

Conversations with Professor Stroud Francis Charles (Toby) Milsom

by
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Third Interview: Cambridge - 1976 to present

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Between October and December 2009, Professor Milsom was interviewed four times at his home in Newnham to record his reminiscences of over sixty years of an illustrious academic career, the majority of which was spent in the Faculty of Law at Cambridge.

The interviews were recorded, and the audio version is available on this website with this transcript of those recordings. The questions and topics are sequentially numbered in the three interviews for use in a database of citations made across the Eminent Scholars Archive to personalities mentioned therein.

Interviewer: Lesley Dingle, **her questions and topics are in bold type**

Professor Milsom's answers are in normal type.

Comments added by LD, *in italics*.

All footnotes added by LD.

136. Professor Milsom, last time we covered your career from your time at New College Oxford, and when you were Professor of Legal History at the London School of Economics. That brought us to 1976 and now perhaps in this third interview we can deal with the time when you were Professor of Law at Cambridge from 1976 to 1990 and then we can deal with your activities when you retired. So you returned formally to Cambridge, after a 21 year absence, in 1976; can you recall the circumstances of this last major move in your academic career?

The Chair was advertised. I didn't apply because of the circumstances of my leaving twenty-one years earlier, so I wouldn't have applied, but they actually approached me. So then I was tempted and fell. And I can't remember when the St. John's College offer came. I think I'd moved to Cambridge from London, but wasn't yet in office when St. John's kindly made this suggestion of a Fellowship with them, so...

137. Do you recall any major differences at St. John's from as you remember Trinity some years before? Was it a very different college?

St. John's is a more formal college than Trinity. They were very kind to take me in and I used to dine probably about twice a week. It's a huge college, it's not as big as Trinity but it's still huge, and if you dine twice a week for twenty years you'd probably meet most of the Fellows. That's really all I can say about that I think.

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138. What subjects did you teach as Professor at Cambridge?

Well mainly, I professed to teach Legal History. I did tutorial classes in Legal History as well as lecturing, and I think I was bamboozled into giving supervisions in Property Law, which actually I quite enjoyed, because I always have, because the students find it difficult and I found it, and sometimes still do find it, difficult. And that's really more fun to deal with than a lot of stuff that you just know.

139. Interesting. I must say from my own experience I found I had to do Land Law when I converted to English Law and it was an absolute nightmare.

Yes, I can well believe it. Coming from a rational system

140. The law of things, movable, immovables, mining rights.

History in amber as it were.

141. Professor Milsom, were there any major changes that had occurred in the Faculty in the time since you'd left?

Oh lots but ... without Faculty lists I couldn't possibly..... I mean lots of the old chaps that retired. I suppose I've become an old chap myself, but the main change in the life of the Law Faculty in Cambridge was the Faculty building on the Sidgwick site. My impression is that since that went up nobody ever meets anybody, whereas in the old days there was a little room – it could be used for various small seminars – but was generally regarded as otherwise useless, so we adopted it as our coffee room, and everybody met there at 11 in the morning. If you had to talk to a colleague, that was the time to catch him. So one did talk to them, and the Faculty knew each other, and didn't just sit in their colleges wondering what that chap was up to.

142. Perhaps we could talk about your extended overseas visits while you were in the Chair at Cambridge. You continued your association with Yale; your last visit was in 1986.

Yes, I went there every second or third year for a long time. It's always fun, because the students have no idea at all about legal history, and don't really want to know. But they come to my classes and they ask very difficult questions, and that's good, makes one think.

143. You also visited Japan in 1976.

Yes. That was an exchange arrangement between the British Academy and the Japan Academy, and the British Academy nominated me one year and I can't remember how long we were there for, about six weeks I should think.

The Japanese are the most generous hosts you could imagine. And they met us at three o'clock in the morning at the airport and took us to a very grand hotel and let us sleep. I had, I think, two speaking engagements, but for the most part it was just outings arranged by the Japan Academy, with huge generosity. The executive secretary of the Academy came with us every time and a young assistant to carry the bags. It was great fun, very interesting. We were taken to all the main sites by air if they were a long way away, but mostly by road or I think once or twice in a bullet train. I've never known so much generosity. It was tremendous fun.

My wife learned to be careful if we were in a market or something and she admired something, they'd buy it and give it to her, so she learned not to like anything. For what it's worth, I still exchange Christmas cards with a number of the Japanese people we met at that



time. Once or twice it's happened that if they've been in England they've come to see us - very nice, yes.

144. Yes, lasting contacts. You visited Colorado in 1977.

Oh that was a bit of fun. We all agreed that we'd have the first... take the first slot in the daily timetable and... the class and me. So that we could spend the rest of the day on the Rocky Mountains as it were, which we did, and it was very enjoyable.

145. How long were you there for Professor Milsom?

Perhaps a couple of months, something like that. They lent us the most beautiful house to live in... it was Number 86 or whatever number it was, Boundary Road. The boundary was the original boundary of the United States before they got beyond that as it were. Yes, it was interesting.

