

Sir Eli Lauterpacht celebrated his eightieth birthday on 13 July 2008

SIR ELIHU LAUTERPACHT

Although I first came up to Trinity as an undergraduate, I had some earlier contact with the College going back to 1937 when my father, having been elected Whewell Professor of International Law, became, in accordance with the will of William Whewell, Master of the College, 1841–66, a member of the High Table, though not a Fellow. For two years, 1937–39, he occupied L2 Nevile's Court until he moved into the house in Cranmer Road that he bought from Arnold McNair, his predecessor as Professor.

My father was thus enabled to become acquainted with some of the Trinity notables of the day. The Master was Trevelyan, and greatly respected as a historian. Winstanley was the Vice-Master, leading a quiet life from a set of rooms overlooking Great Court and entertaining people to tea drunk from porcelain cups so ancient that they had literally to be held together by staples. I recall my fear that the fragments might disintegrate in my hands. My father was on friendly terms, too, with Hardy, the mathematician; they exchanged gifts of apples. Patrick Duff was already ensconced in his rooms overlooking the Bowling Green and was a familiar because he was also a member of the Law Faculty. There was also an elderly Past Fellow called Adie, who had spent his career in India in a position of high financial authority. He had a fine collection of ivory chessmen, part of which he gradually sold to my father at very generous prices. But the Fellow to whom my father felt closest was Kitson Clark, the constitutional historian, even then living over the Great Gate. And it was Kitson who, with great generosity of spirit, encouraged my father to send me to this College.

So it was that in March 1945 I sat the entrance scholarship examination in History and won a £60 entrance scholarship. In October 1945 I came up as an undergraduate and was assigned to share a set of rooms, A2 Nevile's Court. Life was bleak in those days. A single one-hundredweight scuttle of coal per week was the ration for our fireplace, and the fire it so briefly fed was our sole source of heat. There was, it is true, running water from a tap at the bottom of the same staircase, but the water came not from the City mains but from Trinity's own source in Conduit Head Road. It emerged as a dark brown, virtually undrinkable treacle. Happily, this source is no longer used.

However, it is not the accommodation that was noteworthy – fortunate though one was to have a room in College at a time when most first-year, non-scholarship undergraduates lived out. What deserves recollection is the wonderful company in which one then found oneself. A considerable number of the first-year men were ex-servicemen, recently demobbed, some of them showing signs of war injuries and all of them far senior in maturity to a callow seventeen-year-old youth such as myself. But they were very kindly and supportive, though they were not the best disciplined of undergraduates. On Guy Fawkes Night, November 1945, they enthusiastically burned two buses in the Market Square. On Guy Fawkes Night in the following year Cambridge was flooded with police, two in every doorway in Trinity Street and King's Parade. One non-ex-service man who came up in that year is happily still around, namely Peter Swinnerton-Dyer, who has had a distinguished career as a mathematician and University administrator.

The town was itself a very different place then. Today you cannot walk from the Great Gate to Petty Cury without passing at least ten cafés and restaurants. At that time the only real places of refreshment, apart from the pubs, of which there were

reputed to be 175, was the King's Parade restaurant and the Copper Kettle. To the first of these many of us resorted each evening after Hall. The Blue Boar was still a hotel. Trinity Street and Petty Cury were both two-way streets with buses miraculously passing each other in both directions. Undergraduates were obliged to wear gowns in Hall and after dark. The Proctors perambulated with their Bulldogs in top hats to enforce discipline in the streets. The College gates closed at 10, to be opened until 12 only by ringing the bell of the Porter's Lodge. Ladies were not allowed to be in College after 10 p.m.

I will recall presently the teaching methods then prevailing. All I need say now is that after two years of History Kitson Clark advised me to change to Law – a subject to which he rightly thought I was better suited. After my first year, I moved to a bed-sitting room in New Court. There I spent four very productive years. As I look back, there has never been a period since then when I have had the same marvellous feeling on going to bed at night that I was measurably more knowledgeable than when I had risen. For two years I read undergraduate law, followed by one year of the LLB (now the LLM), specialising in international law, and emerged as a Whewell Scholar.

