

**Conversations with Professor Peter Gonville Stein**  
**Third Interview: Published Scholarly Works**

Date: 23 November 2007

*Between July and November 2007 Professor Stein was interviewed three times at the Squire Law Library in the Faculty of Law at the University of Cambridge to record his reminiscences of sixty years of his association with the Faculty.*

*The interviews were recorded, and the audio version is available on this website with this transcript of those recordings.*

*The questions 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, **questions in bold type**

Professor Stein. Answers in normal type

Comments added by LD, *in italics.*

170. **Professor Stein, in the first two interviews we covered various aspects of your life at Aberdeen and Cambridge. Today, I'd like to discuss aspects of your published scholarly works. I have had a chance to look at 11 of your books written over the period 1958-1999 (41 years). I have these books with me here. It will not be practical for us to look at each book (because my lack of knowledge, and time available etc), but perhaps we can discuss some general themes.**

**The themes I suggest we follow are:**

**A. The categories of books you have written**

**B. Your literary style & technique**

**C. A few general topics that form a background to some of your works.**

**If we can start with the categories and for convenience, can we consider that your books fall into two broad divisions?**

**1. Books in which you presented your thoughts and conclusions on Roman Law *per se*: its history, influence on later legal systems and institutions, etc.**

**2. Books which are themselves archives of documents that had a bearing on the development of legal ideas. We can look on these as primary sources.**

**Starting with Roman law and there are 4 books which I suspect represent a crystallisation of the bulk of your ideas and thoughts over 20 years (1966-1984) and they were:**

***Rules/Maxims*, 1966 (Aberdeen)**

***Legal Values*, 1974 (Cambridge, with Shand)**

***Legal Evolution*, 1980 (Cambridge)**

***Legal Institutions*. 1984 (Cambridge)**



**Which of these four books, Professor Stein, would you consider is your most important work?**

I would say *Rules to Maxims*. I always think that is the one I am most proud of.

**171. Actually Professor Ibbetson would agree with you. Why do you say that this is your most important book?**

Strictly speaking it is not for me to say. However I would say there is more original work in this than in any other work. .

**172. Professor Stein do you remember why you wrote each of them? The first one for example, *Rules and Maxims*?**

The first one was my PhD which was *Fault in the Formation of Contract*. That was because I was only qualified in England when I went to Aberdeen and they expected me to have some sort of Scottish qualification and originally I thought I could be an advocate in Scotland and still be a solicitor in England but apparently you can't. There was some sort of local pact between the two professions and I didn't want to give up being an English solicitor so that I could be called to the bar in Scotland. So I gave up that idea.

**173. Professor Stein, your last book *European History 1999*, written when you retired - would it be true to say that this was a backward glance over your life's work?**

It was a distillation of the result of the LLB, as it was then, course that I gave on European Legal History. There was nothing in English. A lot of books were on Roman Law but they all stopped at Justinian. I thought this was arbitrary. I didn't see why one should stop studying Roman Law just with the *Corpus Iuris*. That was just one stage. Obviously. In some countries like Italy the Professors of Roman Law don't teach anything after Justinian because mediaeval and renaissance developments are covered by professors of legal history who were a separate category. That was purely a local division. I was not in any way bound by that.

**174. You mentioned in the last interview that choosing pictures for the German version was something you enjoyed. If there is time I'd love to come back to this at the end of the interview.**

Why don't we do that now?

**175. Why did you choose these particular ones?**

The picture of Justinian I chose because it is a very popular one [LD: page 62] The *Digestum Novum* [LD: page 77] I chose because I wanted an example of a manuscript copy with embellishment.

**176. I like this one very much. [LD: *Students at Bologna*, page 93].**

One of them is falling asleep.

With this one I had a bit of bother [LD: page 129]. That was in the Law Faculty of Paris. The professor who took the photograph, his name escapes me, was Professor of Roman Law.

**177. I like this one [page 167]. It seems somewhat humorous. Do you remember choosing it?**

I remember choosing this one – a lot of them are published, and I have the book with the whole series at home



178. **I can imagine you poring over them with great enjoyment.**

Yes

179. **Finally this *Vinnius Castigatus* [page 174]. Do you have this in your library at home?**

Yes - but, maybe not

180. **Professor Stein, still talking about your books on Roman Law. Your first published work was your PhD *Fault in Contract* 1958 (Aberdeen). What were the circumstances of its publication? Was it not unusual in those days to publish a PhD?**

The Law Faculty in Scotland wanted it . They wanted me to show the title which says in Roman Law and Scots Law. That is the only book that deals at all with Scots Law. They wanted me to prove I had some sort of qualification in Scots Law.

181. **Your second published book in 1963 strikes me as a mammoth undertaking. This was updating *Buckland* 1963.**

Not really. The paperback is now out.

182. **I notice there is a paperback new printing coming out in 2009.**

No, its out – just about a month ago. It’s just a reprint. The trouble is the press said they weren’t going to reset it. I could make any changes I wanted provided that I kept exactly the same length so that they printed it line by line. I stuck in a line here and a line there.