146. Yes, how interesting. Well, I might try and look it up because I'm hoping to go to Colorado in July.

Oh right. Yes, lovely place. Are you going to the Law School?

147. Yes.

Very nice. You'll enjoy that. It's tremendous fun, and I think I've entirely lost contact now, but Irène used to keep in correspondence with two or three of the Faculty members for a long time. Irène being my wife.

148. I'd known her name, but in my mind I'd pronounced it as Irene.

Being Polish she was really Ira, but nobody could do Ira and so she adopted Irène. She hated the Irene pronunciation, so everybody had to be careful.

149. Professor Milsom in 1981 you went to Monash and you gave the 10th Wilfred Fullagar Memorial Lecture.

I taught a course and while I was there they made me give that lecture, which is published in their Law Journal at the appropriate date. I mean some months later.

150. Professor Milsom that brings us to your time as President of the Selden Society from 1985 to 1988, any particular recollections of that period?

I can tell you why they roped me in to be President at that time. The centenary was coming up and there was going to be an awful lot of jollification which somebody had to manage. I wasn't really thinking when I accepted, but it was quite fun. Our Chancellor, the Duke of Edinburgh, I've always remembered he's the Selden Society's Patron, and we gave a great party to which hundreds of overseas members came and I said to the equerry, well look I won't have the foggiest idea of who most of these people are. He said you just keep out of the way, let him make his own way around, which he did with great effect. He must have talked to, I should think, fifty different people.

Not just "hello, how are you?" but actually little comments, he was really wonderful. Made his way around, yes, and gave every appearance of enjoying it, but of course he didn't.

151. How marvelous.

I suppose if you're the Queen's Consort, as it were, you live doing that sort of thing. Being nice to order.



152. You were made a QC in 1985. What did this entail?

Well of course it's totally meaningless. For real QCs it makes a big difference to their life in practice because, at any rate when I knew about these things, you couldn't have a QC unless you had a junior, and you had to pay the junior at least two-thirds of what you were paying the QC. So that taking silk was quite a gamble, you might find your practice more or less vanish. But for me this was just an honorary thing and it was the then Lord Chancellor - Tory Lord Chancellor – Hailsham. Oh there was a big dinner, there was a ceremony and a big dinner and I was made to go and show myself in various Courts. I didn't have to do anything I just had to go in, in wig and gown and bow to the Judge and go out again. This is apparently part of the routine. So it really meant nothing in my life. It was a nice gesture.

153. You also gave several guest lectures. In 1980 you gave the British Academy lecture on a Mastermind. Do you have any recollections?

That was about Maitland. F W Maitland who invented English Legal History and wrote the book from which we've all copied ever since. It was quite a challenge composing that lecture, because I had a pretty clear picture of Maitland as a very private person and I thought he might well resent anybody poking about in his past, if you see what I mean. But I had to do it so I poked and did what I could. It got published somewhere, I think in the Proceedings of the British Academy probably, yes.

154. In fact, it's available as a PDF on line now on the Academy website. Free, back to, I think, maybe... oh I can't actually remember the date, but there are quite a few up there that are available.

Yes. I'm too old for websites. I don't really understand how the world has changed. It's a total change, isn't it?

155. It is actually, yes, and not always for the better.

No, absolutely.

156. I remember reading in your piece on Maitland that it didn't occur to the benefactress, and rightly not you say, that law or scholarship as such could yield such a Mastermind.

Well one thinks of philosophers and possibly mathematicians. One doesn't really think of lawyers. But then Maitland was a lot more than a lawyer.

157. Professor Milsom, another guest lecture, an important lecture you gave in 1980, was the Blackstone Lecture for the Selden Society and Pembroke College at Oxford.

I think I gave it in Oxford. It was published as a pamphlet, I think, jointly by the Society and Pembroke College.

158. And I think it's in the *Oxford Journal of Legal Studies*.

Oh is it? Right. That sounds more than plausible, yes.

159. I noticed you didn't select it for your 1985 studies in the *History of the Common Law*; you didn't choose to include it in that book. For historical figures you only have Plucknett and Maitland.

Didn't I? Oh, fair enough.



160. Another guest lecture that you gave was in 1986. The Fords Lecture in English History at Oxford. Do you have any recollections of that?

I think I went up once a week for however many lectures it was. Can't even remember where they were given. Their new Faculty building is a lot newer than the Squire and I can never remember when it was completed, St Cross. I think possibly it was there. I think it was.

I remember thinking it might be hard to find, so I made sure I was very early and sat in some common room and a chap came in and joined me and said gloomily, "I've got to go to some damn lecture by Milsom". I could only sympathise, as it were. Since he was going I think I confessed who I was. Poor chap.

I think there were five or six lectures and I went to Oxford by train and at least once it was very foggy, so I just thought I'd better stay the night and the Mitre Hotel, which I've always known was full, so I stayed at the Randolph which is a sort of gin palace. It was quite fun. Yes, I am afraid my memory loses about nine-tenths of its content every year; so that I'm afraid you're a bit late, if you see what I mean.

