Conversations with Kurt Lipstein, Emeritus Professor of Comparative Law: Some reminiscences over seventy years of the Squire Law Library and the Faculty of Law, University of Cambridge

by
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First Interview, Up to the War.

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These interviews were conducted by Lesley Dingle with Professor Lipstein in their shared room on the third floor of the library between 14th April and 1st June 2005. They are preserved on a CD. In this publication we present our transcribed conversations, together with annotated explanations, and have compiled brief biographies of the people mentioned. We also include an index of the sections in which these persons are mentioned.

Questions are italicized, and Professor Lipstein's replies are in plain text. Comments added later are in square brackets in italics – those from the authors are attributed to LD, and where extra information comes directly from Professor Lipstein, KL. Each question is consecutively numbered and it is the basis for the Index. A total of four interviews were held.

1.

Professor Lipstein, you've been associated with the Faculty of Law and the Squire Law Library in various ways for the past 71 years. You've kindly agreed to share with me some of your recollections over this period and I wonder if we could start in 1934, when you first arrived in Cambridge and cover the period leading up to the Second World War?

Clearly my work was concentrated on the Squire Law Library because I was preparing a doctoral dissertation. The Squire Law Library was at that time housed in a building in Downing Street. You can still see that it was, because there is a stone inscription which says that this was a building that was put up at the expense of Rebecca Squire and her brother. The library was on the first floor and was just one big room. That contained all the books that existed. And then there was a little staircase which led up to the roof rooms and there were the additional books which nobody wanted to look at. They were the ones on comparative law and they were the beginning of the library on comparative law and that was where the professor sat, Professor Gutteridge.

Down below were only two people. There was the librarian, Mr Staines, who didn't know anything about law but he was simply there to catalogue the books and to stack them away when it was necessary and he was helped by Mr Hill. Mr Hill did all the labour which was required. This he did during the daytime. When that was finished he served as a servant at dinner at Caius College and then when that was finished he patrolled the streets with a proctor as a so called "bulldog", with a nice black coat and top hat. That was the library.

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Two men and one big room. The library itself was housed together with the law school which was downstairs and that is where I began. I didn't go to many lectures. I went to the ones on Roman Law by Professor Buckland which were indeed very good. I do not believe I went to others because I was far too busy preparing my dissertation. But of course there were other people whom I met there. There were very few PhD students. At the time it was not done. The degree had only been introduced after the First World War. We were practically the first people to apply for it. This meant that with me was the Frenchman who later on became the famous Professor René David of France.

2.

Were all the materials you needed available in this small library?

No, we used what we could use, and what we hadn't, we hadn't.

3.

How did this library compare with the library you were used to in Germany?

As far as English law was concerned it was a very comprehensive library. There weren't that at that time many periodicals and textbooks were also not that frequent. So one could deal with that in one very big room. The foreign law library was just being built up because Gutteridge had only come to Cambridge in 1930 or 1931 and I came in 1934. So there wasn't very much yet. It was enough for two rooms in the roof.

4.

Was he responsible for comparative law?

Gutteridge was responsible for comparative law and had to lecture on conflict of laws and was known as the reader in comparative law. He was the only one who developed the comparative law – he was the only one who taught it. Nobody else knew anything about it. He did everything. He came in 1930. I came four years later – by that time there was something. He was very much the man in charge until the World War. I was only a young foreign student.

5.

So what sort of a man was he?

To describe him in English terms, a Yorkshireman. That is to say, he was thick set, loved good food, loved good life. What was extraordinary was that he had grown up in part in Italy, because his father had had some illness and the doctors had advised him to retire to a country with a good climate. And so he retired to Naples. And if you go to Naples even now, you will find in the main square, a mens'outfitters shop called Gutteridge. That was papa – how he occupied his time. Gutteridge himself grew up there. He spoke fluent Italian although he spoke it with a strong local accent which the professors who visited him later on, found very funny indeed. [KL: *He was in the First World War although he was already too old for that and he knew they wouldn't take him so he knew that if you joined the band you could be accepted so he said he could played the piccolo. Of course he couldn't play the piccolo but he was accepted and then they found out. So now he was in the army and he was sent to the Balkans and fought the war in the Balkans.*]

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6.
So he was fully conversant with Italian Law?

