

**Conversations with Professor Sir John Hamilton Baker**  
**Part 2: Later Academic Career**

by  
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*This is the second interview with the twenty-fifth personality for the Eminent Scholars Archive. Professor Sir John Baker is Emeritus Downing Professor of the Laws of England at the University of Cambridge. The interview was recorded, and the audio version is available on this website.*

*Questions in the interviews are sequentially numbered for use in a database of citations to personalities mentioned across the Eminent Scholars Archive.*

Interviewer: Lesley Dingle, her questions are **in bold type**.  
Professor Baker's answers are in normal type.  
Comments added by LD, [*in italics*]. Footnotes added by LD.

**83. Professor Baker, last week we spoke about your early life and your career up to the point where you had been a university lecturer at Cambridge between 1973 and 1983. Today, can we continue from the stage where you were appointed Reader in English law in 1983. You were 39 years old and I wonder what the circumstances of your appointment to the readership were?**

Well, I don't really know, because in those days you didn't apply for readerships and professorships as you now do - they just came at you out of the blue. All I remember is that I was at the Huntington Library in California and in my little pigeonhole one day there was a letter from England (which I didn't often get) and I opened it and was absolutely flabbergasted to see I had been offered a readership. That's it - somebody must have compiled a case and put it forward.

**84. At that point the accommodation was still in the Old Schools. Was it at that point becoming quite crowded?**

It was very crowded, and we had lectures on other sites as well. I can't remember exactly when, but we had some lectures in the Mill Lane lecture rooms and latterly, I think, at Lady Mitchell Hall as well, so it was all over Cambridge. In fact, a very strong case was made by Professor Milsom when he was Chairman - I think at the end of the 1980s - setting out the grievances of the Faculty and how it was absolutely impossible to continue as we were. It was that paper, I think, which led on eventually to a new building, which we will come on to in due course.

**85. Was there a change in your duties, in your responsibilities?**

Not significantly. I think there was a limit on how much supervision one was supposed to do, but in practice you have to do what's necessary. I think I did cut down slightly, but not significantly. I was still Director of Studies; lecturing duties were the same.

**86. You were given an LLD in 1984 and I wonder to what this honour was owed?**

Well, that you do apply for. I thought, having just got a readership, "Somebody must

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<sup>2</sup> Freshfields Legal IT Teaching and Development Officer, Faculty of Law, Cambridge University.



have read all this stuff and so they can write a report for the LLD and it won't cause anybody any extra work - I might as well put in for it". So you just put in a boxful of your books and then some poor soul has to examine it.

**87. In 1984 you were made a Fellow of the British Academy. What was the citation for this?**

I have no idea. It's like a Readership - you don't know who has put you up or why. I suspect it was the legal historians, obviously.

**88. In this position you were on the Publications Committee from 1989 to '92, and you were on the Council, as well as Chairman of the Law Section from '95 to '98. Are there any outstanding memories of your time and your services?**

No, I think it was all routine work, as far as I remember.

**89. In 1985 you received the Ames Prize from Harvard. Any significance in this?**

Well, it's a prize for legal history which is given, I think, every three or four years, so I felt very honoured to get that. It was expressly awarded for my introduction to *Spelman's Reports* which had been given the Yorke Prize, so I got two prizes out of that in the end. They flew me over to Harvard to receive it. There is a very nice big medal comes with it, so that was very agreeable.

**90. Very nice, and fairly early on in your career as well?**

Yes.

**91. You visited Yale in 1987. I wonder what the circumstances of that were?**

Well, I think that the Dean, Guido Calabresi<sup>3</sup>, who had been here asked me if I would like to do it. I am not quite sure who suggested it to him, because he wouldn't otherwise have thought of it but somebody must have suggested it. I just went for a few weeks at the end of the summer before the Michaelmas term began. Then at NYU the two legal historians there, John Reid<sup>4</sup> and Bill Nelson<sup>5</sup>, got to hear that I was doing this at Yale and - because they had had Toby Milsom going to them earlier on - they thought, "Ah, we can get John Baker to come and carry on doing that." So they asked me if I would go to New York the next year, and that started off a long association with New York University.

**92. Which lasted for the next 22 years. What was the nature of this long-term work?**

I used to go for six or seven weeks and teach a course. By doubling up the lectures I could teach a proper course, which would be examined at the end of it. When I started, I used to get quite large audiences of about 50, but then they decided to have a "Global Law School". I think I was a sort of pre-global Law School, as a one-man show; but then, when they had lots of other people offering the same sorts of courses, obviously there were fewer students for each, so it went down. I don't think it was because of my lectures having deteriorated, it's just that there was more on offer. So it would end up perhaps as six to twelve - something like that in the end.

**93. I noticed there is a legal history colloquium in September, and I wondered whether**

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<sup>3</sup> (b. 1932). U.S. Court of Appeals for the Second Circuit (1994- ), Sterling Professor Emeritus of Law, Yale (1959-94), Goodhart Professor 1980-81.

<sup>4</sup> John Phillip Reid (1930- ) Russell D. Niles Professor of Law, NYU.

<sup>5</sup> William E. Nelson, (1940- ) Judge Edward Weinfeld Professor of Law, NYU.



**you contributed to this during your visits?**

Yes, I usually spoke each year to that and I used to go to it, of course. It was run by Bill Nelson.

**94. In 1988 you were an Honorary Bencher of the Inner Temple. Any particular circumstances, or what this entailed?**

My main connection with the Inn at that point was that I had been helping with the archives, which were in a terrible state. Some had been put into basements during the Blitz and others were completely unsorted - I helped to sort them out. I gather from what was said to me that they were waiting for me to become a professor, because they thought honorary benchers had at least to be professors - then they jumped in and elected me.

**95. That's very interesting, because that, of course, is the year when you became Professor of English Legal History.**

Yes.

**96. Before we move to that, during your time as a Reader you had a prodigious output. You produced seven books, which is more than one a year, 15 book chapters and 24 articles. To what do you attribute your success, Professor Baker?**

Well, I don't know about success. I just went on doing it because I found it interesting. They weren't, I think, monographs - any of them. They were different sorts of books, mostly for the Selden Society. I think there was an edition of *Port's Notebook*<sup>6</sup> - which was the manuscript I had gone to look at in the Huntington, which we mentioned last time. I wrote a book on serjeants at law, which came out of my PhD thesis. Then I published a list of legal manuscripts in the States, which came out of my year when I was there - just a short-list. Then I did a source book with Professor Milsom - we both had the same idea at the same moment - and that came out in 1987. In 1987 I acquired a computer for the first time and, of course, that transformed my research, and the work after that. Professor Milsom had his before I did, and I thought, "If he has one I should have one."

**97. You were 44 years old when you were made Professor of English Legal History in 1988, and that is relatively young. This was a personal chair and I wonder how that came about?**

Well, again, you didn't know in those days. In fact, I remember that once when we had a chair vacant and somebody applied for it - and that was felt more or less to rule him out. They didn't want the sort of person who would apply for a chair. So it came out of the blue. I was even more surprised than I was by the readership, because in those days *ad hominem* professorships were really quite rare. I think I was only about the fourth or fifth in the history of the Faculty. [Actually the seventh - but the fifth since the War. The last had been Professor Jolowicz<sup>7</sup> (1976), and before him Professor Parry (1969).]