I then went down to London, first to a short spell in the Foreign Office as Joint Secretary of a Cabinet-Foreign Office Committee on State Immunity, and then to practice at the Bar in commercial chambers, dealing with such esoteric matters as bankers' commercial credits, marine insurance, charter parties, and bills of lading. But it was impossible to cut the tie with Trinity. At the urging of Jack Hamson and Bill Wade, both of whom had been my supervisors, I returned as a weekend supervisor, leaving London on Friday afternoon to do three hours of supervisions before Hall and a further three or four hours on Saturday morning. To this was added in 1952 a weekly one-hour lecture in the Law Faculty on the Law of War – a much simpler subject then than it is now.

It was early in 1953 that I was confronted by the need to take a decision that has largely shaped my life since. I was offered a full-time teaching post at LSE, where I had for over a year been giving evening classes. At about the same time, Jack Hamson asked me to consider returning here as a Title C Law Fellow. It was a difficult choice to make. LSE had indicated that if I went there I would probably get a chair in five years. Of course, this was very tempting, but I chose Trinity, largely because the teaching year was twenty weeks as opposed to thirty at LSE. And, of course, the quality of life would be vastly more agreeable here. So I came back here in September 1953 to live in a set over the east gate of New Court, M4. There I spent two very comfortable years, supervising in International Law, Constitutional Law, and the English Legal System.

At that time the Master was Lord Adrian – courteous and charming, but rather shy. He could only rarely distinguish between Tony Jolowicz and myself, calling us indiscriminately by the other's name. His wife, Hester, was a warm and endearing person much loved in the College.

Trinity fifty-five years ago was a very different place to what it is now. For one thing, the Fellowship was much smaller – 68, as opposed to our present 168. This meant, of course, that we all knew each other better, though some of the older Fellows, for example Gow, were rather distant. Dress was more formal. One would never have thought of coming into Hall, even at lunchtime, without a jacket and tie. The food in Hall was satisfactory, but not as plentiful or varied as it is now. The then Steward was not particularly interested in food, so the Council established a High Table Meals Committee, charged with the task of keeping a benevolent eye on the menus and suggesting changes or improvements. I was named as its Secretary. The

most important moment occurred in about 1962 when, coming into lunch one Sunday, the first course was an omelette, from which one took a slice. I came in early, took my slice and finished it. Another Fellow came in, took his slice, brought it to the table and with knife and fork in hand appeared just about to start on it when he got up, took the plate away and returned with the next course. I asked him what was wrong with the omelette. 'I can't tell you', he replied. 'You must. I am the Secretary of the High Table Meals Committee. I must know.' 'Well, if you insist, there was a cockroach in my slice.' There was general alarm at the table. Chef was summoned from the kitchens. Poking the cockroach with the match that he had lodged above his ear, he said 'That cockroach ain't been fried.' 'How do you know?', I asked. 'Look', he replied, 'I've been cooking for twenty-five years and surely I can tell a fried cockroach when I see one.'

The explanation proved to be simple. In those days the kitchens were in what we now call the Old Kitchen – as illustrated in the famous Ackermann print. After cooking, the food was kept hot in large warming ovens. These were infested with vermin, and no end of cleaning could remove them entirely. Inevitably, from time to time, some fell in the food and, unnoticed, must have been gobbled up by the Fellowship in sublime ignorance of their true character. Perhaps they could not tell a cockroach from a shrimp. Well, this episode led to the great kitchen refurbishment in 1963 – a process which may now be repeated, though I hope not on the scale and at the cost presently envisaged.

Over the years, there have been other improvements in the amenities associated with Hall and in the achievement of which I played some minor role. Eventually, after sixty or more years, the temporary lighting installed in 1910 in the form of bulbs hanging from the beams was replaced by the electrified table lamps which we now see below the Dais, and High Table itself came to be lit with candles. After many years, the Combination Room lights of brass chandeliers were replaced by silver candlesticks. And chocolate was introduced to accompany the coffee.

