

Conversations with Professor Philip James Allott

by
Lesley Dingle¹ and Daniel Bates²

Third Interview: Return to Cambridge (1973-1980)

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Between February and April 2011, Professor Allott was interviewed five times at his room off stairway F at Trinity College to record his reminiscences of almost sixty years of a varied career which was spent initially in various capacities at the FCO, and in later years 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 Allott's answers are in normal type.

Comments added by LD, *in italics*.

All footnotes added by LD.

39. Professor Allott in the previous two interviews you talked about your early life and your career as a Legal Adviser in the Foreign Office and particularly your time in both Berlin and Brussels. We come now to your return to academia in 1973. You became a fellow at Trinity College when after those eventful last years in the Foreign Office as you put it in the Preface to your book *Eunomia* you “withdrew to the cloisters of Cambridge to study history and philosophy”. I wonder what precipitated this major realignment of your career?

Well I wonder if you'd permit me actually just to remember one other thing from the previous period, which I think is worth recording and will disappear unless I record it, namely that in 1964 I took part in the negotiating of the convention that set up ICSID, the International Centre for the Settlement of Investment Disputes³. That convention was promoted by a remarkable man, the General Counsel of the World Bank Aron Broches⁴ and he had regional meetings in different places around the world and he held one in Geneva for the Europeans to comment on his draft convention. We didn't have much to say about it, but I

¹ Foreign & International Law Librarian, Squire Law Library, Cambridge University

² Freshfields Legal IT Teaching and Development Officer, Faculty of Law, Cambridge University

³ ICSID, International Centre for Settlement of Investment is a multilateral treaty formulated by the Executive Directors of the International Bank for Reconstruction and Development (the World Bank). It was opened for signature on March 18, 1965 and entered into force on October 14, 1966.

⁴ Aron Broches (1914-1997). Vice President and General Counsel of the World Bank. Instrumental in the establishment of ICSID - the International Centre for Settlement of Investment Disputes.



was the British representative on that and the main point, perhaps the only point I remember making was on the spelling of the title of the centre, because you will not believe it that in those days there was still the rule that the UN used English English in its spelling. So, I insisted that centre should be spelt C-E-N-T-R-E and that went into the convention and incredibly to this day ICSID is spelt in the English way the centre and their brass plate in Washington spells it like that and their website spells it like that. I always regard that as one of the only things I've actually achieved in life. It does look very odd now indeed on their website, but that has somehow incredibly remained. So, forgive me, yes, I just wanted to recall that, because it would otherwise be lost in the mists of history.

Well, the personal reasons why I moved from the Foreign Office, I think I mentioned last time that I, as some people do in their mid 30s, think of a change of career, a second career. At the time I thought it would be that I would be a member of Parliament, using the university post as a source of income. As soon as I got here I discovered that it was rather more demanding than a source of income and was a full time job. You had to learn so much before you could teach.

I was just wondering what one brought from the previous career to this career as an academic, because I think that might be of interest to other people. In a sense they're similar careers, they're both using the mind, but the circumstances are so different. The first thing that occurred to me is a sense of responsibility, because when you're in the service of the Government everything you do matters, every word you utter matters, it can have an effect and indeed the whole of your life could have an effect, so you have an enormous sense of responsibility and I have to say that I miss that dreadfully, it's probably the thing I miss most.

As an academic it really doesn't matter tuppence what you say about anything, but as a Government servant it certainly matters enormously. The another thing is that certainly as a Government Legal Adviser you have to be clear - you're advising people who don't understand things and so in speaking and in writing you have to be one hundred percent clear. It's enormously good training. All lawyers obviously have to be clear, that's an important part of their job explaining things to people who don't know, but allied with the responsibility it means that you have to take enormous care if it's an answer to parliamentary question or a note to a foreign government or a speech in a meeting. You've got to get it right and get it clear, unless of course you choose obscurity for some practical reason.

Getting onto the more relevant things to my academic [*life*]. I formed views about the system that I'd been part of. Obviously being part, in a sense, of the Cold War, part of the remainders of the Second World War, [*one is*] very conscious of the fantastic inequalities of the world between rich and poor with hundreds of countries being more or less stagnant in poverty and disadvantage. This did form a structure of very negative values about the system that I'd been part of, which was really overwhelming [*in the*] sense that it was wrong and the word I've always kept using "mad", that the whole system was psychopathological. It was a system of ideas, the international system, but obviously fundamentally wrong, because of its consequences. You could tell its nature by its consequences and the consequences were by and large so absolutely dreadful that one felt one had to do something about it. As I have mentioned before I regarded myself as lucky in having been dealing with extremely interesting things, but the context in which they were taking place was so dreadful that it was a sort of mixed feeling, at least the intellectual and personal excitement of dealing with them, but in a sense that one shouldn't have been dealing with them in another sense that it was dreadful.



The other great inference that I drew from it, which determined the whole of my writing academic life is that the international system is a set of ideas. It seems to be a system of power, the power relations, but in fact it's a system of ideas. The whole thing is ideas, and people who operate the system, politicians and diplomats, hardly realise that they're just operating ideas which they've inherited. The whole thing is one vast construction of the human mind and all the 100 million dead in the 20th century were dead because of ideas. The people suffering all over the world in poverty and indignity were suffering because of ideas.

Those things meant that I probably approached the academic life in a rather unusual way, as compared with other people.

40. Your practical experience must have given you enormous confidence.

Well, I put it even stronger than that. People always condemn me for being a polemical missionary. It is true that I can't write as other sensible academics write, in an abstract and objective way. Every single word that I write, even on very technical subjects, is totally conditioned really by this burning sense that what you say matters. It may have no immediate effect at all, [*but*] that you have a duty to say it, a responsibility to say it. I used to ask my students what have you done to improve the world today? [*I*] tried to instil in them the idea that everything they did was important, even if they'd just written an essay or something, they had changed the world in some way. I have to say that they did not regard that as a sensible question, to ask them how they'd changed the world.