**98. That was two years before Professor Milsom retired. Do you think perhaps there was any connection?**

Well, there may have been. Of course, I would have gone on doing the same teaching anyway, so it didn't really make much difference; but it may have been in people's minds.

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<sup>6</sup> Sir John Port (c.1472 – c. 1540), judge, involved in the trials of Sir Thomas More, John Fisher and Anne Boleyn. Reader in Middle Temple 1509.

<sup>7</sup> J. Anthony Jolowicz, (1926- 2011), Professor of Comparative Law (1976-93).



**99. Did this professorship affect the duties that you had had hitherto?**

Not greatly. As with the readership, one does the same lecturing stint more or less - but as far as the College was concerned there was a limit on the amount of supervisions that you are officially allowed to do. Not long before then professors were absolutely forbidden to any college teaching - they couldn't supervise - but that had been relaxed, and I think it was four or six hours a week that one was supposed to stick to. I think by and large I did; and I gave up being Director of Studies fairly soon after that - not immediately - but that was only made possible by our taking on more law fellows at St Catharine's.

**100. I see.**

Eilís Ferran<sup>8</sup>, for instance. So I didn't have to do it all myself.

**101. During this time you were Chairman from 1990 to '92, and you would have been involved in the planning for the move to the Sedgwick site. I wonder whether you have any memories or recollections of this rather trying time?**

Well, one could hardly forget it. No, that was quite a hard time to be Chairman of the Faculty, although it was spread over several chairmanships. As I said, I think the impetus first came when Professor Milsom was chairman and he persuaded the General Board that things just couldn't go on as they were. That was agreed, and then during Len Sealy's<sup>9</sup> term as chairman the decision was made to commission Foster<sup>10</sup> and Partners to produce a plan. There had been a competition, and I think it's fair to say that the general view in the Law Faculty was not in favour of Fosters - they would have preferred something rather more conventional - but the decision was not made by the Faculty, it was made by the General Board's building committee. I think Gareth Jones<sup>11</sup> was serving on that, and he was very influential in ensuring that Fosters were appointed.

So that was a fait accompli when I took over. Then I had to work for two years with Foster and Partners on the plans. What was difficult was that we still had the final decision to make as to whether the plans when produced would meet our needs. So we could have pulled the plug - that was the crunch decision that had to be made while I was chairman. It was quite controversial - some people didn't like it at all - and I decided that it was such a big decision that it couldn't be taken by the Faculty Board, it had to be the whole Faculty. I knew of no precedent for this, but I made the whole Faculty meet and we had a presentation by Fosters, and then we took a ballot.

Although there was quite a significant dissenting voice, it was nevertheless a clear majority - because it was quite clear, as I told them, that, "If we say, 'No,' which we are entitled to, then the University will effectively wash its hands of us for the next ten or 20 years and we won't get an alternative building - so it's this or nothing." I think most members of the Faculty thought, "Well, anything will be better than what we are putting up with at the moment." But it was a difficult time, certainly, and also quite difficult to work out what are your minimum requirements. Some members of the Faculty would have liked to have offices for everybody, but that was just impossible given the space available - and I was worried that if we did provide a little cubbyhole for everyone then colleges would say, "Oh you have got a room in the Faculty, you don't need a room in college", and most of us were far better off with our college rooms than we would have been with Faculty rooms. So there were lots of decisions of that sort that had to be made by a committee as the work progressed.

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<sup>8</sup> Professor of Company & Securities Law

<sup>9</sup> Leonard Sedgwick Sealy, (b. 1930), Emeritus S J Berwin Professor of Corporate Law.

<sup>10</sup> Sir Norman Robert Foster, Baron Foster of Thames Bank, (1935- ), architect.

<sup>11</sup> Gareth Hywel Jones (1930-2016). Downing Professor of the Laws of England (1975-98).



Whether the offices should be open-plan or not was another big issue.

My own principal input, where I did achieve something tangible, was the inclusion of a Moot Court, and the provision of pull-out shelves in the library. The pull-out shelves are now getting rather stiff – they probably need oiling – but they should be compulsory in every library. Whenever I use a library without them I am mildly annoyed, because you may have to carry a book away until you can find a seat, just to jot down a reference or quotation.

**102. Very interesting. Any other concerns that were voiced by those with a dissenting vote?**

Well, I think there was a spiritual attachment to the old building and I think a lot of people didn't want to give that up. It was a wrench to leave that. But obviously, on the other side, you could see that it would have more space, and the books could be set out rather more logically in straight lines, so easier to find things.

**103. Did you meet the architect Sir Norman Foster?**

Yes, he came up once or twice. Most of our dealings were with his second-in-command, but he came up to meet the Faculty and speak to the Faculty. He was a rather arrogant person - didn't listen to us at all. I was particularly worried about the noise problem, because they'd designed this open-plan building in which there was nothing between people pouring out of lectures in the basement and the library. I said, "This is going to be noisy, - bound to be," and he more or less went puce and said, "What on earth do you know about it? I am the architect." Of course, I was right, and the great architect was wrong. We had to put a glass screen in - which is what I had asked for and - though he'd said, "You won't need it." So my dealings with Sir Norman Foster, as he then was, were not happy.

**104. Do you like the new quarters, Professor Baker?**

Not greatly, no, I don't like to come here too much. The Maitland Room is very nice - that's the one plus. That really is very agreeable, and perhaps even nicer than the old Room 3 (where we used to keep the legal history books) in the Cockerell Building. Of course, I appreciate all the facilities. We can do all sorts of things that we couldn't do before and that is wonderful. I just don't have a sense of uplift when I come here. [Note: the Maitland Room was not part of the original scheme.]

**105. Certainly Professor Lipstein never got used to the building - he greatly missed the previous accommodation.**

There is something wrong with the air quality as well, so whenever I have been here for more than an hour I desperately need a glass of water. It's very dry. We weren't allowed to have air conditioning because it was too expensive, and we weren't allowed to have openable windows because they were too old-fashioned.

**106. The actual move must have been very difficult. Do you have memories of that particular process?**

Well, that was in the next chairmanship of John Tiley<sup>12</sup>, who did the gumboot stage and the actual building. Then the opening took place during John Spencer's<sup>13</sup> chairmanship and he received the Queen - it was a grand occasion. I didn't really have anything much to do with that. I may have been still on the committee, but that was not my responsibility.

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<sup>12</sup> John Tiley (1941-2013), Professor of the Law of Taxation (1990-2008). Fellow Queens' College Cambridge

<sup>13</sup> John R. Spencer Professor of Law, President of the European Criminal Law Association (UK), Murray Edwards College.



**107. Professor Baker, still during this time when you were Professor of English Legal History. You had overseas trips - you continued your association with New York.**

Yes.

**108. You also went to Chicago and were given an honorary LL.D. Did you actually go to Chicago to receive this award?**

Yes, I did, and I was very touched. That's the only honorary degree I have got, and it was very, very nice of them.

**109. In '93 you were given another award, by the American Society of Legal History. You were a Visiting Fellow. What were the circumstances of this?**

I am afraid I can't remember. I don't even know what it is. I had been a member of the society for quite a long time, and got their journal, but I don't quite know what a Visiting Fellow was. I never "visited" them, because the meetings were always in term-time and I couldn't get to them.

