

Legal Oral Histories in the Cambridge ESA¹: Some Examples of Researching Personal, Institutional and Social Developments

Abstract: The Eminent Scholars Archive (ESA) was established to record aspects of the history of the Faculty of Law at Cambridge University. It is based on 28 interviews with scholars and, currently, has 66 hours of audio recordings and transcripts, but also includes over 800 photographs and numerous associated items including biographies, bibliographies, obituaries and eulogies. Entries for faculty members cover the period from WWII to the present, while 13 entries focus on the incumbent Goodhart Visiting Professor of Legal Science. The archive is a rich source of information for researching aspects of legal communities, and in this contribution I focus on three aspects: personal histories of scholars, faculty history, and more socially-broad topics. In the first category I seek to show how the ESA identifies crossroads in the personal legal journeys of professors Higgins, Baker, Smith and Crawford, while I use their common remembrances to record an institutional landmark. For the latter, I selected the 1995 Faculty move from the Old Schools to the Foster building on the Sidgwick site. Finally, I show how ESA illustrates components of legal life writing in a broader societal context. Here I compare the experiences of curators of family histories at the British Library, and ‘group biographies’ of court officials as researched at LSE, with aspects of documenting careers of senior legal academics at Cambridge.

Keywords: digital archives; oral histories; legal history; legal biography

INTRODUCTION

The Eminent Scholars Archive (ESA) is a digital collection of audio, textual and photographic materials relating to scholarly personalities associated with the Law Faculty at Cambridge University. It was established in 2006 and has its origin in interviews I held in 2005 with the late Emeritus Professor Kurt Lipstein. I have given an account of the methodology and rationale used in this phase of the archive’s construction in an earlier article² and need not repeat details here. I also outlined the ongoing debate of the efficacy of oral histories in general legal biographic studies and whether the latter were even worthy of the attention of serious academic legal scholarship. Certainly, with the activity of groups such as the Legal Biography Project at LSE, National Life Stories at the British Library, and the work of scholars such as Sugarman³, the study of oral history, life histories and legal biography now has a firm base in the UK.

Suffice to say that notwithstanding the various views expressed in the literature that I cited in Dingle (2014),

the motivation for developing the ESA online facility at Cambridge by myself and colleagues in the Law Faculty was in the vein of establishing a unique local repository of digital information of the type envisaged by Brophy (2007) in his predicted ‘Information Universe’.

Initially, the scope of ESA was restricted to building a legal biography based on the oral histories of interviewees who had been on the Faculty teaching/research staff, but it was expanded in 2008 to include shorter, less comprehensive interviews with the incumbents of the post of Arthur Goodhart Visiting Professor of Legal Science, which is an annual appointment with the inaugural incumbent in 1972.

These audio records and associated data form the core of ESA, and further interviews are planned to ensure its development into the foreseeable future. To this end we have expanded the concept of the ESA to bring together other features in the history of the Faculty and development of the Squire Law Library.

To illustrate this potential I here show how oral histories can highlight landmarks in the development of

individuals, and the Faculty and the Squire Law Library using examples from the ESA interviews. This theme follows from my earlier paper (Dingle 2014) in which I emphasised the importance of the demeanour of interviewees when describing aspects of their careers.

After summarising the main components of ESA in the first part of this paper, I use examples in which four scholars described the influences which set them on their scholastic pathways, and emphasise how the oral dimension adds to an observer's understanding of these circumstances. In the second part I give examples of how ESA can be used to expand components of legal life writing in broader societal contexts.

SUMMARY OF THE EMINENT SCHOLARS ARCHIVE

Briefly, the ESA is an umbrella comprising material pertaining to personal biographies of Faculty members and Goodhart Professors. It consists of audio/transcripts and textural/spreadsheet materials.