That meant that when I came back to Cambridge in 1973, I realised that I would have this double life. On the one hand the ordinary academic teaching and writing, ordinary academic things and on the other hand this, sort of, secret mission, as it were, which nobody else had the slightest interest in. At that time it was sheer lunacy to be thinking about these things in a missionary way.

41. You were 36 years old at the time and this is something that you've retained throughout your academic life?

Oh absolutely, yes, every single second of it. When I got back here in this college I supervised in constitutional law and international law, which obviously would be my two main kinds of law. It took me three years to get a university post and then I wasn't able to lecture in constitutional law, presumably there were too many good people already here lecturing in constitutional law, and international law was in those days done by the Whewell Professor. The tradition was that Whewell Professor gave the general course to the undergraduates and that's what they'd all done. So, that was quite difficult.

The other string to my bow was EU law, so that became a very big thing. I immediately did the graduate LLM, or LLB as it was called then, course in European Union law with Kurt Lipstein⁵. He, remarkably, had already started a course in EU law as it's now called, for the graduate students and he'd just published his book on it. There were very few books. So we did that together. I can't remember in which year we created an undergraduate course in EU law, must have been one of the first in England. Edinburgh was already doing it. I'm ashamed to say I can't remember who I started that EU law course with.

⁵ Professor Kurt Lipstein (1909-2006), Professor of Comparative Law (1973-76).



42. Certainly your publications at that time were on European matters: 1974 the democratic basis of the European Communities⁶; the Common Market and the regulation of air transport⁷; and then in '75 Britain and Europe - a political analysis⁸.

I must have gone more to the EU side and I certainly established the nature of the EU course, which I think has probably continued to this day. [*In is*] we would do a general course with the institutions first, and then a series of more specific topics including the free movement of goods, intellectual property, competition law and then the institutional procedures at the end, enforcement before the Court of Justice and so on.

That was possible in those days, because there was, compared with now, relatively little EU law. Now EU law is vast with thousands of books, thousands of court decisions, thousands of articles. It may be now that they have to specialise more, I simply don't know. Then it was quite a luxury that we could do a course, so that at the end of it the students were general EU lawyers. Going out of chronology a bit, later on I started a new LLM course in European Union law called the "European Union as a new legal order" and which had a very special spin on it which was designed to constitutionalise our approach to the EU and really to treat it as a political science problem. This very peculiar entity that had been created, unlike anything there'd ever been, and what that course tried to do was to give them the law. We did it properly, with those technical topics and went through the detailed cases in the traditional Cambridge way, but also the whole thing had a spin, trying to get an overall picture of this new constitutional phenomenon. I'm quite proud of that actually - it's been copied by students who took the course going to other universities and some, who shall be nameless, say that they still give some of my lectures. [*These*] started off with a very dramatic two or three lectures on European history to show how this very peculiar object emerged. I know those lectures have been given by other people elsewhere, word for word.

So, the EU became quite a big thing, and again I may be going out of chronology, but a very interesting thing that happened was that I was invited by the Head of the Legal Service in the Commission in Brussels, a man I've mentioned before, Claus Ehlermann⁹, invited a group of what he called the Five Professors (I have to say that the other four were professors and I was not) to advise him from time to time on international law questions affecting the EU. That group met about twice a year. There was Christian Tomuschat from Bonn¹⁰ (who then went to Berlin, he's now retired); Giorgio Gaja from Florence¹¹; Philippe Minard [LD:

⁶ 1974 The democratic basis of the European Communities. *Common Market Law Review*, 11, 298-326.

⁷ 1975 The Common Market and the regulation of air transport. *Journal of the Royal Aeronautical Society*, 79, 310.

⁸ 1975 Britain and Europe - a political analysis. *Journal of Common Market Studies*, 203.

⁹ See fn 42 Q35

¹⁰ Christian Tomuschat, (b. 1936-) Professor of Public Law, University of Bonn (1972 - 95), Humboldt University of Berlin (1995-).

¹¹ Giorgio Gaja, (1939-) Professor of International Law University of Florence (1974-), Member of the International Law Commission (1999-).



uncertain spelling] from Paris, and Henry Schermers from Leiden¹². That was wonderfully interesting. We were not paid, because Claus Ehlermann said the budget people would say that “You’ve got hundreds of lawyers, why on earth do you need any more?” We were just paid our expenses.

We dealt with things almost on a confidential basis - things that might arise - questions like “does the community have international legal personality”, “what are the limits of its treaty making power”, “is the EU a monist or a dualist system in relation to treaties”, “what are the privileges and immunities”, “should they participate in the negotiation of this convention or that convention”. It was very interesting and possibly we did have some influence. They were a very nice group of people, and Ehlermann was a wonderfully charming man - amazing that he could devote time to us, a fantastically busy person. He would bring in somebody from the Legal Service who was dealing with the area we were discussing, so what we got out of it, since we didn’t get a fee, was to be rather up to date on what the Commission was doing, and to have a tiny bit of influence on how they behaved. I appreciated that very much.

43. UN Law of the Sea.

I’m maybe not going very chronologically, but a very big event was that I was in the British Delegation to the UN Law of the Sea Conference for three sessions - two in New York and one in Geneva. I was an Alternate Representative in the British Delegation and shall I just say a little bit about that? It was in the mid 1970s I think.

44. ‘76 to ‘80.