**110. In 1995 you were at All Souls in Oxford. Was this a sabbatical and did you have a specific programme of research?**

Yes, it was a sabbatical and I had a specific programme, which was to try and make a start on *The Oxford History of the Laws of England*. That seemed an appropriate place to start it, and I wrote almost half of it while I was there. It was a wonderful place to be, just to get on with one's scholarship and be given nice food and drink every night, if one wished it, and very good company.

**111. Two further awards during this period. In 1996 you were made an Honorary QC, and in '97 an Honorary Fellow of the Society for Advanced Legal Studies. Any memories of these?**

Well, I was really very honoured to become a silk, having always thought of myself in earlier days as a barrister-in-waiting. Even though it wasn't real (practising) silk, it was nevertheless a distinct honour and I was very delighted to be able to go up to the House of Lords and get sworn in - in my buckled shoes and full-bottomed wig.

**112. During this time you completed seven books, 14 book chapters and five articles. I wonder whether the opportunity for research increased when you had this position, as again, it was a very productive period?**

I don't think the opportunities were any better, no. In fact, one was expected to do rather more in the way of running the Faculty and so forth. But I just kept doing what I have always done. Once again, a lot of those books were editions. Editing texts, although it is quite difficult, it's something that you can pick up and put down, whereas writing a monograph or something where you have really got to sit down with a wet towel round your head and work it all out, without distraction - that's much more difficult to do.

**113. In 1998 you were awarded the Downing Professorship. This chair was founded in 1800 as a bequest of Sir George Downing<sup>14</sup>, and I wonder whether there are any specific qualifications linked to the chair, or can it cover any area of law?**

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<sup>14</sup> Sir George Downing, 3rd Baronet (1685-1749), politician, through donation in his will, founder of Downing College, Cambridge.



It can cover any area, yes, indeed. Of course, one of the greatest holders was Maitland, who was the founding father of legal history, but it didn't have to be a legal historian. In fact, it usually wasn't. So I was very grateful to be considered for that.

**114. Any recollections or comments regarding the circumstances of your succession to Professor Gareth Jones?**

Yes, well, there was quite a prestigious chair at Oxford vacant at that moment and I was being put under some pressure to accept it. While I was dithering, a member of the electoral board to the Downing chair asked me if I would consider being the Downing Professor, or was I going to go to Oxford - and I said, "I would much rather stay here and be Downing Professor." And so it happened.

**115. Very interesting. Any special duties attached to this position?**

No, not now. I mean, under the original foundation the Downing Professor was, I think, ex officio Vice - Master of Downing and had his own Lodge - all very splendid. But that came to an end with Hazeltine<sup>15</sup> in the 1940s, who not only became non-resident, because he was American - extraordinary appointment Hazeltine, he never wrote anything - and when the War broke out he decided it would be safer in Boston. So he went back to the States, and by all accounts spent the rest of his life watching movies. But what had really annoyed Downing was that he let half the Lodge to another colleague, and that was thought to be rather disreputable. So they changed the statutes, and the Downing Professor no longer has any real connection with Downing, except dining rights.

**116. Did your teaching duties remain much the same?**

Yes.

**117. In 2001 you were made an Honorary Foreign Member of the American Academy of Arts and Sciences. Did you go to the United States to receive the honour.**

Yes I did. It is the equivalent of the British Academy and the Royal Society rolled into one. It was quite an honour, as there are only five or six British members in the Law section.

**118. In 2003 you were knighted, Professor Baker, and presumably you went down to London. Could you tell us about this wonderful occasion?**

Yes, well, it was the same as for everybody else. The first you know about it is that you get a letter from 10 Downing Street asking if you would be willing to have your name put forward to the Queen. They enclose a form for you to tick "Yes" or "No, and they say, "You won't hear anything else until it's announced on the day." So you send this form back with a tick - I suppose some people say "No", but not many - and then you just spend several months wondering if they have received the reply or not; and then you buy the newspaper on the day. It was the Queen's official birthday, and I remember I was in London when I bought the newspaper and opened it, and sure enough there I was. The actual event is wonderful, of course, for anybody who goes to an investiture, whether it's an MBE or a knighthood. It's a very splendid occasion. I was able to take my parents shortly before my mother died, and I am very pleased that they were able to see it.

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<sup>15</sup> Harold Dexter Hazeltine (1871-1960), Professor of Law, University of Wisconsin (1908), Downing Professor of the Laws of England (1919-42).



**119. That does sound a wonderful occasion. Professor Baker, in 2008 you were given a gold medal by the Irish Society of Legal History. Why you were given this award?**

Well, just for services to legal history, I suppose. I didn't have any very strong connections with Ireland. I had given the odd paper relating to Ireland and in fact, my very first paper was published in the "Irish Jurist" - but that was more because it was a useful outlet for me than that I wanted to benefit Irish scholarship. Anyway, it's a learned society devoted to legal history, and it was very generous of them to honour me in that way.

**120. This 13-year period in the Downing Chair was your most productive in what has been a particularly creative and productive career. Ten books, 23 book chapters and 44 articles. Could you sum up this period of your career in terms of the opportunities that it presented?**

Well, it was just "business as usual" really. There may be slightly more items because it was a slightly longer period than others you mentioned, but I don't think there was any particular change. I just went on doing what I have always done. Of course, many of the things that you write are long-term projects and they come to fruition, rather by chance, at certain moments which are not actually when you did most of the work. So maybe I was better at finishing things off.

**121. In 2002 you were the Lady Margaret's Preacher, which is the oldest teaching post in the university. I wondered what this entailed?**

It was one of the most bizarre appointments that I have ever received. Not having any religious beliefs, I was pleasantly surprised to be invited to deliver a sermon. The only duty now has been whittled down from a lectureship to giving the sermon in Great St Mary's on Commemoration Day. So I said I would do it - nothing like a challenge. Of course, I took a lawyer's approach to it, and since I thought it was rather strange that I was being asked to give this lecture, - which would have horrified the Lady Margaret. - I spoke about perpetuities and donors' intentions, and how proper it was for people to expect their wishes to be carried out for hundreds of years. So I tied it in with the absurdity of my own position.

**122. You retired in 2011 from the Downing Chair and we should perhaps say, "nominally retired" because you have been extremely busy. Did you have to retire, Professor Baker, is it mandatory?**

Yes, it is. It's probably illegal, but I actually voted in favour of it because I think we ought to get out and make way for the next generation. I have seen what problems it causes in the States to have people staying on - these geriatrics who don't do anything, occupying all the best rooms, and costing a lot of money. I just don't think that's right really. And I think it's better than having an awkward conversation with the Chairman of the Faculty, at some point, saying, "We are now getting so many complaints, John, that we think you ought to stand down." Better just to go when a point of time comes. There is plenty else to do.

