



Summer 2016

www.arbitratorscompany.org

Members' News

Congratulations and welcome to our new Freeman and Liverymen, admitted on 26th April: **Freeman Michael John Lawrence** and **Liverymen Dr Robert Gay, Ms Cherreem Lindsay and Mr Jonathan Lux** (pictured below from L-R).



Dates for your Diary:

- **13th July 2016**
Court Meeting, Annual Service and Supper
- **23rd to 25th September 2016**
Master's Weekend in Bristol
- **4th October 2016**
Company's Golf Day
- **13th October 2016**
Joint Meeting with Academy of Experts

Gift Aid Declarations:

If you have not yet completed a Gift Aid declaration in respect of any applicable contributions to the Company, please use this link to complete it today: <http://www.arbitratorscompany.org/members/giftAid02.php>. Please do this even if you believe that you have made a declaration on a previous occasion. Thank you.

A Message from the Master



I have been busy on the Company's behalf since our last Newsletter, with such events as our Charter Commemorative Banquet and the Master's Lecture. At Common Hall The Hon Sir Gary Hickinbottom was elected as Junior Warden in waiting, while our Honorary Archivist, Gill Rushton, is to be an Honorary Freeman during her time as Archivist. I also look forward to welcoming Jodi Berg and David Millington as Court Assistants at our July meeting. Thank you to those who supported the Banquet at Mansion House, which was a very grand and enjoyable occasion. I am so grateful that it was attended by the Rt. Hon the Lord Woolf and Dame Fiona Woolf, our guest speakers, pictured above with the top table guests.



The Master's Lecture, given by retired High Court Judge Sir Hugh Bennett, entitled 'Family Law Arbitration: A better route to Justice?', went down well, as it was relevant to everyone, not just family law practitioners. The full text can be found on our website.

Our two Travelling Scholarships have taken place, and reports from our scholars are circulated with this Newsletter and on our website.

Our Charitable Trust continues to support the needy, and I had the pleasure of visiting Mudchute, a City farm project in Tower Hamlets, with Court Assistant Bradish to present a cheque from the Trust. There is an article about the Trust's activities in this Newsletter.

We have many events to look forward to before I hand over to Matt Bastone at the end of October. I am particularly grateful to the many Company members who are supporting my bail appeal, and hopefully by the time you read this I will have been released from the Tower of London. Can I also draw your attention to The Master's Weekend at the end of September and the Golf Day on 4th October, for all the golfers in the Company and their friends. This is a new venture, and is to take place on the famous Sunningdale course in Berkshire.

I look forward to seeing as many of you as possible in future events.

Michael Goodridge, Master

Opera in small bites

On Monday 21st March around 20 Company members and their guests gathered in Gray's Inn Hall for an evening of Opera Scenes performed by talented first year students from Guild Hall School's Opera Course.

The small company of singers performed extracts from 8 different operas, woven through with the story of a competition to see who could perform the most difficult piece. Whilst the 'stage' and 'scenery' were very sparse, the performances were outstanding. The scenes included:

- The opening duet and recit from Mozart's 'La clemenza di Tito'
- A scene from Act 2 of Britten's 'Peter Grimes'
- A scene from Act 2 of Mozart's 'Le nozze di Figaro'
- Act 2, scene 2 from Tchaikovsky's 'Eugene Onegin'
- A scene from Act 2 of Strauss' 'Der Rosenkavalier'
- A duet from Act 2 of Janacek's 'The Cunning Little Vixen'
- A scene from Act 3 of Puccini's 'La boheme'
- The final scene from Bizet's 'Carmen'

The young cast transitioned between operas and languages with remarkable ease, but special mention has to be made to Anna Sideris and Chloe Treharne who performed the Little Vixen piece in Czech which, to a non-opera buff, appeared incredibly difficult for the language alone. Whilst all the performances were outstanding, the scene from Peter Grimes was certainly one of the most powerful, and Jade Moffatt as Carmen and John Findon as Don Jose were very moving.

We then headed upstairs to Supper, found our table in the Library and rounded the evening off with some good food, wine and conversation on a wide variety of subjects.

Our thanks as ever go to Past Master John Uff for organising the tickets for this very enjoyable event.

Jacqui Sliwinski

Your Charity has donated over £37,000 this year



The Master presents a cheque at Mudchute Children's Charity farm

The Quarterage voluntary surcharge introduced in August 2015 has resulted in just under £20,000 being added to our funds, which was a fantastic response and has enabled the Charity to better fulfil its aims.