If one can claim a part in these minor improvements, one has to admit to failure in a more substantial matter: the idea of a College swimming pool. After I had pressed for this for some time a committee consisting of Sir Charles Oatley and myself was appointed to consider the idea. Oatley had been a swimming blue in his undergraduate days and was thus deemed to be an expert on whether as a matter of policy a pool would be desirable many decades later. For some reason which I never learned, he was against the idea. The Council preferred his view. And so the opportunity was lost of building a pool into the basement of Adrian and Butler Houses in Burrell's Field and, later, into the more recent buildings on that site. It was a great pity that such an amenity, valuable to Fellows, students, and families alike, was not created. Just as it is a pity that we have so far failed to adopt the suggestion that the cloister under the Wren Library should be glassed in to provide the most magnificent entertaining space in Cambridge.

I spent some years on the Council where, amongst others things, I was able to promote the introduction of the sponge cake pieces now called 'Council Fingers'. One Sunday when walking in the Avenue I noticed that a ladder was leaning against the balcony at the east end of the Wren Library and the shutter there was partly open. I reported this to the Council which took immediate steps to improve the security of the Wren, including requiring Fellows to apply at the Great Gate Porter's Lodge for the key and requiring that the alarm system be turned off. Walter Ullmann, a most dedicated scholar who made much use of the library, took great umbrage at what he saw as a major infringement of his fundamental right of unimpeded access to the

library. He held me personally responsible and for many months would not speak to me.

In parallel with these activities I was busy trying to persuade the Council to bring into effective use as a teaching room what was then called 'the Junior Bursar's Muniment Room', the room in the Clock Tower of which the window is partly covered by the clock face. It was a room rarely visited by Fellows. It was littered with ancient documents, for example, kitchen account books of the Tudor era. The large iron key to the heavy iron-studded oak door was kept in a box just to the side of the door, a box which itself could be opened with a Fellows' key. The room ranked high on the list of places to visit when showing one's friends around the College. The room has a beautiful open fireplace and a window on the north side overlooking St John's. It took me the best part of ten years to convince the Council that it would be a fine teaching room. Eventually, Council was persuaded that the assumed noise of the clock would not disturb teaching there, and agreed to its use. A large bookcase was built into the room. I installed a fine brass chandelier. When switched on its effect, distorted by the small aged panes of the window looking on to Great Court, greatly enlivened that side of the Court.

Shortly after moving in, I improved my supervision system. I had found it increasingly difficult to cope with the mass of weekly essays to be read before each supervision. So instead, in addition to the regular fortnightly group supervision in each subject at which I was meant to return the essays previously handed in, I scheduled individual supervisions, two a term, of twenty minutes each for each pupil, at which they were required to turn up with two essays. These I then read immediately with the author sitting next to me and thus able to receive my comments directly and to question my assessment. The system worked well. No longer did unread essays accumulate on my desk. Access to my room during these periods of individual interviews was regulated by traffic lights outside the door. Woe betide anyone who disturbed the prohibition of the red light!

I enjoyed six happy years in C5 Great Court before I took advantage of the College statute that permitted a Title C Fellow who had served twenty years to resign that position, give up teaching emoluments and become instead a Title E Fellow, retaining all the life-time privileges of a Fellowship, but with none of the teaching obligations or pay. By that time, I was doing nineteen hours a week of supervisions, mostly for the College but also for a number of LLB students in other Colleges, and sixty hours of University lectures a year.

On the research side I had initiated a series of current surveys of 'British Practice in International Law', associated with the *International and Comparative Law Quarterly*. This has since been continued by others in the *British Yearbook of International Law*. I had also in 1960 succeeded my father as editor of the *International Law Reports*. This collects decisions from international and national courts on points of public international law and even now, with the much readier access provided by the internet, it is still a major research tool. When I took it over it had reached volume 24. It has now reached volume 132. Since 1978 I have had the invaluable assistance of Christopher Greenwood, then a recent LLM graduate here. He has gone on to become Professor of International Law at the London School of Economics and one of the most distinguished practitioners in the field.