**123. In 2013 were awarded the Sutherland Prize. This was from the American Society for Legal History. Any recollections of this?**

Well, that was for the article I wrote for a festschrift to my old friend Paul Brand<sup>16</sup> who is a specialist on the 13<sup>th</sup> century. I haven't really done much on the 13<sup>th</sup> century, but I did use to lecture on problems about the history of the action of covenant in the 13<sup>th</sup> century, which had never really been resolved. I thought I would just rework my lectures for that, and

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<sup>16</sup> Emeritus Fellow, All Souls College Oxford (2014- )





put that in. It seems to have appealed to somebody, and they very kindly gave me a prize. I was flabbergasted - I have never won a prize for a very long time - but there we are.

**124. Did you go to the States to receive it?**

No, that was not necessary, no.

**125. I know that obviously your scholarly work continues, and I had the great pleasure of hearing you give a talk at a library conference last year at Oxford. Are you considering new projects, Professor Baker, or are you simply completing long-term ones?**

I think at my age it would be rather rash to start anything new of a major kind. Of course, one is always being asked to give papers, but usually (if possible) one tries to make use of material one has already gathered. So I will be largely finishing things off, I think, and editing. At the moment I am editing Coke's notebooks - my first discovery years ago. I used to say then, "Perhaps I will edit them when I retire," not thinking I would. But it seems to be that's what I am doing.

**126. Your output in your retirement, again, has been remarkable. Four books to date, 13 book chapters and 21 articles. Presumably you don't require funding for your research, Professor Baker?**

No, never had funding. I regard my pension as being rather like a research fellowship, without limit of tenure, and that supports me doing what I need to do - as long as I can afford to go to libraries and buy paper, keep my computer going.

**127. I was wondering where you felt you worked best in retirement - at home or in your college. I know it's not here in the Faculty from what you have just told me?**

No, it isn't, indeed. I don't have my College rooms any more but for most of my career, from 1971 until 2011, I did all my work in my College rooms. I was very lucky from 1975 until retirement to have a rather nice little set of rooms up in the roof, called Sky Hall, and I did nearly all my work there. Occasionally I did some at home, but not all that much - I tended to pursue hobbies at home. But then I had to get out of my rooms when I retired - and quite rightly too. I dreaded it for years - "What on earth am I going to do with all my books?" I had an enormous number of books in Sky Hall, so much so they were worried about the ceiling below, but my wife very sensibly said, "Why don't you just build a library in the garden?" My previous study was a rather nice room facing the garden, and she said, "That would make a lovely kitchen." So we did a deal, and she got a nice kitchen - or we both got a nice kitchen - and I got a wonderful new library. I got all 90 metres of books from Sky Hall into it, just, with compact shelving. So I am now very happy working there.

**128. Do you still play a role in the Faculty, Professor Baker, in an advisory capacity?**

No.

**129. That brings us now to a section which is no longer chronological and it concerns your relationship with particular institutions. Because you have played such an active role in so many institutions, bodies and boards, and engaged in a variety of activities, I thought it might interesting if we could draw these out and talk specifically about some of them. The more important ones - you might perhaps feel moved to say something about the bodies themselves.**

I wonder if we could start with the Selden Society. You have had a long and



**distinguished association with the Selden Society and your publishing record was particularly strong with them during the period when you were Professor from '88 to '98. When you joined and what the circumstances were of that?**

As far as I can remember I joined more or less as soon as I took up an academic position, because it was the sort of thing you have to do as a legal historian. It's very inexpensive and marvellous value - if I can give it a plug - still is. It would have been in the mid-60s.

**130. Can you tell us a bit about the Selden Society and what it does for legal history?**

Yes, it was founded in 1887 to publish works relating to English legal history. Usually one a year - an annual volume - which members get for a subscription. Then we also publish supplementary volumes from time to time, which are charged for more or less at cost price. That's it really. We don't organise conferences or anything of that sort, because there are other ways of doing that - which we may come onto. It's a publishing society and serves a very important function, producing texts of material which wouldn't otherwise be available in print. We haven't on the whole produced editions of things that are already in print, though just occasionally it's been valuable to do that where comparison of texts has been required - with printed books, one can just reproduce them photographically nowadays, there is no need to edit them. But we edit law reports, and lectures in the Inns of Court, and that kind of thing, which is very difficult to use in manuscript form - one can, of course, and we have to, but it's so much easier to use when there is apparatus, indexes and so forth.

**131. Well, you have been on the council since 1973. Can you recall any significant developments over the intervening 40 or so years?**

Not really. It's been a steady story of success. We have gone on producing the odd volume a year. Perhaps one of the nicest developments has been a very recent one. We managed to save up enough capital - because we have such a large membership - that we are able to fund a scholar at university. The first of the Selden Society scholars is in fact at Cambridge at the moment doing a PhD. We have just renamed it the "Milsom Scholarship."

**132. You were the Literary Director of the Selden Society, and you held this position jointly from '81 to '90 with David Yale and then solely from 1990 to 2011. I wondered if you could outline the circumstances of this?**

Yes, well, that's an accurate statement. David Yale and I did it jointly for a while. He had, I think, been doing it jointly with Toby Milsom - I can't quite remember what the position was before '81 [NB Yale and Milsom did serve jointly 1976-80]. Anyway, we did it jointly for about ten years, and then I took it on on my own. I think I served a longer term than any other Literary Director. But that's partly because it tied in very closely with my own work. Whenever we were short of a volume, I just produced one myself - it made life a lot easier than chasing other people. It is actually very difficult to get work done for the Selden Society because we don't pay editors, and all our editors have other jobs and other priorities. So, although we have some very good ideas put to us, it's sometimes a very long wait before a volume actually appears. There is one famous volume that took over a hundred years, and by the time it finally came out the texts that were edited were completely different from the texts which had first been proposed - yet it was organically still the same project. That's a rather bad example, but some certainly take ten years quite normally.

**133. Any memories of David Yale? I remember Mr Prichard spoke of him at some length because they obviously had a project, a long-running.....**



Yes, the Admiralty project. Well, David was a colleague for many years. I am rather sad that he now lives in Wales and I don't see so much of him, because we got on very well. It was a good partnership in the Selden Society - and, indeed, we also taught the LLM course together over the years. I have pleasant memories of those days.

**134. Professor Baker, are there any memorable occasions that stand out for you? Because I recall Professor Milsom recounting the centenary celebrations in '87 when the Duke of Edinburgh attended and conversed very well with the American visitors. Do you have any memories of your time?**

Well, that was the only memorable occasion. We have a memorable occasion every hundred years in the Selden Society, so I shan't see the next one. There have been the odd memorable hiccups, like printers going bust and the secretary of the Society having to go and rescue all the volumes quickly before the sequestrators seized them. But we don't organise occasions - so, no, we haven't had any others.

**135. That brings us to your association with the Inner Temple which you joined early in your career when you were an assistant lecturer at UCL. You have had this association throughout your career and I wonder if you could briefly outline how you came to join?**

Well, I joined long before I was an assistant lecturer. I joined in my first year as an undergraduate, because you had to eat the dinners in those days. You had to keep twelve terms by eating dinners, before you could be called - and my call-night was my very last dinner, so I got all 36 in just in time. If you didn't start early, you would have a wait before you could become a barrister at the other end, which could be very inconvenient. So, because I thought I was going to the Bar, I joined the Inn straight away. I think I chose the Inner Temple because the undergraduate who I was sharing digs with in Muswell Hill was already a member of the Inner Temple<sup>17</sup>. He said, "I will take you down there for dinner." There was also a very senior junior barrister practising in Chelmsford who my father knew slightly, he was a bencher<sup>18</sup>, and he said, "I will propose your call in due course." It was only a very loose connection that drew me to the Inner Temple, but it's been quite an important association really. Because of my work on the history of the profession I have obviously an interest in the Inns of Court, and I have always felt close to them for that reason. It's also a very agreeable society, and I have enjoyed being associated with it, especially as a bencher.