As a result, it was possible to make grants totalling £10,000 for two Travelling Scholarships to Dubai following an invitation and interview process. This exciting initiative came

from John Uff who heads a team monitoring the progress and outcome. The two successful candidates, Renate Herrman and Niraj Modha, spent 28 days independently in Dubai observing the practise of alternative dispute resolution. The scholarships appear to have been a resounding success, and the participants' reports have been circulated with this Newsletter and are available on the Company's website.

The Charity provides annual prizes and support to the Armed Services through the company's contacts with HMS Mersey and the Army Cadets, as well as the Poppy Appeal. There are also annual prizes to scholars of the City of London School for Girls, the City Law School, and the King's College Centre for Construction Law. The latter two are invited to attend the annual Master's Lecture in order to receive a certificate and a cheque.

We have donated to the Lord Mayor's Big Curry Lunch, which raises money in support of the Soldiers' Charity, and we also contributed a substantial sum to the Lord Mayor's Appeal.

We have supported an advanced level student at King Edward's School Witley by means of a two year bursary, and another student there has been selected by the school as worthy of similar support without which they would have to discontinue their studies there.

In alternate years we support the Education Committee's UK Mediation Skills Competition and their Arbitration Weekend, both of which have proved extremely successful. The best newcomer at the International Maritime Law Arbitration Moot was also the recipient of a prize.

The Great Fire 350 Learning and Participation Project supports Art and Education with the help of a grant from the Charity. We have also supported the Livery Schools Link and 'Mudchute', a Children's Charity selected by the Master which has a farm in East London.

The Charity has spent £37,362.00 on the foregoing in the current year. This represents 86% of our income of £43,517.00 and is consistent with the Charity's overall grants policy. It has been largely possible because of the Company's Fund-Raising Committee's activities on behalf of the Charity, including a Charity Concert, a Christmas Draw, the Keating December Seminar, and John Uff's Morecombe Bay Walk and Sponsorship Initiative. Other events are planned during the remainder of the year and will be advertised when crystallised. At the date of the Trustees' recent meeting the Charity's funds stood at £395,569.23. I would like to thank my fellow Trustees both past and present for their able assistance and wise counsel.



Alison Trumpet, Administrator of Livery Schools Link, attended Common Hall to receive a cheque from the Master on behalf of the Trust

Philip Fidler, Chairman of the Trustees

The Master's Ridgeway Walk



Current Senior Warden Matthew Bastone has started walking the Ridgeway to raise funds for the Company's Charitable Trust. The 87 mile long Ridgeway passes through ancient landscapes, downland, secluded valleys and woodland, following a route used by travellers since prehistoric times.



We started the walk on Bank Holiday Monday, 2nd May, from Overton Hill, slightly east of Avebury, one of the finest prehistoric sites in Britain.

Despite a poor weather forecast, the day dawned fairly bright though cloudy. Being 174m above sea level it was pretty blowy but the views were worth it. By the time we got going there was some sunshine which made the views even better!

This first leg to Hackpen Hill was an easy 4.4 miles to get us going, and we treated ourselves to a lovely pub lunch at the end of it!



Walk 2 took place on 15th May - just over 5 miles from Hackpen Hill to Hallam, just south of Ogbourne St. George and via Barbury Castle, an ancient hill fort. Absolutely stunning views and gorgeous weather!



We completed Walk 3 on Friday 10th June, a warm but cloudy day which was good for our longest stretch so far – 6½ miles.

It was beautifully quiet, we saw two cyclists early on then no one for hours. We're walking unknown territory and it seems as if we're the only people on earth!

Matthew and Sue aim to walk roughly once a month through this year and next, finishing in time for the end of Matthew's Master's Year. Please help Matthew to raise funds for the Trust by going to our Just Giving page:

<https://www.justgiving.com/fundraising/MATTBASTONE>

You can follow our progress there, on Facebook (Matthew Bastone) or Twitter - #BastoneRidgeway. And please let us know if you'd like to join us along the way!



STOP PRESS! FREEDOM FOR THE MASTER!

Thank you to the many members of the Company who supported the Master's 'Jailed and Bailed' appeal. With Gift Aid his appeal raised over £1,400 in favour of the British Red Cross, and having exceeded his target he has been duly released from the Tower of London.

Niraj Modha was the recipient of a generous travelling scholarship from the Charitable Trust of the Worshipful Company of Arbitrators. He spent April 2016 in Dubai, gaining experience of private dispute resolution.

Introduction

I was extremely fortunate to have been awarded one of the WCA's first travelling scholarships. During April 2016, I spent time in Dubai with solicitors and other legal professionals, met practitioners at arbitration events, interned at an arbitration centre, and shadowed arbitrators during a hearing. There was also time to explore the city and surrounding areas. This is an account of my time there.