183. **When you were in Virginia in 1979 you produced a volume of your lecture notes. I have that here. This must have been a huge amount of work, Professor Stein. It’s a sizeable volume. I was showing it to Professor Ibbetson about a month ago and he was very interested in it. [*Lecture course in Virginia*. 1979]**

It was a sort of preliminary for *that* [*LD: European Legal History 1999*], I suppose. I was limited by the fact that these were really like handouts for the class and they had to be in English. So the materials I had to select were from works that either written in English or translated.

184. **Your *Collected Essays*. 1988 (Cambridge) As the name suggests this was a collection of your essays. I very much enjoyed reading *Sir Thomas Smith the Renaissance Civilian*. Most beautiful piece, Professor Stein. Very moving. In fact I chose a quotation from that essay as a preface to some notes I give the first year students on *Printed Sources*. It refers to the donation of books to Queens’.**

Yes, I selected those because Hambleton Press were doing quite a lot of these books by people like Milsom and John Baker and everybody. I could have done one for Roman Law but I preferred to do it because more and more I had been thinking a neglected aspect of Roman Law was post-Justinian. Mediaeval and Renaissance Roman Law had got a rather poor deal. They hadn’t been properly represented in published reprinted work

185. **Professor Stein that brings me then to your archiving project. This is a fascinating aspect of your career. I’m referring here to Adam’s Smith’s lectures [*LD: Adam Smith, Lectures on Jurisprudence 1978, Meek, Raphael & Stein*].**

I was asked to do Adam Smith because there were a lot of references to ancient law and so I had to be one of the editors. It had been done before really, and so was not as hard as it might have been.



**186. Once could almost see this as the production of primary resources, in that you were making them available for the first time to other scholars.**

Yes

**187. This particular one, Professor Stein, the Adam Smith book, was done in collaboration with other scholars. I notice your name was third.**

It was Meek who did the text because it's never been printed before. I had to identify the sources that Adam Smith used, as far as I could

**188. This must have entailed detective work to establish provenance.**

A certain amount, yes

**189. I am also very fascinated by the 12<sup>th</sup> century manuscript.**

That involved more work.

**190. Yes, that was my sense – just to establish the provenance. Great scholarship was displayed here Professor Stein. Can you recount the circumstances of how Professor de Zulueta came to involve you with the “*Vacarius Manuscript*”?**

He was a great admirer of Daube, my teacher. When Daube went to Aberdeen there were hardly any books on Roman Law in the Aberdeen Library, but people there said they would spend money on it. So de Zulueta offered to sell at a very low price his Roman Law books to Aberdeen Library. As a result of that he used to occasionally write to Daube and say “will you look this up in my book” and he wrote to me when I succeeded Daube. I think I mentioned this in the Preface.

**191. Can you say how this work differed in the mental and practical demands from your other work?**

It's not connected with any particular course. I never taught as it were mediaeval Roman Law. I had to translate the English.

**192. Fascinating. A scholar such as Vacarius must have been a competent politician**

There is still a lot of mystery about Vacarius<sup>1</sup>. I put forward the theory in this book that he gave lectures in Lincoln because Lincoln was quite near where he was a priest in charge at Southwell in Nottinghamshire<sup>2</sup>.

**193. Presumably there aren't any pictures of him?**

Oh no, He lived in about 1200.

**194. You must have enjoyed this archiving project, Professor Stein?**

I'd never thought of it as archiving.

**195. Presumably you went to Italy?**

I had to be out of the country for tax reasons. I worked in Florence. They kept the old books down in the basement and I persuaded them to give me the key.

**196. I wondered whether you had gone to Rome to any of the Vatican collections?**

No. I've always been happier in northern Italy. That's where I studied originally in Pavia.



197. **That brings me to your literary style & techniques.**

From the earliest (1958) to latest (1999), reviewers have commented on your extraordinary writing skills: “careful, clear, readable, elegant, simple, lucid, concise, succinct, sound, sensible, balanced, stimulating, light touches, stimulating” etc. Skills all writers strive for. You have a wonderfully engaging style, and a great gift of presenting ideas both clearly and to hold the reader’s attention.

**If I can take a particular attribute, in your *Collected Essays* there is an article entitled *Elegance in Law*. It’s a wonderful piece.**

It was a lecture I gave in Oxford. It was a challenge. David Daube once said, “I challenge you to give a lecture on elegance.” I said “OK!”.

198. **Has elegance been a leitmotif during your career?**

I didn’t think of it that way

199. **These qualities which were so much admired, did they come naturally, or did you have to work hard to achieve them?**

I suppose they were natural up to a point.

200. **Do you think you improved with years – in other words, did practice make perfect?**

I hope so.