**136. Any particular facilities that were of use to you in your historical research?**

Well, there is a very fine library with a lot of manuscripts. But what was of greatest use to me when I was an assistant lecturer at UCL was that there used to be a lot of 17<sup>th</sup> century books on the open shelves - at UCL we didn't even have a set of yearbooks, which are essential reading for a legal historian - and I could go down to the Inner Temple and just pull them off the shelves. I used to sit in a little alcove up in the gallery, overlooking the gardens and the river, looking at these books - I can still remember the rather nice smell of decaying year books, with these beautiful scenes outside the window. Very happy days. Unfortunately they are going to destroy the gallery now, and build something else there, but that's progress.

**137. You have held a wide variety of posts within the Inner Temple and obviously played a very active role for 40 years. Has this provided you with lifelong professional**

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<sup>17</sup> Norman Rudd, later a Circuit Judge

<sup>18</sup> Jack Llewellyn, later a Circuit Judge



### **contacts, comradeship?**

Yes, as I say, it is a very friendly society. I haven't played perhaps as active a role as a full bencher might. I was made an Honorary Bencher so that I didn't have to go to meetings of the governing body – the Bench Table - which might have been interesting, but it would have been a burden from Cambridge. So the only positions I have held have been in relation to the archives, and for a brief time the library, and scholarships committee, and the book prize, - that sort of thing, - but not the day-to-day running of the Inn.

**138. In the course of my brief sortie into your scholarly writings, I have realised that much of what you have written concerns the Inns of Court, and what a vital role they played in the development of the common law. We will come back to this in the next section, but I wonder before we leave the Inner Temple whether you have any comments, Professor Baker, on the significance of the Inns of Court to your overall research trajectory.**

Well, in a way they are more central than the universities, because the universities in the past - the periods I work in - were largely seminaries for the clergy. So I regard the Inns of Court as being the home of the common law, and that it's where everything I do comes from really. I suppose that's why I feel close to them. I should also mention that I have been (but not quite so closely) attached to Gray's Inn, because they used to be the only inn to have a historical society. That's now been rectified, but ages ago - in the 70s - they had quite a flourishing historical society. I used to get asked to go and give talks after dinner, which is not the ideal time to give talks because students tended to stay until the port was exhausted, and then they would just leave unashamedly (and it wasn't just when I was lecturing). Anyway, I used to give those talks, and then they very kindly said, "Well, would you like to become an *ad eundem* member without charge?" So I became a member of Gray's Inn - a barrister of Gray's Inn - and then a few years ago they very kindly elected me as an Honorary Bencher. So now I have got a connection there too.

**139. I wondered about that. So you can actually, if you are invited, belong to two?**

You can as an honorary bencher, not as a governing bencher.

**140. Right. Professor Baker, that brings us to your fellowship with St Catharine's - this is, as you have realised, a fairly random list rather than chronological. You have been a Fellow of St Catharine's for over 45 years and obviously seen some changes and I wonder if any of these stand out for you?**

Well, of course, when you are living through changes you don't always notice them. But there have been changes, definitely - most obviously in the number of fellows. I think I was number 30 or 32 when I was elected - the Master of the day had worked out that that was the maximum number of fellows that the College could ever support on its endowment. There are now, I think, about 65 on the governing body and it's become much more cosmopolitan. The fellowship that I joined was of course all male, and there were only two men who weren't English - they were Scottish - whereas now we have fellows from all over the world, speaking all sorts of different languages. It's a completely different fellowship in that sense.

Then we admitted women in 1979, and that obviously made a difference. I was the very last Dean of the all all-male College. I remember I once had to ask a lady to leave, because we had guest hours, and you weren't allowed to have women in college after a certain time. I rather bashfully showed her out and apologised profusely for these rules and she said to me, "I am so grateful to you, I have been trying to get away from that man all



evening.” So the rules perhaps had their uses. My last job as Dean was to assign rooms to the incoming female students - that was the beginning of a new era.

We also have far more graduate students than in those days, because in those days most of our graduates were simply Cats men staying on, whereas now we have graduates from all over the world, and they are a very vibrant and important part of the College community.

**141. You have held various positions since you first became a Fellow and some of them have intriguing titles. For example, Keeper of the Muniments, and I wondered if you could tell us what that involved?**

It means looking after the College archives, and answering any letters that come in with queries - which are mostly genealogical these days. Of course, I found that great fun, and I would go and read things occasionally to find out what was going on in the College in the past. I still sometimes get asked questions, if people want to know the answers to strange historical puzzles. I don't always know, but I know my way round the archives.

**142. Custodian of the Works of Art?**

That meant looking after the picture collection and having them restored when they needed it and deciding where to put them. I produced a detailed catalogue, correcting one that had been printed years before. But my main achievement was to start putting pictures in the hall. We had this brutalist 1960s hall - the architect would have been horrified at the thought that there might be anything human in it like a portrait, as it was designed to show off these great big iron chandeliers, which we removed, thank goodness, fairly soon - and I thought once, “Well, I will just try putting at the end of the hall a picture of the founder and a principal benefactress, which used to hang in hall, and see what he fellows say.” They all said, “How nice to see them again. Could we perhaps have some more?” So now we have portraits all round the hall, and it does actually make a difference.

**143. You were also Director of Studies in Law.**

Yes, well, that's normal for a Law fellow. I took over from Dick Gooderson, who had been Director of Studies since 1948 when he came back from India, and then I handed over to Eilís Ferran and others.

**144. During the time, Professor Baker, that you were Professor of English Legal History you were the Praelector and I wonder what that entailed?**

Well, that's a standard college officer every college has. It's a liaison officer, between the college and the University. So you matriculate students - which makes them members of the University. In the old days that was a Senate House job, but now it can be done in the college. You have to watch over them as they sign the book - the pages of the book anyway - which are then sent off to the Old Schools, and that registers them as members of the University for life. But the main part of the job is presenting them for degrees at the other end, once they have passed their exams. So you have to be able to speak a bit of Latin, and know how to marshal people in columns of four.

**145. You were President in 2004 to '07 and Vice-Master from 2006 to '07 during your tenure in the Downing Chair. I wonder if you had memories of any highlights of these....**

Well, the President in my College is, in effect, the deputy Master, so if the Master can't act for any reason the President takes over. One of the main tasks is, if a mastership becomes vacant, the President has to preside over the election of the new Master. That fell to



me, and we were very fortunate in persuading Dame Jean Thomas <sup>19</sup>to take on the mastership - and that gave me great pleasure - but she couldn't come straight away, so for a year I had to be the head of house and for that we have the title Vice-Master. In fact, I was the only Vice-Master the College has ever had because there hasn't been a necessity in the past. That gave me a taste of being a head of house. I had sometimes been asked by colleges if I would be interested in being considered as a head of house and I always thought, "Absolutely not, it's not really my thing and it would require far too much distraction from my work." So it was quite interesting to do it just for a year, and I am glad I did it, but it confirmed me in my view that it wasn't perhaps the kind of thing I would want to do long-term.