The legal system

To an outsider from a common law jurisdiction, the legal system in Dubai may appear confusing. Yet, the system is not especially complex to grasp... once you learn the acronyms!

There are seven emirates which constitute the United Arab Emirates (UAE). A federal court structure applies in most of the emirates. These courts apply civil law, which is strongly influenced by shari'ah. The courts are governed by the UAE Civil Procedure Code (CPC). The Supreme Court is located in the emirate of Abu Dhabi. Dubai is another of the states within the UAE. It has its own civil law courts. There are three tiers: the Court of First Instance, a Court of Appeal, and the highest court, the Court of Cassation.

Alongside this hierarchy in Dubai is a system of private dispute resolution. Articles 203–218 of the CPC provide the procedural foundation for arbitration in the UAE. The local courts are the curial courts for the purposes of arbitrations seated in Dubai. The Dubai International Arbitration Centre (DIAC) is the independent "onshore" centre for arbitration in Dubai.

The Dubai International Financial Centre (DIFC) is a Free Zone in Dubai. It covers a geographical area of more than 100 acres. The best way to comprehend the DIFC is to view it as a micro-state within Dubai, with its own rules and regulations. The Dispute Resolution Authority (DRA) is an umbrella organisation that is responsible for the administration of justice within the DIFC. It principally administers the DIFC Courts (which have been described as a "common law island in a civil law ocean") and the Dubai Arbitration Institute. The DIFC-LCIA (London Court of International Arbitration) is the "offshore" arbitration institution in the DIFC.

Life in Dubai

The legal professionals whom I met in Dubai without exception recommended it as a city in which to live and work. There is a thriving network of arbitration professionals. They are mostly based at the large international firms, as well as the several exceptional regional firms. I had the opportunity to meet with arbitration practitioners at the Dubai Arbitration Lawyers' Dining Society Dinner and at the ICC MENA Conference.

The majority of those professionals had been trained in common law jurisdictions. They have happily made Dubai their home. The work/life balance struck me as positive. There is a strong sense of security and safety in what is a very cosmopolitan city. There are countless leisure activities and facilities are of a terrific standard. On top of this, Dubai is family-oriented and centrally located, for those keen to explore the region.

Of course, Dubai is not immune from the vicissitudes of the global economy. The 2009 financial crash had a significant impact on many migrant workers in the construction sector, in particular. Having said this, the legal market has coped well. As long as there are disputes, there will be legal activity. Dubai now has the infrastructure to accommodate the further growth of private dispute resolution.

Recent debates

In the past, there has been controversy over the jurisdiction of the DIFC and the DIFC-LCIA. It is now well-settled that any party – whether based in the DIFC, Dubai, or elsewhere – may choose to resolve a dispute in the DIFC Courts. Similarly, parties can choose arbitration instead of litigation, at the DIFC-LCIA, with DIFC law as their procedural law. The DIFC therefore provides a well-respected, commercially-minded, and efficient forum for dispute resolution.

A further reason for choosing DIFC is the recent (albeit controversial) trend towards the DIFC Courts carving out a truly international jurisdiction. The DIFC Courts now conclusively recognise foreign judgments as well as awards, which can be enforced in DIFC but also in Dubai, the UAE, or the Gulf Cooperation Council (GCC) countries. The opening up of these gateways makes litigation and arbitration in Dubai especially attractive to parties seeking certainty and more straightforward enforcement.

On the horizon

There are several areas which are ripe for further development or will likely see progress. First, Articles 203–218 of the CPC are likely to be updated. It may not be long before the UNCITRAL Model Law is incorporated into Dubai law. This development would tend to increase confidence and bring

Dubai arbitration procedural law into line with the major international centres.

Second, the DRA does not yet incorporate a mediation procedure. The Centre for Amicable Settlement of Disputes operates alongside the civil courts, and the DIFC–LCIA offers tried–and–tested Mediation Rules. It may be that there is currently no need for a new body. However, the DRA’s mandate specifically includes the creation of new institutions, so this may be a development over time as international commercial mediation begins to catch up with international arbitration.

Third, a significant perceived difficulty is the enforcement of domestic arbitration awards in the Dubai Courts. There is a mandatory ratification process for domestic awards. This can be a lengthy, expensive, and uncertain process, which to some extent devalues the appeal of arbitration. As more and more firms choose to establish themselves in Dubai, this may become an increasingly worrying issue, unless the local courts improve in their efficiency and consistency of decision–making.