Oral histories/biographies of Faculty staff

Currently (June 2019) the ESA has 66 hours of audio recordings available for public scrutiny. The initial (2005) interviews with Professor Kurt Lipstein were to capture some of his reminiscences as part of the broad narrative of German Jewish legal scholars' migration to the UK prior to WWII. Once completed, the potential to record, in their own voices, the reminiscences of other senior Faculty members was immediately obvious. Over the next few years we captured their memories of the War years, as well as the effects the upheavals had on the teaching and development of law at Cambridge in the immediate post-war years and the 1960s period of recovery.

Subsequently, with my colleague Daniel Bates and our then website designer Matt Martin (who left the Faculty in 2009), the archive was developed and expanded. The faculty narrative it preserves encompasses the late Old Schools period (ie. WWII to 1995), and the early 21st century digital environment in the new David Williams building. Currently, the ESA contains the audio, textural, and photographic data from sixteen scholars who have been on staff or were students at Cambridge.

The combined ESA memory for Faculty members/students currently spans the period 1934 to 2015, and encapsulates a wide range of view points on significant Faculty, University and legal events over these ~80 years. Currently, the decades of the 1970s and 1990s are the best-covered, but significantly, for their unique historical context, twelve of our interviewed scholars were born pre-WWII (1939), while one was born during the War. Only two of the interviewees were born post-War (ie. 1945). Sadly, eight of the first category are now deceased, which emphasises the significance of capturing their memories, views and voices for posterity.

Oral histories of incumbent Arthur Goodhart Visiting Professors in Legal Science

Our intention during the Goodhart interviews is to capture contemporary scholarly activity by visitors to the Faculty. In particular, we hope to gather views on current Faculty teaching/research, as experienced by observers from different legal cultures.

The position of Goodhart Professor was established in 1971 to commemorate the 80th birthday of Arthur Lehman Goodhart, who, at the time was, *inter alia*, Hon Fellow of Trinity Hall, and Trinity College Cambridge. The first incumbent took up the chair in 1972 (Andre Tunc⁴), while the ESA interviews of current Goodhart professors began in 2008 with Professor Martti Koskenniemi⁵. Two earlier incumbents were interviewed subsequently on visits to Cambridge (Cheryl Saunders⁶, 2005–06, and Leslie Zines⁷, 1992–93). To date, thirteen Goodhart interviewees have been included in ESA, and several of these have donated personal photographs to the archive.

ESA Index of Personalities in Oral Histories

During the course of interviewing Faculty and Goodhart scholars, a large number of personalities have been referred to and cited. Many of these personalities are mentioned by several interviewees.

To provide a referencing system across ESA between interviews, each question posed during an interview has been given a consecutive number. Using this numbering system I have constructed a spreadsheet that cites the question numbers in which various personalities mentioned during the conversations can be found. Currently (2019) there are approximately 1,150 personalities cited during the 29 interviews.

Reference to the spreadsheet allows me to read/listen to comments on personalities made during the interviews. This can provide a valuable collective source of information on a wide variety of acquaintances, colleagues etc. Photographs in the galleries for each interviewee are also cited to personalities listed therein. Currently (2019) the galleries contain 868 images.

THE POTENTIAL OF ESA FOR RESEARCHING ASPECTS OF PERSONAL HISTORIES, FACULTY HISTORY AND SOCIALLY-BROADER TOPICS

In Dingle (2014) I gave some examples from the ESA of the unique insights that oral histories can give researchers when assessing the personalities of legal scholars. Here I will pursue this theme by using examples from four interviewees that I have recorded subsequently.

Before focussing on individual examples, I shall point out some of the landmarks in the Faculty's recent history

upon which various scholars in the archive have spoken from personal experience, and from whose reminiscences researchers can gain additional insights.