161. I find your memory remarkable, especially about your earlier years. I think that's often the case that one remembers in more detail more vividly about one's early life - certain incidents stand out.

My father was Secretary of the London Hospital and we lived in Wimbledon. It couldn't have a less convenient commute for him, poor man. He had to change at Clapham Junction I think. Wimbledon to Whitechapel is quite a journey by tube, and in those days one didn't think of driving in. Anyway he wouldn't have been allowed to have the car, because my mother wanted it.

162. To play golf, perhaps?

Absolutely, yes. It was a very tiring job and it had its rewards. There was one – I can't describe her in any other way – little old lady, she was a little old lady. She was also Charringtons the Brewers³, and so hugely rich, and lived in a very grand house in Green Street in Mayfair in the days when rich old ladies still lived in Green Street, as opposed to multimedia corporations. And she had a butler, and after I knocked my head in she kindly asked me to go and visit. And I had a huge dressing on my forehead and they made me wear a hat, so the hat had part of the lining cut out to accommodate the dressing, and I always remember the butler opening the door and taking my hat - those were the days. Fancy, a little old lady living by herself in Green Street with a full staff, including a butler, amazing, yes.

163. You must have been about 15 or so.

Yes, I was, yes. And during the war she rented some enormous country house, not far from Guildford, and went and lived there. She was very sweet. I had to find things to do the whole time and I built an enormous Japanese garden in my parents' conservatory and the old lady observed this and bought me the most extravagant set of Japanese figurines and little temples and so on, to put around the garden.

164. How lovely.

Yes. I've probably still got them somewhere in the basement of this house.

³ Founded in 1738 and taken over by Bass in 1967. Ceased to exist when acquired by Interbrew in 2000.



165. Do you have any photographs of that garden?

I may. If I find it, I'll let you know. I may have because I was rather proud it and I think I took pictures of it myself. I arranged a waterfall, which meant a connection with a lot of rubber hose.

166. And the water actually ran?

The water actually ran, yes. Only when there was somebody to watch it.

It wasn't the only thing in that house where the water was running a lot. My parents had a, believe it or not, gas powered refrigerator. Which worked with a little heating element....you can imagine how it all worked. But the heating element in the basement was at an obvious disadvantage. It had to be cooled with a constant stream of water, which was conducted out into an old copper which stood in the garden, which became full of wild life of a most unattractive kind.

167. It must have been the mid-1930s or so? There couldn't have been many fridges like that around at the time.

Oh I think there were. It was quite a well known make, and it wasn't uncommon. I think they hadn't really learned how to use electric power much more easily, as it were.

There's probably one in the Science Museum. I was taken by my wife's god-daughter's sister, for heaven's sake, who is enormously clever and she was working at the Science Museum for a time. I insisted on her showing me round and there was this wonderful showcase of exhibits of domestic objects from the 1930s – my mother's hair curlers and everything that I remembered as it were, was there, yes. Extraordinary.

The girl is now doing something very high powered for the... oh dear, some scientific foundation, the name will come to me after you've gone, it doesn't matter.

168. Professor Milsom, while you were at Cambridge in your capacity as Professor, there was obviously several colleagues that you may recall and one name that springs to mind is Professor S J Bailey⁴. Do you remember him at all?

He got the Chair when Hollond⁵ retired [LD: 1950] and everybody was astonished. His contribution to legal learning was a rather tedious textbook on wills and he was quite a good lecturer actually. His world was peopled by persons called Tomkins and Jenkins if you know what I mean, and the lectures were quite fun. Very slow, deliberate, precise manner of speaking. He was married, I can't remember to whom, but somebody entirely appropriate and they lived in – if you ever walk on the Lammas Land there's a big, a really quite big house overlooking... If you go out from Granchester Meadows and turn right as soon as you can, it takes you down past this house to the swimming pools. He rattled around in that, and then I think she divorced him and he married again, and I really can't remember. It was rather a sad end actually; he was a very good property lawyer, and it all went a bit wrong. He was a Fellow of St John's College and I think that house belongs to St. John's College, and I don't know who's in it now. So St. John's had two Rouse Ball Professors in quick

⁴ Stanley John Bailey, (1901-80), Rouse Ball Professor of English Law (1950-68), Fellow of St John's College.

⁵ Professor Henry Arthur Hollond, (1888-1974), Rouse Ball Professor of English Law, University of Cambridge (1943-50).



succession: Winfield⁶. and then Bailey. It was Harry Hollond from Trinity who succeeded Winfield – Holl-ond. And I think in a memoir published after his death, the writer emphasised the spelling of the name and said “It took so firm a root in Trinity that the kitchens still call it Sauce Hollondaise!” His father was a merchant in India who made a fortune.