**146. Very interesting. Do you still play quite an active part in the college life?**

Well, only in the way that the emeritus fellows do. We go into lunch and put the world to rights, and we get asked how things used to be done in the past - and then they go and do something different. So, yes, you give advice occasionally, but no formal role.

**147. You have a long list of editorships on your CV, some of which are active. You mention editing as something that all legal historians should do as part of their research (this is in your Introduction to your Collected Works volume I 2013). You have also played a very active role in journals and societies. Is this something you look upon as a service to the general scholarly community?**

You are referring, I think, to two different kinds of editing. When I said that legal historians ought to edit things, I meant that they should themselves produce editions of otherwise unpublished texts. We can perhaps talk about that later. But I think what you are asking about is overseeing, and publishing, writing by others. That's something that needs doing, and when you get into a senior position it is a responsibility to take on these roles. You can't just say, "Oh I am not doing that, I want to get on with my work" because they are jobs that need doing and, of course, both the *Cambridge Studies in Legal History* and *The Oxford History of the Laws of England*, and even more so the Selden Society, have all published my own work, so I am particularly grateful to them for that and owed them something in return.

**148. It seems to me that in the list that you gave, Professor Baker, there are currently ten that are still active. So it must be....**

Well, as to quite a few of those, when you are asked to serve on the committee of a journal, it just means they print your name inside the cover and you don't actually go. I have never been to Australia, for instance, for the *Australian Journal of Legal History* meetings. The *Cambridge Law Journal* is a bit closer to hand, and in the past I was more actively involved in that. But membership of editorial committees usually just means at most a meeting a year, or maybe two, not very serious work. The main function in practice is to act as a referee in respect of submissions in your own area of expertise.

**149. Did you find the switch to electronic publishing challenging?**

Not really, no. In the case of the Selden Society which I know best, it made the volumes cheaper, actually. And it means that one can be a bit more generous to editors in letting them change things than we used to be. In the old days you used to have to count every letter when you altered something in a line of moveable type, and you really didn't

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<sup>19</sup> Dame Jean Thomas, Professor Emeritus of Macromolecular Biochemistry, Dean, St Catharine's College.



want to make major changes, whereas now we can be a little bit more profligate.

**150. Professor Baker, most of these positions or editorships started in the 70s and the 80s, and other than the sort of change from print to electronic, have there been any changes in types of articles that have been submitted over the years?**

Well, my concern has really been with legal history aspects - apart from the *Cambridge Law Journal* - and so they will obviously reflect changed focus, changed interests in legal history. I don't think there is any particular pattern to it, it's just that people move on and do new things.

**151. Coming then to Cambridge University bodies, where you have played a very active role within the university, by occupying many positions. For example, you were on the Council of the Senate, the Work and Stipends Committee, Senate-House Syndicate, Societies Syndicate. Did you volunteer for these?**

I think I was pushed onto most of them. The Senate-House Syndicate and the Societies Syndicate came from being a proctor, and I stayed on the Senate-House Syndicate after being a proctor. The Council of the Senate I was put onto at the behest of the Law Faculty, in order to see that the Faculty building went smoothly there - and we had Gareth Jones on the General Board - so we were able to keep an eye on things. The Work and Stipends Committee, I think, was an offshoot of being on the Council of the Senate.

I served on the Committee on the Education Reform Act and, in fact, was Chairman of it. That was quite a difficult period, because the 1988 Education Reform Act empowered commissioners to go into universities and rewrite all their statutes so that university officers could be made redundant and so forth. We didn't think that they had nearly enough safeguards built into them and we wanted them to change, but by the time they consulted us they seemed to have already made their minds up as to what statutes they were going to impose on us. It was embarrassing because one of the commissioners was David Williams<sup>20</sup>, who was not only the Vice-Chancellor here but also a public lawyer. So we had to try to persuade him that these statutes they were proposing were really infringements of civil rights. We got some of our way. There was a compromise in the end; but they did impose statutes. Since then quite a lot of them have been changed by colleges using their powers, so we have been able to get back some way to where we were anyway. So it was all a bit of a waste of effort. But it was quite a difficult period, partly because there was the University issue, but it also affected all colleges and was even more worrying there. I had to go to the College Committee and tell them what we were doing, and then get permission from all the colleges to represent them all before the commissioners. It's very rare that you can get all the colleges to agree on anything, but we did on this, and so I was able to represent all the colleges and the University in those meetings.

**152. That must have caused you, looking back, a sense of achievement, Professor Baker?**

Well, there was an awful lot of paperwork and bother, and, looking back on it, it was really a waste of time. It would have been much better if it had never happened - I mean, the Education Reform Act. I don't think it achieved anything, but I may be wrong about that. Others will form a better view. A similar sort of role, but not nearly as stressful, was on the Statutes and Ordinances Revision Syndicate (following the Wass Report), which was

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<sup>20</sup> Sir David Glyndwr Tudor Williams (1930-2009), Rouse Ball Professor of English Law (1983-92), President of Wolfson College (1980-92), Vice-Chancellor, Cambridge University (1989-96).



originally chaired by David Yale, and then I took over from him. That was just a matter of drawing up into legal form the constitutional changes which Sir Douglas Wass<sup>21</sup> had recommended.

**153. I wondered about that actually. Those were the Wass reforms?**

Yes.

**154. And the Septemviri. Can you tell us what that body did?**

Well, the Septemviri is the highest court of appeal in the University and it has two functions. One is to hear appeals from the Court of Discipline, which can try undergraduates and graduate students for disciplinary offences. It is also a court of first instance for University officers who have been dismissed - which doesn't happen very often. I did have to chair such a case, and it was really rather tricky. But most of its work is appeals from the Court of Discipline in exam cheating cases - which are not that numerous, but they come up from time-to-time.

**155. Any other challenges that you remember from your involvement in these bodies?**

I can't recall any, no. One just does all these jobs in the course of a career and obviously there are headaches at the time and then they seem insignificant as years pass.

**156. Also, Professor Baker, in the Faculty of Law you played a very active role in the administration, and held many positions. You were on the Faculty Board, you were Secretary, Chairman, you were on the Degree Committee and the Maitland Memorial Fund. I wonder if you could tell us about your role in the Maitland Memorial Fund and how it perhaps affected your research?**

It helped to buy one or two microfilms in the early days, which then had to be deposited in the Squire – so, it was nothing crucial. The Fund was set up in memory of Maitland, after he died in 1906, and it is now a substantial sum. A major concern of the managers was to stop the University pinching it, because the Old Schools - through the malign influence of the Charity Commissioners - would say that, if we weren't spending it, they would quite like to spend it on something else. Our answer was that we were trying to accumulate it so that we could do something useful with it.

I am glad to say that in my last year or two as secretary we managed to do that, and establish studentships - which is a very good thing. Sometimes we can manage more than one if it's a part-funded studentship and somebody gets a bit of funding from somewhere else. So at the moment we have got several people doing PhDs in legal history who are funded either by that or by the Selden Society - those possibilities weren't there when I started.