Some Faculty landmarks that ESA oral histories cover:

- Faculty of Law/Squire Law Library (SLL) in the Downing Street site (1904-1935).
- 1935 Faculty/SLL move from Downing Street to The Old Schools.
- 1939-45 WWII.
- 1945-~1947 Influx of 'Returning Warriors'.
- Post-war years 'Weekenders' teaching (1945-93).
- Restrictions on women's studies (post-war).
- 1973 last Faculty SLL Librarian.
- 1982 SLL became a dependent library of UL.
- 1983 Establishment of the Lauterpacht Centre for International Law (LCIL).
- 1992 Establishment of the Centre for European Legal Studies (CELS).
- 1995 Faculty/SLL move from The Old Schools to the Sidgwick site.
- 1996 Extension and re-naming of the Lauterpacht Centre

Other important issues include:

- The 'Cambridge' teaching method: lectures and supervisions.
- Collegiate system v central Faculty.
- Development of modern international law: Lauterpacht era to Crawford.
- Observations on UN peace keeping (Bowett, Higgins, Schwebel).
- Observations on working of UN: Law of the Sea (Allott, Lauterpacht).
- Observations on UK joining the Common Market (Allott, Stein).
- Observations on FO and occupation of Germany (Allott).
- Observations on appointments to posts in days of patronage (Jolowicz, Baker).
- Establishment of new specialisations: IP, IT, corporate law (Cornish, Sealy).
- Aspects of the ICJ (Schwebel, Higgins, Lauterpacht, Crawford).
- Observations on US foreign relations and international law (Koh).
- Apartheid in South Africa (Hepple, Dyzenhaus).

LANDMARKS IN SCHOLARS' LIVES AND INFLUENCES ON CAREER PATHS

Each of the personalities in the ESA has made noteworthy contributions to areas of legal scholarship. On the specific issue of characterising the viewpoints from

which these scholars have made their research, teaching, and juristic contributions, I try, during my interviews to clarify, *inter alia*, two factors. Firstly, what initially drew the scholar into law and, secondly, how they selected their particular speciality?

Invariably, contingency played a major role. While this is a factor that runs through all our lives, one of the fascinations of the ESA has been to hear the interviewees identify the particular contingencies that led them to positions from which they were able to make the contributions for which they are/have been lauded by their peers.

I have found within existing records of scholars in ESA that their early backgrounds are rarely hinted at, let alone captured, in formal publications. Even in eulogies, such as *festschriften* or later in obituaries, all written by third parties, the true scale of personal contingency and the scholars' realisation of its importance does not usually shine through. I suspect that autobiographies might reveal these details, but eminent academics are not normally taken to such flights of self-indulgence - unlike politicians and other public figures! Interviews of the type I have been able to conduct with ESA give scholars the opportunity to talk informally about themselves without having to follow the usual protocols of academic discourse. Their own words and nuances give a truer reflection of contingency's importance and their own sense of influence by it.

Here I consider four recent interviews from which I concentrate on the second of the issues mentioned above, *viz* influences affecting their choice of legal speciality: Dame Rosalyn Higgins⁸ (*international law and jurist*); Professor Sir John Hamilton Baker⁹ (*legal history of common law*); Professor Anthony Terry Hanmer (Tony) Smith¹⁰ (*public law*); and Professor Judge James Richard Crawford¹¹ (*international law and jurist*).

[In the following sections, verbatim quotes are referred to question numbers (Qx) in the ESA interview transcripts.]

Dame Rosalyn Higgins QC

The Cambridge Law Faculty has a long pedigree of association with the United Nations and its organisations. This began with the UN's founding in 1945 through the involvement of Sir Hersch Lauterpacht¹² and has continued to the present day. However, the links to global international law-making go back to the UN's forerunner, the League of Nations (1920-1946), with academics such as Oppenheim¹³, Pearce-Higgins¹⁴, McNair¹⁵, and Hersch Lauterpacht. Post-WWII, Cambridge luminaries have been involved with both the administrative and political workings of the UN (eg. Bowett¹⁶, Jennings¹⁷, and Allott¹⁸), while others have been prominent in its legal arms (ICJ, ILC) (eg. Hersch Lauterpacht and his son Eli, Jennings, McNair, Crawford, Greenwood¹⁹, and Wood²⁰).

My first example to illustrate the use of ESA in elucidating events early in scholars' lives involves the career of

a unique scholar who was elevated to the ICJ and whom I had the privilege of interviewing in 2014.