And when he was about to retire, Harry Hollond, I went to, as it were, say goodbye to him and he said “Toby I...” he was in an attic access at that time in Nevile’s Court, “...I think all these steps are too much for me, and so does my mother, but my grandmother says nonsense.” And I never met the grandmother. Irène and I did go to stay with the mother in a grand house in Suffolk, beautiful house, built by Lord Chancellor Thurlow⁷. Untouched since Lord Thurlow’s time, you know, no mod cons of any kind - earth closets.

So they were a really eccentric family. Harry, he had three sisters, they were all a bit batty and when Irène and I went to stay his mother insisted on taking me for a walk and after about an hour Irène began to fidget and say, “Well he’ll exhaust your mother, she’ll be worn out. “You wait”, they said. She came back as spry as anything, carrying armfuls of logs, making me carry armfuls and I was shambling along absolutely exhausted. She wasn’t 100, she didn’t make it to 100, but she nearly did. Extraordinary family. Extraordinary house, beautiful house. I’m sure, with no mod cons some city gent got it for a bargain and would make an enormous killing out of it, yes.

He was Vice-Master at Trinity, Harry Hollond for goodness knows how long, and when he gave up he was succeeded by Patrick Duff⁸. Neither of them ever published anything...that’s not true, Harry didn’t publish anything, I think Patrick Duff did publish one very short article. Quite an interesting article in fact, which made it all the sadder, if you know what I mean.

169. Yes. Was that the article on theft?

You’re absolutely right, yes. Absolutely right, which is an interesting article?

170. What a shame he never did anything else.

He gave lots of lectures and he was the Scout Commissioner for Cambridgeshire and, my then, girlfriend and I went to a Cypriot restaurant one evening and there was Patrick in full Scout uniform, which meant shorts and knobby knees. We pretended not to see each other.

His father was a classical scholar and *his* father was a classical scholar, and when his father came to be christened and the Priest said what name am I to give the child and the godparents said James Duff, so he came out James Duff Duff. Those were the days.

I’ve a feeling that these days’ christenings aren’t what they were. I’ve probably told you about mine. I don’t remember it needless to say, but my mother’s account of it was – she knew what I was going to be named, and she was going to call me Michael, but all the godparents were Milsoms and they’d never had a Michael and they damn well weren’t going to have one. So I came out Stroud Francis Charles and my mother wouldn’t use any of these

⁶ Professor Sir Percy Henry Winfield, (1878-1953), Inaugural Rouse Ball Professor in English Law University Cambridge 1928-1943.

⁷ Edward Thurlow, 1st Baron Thurlow, (1731-1806) lawyer and Tory politician. Served as Lord Chancellor of Great Britain for fourteen years and under four Prime Ministers.

⁸ Professor Patrick William Duff, (1901-1991), Regius Professor of Civil Law University of Cambridge (1945-68).



names, so I was that dratted infant until my brother noticed a resemblance to a Toby jug, a rather ugly Toby jug too. I can still remember it. I don't think I've got it; I might have actually, I must look.

171. Was your brother older than you?

Yes. He was four years ahead of me, yes. Just old enough to graduate from the Royal Air Force College at Cranwell, in time for the outbreak of war and he was killed almost immediately⁹.

172. How awful, Professor Milsom.

Leaving me with the burden of having become an only child, and it is a burden actually.

173. Yes, caring for one's parents in later life can be quite... Well, one does it of course with pleasure, but it is quite time consuming. Did your parents divide their time between London and Cornwall?

They gave up London and went to live permanently in Cornwall.

174. A nice contrast as well to Cambridge and London.

Yes. My wife and I, after my mother died, we kept the house there for a time, but we could only do it if we let it out and it's amazing how badly tenants behave. You know, they don't mind damaging things and breaking things, and eventually we decided this was no good. We couldn't live in it if I was going to keep my job, and without my job we couldn't live in it, so we sold it. To a horrible man who has divided the garden into five building plots.

175. That's sad.

I went to the funeral of my mother's daily help. They hated each other, but were also dependent upon each other, and the old gardener hung about after the service to catch me to say "For goodness sake don't go and look at the house, it will break your heart". So I didn't.

He was, the purchaser was... I don't know what his business was, but he made a lot of money at it and he came to view the house with his girlfriend - the house was for his wife, she was to be parked there - the girlfriend was his secretary, nominally. Oh well, you do get a lot of irrelevant stuff if you talk to me.

176. Well, it's so interesting and some of it is so amusing but obviously all histories have very sad aspects But someone else, Professor Milsom from your time when you were in the Chair at Cambridge, was Jack Hamson¹⁰ of whom we haven't spoken. Is he somebody that you recall?

Yes indeed.

⁹ Darrel Edward David Milsom, Pilot Officer 263 Squadron, killed 23 Mar 1940. See: http://www.cwgc.org/search/casualty_details.aspx?casualty=2450729 , (Commonwealth War Graves Commission). (1919-1940).

¹⁰ Professor Charles John Hamson, (1905-1987), Professor of Comparative Law University of Cambridge (1953-73).