He had by that time a lot of international contacts. He was one of the members of the United Nations committee [LD: *This must be a mistake, the UN did not exist until after WWII. It must have been the League of Nations*] which supervised the work of a committee in Rome on the unification of the law of arbitration – which in due course had consisted of three people, René David from France, a German called Ficker and an Englishman, Wortley. That is how René David came to us because in supervising this committee Gutteridge found out that David had another few years before he had to take up his job in France so he said, "Come to England and join Trinity Hall. Take a PhD". That is what David did and that is how I got to know him.

7.
What sort of a person was he, as you recall?

He was a man of much wit. The first year he joined the student body at Trinity Hall and rowed. This was the year when the French government fell every month one. He rowed and one day he came and said ,"Sorry chaps, can't row today". "What's the matter?" "I've been appointed minister of the marines." Then he came back a few minutes later, "Alright chaps, I can now row." "What's the matter? " "Minister has resigned". That was René David who had of course a long career and a very famous one both in France and Ethiopia. Especially he made the code for Ethiopia later on. The most famous thing is probably was when he was made prisoner in 1944 and he was in charge of a unit and somebody still continued shooting so they lined him up - lined the officers up - and said "War crimes and you're going to be shot." But René David when he had been himself a member of that committee in Rome had told the English and the German members, always to speak their own language with him so he was absolutely fluent in German. So he replied in fluent German, " You're committing a grave mistake. I'm an intimate friend of General Goering". That of course stopped everything. He was not shot. Nobody was shot and everybody survived.

8.
You mentioned the other PhD student whom you were with, Daube. Did you get know him quite well?

We knew each other quite well. We came from the same background and were both fighting our own way and so I didn't see him an awful lot. I mean we talked to each other but he was clearly a very much better Roman lawyer than I was. He had been assistant to a most famous German professor, had been recommended to Buckland in Cambridge, been given a scholarship in Caius. He was quite clearly better than I, so we didn't deal with our own subject matter because I knew he was the one who was much better. I concentrated on private international law. I did Roman Law and I made a dissertation on Roman Law but I concentrated on Private International Law so that we didn't overlap.

9.
To that end you became Professor Gutteridge's assistant?

He was very kind to me. In 1936 I got my doctorate and was invited to become a research fellow in Trinity but I didn't get the research fellowship so I had nothing. Although

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my British family were going to pay for me it was really a rather awkward situation especially since my British uncle didn't like people who had no firm occupation. So Professor Gutteridge formally made me his assistant and paid me something.

10.

And there were other lawyers at the time who were very famous, such as the Whewell Professor, Professor McNair?

McNair was an extremely kind man to me. I had an introduction to him from some other friends of mine. He was a man of few words but very clear, very straightforward and he had a seminar where we all met once during term time to discuss topics and he asked me to give a paper and that was my first introduction to a paper in English which was later the basis of my article on Private International Law in international tribunals. This was open to all the teachers of Public International Law, the supervisors of Public International Law and students who were interested. It was a very nice meeting which I remember with pleasure.

11.

Which was attended by many famous people?

There were a number of them. There was Mervyn Jones who later on wrote a very good book on public international treaties and unfortunately died young. There must have been quite a number of others whom I cannot now remember. There always were a lot of people from abroad.

12.

Do you have recollections of Professor Buckland who was on the Library Committee 1926-1934?

I certainly remember Buckland because he was one of my first ports of call when I investigated coming to Cambridge. I was taken to him by a law fellow of Trinity to meet him at No.7 Grange Road where Buckland lived. His house is now nearly back to back with mine. And there was the elderly gentleman, benevolent, very learned and very much a civil lawyer. He was strictly limited to civil law and did not know very much other law but within this he was a great expert and a very kind old man– he was by that time nearly 70. We had a discussion in his library and we agreed I should come and join the Faculty. After that I mainly went to his lectures which were extremely good, very well prepared, probably too difficult for youngsters.