Yes, ’76 to ’80. There were two aspects to that. One is that it was a privilege, quite honestly, to be present at such a great event, and secondly, the things one were dealing with were quite interesting. I was on the committee dealing with the delimitation of sea boundaries. That had an interesting history, because in the 1958 Geneva Convention there was a very simple rule, the median line rule, very much promoted by the British and by the Naval Hydrographer of the time. That was very simple, but at the Law of the Sea Conference it became a great debate between that and the so-called “equitable principles” people. It was slightly farcical, because we just went on and on and on, us saying “equality is equity”, was our slogan. You didn’t need equitable principles, because there’s nothing more equitable in life than equality. Ludicrous, but that’s what we said.

That didn’t, in effect, weigh very much and then in the last session of the conference, which I was not invited to attend, the British suddenly changed their view and became an equitable principles place. I’ve never asked Frank Berman¹³ whether he didn’t invite me because I wouldn’t have been able to speak in favour of equitable principles. As you know, eventually the text of the Convention is a sort of mishmash between median line and equitable principles. The median line you go to first, and all arbitration decisions ever since have been pragmatic, taking into account all the circumstances really.

¹² Henricus Gerhard "Hein" Schermers (1928-2006). Dutch Ministry of Foreign Affairs (1953-63), Professor of Law of International Organisations University of Amsterdam (1963-78), later University of Leiden (1978-93). Director of the Europa Instituut at the University of Leiden

¹³ Sir Frank Berman QC (1939-). Former Legal Adviser to the Foreign and Commonwealth Office, Visiting Professor of International Law at Oxford, at the University of Cape Town, and at King’s College London. Member of the Permanent Court of Arbitration.



The second thing I dealt with was the Settlement of Disputes section, which was dominated by a marvellous man called Louis Sohn¹⁴, a great figure in American international law - a refugee from Europe, who had taken part in drafting the UN Charter. He's a very shy man, but he dominated the Settlement of Disputes at the Law of the Sea Conference and was pushing very strong, preferably compulsory, jurisdiction of the International Court. Again [though] compromises had to be made and there was created the Law of the Sea Tribunal. In addition to the possibility of going to the ICJ, and the possibility of arbitration, there was created the Law of the Sea Tribunal, which has been a success.

Thirdly, probably the most interesting part of it for me, was the English language Drafting Committee. As you know, at these conferences, the Drafting Committee is a very important body, and the Law of the Sea Convention in theory has six official languages, but most of it had been drafted in English. So each language had its own subordinate drafting committee of the main drafting committee, and it meant one got to know the Convention rather well, down to the smallest comma. That was chaired by Bernard Oxman¹⁵ of the University of Miami. I never quite understood how he came to chair it, because in those days I think there was still the rule that representatives of the Permanent Members of the Security Council could not chair UN committees, that was the original rule. I've never quite understood how he did that, but he was an extremely forceful and effective man, very, very tough. He used to come up to me after a particular session and say something like "why didn't you support me on the comma in article 39? Whole of western defence strategy depends on it", and I would have instructions before me that had failed to mention that this comma was terribly important. He was a very high energy character and believed each of these words were absolutely vital to the US national interest. Of course, as soon as the convention was completed, the US didn't accept it, didn't ratify it.

After that experience I did write an article, which I think was called "Power sharing in the Law of the Sea", just a little article in an American journal¹⁶.

I took an enormously upbeat view of the UN Law of the Sea Conference as a real model of international diplomacy and international diplomacy dealing with an ultimate shared resource, the oceans of the world. That little article suggested that if you look at the whole of the Law of the Sea Convention, analyse it, it's a system for distributing power over the oceans of the world; a very, very clever system. In every sea area, the seven or eight sea areas, there was now a very complex distribution of power and it had become a bit like administrative law, which is about distribution of power within a constitution.

So, I took a very upbeat view - I tend to take terribly negative views of all these international conventions.

¹⁴ Louis Bruno Sohn, (1914- 2006). University of Georgia School of Law. Harvard Law Professor and international lawyer. Passionate advocate of the UN and co-author of Clark, G. & Sohn L "World Peace Through World Law: Two Alternative Plans," 3rd Edit 1966, Harvard University Press.

¹⁵ Bernard H. Oxman, (b. 1941 -). Richard A. Hausler Professor of Law, University of Miami. Originally at Columbia Law School, and before that Assistant Legal Adviser for Oceans, Environment, and Scientific Affairs of the U.S. Department of State. He also served as United States Representative to the Third United Nations Conference on the Law of the Sea and chaired the English Language Group of the Conference Drafting Committee.

¹⁶ 1983. Power-sharing in the law of the sea. *American Journal of International Law*, 77, 1-30.



45. I wondered about that whether your experiences had coloured your views on international bodies in a more favourable way as a result of this experience?

Yes, most of them are absolutely dreadful. I wrote an article later about the international haufmafia. All these bodies are a mafia, international mafia, but the Law of the Sea Convention, [with] fabulously complex and very difficult policy matters, including the distribution of power over the international seabed, which is an immensely difficult matter, I thought was rather good. And there were good people doing it. So, although these three things I was involved in were relatively minor in that sense, it meant that one could observe all this at close quarters and I've always been extremely grateful for that.

46. Professor Allott if we could perhaps just come back to your initial time in 1973, when you came to Cambridge. What were the circumstances of your return? Was it a college lectureship?

Yes, it was essentially because Eli Lauterpacht had given up teaching in Trinity. I think he'd been supervising in Trinity in international law and constitutional law, so it fitted in very well that I could take over.

47. Was it just a coincidence that when the UK joined the Common Market on January the 1st 1973 you left the civil service?

Well, I left in September '73. I don't know whether I should record this or not, but I will for the moment and you can excise it later if you want, but it was rather odd. I was in Brussels at that time, going to Cambridge within a few weeks, and there was pressure on me to change my mind from the people in Brussels. I remember by chance seeing the copy of a letter that the Chief Treasury man in the Mission sent back to the Treasury saying how regrettable it was, and that it was a great loss to the public service that I was leaving. I did wonder at that time whether this was a sensible decision, because I did have fairly unusual experience. But I did leave and the following week came here.