177. Professor Lipstein was quite, I wouldn't say close to him, but remembered him quite well.

Yes. Hamson was probably the cleverest man I ever met, I think. He was a bit eccentric and he had the misfortune to be caught [*LD - he was captured in Crete in 1941 and held in Germany until 1945*].

He was prisoner of war for several years. Very clever man. Disconcerting to talk to, because you never knew what or who he was looking at. He had serious cross eyes and...

178. Was that as a result of the war?

No, I think he was born like that, so far as I know. I didn't know him until he came back after the war. He was an extremely clever man, and everything that came his way he sort of chewed up in his mind; it was quite disconcerting sometimes, yes. He was married and they had a child whose name will come back to me in a minute and she was a very nice girl, and I think somebody – Janet – I think somebody told me she'd died. But that was well after he and his wife had both died, I think. If we'd done this five years ago, you would have got a lot more information out of me.

179. No, this is very interesting. Professor Jolowitz was mentored by him.

Oh that sounds right, yes.

180. Yes, and apparently - this is just an example of how you said he was somewhat eccentric, Hamson. When Tony said to him "Should I do a PhD?", he said "Oh no, don't be so silly, gentlemen don't do PhDs, that's for scientists, only scientists and foreigners do PhDs".

That was still the ethos in Trinity when I was a Fellow. Gentlemen, certainly gentlemen from Trinity, didn't do PhDs. And of course there was some justification, because I suppose the point of having a PhD is if you need a job it's some objective, but of course if you're from Oxford or Cambridge you don't really need an objective, because your tutors will remember you, and will tell the truth about you for better or worse, so that you didn't need it.

181. I believe he also, Hamson, wrote a book while he was in prison called I think it was *Liber in Vinculis*, or something like that, which was later published and I've been meaning to have a look at it. It's in the UL.

Yes. He became interested in Administrative Law, more particularly in French Administrative Law. And he wrote about that.

182. That's how Tony Jolowitz became so interested in procedure.

Someone else who springs to mind from that period, Professor Milsom, is the name of Jackson¹¹. Does that ring a bell at all?

Oh yes. Yes indeed. He was a loony! He looked, he looked like the Assyrian coming down like a wolf on the fold with a little beard, and was rumoured to have had a colourful life. I can't remember what Jackson's colourful life was.

¹¹ Richard Meredith Jackson, (1903-86), Downing Professor of the Laws of England (1966-70)



Lots of people in Cambridge... I'm sure I told you Henry Barnes¹², everybody believed he'd been President of Mexico, and perhaps he was. We've had a go on Barnes I expect, have we?

183. Well not really. But it just reminds me of a story that Peter Stein¹³ told me about him. He used to do a lecture which had at issue "Committing Buggery with a Duck". It sounds a bit bizarre, but apparently he used to really make a meal of this and he would end this story with a great flourish and say "Conviction Quashed" in this Irish accent. Audiences used to flock apparently.

The Irish accent is absolutely right. Maybe that was why he took to spending most of his lectures telling dirty stories. Which curiously was not appreciated, if you know what I mean. He thought everybody would like this; we didn't.

184. Well, I know that Professor Stein had very much the same opinion as you, that the lectures weren't up to much really. But funnily enough, Professor Milsom, yesterday I was asked by the librarian whether I had any information about Henry Barnes, because he had been contacted by one of his ex-students who was looking for some information about him. So I said "Well I'm sorry, I don't".

I've probably already told you what I think I remember was that he was a Fellow of Jesus and ran off with either the Master's wife or the Master's daughter. And that wouldn't do. So he set up as a one man Law-coach and taught huge numbers of people from – he had a room in, I think it might have been Sidney Street. One used to go at six o'clock or something because Trinity were his favourite customers, so we got the best times, but he was teaching every hour of every day. Like poor old Charlie Ziegler¹⁴, whom I mentioned to you last time.

There's a man called Ziegler, who's some kind of expert on the Royal Family. One gets him on the telly from time to time. I've often wondered whether it's his son. If so the colour's faded away, as it were, but it might easily – he was half and his wife was totally white.

185. Professor Milsom, do you remember from that time, Glanville Williams¹⁵ who would still have been around?

Oh yes. Glanville and Lipstein were the true tenants of the Squire. It had a series of six or seven mini offices, with nice views out over Caius and they were, I think, when the library was built, intended for professors and such. But professors and such had better things to do than hang around in the Squire. So Glanville had one and Lipstein had another, and I have it in my mind that old Winfield still used his occasionally. And I suppose when Glanville became Professor, he must have become Fellow of a College.

¹² Fellow of Jesus College until 1939, Lecturer in Law 1932-1959.

¹³ Peter Gonville Stein, (1926-) Regius Professor of Civil Law, University of Cambridge (1968-93).

¹⁴ See Q73.

¹⁵ Glanville Llewelyn Williams (1911-1997), Rouse Ball Professor of English Law University of Cambridge (1968-78).