I have managed also to produce a number of monographs: on the status of Jerusalem, on the law of international organisations and aspects of international adjudication, as well as a five-volume collection of my father's papers systematically arranged and extensively annotated.

On my retirement from College teaching, I was able to persuade Philip Allott, then working in the FCO, to return to the College, and he has greatly enhanced its reputation in the field.

Alongside my teaching I have, throughout my time in Cambridge, been much involved in the practical application of international law. Of this I should now say a word. Back in the 1950s the idea of combining professional with academic work was not common and, to the extent thought of, was rather frowned upon. This combination is even now impracticable in terms of the ordinary English law and of appearances in the English courts. International law, however, is different. Much of it is opinion work and drafting. Court appearances are relatively infrequent and can usually be squeezed into University vacations. My pupils used to enjoy the occasional interruption of a supervision by the receipt of a telephone call asking some question on a current problem of interest. And so, from the time when I first returned to the College in 1953 and without a break ever since, there has been some practical work on the side. The idea of extra-curricular activity gradually spread into other subjects, particularly on the scientific side, and it is now a regular and valuable feature of University work in many Departments.

On the practical side, I was involved as early as 1953–54 in the preparation and negotiations for the settlement of the dispute arising out of the nationalisation by Iran of the Anglo-Iranian Oil Company. In that connection, during the Long Vacation of 1954 I went out to Iran as the international law adviser and draftsman for eight major oil companies involved in the negotiations. In each of the years that followed I also found myself involved in interesting and substantial cases in the International Court of Justice and ad hoc arbitrations. All this outside experience contributed greatly to the depth of my own knowledge, which I was able to pass on to my pupils.

Over the years, the range of my experience in international law has been widened by judicial and arbitral appointments: as an ad hoc judge of the ICJ, an arbitrator in investment dispute arbitrations, as a judge of the administrative tribunals of international organisations, and as President of the Eritrea/Ethiopia Boundary Commission.

One item which deserves particular mention because it sprang from my association with a distinguished Honorary Fellow of the College, Victor, Lord Rothschild, was my becoming in 1973 a consultant to the Central Policy Research Staff (the Think Tank), of which Rothschild was the head. We were neighbours in Herschel Road, and following a dinner at his home when we were discussing the effect of the price hike for oil just introduced by the producing countries, I got a typically brief handwritten note from Victor asking simply how much would I charge to write a memorandum on a related subject. I was able to reply that I would make no charge and, as a result, was quickly hauled into the CPRS where I served for the next two years as its consultant on international law.

In 1973, however, there came a greater interruption to my work in Cambridge. Following my participation as one of the Counsel for Australia in the Nuclear Tests case in the ICJ, I was asked by the Australian Government to become the Legal Adviser of its Department of Foreign Affairs. The invitation was for an indefinite period. I replied that I was happy doing what I was doing here, and declined. A few weeks later the invitation was repeated, this time for three or five years, as I might prefer. I replied straight away that I could not refuse three years. So, at the end of 1974, I went out to Australia, to this very senior and exciting foreign affairs position, in which I not only had the opportunity to apply my knowledge of international law, but also to supplement it on a very current basis. During those three years in the

Australian service I was, amongst other things, the Deputy Leader of the Australian delegations at the Law of the Sea Conference and at the UN General Assembly. They were amongst the fullest and most instructive of my career. Even so, when invited towards the end of my three years to stay on, I declined, since I really wanted to get back here. It is now thirty-three years since I returned. Although I may occasionally have had some regrets, I am really glad to be back.