**157. I had noticed that over the last few years there seemed to have been an increase in PhD research in legal history. Do you think it's linked to the...**

Well, obviously it can only account for maybe three or four cases, so there has undoubtedly been an increase as well and that's partly due to the industry of my colleagues. I have never had very many PhD students myself. It's not because I am averse to them - I wanted to have more, but people don't want to do it for obvious reasons, as there are no jobs. I have had some very interesting applications which have been approved, and then the person concerned couldn't get the funding and didn't come. I have also had absolutely superb

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<sup>21</sup> Sir Douglas William Gretton Wass, GCB (1923-2017) Permanent Secretary to HM Treasury (1974-1983).





research students who were really onto something who but decided they couldn't afford to stay and so they went back to America to earn a living there. It's a bit annoying, and I don't quite know what the trick is. I think David Ibbetson<sup>22</sup> probably knows what the trick is, because he is behind a lot of these research students and knows how to manage it.

**158. Interesting. Any significant developments during your tenure on the Lauterpacht Research Centre Committee?**

I don't recall anything outstanding. Of course, it's an immensely successful research centre and the idea is that the chairman of the management committee should be somebody completely independent. They chose me because I knew absolutely nothing about international law and wouldn't interfere with what they were doing. So I just used to go to the meetings and check up on them, as it were - and they were doing a grand job, so didn't need any intervention from me.

**159. Professor Baker, before we leave this section, just casting your eye over the list of your appointments, does anything stand out in terms of meriting a comment?**

No, I think they are mostly routine things that everybody does. Not everyone is Secretary and Chairman of the Faculty, but Peter Stein<sup>23</sup> told me, I had to be Secretary because it was my duty. He was the Chairman at the time and obviously thought I would be able to work with him. I became Chairman because I could see that it was getting worse and I had better do it before it got worse - it turned out to be actually quite a difficult period, but there we are.

I think it's basically true that it always gets worse every year, so the sooner you do it the better.

**160. This brings us to your extramural activities, where, *inter alia*, you have been a member of the Cambridgeshire Police Authority from 1980 to '81. I wonder whether you have any...**

Well, it was nothing to do with my father at all. Again, it was an offshoot of the proctorial position, because in the old days the City of Cambridge had its own constabulary and obviously the University was well represented on that. Both proctors and (I think) three University members elected by the Regent House served on the Watch Committee. Then, when it was merged with the county constabulary, which also took in Huntingdonshire eventually, the University retained its representation. It was quite absurd really. So we had five members of the University on the county police authority, and we used to go to Hinchingsbrooke and attend meetings. It was quite interesting; but it just went with the job.

**161. I remember Professor Smith was also interested.....**

Yes, he was one of the non-proctor members representing the University, yes. I think they have now reduced the number considerably.

**162. You were a member and Trustee, and Treasurer, of the British Legal History Conference Continuation Committee from 1972. This began while you were still the Squire Law Librarian. Have you continued to do this, Professor Baker?**

Yes, I had a role in it, not a very clearly defined role, because although we had a continuation committee it proved absolutely impossible to get it to meet. We have always

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<sup>22</sup> David. J. Ibbetson, Regius Professor of Civil Law.

<sup>23</sup> Peter Gonville Stein (1926-2016), Regius Professor of Civil Law (1968-93).



proceeded rather informally, usually deciding over drinks at one conference where the next one is going to be and then announcing it at the dinner (having done a bit of homework beforehand to find out who would be willing to do it). Dafydd Jenkins<sup>24</sup> was the founder, really. It turned out we both had the same idea at about the same time. He wrote to me after attending the Edinburgh SPTL conference (which we had both been at) saying, “Don't you think we ought to have a legal history conference?” I had been thinking the same thing, so I thought, “Yes, that's a good idea.” He took the idea up and arranged for it to happen at Aberystwyth (where he was), and that was a great success - we had about 50 people come to it. Everyone said, “Must carry on - appoint a continuation committee to make sure it does.”

The next residential one was in Cambridge in 1975. We had hoped to do them every two years, but we didn't get our act together and so we had a one-day conference in 1974 in Lincoln's Inn. Since 1975 we have kept them up every two years ever since, but the organising is done by the host university – so, once they have been chosen, it's up to them really, and there is no overarching body that tells them what to do. There is a fund that can help them a bit, a sort of float, but otherwise it's up to them. It's been a great success and we now have hundreds of people on our books. The next conference will be in London. We have only met in London once before, because we think people might quite like to see other places. We have been to Scotland several times, and we have been to Ireland once as well. Dublin didn't quite count as British, but being historians we got it in on a historical basis - on that footing we might go to Normandy perhaps.

**163. Well, you were a member of the Ely Diocesan Board of Finance Trust Committee - from 1988 to '94. I think you have mentioned earlier that you don't have religious affiliations, so I am assuming this was a purely legal role?**

Again, it was Peter Stein, I think, who pushed me into that - to succeed him. He had been doing it, and he took the view that it was a duty of the Law Faculty to support the diocese. The work (as I recall) was mostly about disused village schools, so it was purely legal, yes.

**164. Also you have been a member of the International Advisory Board for the Centre for the Study of Modern Constitutionalism, an institute of the United States, from '96 to 2003. I wonder if you could say anything about the work of this body.**

I don't remember it ever meeting - or maybe I just wasn't invited.

**165. Professor Baker, you have been a member of many learned bodies including the Fellow of the Royal Historical Society, the American Society for Legal Society. Also the Harleian Society and I wonder if you could tell us something about the latter?**

The Harleian Society publishes work relating to heraldry, so that ties in with my amateur interest in heraldry which goes back to that exhibition in Chelmsford, in coronation year. I now own quite a few heraldic manuscripts and objects, so it has become quite a serious hobby. But it also was valuable in producing my legal prosopography, because I had to do a lot of work tracing family histories for that.

**166. From the list that you gave me, do any of these memberships stand out or are worth a mention?**

Well, most of them - in fact, all of them - one joins in order to get the journal. That's really the only reason.

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<sup>24</sup> Dafydd Jenkins (1911–2012), authority on the laws of 10th century Wales.



**167. Are you still an active member of most of these?**

Yes, I think so, apart from the American Law Institute - which somebody told me I ought to belong to since I was going to America quite a lot, but I never actually had anything to do with them, and since the subscription was quite heavy I discontinued that one.

**168. In the comprehensive CV that you very kindly sent me you had a section listing various consultancies that you have undertaken. I suspect that they mostly deal with the intricacies of charters and clarification of historical relationships that are now obscure. Do any stand out as particularly significant from a legal point of view?**

Well, you are quite right, most of them were about charters. Usually they are insoluble problems which result from the Crown granting the same thing twice, or making a mistake in draftsmanship, or something. Legal history isn't a great deal of help, except that you can put things in context. The only one that did potentially raise interesting legal questions is one that I have just written up recently for the tax history conference that's held here, which involved the Stannaries in Cornwall. It arose when somebody from the Department of Trade and Industry (as it then was) rang me up and said, "Would you be able to help us translate a line of Latin in a charter?" I said, "Well, I will have a go, send it to me."