Rosalyn Cohen was born in 1937 in Kensington. Having lived in London throughout the war, she went to school there in the late 40s-mid-50s (ironically she was evacuated to rural Somerset during the Phoney War - 1939-1940, only to return in time for the Blitz in 1940-1941). There being no family legal heritage, her embarkation on her illustrious career resulted from two critical events. The first occurred in the sixth form at school, and the second four years later, immediately after her BA graduation in 1958. Both she spoke of with gratitude and a sense of fortunate contingency.

Her secondary schooling was undertaken at Burlington Grammar (1948-1956), "an ordinary, but lovely grammar" that had never before sent a pupil to university. In her lower sixth form year, Rosalyn's "history teacher, to whom I think I owe a great deal, [was] a woman called Miss Huston,.... [she] said to me - because I had no idea what I should do - she said, "I think you could be good at law." Why she said that, I have no idea. I had never thought of law but I owe her that great debt." (Q7).

"The school.... seemed to think it worthwhile for me to try for Cambridge. How that came about I really don't know, but obviously I'm hugely indebted....that was what they suggested, nowhere else. So I did the Cambridge exams. Entrance then was by exam." (Q9-10).

Having determined on law, but being a woman, her choice of colleges at Cambridge in 1956 was circumscribed to Girton, Newnham and New Hall. The latter was not well-established (only founded in 1954), and on looking round Newnham, Rosalyn found it "a bit dreary" (Q11). Girton therefore selected itself, and proved an inspired choice, endowed as it was then with the legendary Marjorie Hollond²¹.

"[M]y law tutor there, the woman actually who had looked at my [entrance exam] papers and seen a glimmer of hope in me, was Marjorie Hollond....Marvelous, eccentric person. And she was married to the great Harry Hollond²², the legal historian. They lived separate, but I believe, entirely friendly lives. She used to drive around in her old Daimler with the window wound down enough for her cigarette holder to come out a good foot on the side." (Q11).

Despite her somewhat earlier "circumscribed life in London", Rosalyn Cohen thrived at Girton. After being initially "very anxious that everyone else was going to be much, much cleverer than I (and I remember having this same sort of sensation when I arrived at the [International] Court), ... you [then] think after a week or two, "I am going to be able to swim. I'm okay here." I loved it.... the whole four years I had there were wonderful....it opened all sorts of doors and wonders to me." (Q14-15).

Dame Rosalyn achieved high status initially through her academic acumen, but it was her good fortune, early in her career, to cement strong links with both the institution of, and influential personalities associated with, the United Nation. In this regard, other ESA scholars have intimated that for achieving a high position in UN legal

circles, it is essential to obtain strong national backing. For example, James Crawford tells in his ESA interview that his sponsorship by the Australian government for a place on the ICJ bench began nearly 30 years before the event (in his case in the 1980s). Rosalyn Cohen's second crucial career development was her entry onto this pathway while still a student.

Following her initial graduation with a BA in Law in 1958, during which she met Hisashi Owada²³, she decided to apply for a 3-4 month legal post to fill in the summer vacation before starting her LLB (which today is the LLM) at Cambridge. She chose, for reasons she could not recall during her interview, to apply for a UN internship.

"I cannot remember who told me to have a go for it.... but I did, and I remember there were all sorts of letters and forms and this and that. The two finalists were then [myself, and] a young chap called John Birch²⁴. I was lucky enough to get it and John later went into the Diplomatic Service. I remember he was Ambassador in Hungary and I'm sure he has done all sorts of other wonderful things, yes. So I didn't, happily, feel I blighted his life which I wouldn't have liked to have done." (Q21)

It is impossible to underestimate the significance of Rosalyn's first contact with the UN. "[T]hat internship was really important in my life because I really started to learn and understand about the UN. I started to see very clearly there are often several points of view on a given subject and how that scheme worked. There was one person from each of the applying countries and you were put into the department applicable to your studies so I went into the Law Department (Department of Legal Affairs) and [there] I met Oscar Schachter²⁵ who was to become a lifelong friend," (Q22).

