridge. As part of the selection process we were invited to submit written work on an area of interest in family law. I chose to write my piece on the relationship between English divorce law and practice and a perceived weakening of the institution of marriage. In addition to this there was a short interview, and shortly after I was fortunate enough to be selected for one of the two studentships on offer. Because of the diverse nature of the IAFL Fellowship I was extremely excited at the prospect of being able to undertake experience in a vast array of the world's countries, eventually deciding on Australia. I was drawn towards Australia because of the fact that it operates both under a common law system and with broad similarities to English family law, although of course with some quite significant differences. Perhaps some of the major differences between the systems include the fact that in Australia 'de facto relationships' are recognised, there is a presumption of equal shared parental responsibility and since the Family Law Act 1975 (AUS) no fault divorce has been recognised. Whilst writing my essay I had undertaken some comparative research and was particularly interested in the fact that this perceived 'liberalisation' of divorce law had, in fact, led to no significant difference in the divorce rate over 30 years later.

In July I flew out to Australia and was fortunate enough to be staying with one of the leading Australian family law practitioners, Ian Kennedy AM and his wife Dr Sandra Hacker AO whilst working at Ian's firm Kennedy Partners Lawyers in Melbourne. Whilst at Kennedy Partners I was able to experience a wide array of work, both in adult and child proceedings. I was given files to read so I was privy to the background of cases I would be working on during the week. From the first day the calibre of Kennedy Partners' work was clear, in the first morning being able to sit in on an international conference call with Senior Counsel. In addition to meetings with barristers I was also able to sit in on client meetings, both first time meetings and with clients that Kennedy Partners had been acting for for a number of years. Although I had been taught about family law with the typical Cambridge rigour there was nothing that could have trumped the invaluable first-hand experience I received whilst at Ian's firm. It was clear that in practice family lawyers not only require intellect and skill but also the ability to form emotional connections and rapport with clients at a time which, for many, will be the most difficult in their lives. Perhaps a topic that many students at Cambridge find the most difficult to master on paper is financial remedies on divorce, a multitude of factors having to be taken into account whilst striving for an outcome which is fair for all the parties involved. Whilst at Kennedy Partners I was able to see a wide range of these cases from the 'big money' cases involving assets in the tens of millions of Australian dollars to the more modest 'everyday' cases and the different principles and considerations that need to be taken in relation to these. Furthermore, I was able to observe these types of cases at different stages of the process, from the early client meetings right through to final orders being made in the courtroom. Of great interest to me was a seemingly greater focus on mediation and out-of-court settlement between parties in Australia in a bid to ease pressure on the overburdened family law system. I was able to experience a conciliation conference between parties overseen by a Registrar acting under delegated powers. This was extremely exciting to observe real life negotiations so as to save money both for the parties involved and the family justice system as a whole.

I was also able to observe client meetings and proceedings involving children, having access to independent child psychologist reports. As mentioned before, the Australian family law system has a presumption of equal shared parental responsibility, something which has been advocated particularly by 'father's rights' groups within England and Wales in recent times and it was fascinating to see this in the first hand. It must be said that this area of family law can perhaps be

seen as one of the more emotive sides in practice and is certainly different to observe in reality the kinds of facts we read about on paper in the family law course at Cambridge. In addition I was fortunate enough to be asked by Ian to do some background research into the surrogacy laws within Australia for a paper that Ian was delivering at the IAFL Family Law Symposium in New Delhi in September 2016. This gave me the opportunity to really get to grips with a specific area of Australian family law and see some of the issues that arose, partly as a result of the disparity between State laws as part of the Australian federal system, in contrast to the less pronounced differences in the devolved constitutional make-up of the United Kingdom.

In my second week in Melbourne I was extremely grateful to the IAFL for arranging for me to spend time with the Chief Justice of the Family Court of Australia, The Honourable Diana Bryant AO. Whilst in Her Honour's Chambers I was able to observe a variety of cases both in the Federal Circuit Court, established to deal with the ever increasing workload for family law judges, and in the superior Family Court of Australia, in particular with The Honourable Justices Bennett, Macmillan and Johns. My time at the Commonwealth Law Courts Building was also particularly interesting as I was able to see not only proceedings within the courtroom but also the work that is undertaken both pre- and post- hearing, notably in the Registry and the Judgments Publications Office.

However, even with all the exciting work that I was able to experience in Melbourne there was still time for social activities. Ian and Sandra immediately made me feel so welcome in their home and cannot be praised enough for their hospitality. I was taken to the Melbourne Recital Centre to see the wonderful Fem Belling jazz concert, Prahran Market and we were even able to fit in a visit to see native Australian animals at Healesville Wildlife Sanctuary in the beautiful Yarra Valley, famed for its vineyards. Whilst in Melbourne I also went on a tour of the Great Ocean Road along the Southern Coast of Victoria, some of the most beautiful scenery I have ever seen and a must do for anyone in the area! Special thanks must also go to all the wonderful people at Kennedy's who made me feel at home right from the first day, taking me out to lunch and to some of Melbourne's many bars and clubs.

Although I would have been extremely grateful just with the work I had undertaken in Melbourne, the IAFL also arranged experience at John R Quinn & Co in Sydney. Whilst at John's firm I was able to experience much of the same work that I had done at Kennedy Partners but it was interesting to see the differences between the two, particularly in how working in different sized firms can be. I sat in on client meetings and with some of Australia's leading barristers. In addition John and Marion arranged for me to spend a day in the court of Her Honour Judge Sexton where I was able to see some of the differences between Sydney and Melbourne's legal systems, particularly in the seemingly more litigious character of Sydney's family law courts. Again, John and Marion were extremely welcoming, inviting me into their home and taking me out to a delicious Italian restaurant in the leafy suburb of Woollahra.

Before I flew home to England I also had a long weekend to enjoy some of Sydney's sights including the ANZAC memorial, Madame Tussauds, Sydney Zoo and Aquarium and even a boat trip across to Manly which enabled me to view the stunning Sydney Harbour Bridge and Sydney Opera House at sunset.

Finally I would just like to say how grateful I am to the IAFL for arranging my trip to Australia. I am sure I will remember it forever and it has reaffirmed my belief that I should pursue a career in family law something that I was not wholly sure of before due to the fact that many other law students seem to follow the commercial route, no doubt because of the focus of many of these firms on Cambridge and other leading universities in the UK in selecting future talent. Without this

experience I feel like I may have 'followed the crowd' and joined one of these firms, but this opportunity has given me first-hand experience with some of Australia's leading family law practitioners.

Special thanks must go to David Salter, Jens Scherpe and Claire Fenton-Glynn for selecting me and organising the scheme, to Ian and Sandra and the wonderful team at Kennedy Partners (there are too many to mention by name but I remember you all!), and to John and Marion in Sydney. I have never met such a wonderful and welcoming collection of people- you have truly done Australia proud, I will be back in the not so distant future I hope!