13.

Did he supervise your PhD?

No professor would supervise a PhD. No, that is probably wrong. Daube probably was looked after by Buckland. I wasn't. So I was looked after by Patrick Duff.

14.

Do you have any recollections of Professor Duff?

He was a good classical scholar, but otherwise he did not excel. He did not produce any further work after he published a book and an article.

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15.

What do you remember of Mr Harry Hollond who joined the Library Committee in 1930?

That is of course a very different matter. Harry Hollond was a member of the Suffolk gentry where his family had a big estate and where of his mother he used to say “My mother is a whore.” That did not mean what you might think, The whore was spelt Hoare - she was a member of a famous banking family. He had been a pupil of Maitland and prided himself that he was interested in the history of English Law. He’d been a fellow of Trinity since before the First World War, been a major in the war, come back and been a very dominant person. He acquired a very dominant influence in Trinity College. In my day he was the vice master and he really set the tone. He was very kind to me. In the first days of course I was a complete outsider. But in the days afterwards when I had become a supervisor, he used to see me quite a lot because in 1944 I had become the secretary of the Faculty and Harry Holland had been the Chairman of the Faculty for at least 10 years. So we met every Tuesday once a week to deal with Faculty affairs in his rooms in Trinity for lunch in order to settle all outstanding matters. A good administrator, a man of good common sense, probably not an outstanding lawyer, he did not produce any notable written work and he always said he might have produced the text book on property law had Cheshire not done so, but he was certainly an outstanding personality who set his tone to the Faculty because he was very strongly influential in who was appointed and the appointments are mostly due to him including my own. A personal reference to him is to be found in the book by Snow called *The Masters*.

[KL:”*At one of the lunches he said, “Kurt your English is so good. Your whole behaviour is so much in accordance with local. Why don’t you change your name?” To which I replied, “There are two grounds. For one thing I have published already a certain amount under my own name and it’s awkward if I have to always add in brackets formerly I was so and so. There is an example of this somewhere in Europe and I never liked it. And secondly I don’t like to fly a false flag and sail under it”. To which he replied, “ Well, you need not call yourself McDuff*”].

16.

Professor, any recollections of Mr Wade?

Emlyn Wade, not to be confused with Bill Wade, was a fellow of Caius. A good constitutional lawyer but a somewhat stiff formal man whose imagination was probably not enormous but whose knowledge was very good indeed and whose good common sense emerges from the following that when it looked in 1938 that there might be a war with Germany and this country, he asked, “Kurt, are you going to be under the prerogative” which for a constitutional lawyer means ”can you be interned without trial”. To which my answer was “Yes”. He was that kind of straightforward man who would have a straightforward question or a straightforward answer.

17.

Sir Hersh Lauterpacht who was on the Library Committee from 1938-1954 helped to develop the international law collections. Perhaps you have some memories of him?

He came after a distinguished tenure in London. There may have been some doubts as to whether to appoint him or not to the famous chair but finally he was and he tackled his

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new task with energy. So shortly afterward the international law activities in Cambridge were certainly considerable. He was of course an editor of *Oppenheim*. He did all the lecturing and at the same time he had to accommodate himself to the new surroundings in which he lived which was now college life which he hadn't done before. Fellowship which was something new to him but he established himself well and of course during the war was constantly used by the government in England and he had to go quite frequently to the United States.

18.
Other famous names which you encountered during this period include the name of Professor Winfield?

Winfield was a fellow of St John's and had at that time reached really the top of his career. He had written already a number of other things and then just written his famous text books on the law of tort. He was a man who was not very loquacious. He was very precise and very helpful. I in turn was helpful to him because in his book there appear all sorts of references to me when I was only a little research student. So we must have had some conversations and things together. He was a good lecturer and altogether a man whom one trusted the moment one saw him. Absolutely straightforward. So was McNair.