It was a great culture shock, because, much as I like and admire my dear friends here, nobody told me what to do. I didn't know how you organised supervisions or how you went to lectures or anything.

48. That must have been quite arduous.

It was terrible, absolutely terrible. I think Tony Jolowicz said "Oh well you, give a supervision every two weeks".

49. But he was saying [to the ESA] how very tough it was, especially the tight schedule of essay reading.

Yes, exactly. You had to read all these essays, you had to be writing lectures that you'd never written before.

50. But it must also have given a sense of rigorous debate.

Well, also when one's younger, one can do these things. I couldn't dream of doing it now. I always tell people who are leaving here and going into the academic world that you're going to be very surprised how difficult it is, what hard work it is. You think it looks terribly easy what academics do, but actually it's extremely hard work and at least you have to keep a week ahead of the students. I just didn't know - do you provide handouts? I have to say one other thing, which is that the Faculty was absolutely dreadful in those days the way it was



organised, it was amazing. Probably other people have said this, it was administered essentially by one lady, called Miss Suckling¹⁷, who sat in a darkened room in the Old Schools with a dog on her lap. She was the administration. She eventually became Lady Mayor of Cambridge.

[Also] the Faculty Board, which was completely secretive, didn't discuss anything with anybody. Almost as soon as I got here I convened what I called alternative faculty meetings in these rooms. It sounds a bit 1960s that, alternative faculty meetings, to have a discussion about things. Very large members of the Faculty did come to them to discuss what is the purpose of the Cambridge Law faculty, but that broke down because we discovered that almost 50/50, half the Faculty, thought that our job was to train senior lawyers and the other half of the Faculty thought that our job was to use law as a university subject as a completion of general education. This was irreconcilable and probably to this day I would guess there's that division. It is a famous question of what law schools are for, which from time to time people do ask. We couldn't resolve that and we each went off in our own direction.

Oh, I should have said that I also taught jurisprudence. That was a course that existed, with David Fleming¹⁸ and I can't remember who the third person was. I got dissatisfied with that, because it was mostly 20th century legal philosophy, and legal philosophy of people for whom I had not terribly much respect and whom I think I must name. People like H. L. A. Hart¹⁹ and Ronald Dworkin²⁰ and such people. So I devised a thing which the others, David Fleming and whoever the third person was, very kindly agreed to that I would go off on my own and not take part in the discussion of 20th century philosophers, but talk about old philosophy law going back to ancient Greece and so on. Then very kindly the Faculty allowed me to create a half paper called Law and Philosophy, which David Kennedy²¹ of Harvard very rudely refers to as The From Plato to NATO Course. That treated legal philosophy from the point of view of general philosophy.

We did start with the pre-Socratics and go on in the end to Wittgenstein²². That was only a half paper and obviously the students who came to that were terribly self-selected, they had to be able to do that sort of thing, but I think they enjoyed it very much and have said [so] countless times. I remember one of them saying "To think I would have left Cambridge with never having read Plato". I think it did open their minds, and for me it was ridiculous that they would leave Cambridge without knowing anything at all about these things. It was very fortunate they allowed me to do that.

I also did a half paper in Administrative Law, which was in its early days. Bill Wade of this college, H. W. R. Wade, had more or less invented administrative law. Wonderful

¹⁷ Millicent A. "Betty" Suckling (d. 1988). Mayor of Cambridge (1983-84).

¹⁸ Lecturer at Trinity Hall

¹⁹ Herbert Lionel Adolphus Hart (1907-92), Professor of Jurisprudence Oxford University

²⁰ Ronald Myles Dworkin QC, FBA (1931-). Frank Henry Sommer Professor of Law and Philosophy at New York University, Emeritus Professor of Jurisprudence at University College London.

²¹ David Kennedy, (b. 1954-). Professor of Law, Harvard; Faculty Director of the Institute for Global Law and Policy.

²² Ludwig Josef Johann Wittgenstein (1899- 1951), Austrian philosophe, Professor of Philosophy University of Cambridge (1939-47).



achievement of his. Now it's a huge, huge subject, a vast subject, but then it was only just beginning and the phrase Public Law has still not been used, because Dicey²³ in the 19th century said that we were not like the continent of Europe - there was no different legal system applying to government. The beauty of the English theory was that government is subject to the ordinary law. So we resisted and then *Public Law*, the journal, was founded (I can't remember in which year), and now, of course, it's a very common term. What was then called Administrative Law was subsumed into this new idea of Public Law - law applying to public power.

51. I think Professor Hepple mentioned that he had looked forward to doing Administrative Law, but it then was not possible, it was given to Stanley de Smith²⁴.

Stanley de Smith was obviously a great leading figure in the field. So we had this little half paper with a man from Trinity, called and I'm ashamed to say again, he went to London University, I've forgotten his name.

52. That would not have been Markesinis²⁵?

No, not Markesinis. No, simply forgotten his name.

Although it was extremely hard work doing all these things, I treated them as self-education really. If you've got people sitting in front of you listening to a lecture, you can't just waffle on. You've got to read the cases and you've got to get it right. So although it was terribly hard work, it was enormously educational for me. One tried to improve from year to year.

I might mention that as a thing I've also told people who are becoming academics, that oddly enough you don't necessarily get better over the years. It's just possible you get worse as a university lecturer, because there's always a danger of beginning to bore yourself, whereas the students want something, which is essentially the same from year to year. You yourself want to say something new and that's not necessarily a good idea.

I also say at this point, again this is a bit unchronological, that I gave up college supervision after 20 years. We had a rule in Trinity College that you could do that, because the nature of college supervisions had changed. I'm sure other people will have said this, that originally, college supervisions were a discussion between students and somebody who had spent their life on a particular area of law. That was the idea, and as you know, some people gave sherry to their students. I remember my students used to smoke during supervisions, it was a gentlemanly discussion.