Fourth, there will be competition from within the UAE and further afield. The establishment of the Abu Dhabi Global Market (ADGM) may provide healthy challenge for the DIFC and other free zones. It would not be surprising to see a proliferation of such systems across the free zones (of which there are currently more than three dozen) in the future, offering greater choice for commercial parties. Furthermore, the relatively new Singapore International Commercial Court (SICC), combined with the passage of the Hague Convention on Choice of Court Agreements, may pose a stiffer challenge as Dubai seeks to establish itself in the market for international private dispute resolution. Continued innovation and investment is needed in publicising Dubai as a centre for dispute resolution in the GCC and globally.

Conclusion

This scholarship was a fascinating experience of dispute resolution ‘on the ground’. Dubai has many distinguishing features, which attract businesses, investors, and entrepreneurial individuals. There is every indication that those who decide to locate here or choose Dubai for private dispute resolution will continue to benefit from the purpose–built institutions that have been created.

Dubai – from an outsider’s, non-lawyer’s perspective

2016 was the first year that the Company awarded in addition to its well-received pupillage scheme two travelling scholarships. Niraj Modha and I, Renate Herrmann, were the two very grateful candidates that were sponsored to travel to Dubai to learn more about the different local approaches to dispute resolution.

My very big thank-you goes to the Company’s organisers and the many sponsors of this new scholarship, as well as in particular to Dr Mark Hoyle and Alec Emerson, who welcomed me so kindly to see their very interesting work locally and who arranged visits for me to the local courts and arbitration centres as well as to Richard Harding QC, who allowed me to sit in on one of his arbitration hearings.

Dubai is a fascinating place that will capture the imagination of any traveller. Its startling extremes meet the traveller throughout his stay, weaving a colourful setting of combining One Thousand and One Nights and Star Trek. I, as an outsider, coming from an international trading, shipping and financing background, felt a highly charged buzz of bridging millennia, when stepping from the dhows¹ creek port to the JAFZ container terminals² of DP World, or when enjoying a Creek-crossing on one of the abras³ to catch a ride on the metro⁴.

Dubai is part of the UAE and although Abu Dhabi is the capital, Dubai is the biggest city within the UAE. Dubai’s ruler, H. H. Sheikh Mohamed bin Rashid Al Maktoum, is also Vice President and Prime Minister of the UAE.

With 83,600 km² the UAE is slightly bigger than Scotland, however four-fifths of the UAE is desert. This, however, has not stopped the local tribes to unite to a nation and to transform themselves from a tribal culture reliant on agriculture and fishing to an entrepreneurial success story with world-class infrastructure in just over three decades. Its leadership is proud to present the UAE as a major international tourist and business centre, being one of the most modern, stable and safe countries in the world. With nearly US\$25,000 the UAE has one of the highest per capita incomes in the world.

As per H. H. Sheikh Mohamed bin Rashid Al Maktoum:

“Most people talk, but we do things. They plan, we achieve. They hesitate, we move ahead. We are a living proof that when human beings have the courage and commitment to transform a dream into reality, there is nothing that can stop them.”

With this vision the leadership, in 1997, introduced a “*path of change*” and its campaign of “*process simplification*” to reform public administration, which achieved in less than 20 years a dramatic improvement in education (effectively eliminating illiteracy), and advanced health care, encouraging the next generation to embrace change and to modernize the UAE, consistent with its history and cultural values. Thus, the UAE is able to present itself today as being one of the fastest growing economies in the world, and to have positioned itself as the business hub for the entire region.

Judicially Dubai is similarly fascinating as it is geographically. In 1971, just 45 years ago (!), Dubai united with 6 other Emirates to form the UAE. From a layman’s perspective the legal hierarchy is relatively easy to understand: as at the time of unification most legal professionals came from Egypt and Jordan the UAE Civil Code shows a lot of similarities with the Egyptian Civil Code of 1947, which in turn is based on the Code Napoleon but also tried to codify many of the Sharia law principals. However, the formation of Free Zones introduced further independent jurisdictions throughout the UAE. At my last count, I found more than 30 jurisdictions offering their own dispute resolution services, often not only issuing their own rules, but also their own laws. These Free Zones are firstly governed under the direct jurisdiction of the local ruler and are then, via different protocols, integrated under the federal umbrella of the UAE. From an international trader’s perspective this is a puzzling particularity, but can easily be compared with competing trade associations or exchanges, which compete for his business in a similar manner.

The international legal community likes to emphasise that although the UAE is generally a civil law jurisdiction, the Dubai Financial Free Zone and its local courts (DIFC) and the Abu Dhabi Global Market (ABGM) operate under a common law approach. From a trader's perspective this is interesting, but not really relevant, as

- firstly trade laws and international transport conventions are codified in common as well as in civil law jurisdictions; and
- secondly for the interpretations of these national statutes civil as well as common law courts often refer to other court's judgments and to international trade practice.