186. I think he was at Wolfson.

Right. Well that may be it, because he used to have dining rights in Trinity, but they wouldn't have him as a Fellow – to their loss – because he'd been a conscientious objector during the War, and Trinity High Table at that time was full of disapproving warriors.

187. Very interesting, yes.

Great loss. I mean they missed the most distinguished lawyer Cambridge has had for a long time.

188. Right. I believe he was quite a shy man.

He was. Yes, he was. He had a house somewhere off the Trumpington Road, Gazely, there is a little side private road called Gazeley Place or something [*LD: Gazeley Road, locally called Gazeley Lane*]; he had a house down there, which I never saw. But I did use to see him from time to time walking home in the evening, twanging the elastic bands on his wrist, which had been put there to remind him of appointments, and he was obviously wondering which appointments they'd been. He was the best approach to an absent minded professor the Law Faculty ever had.

Very nice man. Looked a bit like a choirboy angel if you know what I mean, which must have been a disadvantage.

189. I do remember Kurt Lipstein¹⁶ describing him as having lovely sort of golden curls?

Yes, yes, and chubby cheeks. Yes. Glanville was an extremely nice man.

190. If I remember other reminiscences of Kurt, he was also a great hiker; he used to like walking.

Yes, he took me for a walk along the Devil's Dyke once and it was a hell of a long walk.

191. Do you remember Professor Lipstein at all? Obviously he was around pretty much when you arrived, initially as a student, but then he was also in place when you were a professor later.

Yes, all the time. He taught me, he certainly supervised me in International Law, which I couldn't get my mind around at all. That all began with one of Hersch Lauterpacht's¹⁷ lectures in which he read out what was then his draft of the Charter of Human Rights, beginning with "Whereas..." and I'm afraid I found it very hard to take International Law seriously. But still, Kurt was kind about it and got me through. I think he taught me Jurisprudence, no Glanville taught me Jurisprudence. I have a feeling Kurt did teach me something other than International Law.

192. Might it have been Roman law?

It might have been Roman law, yes. It might indeed.

193. He was a lovely man, Kurt, really very genuine.

¹⁶ Kurt Lipstein, (1909-2006), Professor of Comparative Law, University of Cambridge (1973-76).

¹⁷ Sir Hersch Lauterpacht, (1897-1960), Whewell Professor of International Law, (1938-55), Judge at International Court of Justice 1954-60.



Yes. Is he still living up the road there [*LD: Barton Close*]?

194. He lived there until he died at the age of 96 - that was in December 2006 and it was very sad because he used to come in every single day. I got to know him because I had the enormous privilege of sharing a room with him. When I arrived they said “Do you mind sharing with...”, and I thought “Do I mind?” It was wonderful - we became very good friends.

He was a very nice man.

195. And he was so helpful as well. He didn't mind explaining.....

He was always helpful.

196. Really?

Yes, and one has this vision – his wife [*LD: Gwyneth*¹⁸] was a very large woman, tall, military, in the ATS¹⁹, therefore in Army uniform, striding along with Kurt trotting behind, as it were.

197. Well, that was my impression. I never met her, although she was alive initially, and I used to speak to her on the telephone when she phoned him. He made no secret of the fact that she proposed to him, marriage.

That doesn't surprise me at all. It would have taken a lot of courage for, even a large powerful man, to propose to Gwyneth. Absolutely, yes.

198. No, it was very sad, his demise. He had some complication - I believe it was some, it was a cancer in his stomach.

Absolutely.

199. The terribly sad thing is that he was absolutely fine - and a week later he was gone. I still can't get over it. It just saddens me, he could still have been around, because he was such an upliftment, he was an example.

There was an earlier fright about Kurt. His heart began to play up. He was away somewhere and I remember I think I drove Gwyneth to the airport to meet him, and I can't remember where he'd been, he went into Papworth. We were told to take him to Papworth, and he got over that remarkably well.

200. He had a pacemaker.

Did he?

¹⁸ Gwyneth Mary (née Herford), (1910-1998), married Kurt in 1944.

¹⁹ Auxiliary Territorial Service, women's branch of the army, formed in 1938. See <http://caber.open.ac.uk/schools/stanway/army.html>



201. Someone else who would have been around would have been Robbie Jennings²⁰ for a short time; do you remember him at all?

Pretty well, yes. I mainly got to know him because Hersch Lauterpacht roped in my wife to be, as it were, copy editor for the *British Year Book of International Law*, about which she knew nothing and would fire questions at me, and I knew nothing so that was no good. But and then when Hersch Lauterpacht died, no he didn't die, he gave up the editorship and handed it over to Humphrey Waldock²¹ in Oxford, and Robbie Jennings in Cambridge, and so we saw quite a lot of him at that time.

He was, Robbie was in the same intelligence outfit that I ended the war in, and he was in uniform, Major Jennings for goodness sake and I wasn't and it was a chasm as wide as that between Cambridge Colleges. We were each in our own hut and our huts were specialists in various aspects of the work, so I saw Robbie around a lot, but I didn't have much to do with him at that time. And I remember when the war ended I met him in... probably at the coal heap, which was our common resource as it were, and I remember him saying "I've got my hut making paper chains, what are your lot doing?" I had no such intellectual answer I'm afraid.