The years since have passed with astonishing speed. On my return, I set up a small publishing company to publish the ILR and this grew to such an extent that by 1993 I felt it necessary to pass it over to the CUP. The numbers of Fellows has increased and now, of course, includes women. The College fabric has altered – Blue Boar Court, Angel Court, the Burrell's Field developments. We have ourselves become a philanthropic institution, ever mindful of the fact that our great wealth carries with it great responsibilities. But because our Fellowship has now become so numerous, we have to some extent lost the sense of closeness and intimacy that we had in the years before I went to Australia.

In 1983 I was given the opportunity to establish my own Research Centre in the University as part of the Faculty of Law, with a view to promoting research and development in international law. This was to be done partly by promoting specific projects, of which the *International Law Reports*, of which I was editor, was one and partly by encouraging visits from foreign post-doctoral academics who wanted to have closer contact with other international lawyers from the UK and abroad. There is, however, one difficulty. Although we operate within the University, it does not provide us with funding. From that day to this, subject only to the University covering minor administrative costs, the Centre has had to find from outside sources the money for its support and development. In 1985 we had the opportunity of buying a base, No 5 Cranmer Road. To this purchase Trinity contributed £200,000. And three years ago, with the help of the Governments of Bahrain and Malaysia, we were able to buy the house next door, No 7, previously in use as a Trinity research students' hostel. Trinity, faithful to its commitment to international law, was again generous in this connection.

I should take this opportunity of declaring that it was not my idea that the Centre should now be called 'the Lauterpacht Centre'. I ceased to be Director in 1995 on reaching the University's mandatory retirement age. In due course I was followed, as I always hoped would be the case, by Professor James Crawford, the current Whewell Professor. It was his idea that the Centre should be renamed principally to honour the memory of my late father, Sir Hersch Lauterpacht, Whewell Professor here from 1937 to 1955 and then Judge at the International Court until his death in 1960 and, incidentally, though without the same distinction, to acknowledge my role in the establishment and development of the Centre. In retrospect, I think that my agreement to this change of name, though justified, certainly as regards my father, was a mistake because it limited my ability to seek financial assistance for the Centre since it looks so much as if I am asking for money for myself. But that money must be sought to further the work of the Centre there can be no doubt and I hope that the University fundraisers will come to our help.

I have said enough now to demonstrate amply how much I owe to Trinity and in so many different ways. But I cannot end without recalling how much Trinity and international law owe to the foresight and interest of its great nineteenth-century Master, William Whewell. Whewell, as most of you will know, was a polymath. As Sydney Smith said of him: 'Science is his forte and omniscience his foible'. He held in the University at various times the chairs of Mineralogy and Moral Philosophy, as well as working on many scientific subjects. But at the same time he conceived a

major interest in international law, translating into English from Latin the fundamental work of Grotius on the Law of War and Peace. This abiding interest was reflected in some central provisions of his will. Having left to the College the building now called Whewell's Court he stipulated that the rents of that building should be appropriated to an annual stipend of £500 for 'a Professorship of International Law' and to the support of scholarships to be obtained by proficiency in that subject. He enjoined 'the said Professor . . . in all parts of his treatment of the subject . . . to make it his aim to lay down such rules and to suggest such measures as may tend to diminish the evils of War and finally to extinguish war between nations.' If Trinity didn't agree to do what Whewell laid down, the bequest was to go to St John's and in default of St John's to Gonville and Caius. Fortunately, Trinity accepted the bequest and has honoured its spirit ever since.

Trinity is an institution in which I have always felt at home. It has been accepted by my family over the years as a worthy competitor for my affection. My children still remember their childhood days when the open fireplace in the Clock Tower was used on occasion to toast marshmallows. But our continuing feelings for the College are based on something much more solid – our respect for, and devotion to, this great institution of learning with which we are all so proud to be associated. I thank you, Master, for having given me this opportunity to recall my debt to the College and to give some brief account of the manner in which I have used my time here to promote the objectives of the College as a place of learning, education, and research. I thank you, my colleagues, for having had the forbearance to sit through this recitation of that relationship.