As in every other jurisdiction, the true test for the user of any judicial system lies in the efficiency/non-efficiency of the local enforcement procedure. As everything in Dubai, so is the speed of development within the judicial system breath-taking. After setting its economy on sound foundations and having tackled the efficiency of its public administration, the UAE leadership is now concentrating on reforming its judicial proceedings. There is currently an excited buzz noticeable that moves through the local judiciary. The young judges embrace the new campaign of the "*administration of change*" full-heartedly, which is reflected in their clearly structured and well-reasoned judgments that make the law understandable and accessible to local and international business communities. One of the driving forces in this process are the internationally trained and highly experienced resident judges of the DIFC, whose judgements are publicly available, written in English.

As this trend is positively received throughout the different business communities, more and more parts of the local society engage in this process, which is expected to be recognised (and in time followed) by more traditionally minded judges, too.

It has been a great privilege to travel to Dubai to take a glimpse at these electrifying developments, and I would like to thank everyone whom I met in Dubai and the UAE for their very warm and friendly welcome. I will keep following the local processes with great interest.

London, May 2016
Renate Herrmann

¹ Dhows traditional wooden ships, up to 4,500 tons deadweight, being built with traditional methods, i.e. without any drawings, said to be operating still 20-30% of the break-bulk traded between Arabian Gulf, Africa and India



Dhow Building Yard



Dhow Wharf



JAFZ container terminals



² Jebel Ali Port, the world's largest man-made harbour, located within Jebel Ali Free Zone and operated by DP World, is said to be the world's 9th largest container port, running over 90 weekly services connecting more than 140 ports worldwide. The Port's total handling capacity was expanded to 19 million TEU in the second half of 2015, operating a total of 26 berths (3 additional berths under development) 87 cranes (10 additional cranes on order) to cater to the world's largest container vessels.

³ Abra, traditionally made wooden ferry boat, the most efficient means of transport to cross the Dubai creek for AED 1



⁴ Dubai Metro, driverless, fully automated rail network, made by a Japanese manufacturer, operating reliably within annual temperature changes of more than 30 degrees

Tips for the traveller:

Where to stay:

Daily serviced, fully furnished apartments, centrally located at reasonable rates, which are open for negotiation (especially at longer stays or for corporate accounts) by calling the managers:

Mr. Marcel Luck
m.luck@baityhotel.com
or
Mr. Mohammad Nazim
dm@baityhotel.com
Mob. + 971 56 322 0206

BAITY Hotel Apartments

Po Box 124052,
Kuwait St. Bur Dubai,
DUBAI, UAE
Tel: +971(0)4 3558800
Fax: +971(0)4 3558889
www.baityhotel.com

Exchange Rates

I found the best exchange rates for GBP into AED at the exchange offices at the Metro stations, as these are normally used by the many migrant workers to exchange their locally earned AED into other international currencies.

Local Mobile

To get around in Dubai more easily, one should buy a local mobile number. The local provider(s) offer usually cheaper rates than European providers. It is very easy to get a local SIM card for visitors, but to buy this all passport details will be registered. In the most unexpected situations (e.g. buying a theatre ticket, exchanging money, or entering a building) one is asked for one's mobile number, which is an efficient way for the local authorities to track one's movements, but by being able to provide a local number the execution of these many little daily transactions becomes easier, too.

Public Transport / Silver Card / finding your way

Like the London Oyster Card to use public transport one will need to buy an RTA card. I found the Silver Card best value for money, but I was able to use the lady's compartments, which is a great advantage that male travellers to not have.

For the lady traveller: Enjoy the space of the Lady's Compartments when using public transport, it is clean, spacious, safe and you will see and hear much more of/about Dubai, than when travelling by taxi, however rush-hour might be a challenge, but it is a great feeling of having "properly arrived in town/going local", when one is able to negotiate the rush hour on the Dubai Metro.

A web-site, which became my daily companion, is the Dubai Journey Planer: <http://wojhati.rta.ae/>

To meet the locals:

To meet a real Emirati from Dubai is similarly difficult to meeting a true Cockney, who is born within earshot of the bells of St Mary le Bow. However, if you have the chance of travelling to Dubai during the time of the Al Marmoum Heritage Festival, go and enjoy the singularly great atmosphere of the camel races, don't be put off that races start already at 6.00 am. It's something one has to do, and one will love the Emiratis for life. (For a bit of extra adventure one can get to the Al Marmoum race track as well as the Al Lisaili endurance camp and camel market, being about 40-60 min drive into the desert, by local bus no. 66 or 67, but be aware that the busses run every two alternative hour only)