201. **Also all reviewers comment on the great depth of knowledge: “thoughtful, thought- provoking, deep insights, scholarly, wide knowledge, regularly consulted original sources”. These traits were evident right from the beginning.**

I tried to be clear. I once said in a lecture that it is more important to be clear than to be right.

202. **You regularly consulted original sources?**

Yes.

203. **You must have done very extensive refining of your Latin at an early age? If you didn’t have Latin, you might have chosen a different path.**

Yes I would have chosen things differently

204. **Was the foundation of your great success a very intense period of study at the beginning of your career?**

I was a classicist at school and I was a classical exhibitioner at Caius. But I’ve always preferred Latin to Greek.

205. **Perhaps it was your Latin that brought you under the gaze of Daube.**

Yes.

206. **In the “Bibliographic Introduction” to *Buckland* (p. xxiv) you said that Daube used the “technique of form criticism”. This was used by biblical scholars. Did he teach it to you, Professor Stein?**

He was my PhD supervisor and he talked to me about it, form criticism. He had learnt it from biblical scholars in Göttingen. And he explained to me in English what it entailed.



207. **Do you recall what he told you about the technique?.**

Well he gave me a few examples.

208. **Did you ever utilise it in your writing?**

Very occasionally. Not much. I can't really help you much here.

209. **Coming to the General topics. Perhaps I can pick on two recurrent themes that run through your works.**

**1. *The problem of "interpolations". This was a preoccupation of earlier scholars and appears to have been something with which you had had little sympathy. You refer to interpolation hunting. You mention it in *Buckland*.***

Yes, it was very very popular in the '30s before the war. But people rather lost interest in it.

210. **You also mention in your essay on German émigrés how Schultz was obsessed with it. And you refer to it in your *European History* (p. 129).**

I think in general it is a rather bad influence.

211. **You concluded that it is probably best to take Justinian as a faithful record.**

Well, yes obviously it has always been recognised that the compilers of the Digests must have made certain changes. Question is to what extent they actually rewrote a lot of the...

211. **That brings me to a second theme which is *Scottish Law*, which you spent a lot of your time researching and writing on, starting in your PhD.**

Yes.

212. **Was it originally an "accident" of your being at Aberdeen?**

No. I was encouraged there to justify my position. As I said, in a Scots Law Faculty I had to have some sort of Scottish qualification and the PhD with "and Scots Law" in the title was my claim.

213. **Do you think you would have come to Scots Law in any event?**

No, I don't think so. Lawson<sup>3</sup> in Oxford was interested in Scots Law because, of course, Oxford was one of the few places that had sources for Scots law as well as English Law. They taught it.

214. **Perhaps it was your interest in legal theory and Scots Law that drew you to the Enlightenment?**

It was really Adam Smith – coming to work on Adam Smith, and I was asked to join the editors because the man who actually discovered the Adam Smith notes was at Aberdeen<sup>4</sup>. He was in the English department.

215. **One of the reviewers (Cairns<sup>5</sup> commenting on your *Collected Essays*) says that you were the only person to have done serious research on the Enlightenment in recent years.**

That must have been a while ago he wrote that because he's done quite a lot to stimulate interest in the Enlightenment.



216. **You were one of the first, Professor Stein, to take an interest in it?**

Yes.

217. **Does it require a Roman Law background to do it properly?**

Yes I would think so, although I have never thought of one as a preparation for the other.

218. **I suspect that your going to Aberdeen was a crucial point.**

Yes. Daube needed an assistant. Because he taught me in Cambridge and he supervised my PhD. By the time I arrived in Aberdeen he ....

219. **He perhaps led you to doors that you might not otherwise have knocked at?**

Maybe, yes.

220. **Certainly a very great influence upon your work?**

Oh yes, oh very much so.

221. **Looking back upon your career, Professor Stein, what would you say has been a highlight in terms of your academic achievements?**

Well this book, *Regulae Iuris*. That was really Roman Law, and since then it's [*LD: referring to his own work*] always been offshoots of Roman Law rather than Roman Law itself. In Aberdeen, jurisprudence (the theory of law), was tied with Roman Law. The name of the chair was Professor of Jurisprudence and I was Professor of Jurisprudence, but I had to teach both Roman Law and Jurisprudence. I was external examiner here in Cambridge while I was at Aberdeen for Jurisprudence as well as, occasionally, for Roman Law, but I always thought myself as primarily a Romanist rather than a Jurisprude.

222. **Thank you so much Professor Stein. This has been extremely interesting.**

Not at all.

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1. b. ~1120, d. 1200? See: <http://www.british-history.ac.uk/report.aspx?compid=40105>

2. Southwell Minster, founded on land given to the Archbishop of York by King Eadwig in 956 AD. See: <http://www.southwellminster.co.uk/index.php>

3. Professor F. H. Lawson

4. Professor John M. Lothian in 1958. He purchased the manuscript when the contents of the library of the country house at Whitehaugh were sold at auction in Aberdeen.

5. Professor of Legal History, School of Law, University of Edinburgh.

