

Historic Debate on Legality of the Declaration of Independence held in Philadelphia

On October 18, 2011, in Philadelphia, Pennsylvania, within a stone's throw of Independence Hall, some of the most distinguished jurists in America and England participated in an historic Oxford-style parliamentary debate over the legality of the Declaration of Independence. The debate, which was live-streamed to seven area law schools, garnered national and international attention and acclaim.

This event was organized by the Temple American Inn of Court as part of its 20th Anniversary celebration. In December 2010, on behalf of the Temple American Inn of Court, Anthony Haller, former Temple Inn president and a member of Gray's Inn, issued a challenge to Gray's Inn in London to send a delegation to debate the motion "This House Believes That The Declaration of Independence Was An Illegal Document." Gray's Inn duly accepted the challenge, nominating an all-star team of top barristers in the country. These included the Honourable Michael J. Beloff, QC; Sally Jane O'Neill, QC; and Sir Charles Haddon-Cave.

Having thrown down the gauntlet, and not to be outdone, the Temple American Inn of Court recruited some of the most eminent constitutional scholars and jurists in this country to represent the U.S. team. These were Dean David Levi, Duke University; Senior Judge Louis H. Pollak, U.S. District Court for the Eastern

District of Pennsylvania; and Kathleen M. Sullivan, Esquire, Quinn Emmanuel Urquhart & Sullivan, LLP. Chief Judge Anthony J. Scirica, U.S. Court of Appeals for the Third Circuit, served as the moderator.

The Temple American Inn of Court in conjunction with Gray's Inn presented the debate as a joint Inn program with nine regional Inns participating including the Judge Alexander F. Barbieri Workers' Compensation AIC, Bucks County AIC, Nicholas Cipriani AIC, Guy G. DeFuria AIC, Benjamin Franklin AIC, Philadelphia Criminal Law AIC, Montgomery AIC, Justice William Strong AIC, and Villanova Law J. Willard O'Brien AIC. The American Inns of Court national organization was also represented at the event with its own delegation.

The event began with pre-debate refreshments and viewing of historic documents including a copy of the Declaration of Independence in Jefferson's handwriting and Franklin's annotated, personal copy of the U.S. Constitution. After the Call to Order and welcoming remarks, Judge Scirica opened the proceedings as "Speaker of the House". In the Oxford debating style, the teams alternated speakers. Michael Beloff, QC opened for the U.K. team, Dean David Levi opposed, followed in order by Sally O'Neill, QC and Judge Pollak, with Charles Haddon-Cave and Kathleen Sullivan closing for each team.

The U.K. team argued that the Declaration of Independence was not only illegal, but actually treasonable. According to the U.K. team, there was no legal principle in 1776, and there is none today, that allows a group of citizens to establish their own laws of their own volition. The Declaration of Independence itself, in the absence of any recognized legal basis, had to appeal to 'natural law', an undefined concept, and to 'self-evident truths', that is to say, truths for which no evidence could be provided. The grievances listed in the declaration were too trivial to justify secession. O'Neill said that the colonists themselves knew their actions amounted to treason. She quoted the famous statement Franklin uttered as he signed the declaration: "We must, indeed, all hang together, or assuredly we shall all hang separately." To great laughter, O'Neill remarked, "In my line of work, that's about as complete an admission of guilt as you get."

The U.S. team argued that the declaration is unquestionably "legal". The English had used their own

Declaration of Rights to depose James II and these acts were deemed completely lawful and justified. Under basic principles of natural law, government can only be by the consent of the people and there comes a point when allegiance is no longer required in face of tyranny. The legality of the declaration and its validity are proven by the Treaty of Paris and by subsequent independence movements. "The declaration rests for authority upon the British constitution itself and the common law tradition, which was the colonists' proud birthright," said Levi. Sullivan put it this way: "We did not owe allegiance to the British king. We owed allegiance as subjects of Parliament to British law."

The English wit and humor were met in equal force with American scholarship and intellect, with the sharp contrast in styles of advocacy leaving a lasting impression on those present at the debate. Attendees were invited to also participate by playing the role of a modern-day Continental Congress, voting at the end by placing a business card-size American flag or

Union Jack in ballot boxes. The debate was followed by a reception at which the joyful and enthusiastic crowd learned the result of the voting – in favor of the motion 83, against the motion 197, with approximately 45 abstentions – leaving the British defeated in their quest to re-establish the sovereignty of the Crown over the former American colonies.

The event was an inspiration to those who attended and epitomized the principles of civility and professionalism for which the Inns of Court on both sides of the Atlantic stand. As Michael Beloff for the British team quipped, "There really is no need for you Yanks to keep picking at these ancient scabs two centuries or so later. You won!"

The BBC recorded the nearly two-hour event, which can be seen on YouTube.com by searching "Declaration Debate." The BBC also produced a three-minute summary, which can be found at: <http://www.bbc.co.uk/news/magazine-15345511>. ♦



Anthony B. Haller, Esq. of the Temple AIC, of Philadelphia, PA makes introductions at the microphone. On the stage, from left to right, are the U.S. team consisting of Judge Louis H. Pollak; Kathleen M. Sullivan, Esq.; Dean David F. Levi; Chief Judge Anthony J. Scirica, moderator; the U.K. team consisting of the Honourable Michael J. Beloff, QC; Sally Jane O'Neill, QC; and Sir Charles Haddon-Cave, QC.

British Judicial Assistants visit Washington, DC

In April, a group of British lawyers from the Supreme Court of the United Kingdom visited Washington, DC, as part of an annual exchange program hosted by the American Inns of Court. The "judicial assistants" are the equivalent to law clerks of the Supreme Court of the United States. The judicial assistants observed oral arguments and met with Judge Jennifer Anderson of the Superior Court of the District of Columbia and Chief Judge David B. Sentelle of the U.S. Court of Appeals for the DC Circuit. The group also observed a mock hearing through the Supreme Court Institute Moot Court Program at the Georgetown University Law Center. The following week they observed the actual hearing at the Supreme Court of the United States. After the hearing, they met privately with Associate Justice Antonin Scalia.

The judicial assistants' exchange to the United States was organized with the kind assistance of Justice Scalia and The Right Honourable



British judicial assistants visited with Chief Judge David B. Sentelle of the U.S. Court of Appeals for the DC Circuit and his law clerks. In the photo are, from left to right, Rowan Pennington-Benton, Edward Craven, Alice Normand, Kiran Unni, Chief Judge David B. Sentelle, law clerk Amanda Neely, Paul Skinner, Frances McClenaghan, Maria Roche, and law clerk Andrew Pinson.

Lord Dyson of the Supreme Court of the United Kingdom. ♦