Robbie, before he succeeded Hersch, he had no knowledge of or interest in International Law at all, as far as I know. They just needed to fill the Chair and they thought Robbie was an adaptable sort of chap; he could get it up, which he did, yes. I can't remember what... I mean, I think he was very much an English lawyer. He probably taught Roman law, because nearly all law tutors in Cambridge did teach some Roman law. They didn't know any of it, but it didn't stop them teaching it. Yes, and he lived out in Grantchester.

202. His wife still lives there.

Does she?

203. Christine, yes.

She's nice. When I was still going to Faculty functions, she was still turning up occasionally; very nice person.

204. She still comes.

Does she?

205. Yes, and she has agreed to be interviewed as well, which will be lovely.

Oh good, yes.

206. I get to do Robbie by proxy, as it were.

Yes, absolutely, yes.

²⁰ Professor Sir Robert Yewdall Jennings (1913-2004), Whewell Professor of International Law, University of Cambridge (1955-81).

²¹ Sir (Claude) Humphrey Meredith Waldock, (1904-1981)



207. Someone else from that time, Thornley²². Does the name of Thornley mean anything?

Thornley? Indeed. Never knew him well. He was the law tutor in Sidney. He had had, I don't know any of the details, he'd had a nasty war and was fairly badly disfigured. If he was a memorable person, I don't know why.

208. The fact is I've not heard anything about him, but obviously I've looked at *The Reporter* for those years, and his name is on the staff list, so I thought I would just bring it up in case you knew him.

When I was doing my year in America as Commonwealth Fund Fellow and the Faculty offered me a job, I had to wait because Thornley and somebody else had to be accommodated first because they'd been on the list first. If there was anything much ever to say about Thornley, I never knew it.

209. Mickey Dias²³?

Oh yes, yes. I haven't seen... Is he still around?

210. Well, sadly I received the news the day before yesterday that he'd died this week and I got in touch with his daughter, Julia, who was at Cambridge as well.

She was indeed, yes.

211. She's a barrister now, in London, and she said that her father had been rather poorly. He'd had to leave his home about two or so years ago in Babraham Road and he'd moved to some sort of a home, and that he really hadn't been well at all. So that it wasn't a surprise, put it that way.

I'm sorry about that. He was a nice person, Mickey.

212. Everyone seems to have liked him very much. One of the reasons I'm in touch with Julia, is that I'm going to visit her in London and she's going to lend me some photographs of him when he was younger. Also she's going to give to the Library his lecture notes that he took when he was attending Buckland's lectures, which I thought would be very useful to archive.

Indeed.

213. I'm going to go through his materials. I wasn't actually going to mention it to you, because it's sad, but there it is, unfortunately.

Academic scandals are I think fairly rare – Mickey Dias lectured in Jurisprudence for years and years and a man called Hughes²⁴ published his notes of Dias' lectures as a textbook by Hughes and there was a tremendous uproar, in which I think Jack Hamson²⁵ was called in

²² I. D. Thornley. Thomas, A.H., and I.D. Thornley, eds. *The Great Chronicle of London*. London: G.W. Jones, 1938

²³ Mr R. W. M. Dias, (1921-2009), Lecturer in Law, University of Cambridge (Jurisprudence & Tort) (1951-86).

²⁴ Undergraduate at Jesus College. Dias, R W M & Hughes, G B J. 1957, *Jurisprudence*, Butterworths & Co, London, 501pp.

²⁵ Charles John Hamson, (1905-87), Professor of Comparative Law University of Cambridge (1953-73).



to adjudicate. They eventually decided that the book should be known as Dias & Hughes, and I've probably got a copy somewhere. My chief recollection is that when I looked at it, I recognised most of it, not that I'd ever heard Mickey Dias lecture, but I had heard Glanville lecture, and so had Mickey; it really ought to have been Williams, Dias and Hughes.

214. Interesting.

But Glanville²⁶ would never have published the lectures under his own name anyway.

215. That is very interesting. Mickey does narrate this saga for the archive, and his feelings about it were that he was disconcerted by the whole thing.

It was an unpleasant little episode.

Most of us wouldn't think our colleagues' lectures were worth copying.

216. Derek Bowett²⁷ is somebody who would have been around - he would have been the Whewell Professor when you were in the Chair at Cambridge.

I knew him by sight. I doubt if I ever exchanged words with him. I had the impression of a go-getter who went and got.

217. Yes, my impression is of someone in a hurry.

Absolutely. In fact yes, so the determination was always there, as it were.

218. Colin Turpin²⁸ is somebody who would have been in place. Constitutional Law – South African.

Yes. Clare? Yes. I did exchange words with him, but not much more because we didn't have much in common. A nice person.