Suddenly it all changed. As the faculties became much more professionalised, with syllabuses and photocopied handouts and all the rest of it, the students started taking notes in supervisions and essentially wanting to be prepared for the exam. Well, when that started I quite soon discovered that that wasn't quite what I was any good at - preparing them for exams, doing model answers and so on. I was just no good at that. So, I stopped as soon as I possibly could.

²³ Albert Venn Dicey (1835-1922), Vinerian Professor of English Law at Oxford

²⁴ Stanley Alexander de Smith (1922-1974). Downing Professor of the Laws of England (1970-74)

²⁵ Sir Basil Spyridonos Markesinis (b. 1944-), Professor of Common and Civil Law, University College, London (2001-), Director of Studies in Law at Trinity College (1974-86).



There's a thing related to that, which is that for probably 20 years or more, I ran a weekly discussion group for graduate students in these rooms, lunchtime discussion group, where we discussed anything, not law, but just state of the world, state of ourselves anything. That was a great pleasure for me to meet the graduate students personally. I can't remember in which year I suddenly stopped it, and I remember saying to them at the end "I'm afraid this is the last time". They said "Why? Why are we not going on?" and I said "Well, just recently on every topic that we've discussed you said "oh it's all hopeless there's nothing can be done, the world is like that, you know, how can you possibly do anything about it?"" In other words they all became negative and pessimistic. I said to them "This is ridiculous I'm old and I'm still keen on these things and it's ridiculous me talking about these things when you obviously don't see any hope". So I just stopped.

53. Professor Allott I think in *Eunomia*²⁶ you claim that it was actually the graduate students who persuaded you to talk to them on the subject of philosophical background to a new international order. Is this the group? The period was 1980 to 1997 when you were a lecturer.

Well, it probably is. This was the time when we started another LLM course, James Crawford²⁷ and myself, called the History and Theory of International Law. Again we were very lucky that the Faculty allowed us to do that because it's very unblack letter law. That was the first. It's been copied in other universities. There are now quite a lot of universities that do a history and theory course of international law.

That again was very self-selected students, but our feeling was that at a university one should be thinking at a slightly higher level about all these things, if not here where? Nowhere else you can be thinking at a higher level. The students who took that have been very kind and appreciative over the years - it's been mentioned in one or two prefaces to books by my people who took part in it. Those again for me were educative.

I started in this college a discussion or essay society, which was originally called the Verulam Society after Francis Bacon²⁸, his title and then became the Byron Society after a former student at this college. There, perfectly frankly, I got other fellows to tell me who were their brightest students, and a student would give a paper and we would discuss it - on anything. I remember somebody telling us about the words of a German leader, somebody telling us about the basic steps in ballet, which he demonstrated, somebody else who's now a government minister told us about David Hume²⁹ on moral responsibility. That was a very nice thing, because it allowed me to meet people outside the lawyers who were nice, bright people. A lot of them have now become quite famous people. Just talking about it now I can't understand how I had time to do all these things, but looking back on it, it's all part of the same thing - I've always taken the view that education is sharing. What it is is, it's not teaching, it's sharing with people something that you've acquired somehow and that you now want to share with people.

²⁶ *Eunomia: New Order for a New World*, 1990 (2nd Edit 2000), OUP.

²⁷ James Crawford (1948-) Whewell Professor of International Law (1992-)

²⁸ Francis Bacon, 1st Viscount Saint Albans, KC (1561-1626). Philosopher, statesman, scientist, lawyer, jurist, author and father of the scientific method. Verulam was the Roman name for St Albans.

²⁹ Scottish philosopher (1711-1776)



54. You feel passionate about it - it's the only justification for teaching.

Yes, exactly. I think it is. I couldn't do the, sort of, grinding teacher. I just couldn't do that. So, all these different things were to maximise their interest in anything. As I say now, I can't remember how on earth I had the time to do all these different things - teaching wise.

55. I imagine that when you first came back to Cambridge in the 70s you were so busy that you probably didn't have time to miss the high life of Berlin or Brussels - or did you perhaps at times think Cambridge might have seem a little parochial?

Well, Cambridge was very disappointing in the social side I have to say, always has been very disappointing. [*There is*] something odd about academics they're not very good socially or sociably. We've now got a terrible situation really - I'm now speaking out of turn and out of chronology - where everybody's so specialised, infinitesimally specialised, Mathematicians can't talk to each other, nobody can talk to anybody about anything. This is a huge change in the nature of universities, which were places of general education, general conversation and mutual enlightenment in a way and that's all completely disappeared. I always say that my generation were terribly lucky in that we got the last part of what was really the Victorian system of universities. We just got the last throw of it really. They're now infinitely better, the universities, in that they're wonderfully professionalised and extremely efficient and the students are now extremely serious, but something has been lost as I'm sure other people you've spoken to will have said. It's "golden ageism" on our part that there was a better time, but really, genuinely objectively, something has changed.

56. You mentioned in an earlier interview that you would come back to Kurt Lipstein³⁰. What was your interaction with him - did it begin in this period?

Yes, by doing that course with him obviously I got to know him pretty well. I never got to know him as well as most other people did and the two things about him that everybody says I definitely 100% agree with: a) that he was a wonderfully kind and charming man, and b) that he had this very, very sharp mind, extremely, extremely clear, but allied with enormous intellectual modesty. He didn't go around pompously communicating or sharing or anything, he was just a very gentle, very learned person, who, and I'm sure you've heard so often, was enormously appreciated by the students and was very kind to them.

I should just mention research students should I? Because of course there have been a succession of research students that I've supervised over the years, which I've always found a very tiresome activity. I'm not a great believer in PhDs to be quite honest and I used to keep advising students to think very, very carefully.