19.
Another name which springs to mind is that of Professor Hazeltine, who was Chairman of the Library Committee from 1926?

Hazeltine was an American. He had had an interesting career because he had studied legal history in Germany with some of the most famous German people and then came to England and had had a Downing professorship which at that time meant he had a house in Downing college. Since he was divorced man, he lived alone served by a butler. I used to go there quite a bit because I discussed certain problems of legal history with him. He was a very forthcoming, very friendly man of considerable knowledge though he had not much influence because he did legal history and was an American and as soon as the war broke out he was persuaded to go back to America and so I never saw him after that.

20.
When you did your PhD, one of your supervisors was Professor Jolowicz who at that stage was in London? Do you have any recollections of him?

He was only my examiner. So I met him when I was examined for my PhD. This was the father of Tony. I can't say much of that. I remember being once there for the oral examination. I had to go down to London to his house, that was the examination. That was in 1936.

21.
In 1937, you became Professor Gutteridge's assistant and started an active programme of research. You were also given the job of the upkeep of the foreign law section of the Library.

I had to re-arrange it. Professor Gutteridge of course had always the last word. I was merely the help.

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22.
Did you select materials?

I cannot remember. But we must have done so, but we didn't buy that much at that time. We kept it to the main textbooks and one or two periodicals, and nothing more. The budget was obviously very much smaller

23.
So this takes up to May 1940 where you had the unfortunate experience of being interned in Liverpool until September 1940. Once again, during that experience you met some interesting people, including the grandson of the late German Kaiser [LD*: von Lingen*]*. Do you have any recollections?*

The only funny recollection I have was that we were given special writing paper which was so prepared that you couldn't send secret messages. It looked awful. And he was there saying, "Very awkward, very awkward. My aunt has a birthday. I cannot send her this." That was Queen Mary.

24.
And there were other illustrious people in that gathering for example Lord Justice Kerr was one?

Lord Justice Kerr was a student at Clare College at that time. One didn't know he was going to have a very good career. He was just a little law student. No, of famous people, also not yet famous, was Perutz who later on won a Nobel Prize for his structure of haemoglobin. There was the future Astronomer Royal for Scotland. There was one future professor of medicine in biology in Cambridge. They were quite an interesting lot of people.

25.
That must have uplifted you despite the seriousness of the circumstances?

One lived from day to day. Didn't look around very much. That was how to survive.

26.
So you were released in September and you returned to Cambridge. You continued with your supervisions. In 1944 you were married. That was a turning point. You look upon it as a very important milestone?

Yes, after all it's one thing being an old bachelor and then starting a married life. I was very fortunate to marry a woman who was very much a personality in her own right [LD: *Gwyneth, nee Herford*]. I'm not going to give you the history of all she did but I can tell you she ended up as one of the backers of the New Liberal Democrats, as a city councilor, as a brown owl. Everything which had to be dealt with she dealt with.

27.
In that same year you were appointed as Secretary of the Faculty of Law?

In the First World War the University closed down. They didn't do that in the Second World War. But of course there were very few people to study - only those who were not called up because of some physical defect or because they were waiting to be called up and were very young or foreigners, mainly from the Commonwealth countries. [LD: *At night*

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during the war KL did firewatching duty from the roof of the Squire Law Library in the Cockerell Building]

28.

So things continued in a slightly low key way?

Yes it was all very much restrained until suddenly peace broke out and then suddenly the Faculty from thirty became one of several hundred students and that meant a tremendous amount of work preparing everything for the return – I had to.

29.

And you in 1946 became a lecturer?

I became a lecturer.

30.

Well that takes us up to the end of the period I had hoped to discuss and perhaps next time we can do the next chunk?

That will be more difficult to say because I lectured and administered but I can't tell you an awful lot about the library. I can tell you what we did when we moved it here.

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