219. Very nice. Quite a few South Africans specialised Constitutional Law.

Understandably, yes. Whereas in England you don't need to know anything, because there isn't anything to know, as it were; it's all a question of what you can get away with.

220. The current Constitutional Expert is South African, Forsyth, Christopher Forsyth²⁹. He was mentored by Wade³⁰. John Allison's³¹ another South African in Constitutional Law.

I don't think I know him. The earlier name you mentioned, and I've immediately forgotten, anyway I met him, but no more, so there's nothing to say.

²⁶ Professor Glanville Llewelyn Williams (1911-97), Rouse Ball Professor of English Law University of Cambridge (1968-78).

²⁷ Sir Derek William Bowett (1927-2009), Whewell Professor of International Law (1981-91)

²⁸ b. 1928- Colin C. Turpin, Emeritus Reader in Public Law, University of Cambridge.

²⁹ b. 1949-, C. F. Forsyth 1949-, Professor of Public Law & Private International Law University of Cambridge, 2005-.

³⁰ Professor Sir Henry William Rawson Wade (1918-2004), Professor of English Law, University of Oxford (1961-76).

³¹ University Senior Lecturer in Law, Fellow of Queens' College



221. Professor Milsom, you retired in 1990. Did you find that you still continued to have much contact with the Faculty?

I was never a very gregarious person, so I never had much contact with them, if the truth be told, and I don't think my retirement made much difference.

222. How did you find the new accommodation in the Sidgwick site? Was that convenient for you, at the times that you did go in?

Not really.

223. You certainly continued your historical research quite extensively after your retirement, so presumably you never needed to go in to the library. You had your materials...

I had most of it here and the rest of it, I'd probably go to UL.

224. Right. So it seems to me you've found that your retirement gave you an opportunity to look back and reflect. So that you published a book, which I hope we can look at in our next meeting, in 2003, that was well after your retirement, your *A Natural History of the Common Law*³². So you've had a very busy retirement Professor Milsom.

Yes. That started as a lecture somewhere.

225. I think that might have been the Carpentier lectures that you gave at Columbia.

Ah, that's right.

226. Do you recall this occasion, the giving of those lectures in 1995?

Yes. They put me up in a hotel somewhere by Columbus Circus. I think the person who jobbed me into that, I'm sure, was Barbara Black³³ who was by that time no longer Dean, but she had been Dean in Columbia, and whom I had known for years because her husband was a great leading light at Yale³⁴ and she did some law school teaching at Yale. But when they went to Columbia, he, I think, got a job in Columbia and then she did and at that time he was still alive and living in an apartment quite close to Columbia Law School. I think my chief memory is of dinner parties being brought in from the local Chinese – a lot of fun actually.

As I've proved to you, I'm so far out of things that I'm never quite sure who's alive and who's dead, I know he's dead. I think she's dead now too.

I used to have to keep more or less straight about that when I used to send out Christmas cards. But I'm afraid I've found that Christmas was too much of a bore. I'm getting... even getting to the Fitzwilliam Museum shop and buying cards, so I gave it up years ago.

I still get a lot of cards from people, which makes me feel ashamed, so then I have to write to them, so I don't really save myself any trouble.

³² Columbia University Press

³³ Barbara Aronstein Black, George Welwood Murray Professor Emerita of Legal History, Dean Emerita, Faculty of Law, Columbia University. Columbia University.

³⁴ Professor Charles L. Black, Jr.



227. Still on your retirement. In 2001 you gave an address at the unveiling of the F W Maitland memorial at Westminster Abbey. Can you recount this grand event, Professor Milsom?

There were a lot of people, as you can imagine, and the Dean [*LD: of Westminster*] himself, whose name I forget [*LD: Carr*³⁵], presided and I think conducted a little service, actually. The plaque is set into the floor, so what I had to do was to tear away a sort of green baize cover, a bit infra dig actually. But I'm sure Maitland would be pleased to be there, as it were. He's actually buried in the Canary Islands where he died and I had to do a bit of propaganda – there was a school of thought wanting to dig him up and bring him back, and I was terribly against that; I thought he ought to be left where his daughter had put him, as it were. Yes it was a funny do, that. All kinds of people, I've no idea who they were, but they all seemed to know about Maitland and know who I was, it was all rather alarming. There was a sort of party upstairs in some outwork of the Abbey and I wasn't as lame then as I am now, there was a very steep flight of stairs down. I couldn't make it now, I wouldn't I mean I just wouldn't – I would refuse to go up because I would know I'd be afraid to come down. Everybody being jolly and appropriate.

228. Well, I hope you would agree to speak a little bit more about Maitland and his work and your approach in the next interview, Professor Milsom, and so I thank you again for yet another fascinating account and can only reiterate my gratitude to you. Thank you so much.

You're a marvelous listener. I would have died of boredom by now if I were you.

229. I don't think you can imagine how interesting this is.

Well, it's kind of you.

³⁵ b. 1941. The Very Reverend Arthur Wesley Carr, Dean of Westminster 1997-2006.