57. This reminds me of something that Professor Jolowicz³¹ told me, apparently Hamson³² advised him against doing a PhD.

Oh really, that's interesting.

³⁰ See fn 3 Q41

³¹ J. Anthony Jolowicz (1926-), Professor of Comparative Law (1976-93).

³² Charles John Hamson (1905-1987), Professor of Comparative Law (1953-73).



58. Yes, because no self respecting lawyer would do a PhD. That was only for scientists.

Oh right. Well PhDs of course are terribly recent things in universities, only since about the 1920s they've existed, apart from the mediaeval doctorates, of course. The modern PhD is incredibly..... and the idea that everybody must have one is terribly recent. I think Tony Weir³³ always advises against it as well. I was unhappy about it for a very simple reason that between the ages of about 23 and 27, people's minds were at their most active, and it seems cruel to me that they should disappear into a library, work on something of extreme obscurity, which they may publish and they're very lucky if somebody reads it, but that's their years of 23 to 27.

I started work in the Foreign Office at 23, so I've told them think terribly hard, is this the thing for you to do? Of course, an awful lot of the best people do do it now a PhD, and in American universities I think they have to have a PhD to be appointed, I've supervised a fair number of people over the years. I've [*also*] done informal supervisions of people who are not satisfied with their own supervisor and over the years I've done almost as much discussing with people who are not my formal supervisees, just talking, because they say "I've got to talk through what I'm doing, I'm desperate".

59. It's more common than it is generally appreciated.

Supervision has now been professionalised as well, when supervisors have to report, but in those days some supervisors hardly ever saw their PhD student. In PhDs, as you know, everybody after about a year and a half of doing a PhD goes into a mood of depression. They think "oh my god I'll never finish this, why am I doing this topic it's hopeless" and I used to see quite a lot of them at that, sort of, therapy stage of "yes it is an interesting topic, you've just got it a bit wrong or whatever". As I said, in those days quite a lot of supervisors didn't really see people. Now that's been changed and formalised.

So all supervisees then went through these bad times, and I saw my job as trying to tell them that they would always suddenly discover something that made it all worthwhile. Usually after about a year and a half they'd suddenly see something that nobody else has seen. That happens again and again and again, and obviously I tried to help them to see what this thing was that made the PhD worthwhile.

There's one chap I remember who didn't speak much English and I shan't name him, who I had to more or less dictate into a little Dictaphone his PhD. I was very shocked when he published it, [*and*] in the Preface he said *I thank Philip Allott for his help and encouragement*. I didn't think that was quite adequate, since I'd mostly written the thing. So, that [*supervision*] was another thing which was quite time consuming.

60. Professor Allott you joined the Law Faculty in 1976. Was this a lectureship?

Yes.

61. And you lectured jurisprudence, EU law.....

EU law, probably administrative law.

³³ (1936-2011) Emeritus Fellow of Trinity College 1962-2011, Reader in Law.



62. I wondered whether you had any reminiscences or anecdotes about colleagues that you would've met at that point, Toby Milsom³⁴, Derek Bowett³⁵, Peter Stein³⁶?

Not really, no. Markasinis was in this college, so I saw a certain amount of him, but his work was so different.

Bowett. I suppose I should mention, because he must've been Whewell Professor for a lot of the time. I think he thought I was mad to be quite honest. I remember once saying to him "Isn't it sad in Cambridge there are no longer any eccentrics. The place used to be full of eccentrics?" and Bowett, looking me straight in the face, he said "Are you sure?" I think he thought I was mad. Once Brownlie³⁷ at Oxford in some public seminar said "Philip Allott is mad, but he knows what he's talking about", which I think was very correct really. I did know what I was talking about in the sense that people couldn't accuse me of not knowing what diplomacy is really like, or what international politics is really like. I couldn't be accused of that, but he thought all theoretical stuff was completely crazy and I think Bowett did as well. He gave up on me, which I think may be one of the reasons why it took me so long to get a readership and a professorship. I think they just thought that this man is completely mad, and in any case what is he doing?

I'll just mention the sabbatical at Stanford shall I? Unless you think there's anything I've left out?

63. I have noticed that when you became a lecturer in 1980 it was more or less at that point that you stopped your UN work and maybe that was because of the pressures of having to do all the teaching?

No, not really. I think that was coincidental. I can't remember when I took part in the International Tin Council proceedings, because oh..... I've forgotten to mention the most important thing of all, which is the great decision I took when I arrived here not to practice international law.

As you know there's been a tradition at Cambridge that the international lawyers, almost all of them, are also practitioners in international law and the Whewell Professors have always been practitioners. I took this decision that I would be a full time academic and, of course, the huge cost of that is literally a cost. In old age I keep asking myself "oh wouldn't it be nice to have a lovely big house with works of art in it and so on", because obviously one could've practiced I had a place in Chambers at the Bar, and I never did do any practice.

64. Very interesting. I keep coming back to Tony Jolowicz, but he had exactly the same dilemma if you like. He decided at an early stage not to - having done one or two cases that were highly lucrative. He mentions this as well.

Yes and it's a very big decision. International lawyers - there are so few of them still at the top level. It's very important work that they do, but it's extremely well paid. Robbie

³⁴ Stroud Francis Charles (Toby) Milsom (b.1923-), QC FBA, Professor of Law (1976-90).

³⁵ Sir Derek William Bowett (1927-2009), Whewell Professor of International Law (1981-91)

³⁶ Peter Gonville Stein (1926-), Regius Professor of Civil Law (1968-93).