The next I knew I was attended in my College rooms by seven solicitors, four from the DTI and three from the Treasury Solicitor, and they spread out rolls on the floor and so forth. It was because a chap in Cornwall had hit on a brilliant wheeze. He had discovered that the Cornish Stannaries has something called a "parliament" and he had jumped to the conclusion that that means a sovereign legislative body - which, of course, it wasn't - and he had some support from Professor Pennington (the company lawyer) who had said that this parliament had sweeping powers. Anyway, he was selling shares in a completely bogus tin mining company on the footing that if you bought one of these shares you became a tinner and you didn't have to pay your poll tax - a tax just introduced by Mrs Thatcher<sup>25</sup>, because it hadn't been approved by the stannary parliament.

This got the DTI terribly worried, and so they were trying to close him down and stop him trading. (I discovered then that if you want to stop a government department in its tracks for at least a year, just cite anything in Latin, and it will do the trick. It won't necessarily win eventually, but you can certainly hold them up.) It raised quite interesting questions about whether letters patent - which is what they were relying on - could ever prevail against parliamentary taxation. The obvious answer to a modern lawyer is, of course it can't, because Parliament is higher than the government; but actually there was quite a bit of authority for saying that, because taxation was payable to the Crown, the Crown could waive it in advance, just as it can waive it afterwards by a deal with the Inland Revenue. It can grant an exemption from paying taxes in the future, and some current tax legislation actually has a section (usually towards the end) saying that "no charter of exemption from taxation shall be pleaded against this tax" - so, clearly, the draftsmen thought that these charters were effective. That wasn't argued in this case at all, but I foresaw it coming and I wrote a paper for the DTI on the dispensing power of the Crown - I don't think many lawyers have done that since the 17<sup>th</sup> century - trying to deal with lots of points that could have been argued but weren't. So it was a potentially interesting case, but because he didn't get legal aid the person in question conducted the case himself rather badly - making absurd claims about Cornwall being a separate state - it didn't get very far in the Chancery Division. But he made more than enough money, probably at least a million pounds selling these shares - more than enough to pay his

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<sup>25</sup> Former Prime Minister, 1979-90.



poll tax, I think.

His tin-mine was completely imaginary, but it was a veritable gold mine.

**169. Well, that is a fascinating account, Professor Baker. There was another case that involved the status of Brecqhou in relation to Sark, and I wondered whether this was part of the Barclay Brothers<sup>26</sup> case?**

Yes, it was. It didn't get very far. It was potentially very interesting and I can't remember what happened in the end. It was settled, I think. But it raised quite serious questions about feudal tenure and who owned what. It wasn't clear whether Brecqhou was part of Sark, or somehow attached to it, or an independent country, or what. There were one or two medieval records, but it's such a small island that no-one lived on it really until the Barclay brothers built there, I think - so you get a sighting about every hundred years that someone has put some sheep to graze there, and it's quite difficult to make a legal argument out of such sparse materials. As I say, I started on that, but it didn't get very far in the end.

One that went on for a very long time was a dispute about mineral rights in North Wales, in which Michael Prichard was on the other side. They brought me in originally to explain an opinion written by John Barton<sup>27</sup> of Merton College, Oxford, who was quite a distinguished legal historian but wrote sometimes in a rather unusual style which tended to leave out every other sentence - so it was quite difficult to follow his line of thought. I ended up giving advice over quite a long time, and I had to dig up lots of material in the Record Office. Fortunately we had a client who didn't seem to worry about the expense. He would come to the conferences himself, and he would be quite delighted every time I produced a new piece of information - although it tended to be three paces forward and two backward one week, and then two forward and three backward the next week. It just got more and more complicated - a truly Dickensian kind of Chancery litigation. In fact, at the first conference I went to in Lincoln's Inn, they produced an opinion written by Roundell Palmer<sup>28</sup> (who became Lord Chancellor to Queen Victoria) in this very case, with the same family on the other side - which I didn't agree with, actually. But in the course of my research I found that there had been a case in the Court of Exchequer, I think, in the 17<sup>th</sup> century, on exactly the same issue with the same family. It had never been decided. It still hasn't been, but I think everyone concerned - including the Crown - has now settled, so it never will be decided. We spent ages on that, and we just couldn't make head or tail of the documents because the roots of title just didn't work.

**170. I noticed that three of these consultancies related to the United States. I wondered how that came about. There was one called the "Shenandoah Courthouse" case and then two relating to Guantanamo Bay.**

Yes, well, my involvement there was pretty minimal. I didn't write the Guantanamo Bay brief. There was a legal history brief explaining the historical background in England of *habeas corpus* and I was sent it and asked if I would be willing to put my name to it. It was actually very good history, written by a friend of mine. So I did sign it, and it turned out that my name came first alphabetically - so they were referring to it as the "Baker brief" at one point. But I just put my name to it, that's all. I couldn't even add anything, it was so thoroughly done.

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<sup>26</sup> Sir David Rowat Barclay and Sir Frederick Hugh Barclay (both born 27 October 1934), identical twin brothers: the "Barclay Brothers", businessmen primarily in media, retail and property.

<sup>27</sup> John Barton, (1948-2008).

<sup>28</sup> Roundell Palmer, 1st Earl of Selborne (1812-95), British lawyer and politician. He served twice as Lord Chancellor.



**171. There was one South African consultancy.**

That was, again, very minor - about the history of King's Counsel and the analogy with Senior Counsel in South Africa.

**172. Well, Professor Baker, unless you have anything more to add to your very intriguing involvement with these various consultancies, I think this brings us to the final section which are the highlights of your career. Could you look back on what has been a hugely illustrious and a very full career, and pick out the main trends and possible particular crossroads and critical decisions that you took?**

Well, I think, academically I have had a pretty uneventful life following a rather long rut. It's largely a matter of serendipity, I think. If you just keep looking at manuscripts, every so often you hit something that's rather interesting, and that sparks off another article or a project. But I haven't taken any radical crossroad decisions that I can recall offhand. I have just gone on doing the same sort of thing. And I have been very fortunate to have a career in which I was able to do that, with nobody breathing down my neck and telling me what I should be doing.

**173. Pursuing your hobby, as it were?**

Yes, absolutely, I have loved every minute of it.

**174. Can you say that you have achieved any special goals that you set yourself?**

I don't have any really. It's a very self-indulgent profession that we have, as far as the research is concerned. We all do it because we like doing it. Of course, the research can be more fun than actually writing it up - which can sometimes be a bit of a drudge - but I took the view that since I have been paid public money to do what I like doing, I do owe a bit of responsibility to publish what I have come up with. So I did feel something of a sense of duty - that, being in a privileged position, one should go on publishing, even if no-one reads it.

**175. Yes, and so you were driven mainly by your love of the subject matter.**

Yes.

**176. And do you still have enthusiasm for any goals that you feel you might still achieve?**

Well, they start becoming more modest as you get older. I mean, some of the projects, like *The Oxford History*, took more than 20 years of collecting bits and pieces - and the prosopography was also about 20 years of just putting things into boxes until there was enough. I can't obviously think in those terms anymore. So the present goal is just to finish the next piece of work, and then perhaps move on to something else.

**177. Professor Baker, I think that brings us to the conclusion. All that remains is for me to thank you for yet another truly fascinating account for which I am extremely grateful to you. Thank you very much indeed.**

A pleasure.