³⁷ Sir Ian Brownlie, CBE, QC, FBA (1932-2010), Chichele Professor of Public International Law Oxford (1980-99)



Jennings³⁸ once asked me to help him on a case that he'd just become involved with about the Kuwait oil nationalisation and the damages claimed were in the billions of dollars and I thought "oh my god at last I'm becoming rich, amazing wealth is about to descend on me", but it was only for one piece of advice he wanted me, so I disappeared from that case. The only other case I did was the International Tin Council, there were all sorts of problems arising out of its demise, which led to proceedings at the High Court going up to the law lords³⁹ and I was invited to help represent the Commission, European Commission, on that instructed by Coward Chance it was called in those days. That was quite interesting for me. It was totally ridiculous, the whole case, but was very interesting to see a leading London solicitors at work. Enormously impressive, they would send motorbike couriers up to Cambridge with pieces of paper - so incredibly efficient and probably incredibly expensive. It was a famously awful case, because the international law in it was terribly primitive and the courts and Court of Appeal couldn't believe how primitive international law was. There seemed to be no law, they just found a couple of bits in law textbooks. It's very interesting, because that has all changed. Now the courts deal with international law a great deal, [*but*] in those days they treated it with total scorn - "what is this stuff, nobody seems to know anything about it"?

Now of course it arises in lots and lots of cases, and particularly people like Lord Bingham⁴⁰, when he was alive, treated with great respect. That was very interesting, to see such a thing at work. I've just thrown away all the papers of that, they filled a whole fireplace of the papers of that case in my bedroom, vast stacks of paper, completely ludicrous.

65. I just wonder about the fall of the Berlin Wall and the end of the Cold War. Coming back to your Preface in your second edition of *Eunomia*, I sense that you didn't see much good coming out of this.

No, I think for a moment, the title of *Eunomia New Order for a New World*, lots of people were saying that in 1990 - "my goodness we've moved into a new world". I remember the American president at the time saying "we need a new order for this new world". So one has to remember that at that time it did seem as if something incredible had happened and everything was now going to be different. But, of course, we very soon discovered it wasn't going to be different at all, it was just going to be about 1,000 times more complicated with the end of the Cold War.

66. There's a very quotable quote from your Preface where you talk about IGOs continuing to busy themselves with self-appointed tasks, but all seeming like lumbering Leviathans, the biggest of these being the UN.

Yes, these ridiculous great organisations, lumbering Leviathans, were still carrying on. They had now however become surrounded by lots of Lilliputians, hundreds of states, so the situation has now become infinitely more complicated. We thought it was going to be a

³⁸ Sir Robert Yewdall Jennings (1913-2004). Judge ICJ (1982-95), President ICJ (1991-94), Whewell Professor of International Law (1955-81).

³⁹ See Greenwood, C. 1990. The Tin Council Litigation in the House of Lords. *The Cambridge Law Journal*, 49, pp 8-13.

⁴⁰ Thomas Henry Bingham, Baron Bingham of Cornhill, KG, PC, FBA (1933-2010). Master of the Rolls, Lord Chief Justice of England & Wales.



clarifying moment '89 to '90, but now, of course, it's become uncontrollably complicated, But I'll come back to that when we discuss the general theoretical stuff later on.

67. Is there anything that could have arisen from this turning point that would have pleased you?

Well, from my point of view it would had to have been a change of ideas of some kind. With the collapse of communism as the ideology in eastern Europe, and then Fukuyama's book *The End of History*⁴¹ was written and it was alleged that democracy had won, democracy and capitalism had won this great struggle and the whole future of the world was now a democracy in capitalism. I think at that time a lot of us rejected that very strongly, because both democracy and capitalism themselves were extremely dubious phenomena. They were world ordering phenomena in one sense. You could understand a democracy vis-à-vis a Soviet satellite, but [*it was a*] naive idea that we had discovered the secret of human social life. The Americans then became triumphalist for a while, because they had won ideologically, they thought they were going to dominate the world in a new way and there was vast amount of talk of the new imperialism. A new kind of imperialism, a benevolent imperialism. Of course, none of that turned out to be true. History took a different course. I may come back to that when we deal with the theoretical bit.

68. Which takes us to your sabbaticals.

Yes, I spent a year at Stanford, which started off extremely unfortunately in that the person who'd invited me to go there had left by the time I arrived, so I didn't know anybody.

69. Was this about 1980?

Yes. I'm ashamed to say I can't remember, he was an international lawyer at Stanford, but he'd left, so I didn't really know anybody. I did take part in a seminar in the law school, Stanford Law School with a man called John Merryman⁴², a famous tort lawyer, but that was extremely marginal. I spent my whole time in the Hoover Institution for the Study of War Revolution and Peace⁴³, which was a notorious, very, very right wing institution - Reaganite institution, but they had a very good library. I was very interested in the French Revolution at the time and by an extraordinary chance they had almost every book in existence on the French Revolution, because some famous member of the faculty at Stanford had been one of the world's leading experts on the French Revolution. They had books from the end of the 18th century, original books. They had even the famous *Cahiers de Doléances*⁴⁴, the things that people sent into Paris from the provinces describing what was wrong with France, so you could read these *Cahiers de Doléances*, the complaints of the people, in the original texts.

⁴¹ *The End of History and the Last Man* - Francis Fukuyama, Free Press, 1992, hardcover (ISBN 0-02-910975-2). Yoshihiro Francis Fukuyama (b.1952), American philosopher, political economist, and author.

⁴² John Henry Merryman (1920?-) Nelson Bowman Sweitzer and Marie B. Sweitzer Professor of Law, Emeritus at Stanford

⁴³ Founded by Herbert Hoover in 1919. <http://www.hoover.org/library-and-archives/history>

⁴⁴ 1789. <http://www.historyguide.org/intellect/cahiers.html>



At that time I was working on the nature of social change, how changes occur and particularly the great question of whether it's politics or whether it's ideas that cause social change. So, I read there for a year all these things, the French Revolution being a most marvellous example of the mixture of politics and ideas. That was very fortunate, and also it meant that one got to know the United States fairly well.

70. It must have been extremely enjoyable.

Well, it was and it wasn't, partly because I had not known that northern California is rather different from Southern California. Stanford is in the sweet little town of Palo Alto, which is now famous for it being the place for Bill Gates and so on are - Mountain View is just up the road where all these famous computer technology companies now are. It's a very sweet place in that sense, but unlike southern California, its weather is a bit like England. I had a dream of beautiful days on the beach, but in northern California the sea is incredibly cold and San Francisco, which is just down the road, is full of fog. San Francisco was good in that, of course, it had an opera house and concerts and so on.

71. Can I ask you Professor Allott do you like swimming? Because in your novels, your characters often dive into the sea or go for a nice long swim.

Yes. Oh yes. There are places in southern Spain, where I've been hundreds of times, beautiful desolate beaches, where I would sit under a tree and read. No, and that's why the sea appears so much in the *Invisible Power* novels. I think the sea is very important.

I had this vision that I would sit under a palm tree on a lovely beach in California, but it was more a question of how many layers of woollen clothing to buy at J C Penneys⁴⁵, and one could get into San Francisco on a little bus or a little train. I once said to a member of the faculty at Stanford that "You have a very good bus service around here" and he said "Do we? I'll have to do something about that", because, of course, it was mostly the lower orders on these buses. They had a beautiful service, which members of the Stanford faculty had paid for no doubt through their taxes. I always tell students it's very important to get to know the United States of America, because it's so dominant in world culture. It's very, very important to get to know it. So I was very lucky. I went to America every year from 1963 to about 2006.

The first time I went in 1963, I don't know if I mentioned this before, was the day President Kennedy was shot. I think I did mention it, and I've been every year since. Also we had a very good thing in Cambridge in those days of American law schools having summer schools in Cambridge, they may still go on. I got to go to a number of American law schools, and I did a semester at University of Michigan when Joseph Weiler⁴⁶ was on leave, and I went to University of Richmond and New York University a lot.

The University of Richmond, Virginia, asked me to speak at the annual meeting of the Virginia Bar Association in Monte Carlo. I remember saying to them "What on earth are you doing in Monte Carlo?" and they said "Well, we're in Rio de Janeiro next year". Of course,

⁴⁵ A nation-wide department store originating in Texas.

⁴⁶ Joseph Halevi Horowitz Weiler (b.1951-). Professor of Law at the University of Michigan Law School (1985-1992), Joseph Straus Professor of Law and European Union Jean Monnet Chair at New York University Law School (1992-2001).



all tax deductible - which is the most beautiful holiday tax deductible for them. I very much enjoyed getting to know the faculty in quite a number of American law schools and I've kept up with the very nice people at Michigan. The head of the law school then, the Dean, Lee Bollinger⁴⁷, whom I liked very much, then went on and became Provost of Dartmouth College and is now incredibly grand, he's President of Columbia University in New York. He was very nice and kind to me when I was at Michigan. One pontificates about America a great deal, we all do, but I think one should pontificate on the basis of experience of it, and I have had a lot of experience of America and appreciate the good side of America enormously and disappreciate enormously the bad side of America. That's very, very relevant, because America spiritually and culturally has been enormously important in the world. Hard to believe that it's a former British colony - it seems very remote.

72. You also visited Dalhousie Law School in Canada in 1992.

Yes, Dalhousie, is a very Scottish place in Canada. I gave a series of lectures on human rights, which I never normally speak about, just simply because Bertha Wilson⁴⁸, who established the chair wanted lectures on human rights. When I was in the Foreign Office I refused to have anything to do with human rights, which I've never believed in, but I had to speak about them. All I remember about that is with the students. I said "Why don't we devise a new list of human rights? A more interesting list than the usual boring stuff about freedom of expression and so on" and I ran into difficulty. One of my suggested new human rights was the freedom to appreciate beauty and the students reacted very negatively to that. They said that is discriminatory against ugly things and ugly people. I must say that hadn't occurred to me, so I rather gave up the task of finding new, more interesting human rights. I remember there was a human duty not to create ugly buildings. I think that would be a much better series of human rights - to avoid ugly public buildings, but I never got very far with that.

73. During the time of your sabbaticals you achieved your most publications - a very prolific period, which takes us up to the time of your Readership in Cambridge. Perhaps we can continue with that in our next interview Professor Allott?

I think it would be good, because I've got to get onto the work I was really doing, which was writing *Eunomia* and that will takes a bit of effort to speak about.

Oh I've got to tell you next time how I met Robert McNamara and then on a later occasion how I met Dr Kissinger.

74. Well, I can thank you so much for yet another fascinating interview and look forward to resuming in a few weeks time. Personally I find these so enjoyable, it's just wonderful.

⁴⁷ Lee C. Bollinger (b. 1946). <http://www.columbia.edu/cu/president/docs/bio/>

Nineteenth President of Columbia University on June 1, 2002. A prominent advocate of affirmative action, he played a leading role in the twin Supreme Court cases—*Grutter v Bollinger* and *Gratz v Bollinger* - that upheld and clarified the importance of diversity as a compelling justification for affirmative action in higher education.

⁴⁸ Bertha Wilson (1923-2007). First woman on the Supreme Court of Canada (1982). Joined the Supreme Court the year the Charter of Rights and Freedoms came into effect. Author of the Supreme Court decision overturning Criminal Code of Canada restrictions on abortion in 1988, acceptance of the battered-wife syndrome as self-defense in *R. v Lavallee*, 1990.



I wish I could remember more, I'm beginning to forget all these people's names. I was wracking my brains overnight to remember the name of Louis Sohn and dispute settlement at the Law of the Sea thing, but fortunately I did remember it just at the last moment.