Fired with an enthusiasm for things UN-related, Rosalyn decided to take her LLB (=LLM) at Cambridge in 1958-1959 in international law. Here she established lifelong friendships with fellow international law students such as Philip Allott and Andreas Jacovides²⁶ who were also in Eli Lauterpacht's classes. Eli introduced her to Steve Schwebel²⁷, who became a long-term influential friend and went on to an illustrious career in US international legal circles, and later became ICJ President).

Thus armed with her LLB, Rosalyn proceeded to Yale to study for her JD, Eli facilitating Rosalyn's funding with a Commonwealth Scholarship and travel for the year 1960-61. This proved to be a critical, where she fell under the spell of the formidable and highly-regarded Myres McDougal²⁸, many of whose legal notions she espoused.

Rosalyn Higgins's²⁹ journey into UN-related international law thus had rock solid foundations. Back in the UK, highly productive and influential academic careers at Chatham House (1962-1974)³⁰, the University of Kent (1978-81)³¹, and LSE (1981-1995)³² followed, ultimately leading her to the bench of the ICJ (1995-2006), and its Presidency (2006-2009).

She thus became the first woman to achieve such acclaim, and it is sobering to hear her talking of this wonderful journey that was started via a chance remark

from Miss Huston at Burlington Grammar School 50 years earlier.

Professor Sir John Hamilton Baker QC.

John Baker was born in Sheffield towards the end of WWII (1944), but grew up and went to school in the vicinity of Chelmsford in Essex. His distinguished legal career at Cambridge, where he was Downing Professor of the Laws of England (1998–2011) was founded on his meticulous and innovative researches into the development of the common law in the late mediaeval and Tudor periods. Such study required, obviously, an interest in history, but also mastery of the technical skills to decipher the calligraphy and Latin of courtroom records and manuscripts, as well as a deep understanding of the common law at that time and its procedures and protocols.

Professor Baker produced (and continues to) an impressive body of written scholarship over nearly fifty years, all founded upon the exercise of this expertise and his application of a forensic analysis and inspirational understanding of the way the common law and its procedures were evolving in practice, and were being passed on down the generations.

I read a (regrettably inadequate) overview of his works as a prelude to the interviews, and through this obtained at least a sense of the magnitude of the physical and intellectual tasks that had faced him over the years. But it was only while listening to his self-deprecating account of the manner and circumstances of his researches that the role of contingency in his early life became touchingly apparent. Also, our conversations showed that this eminent scholar was very self-aware of contingency's importance in his rise to prominence. This was humbling and only served to emphasise his achievements. I believe that only an audio record could have captured these subtle relationships, as listeners can judge for themselves.

If one can crystallise the two dominant contingencies that initially directed John Baker's career, they were; life-long impressions gained during his time at school in Chelmsford, and the choice of University College London as his alma mater. Of course, subsequently other factors have fine-tuned his career trajectory, but John Baker made it clear whence came the initial impetus.

It was the occasion of the accession of Elizabeth II to the throne in 1953 that provided an initial inspiration to the eight year old boy. Part of the local celebrations of the coronation at Chelmsford was an exhibition entitled 'Heraldry in Essex', which John Baker visited.

"I was absolutely fascinated by these manuscripts and seals and paintings of coats of arms, and so forth. I really trace my interest in history to that moment. I think that's what started it, a very antiquarian sort of interest. It would be called material culture now, I suppose, not really history; but that's when my fascination with the past began." (Q6).

Nevertheless, despite sparking this interest in things historical, and prompting his active exploration of archaeological sites in the local countryside, "...it never really

occurred to me that the interesting part of history could be something you would do for an exam or for a career..." (Q11).

Later, at secondary school³³, John Baker did not follow the history course, partly because of this, but also "[because] I didn't like the way History was taught for O-level ...the subjects didn't interest me: we had to study things like Metternich or the conquistadors, which I might find interesting now, but at that age, I wanted to know about English History and we didn't seem to do that at all. Since I was equally good at Sciences, it was decided at an early age that it would be the Science side that I should go on and so I started specialising in science, but it was without any tremendous enthusiasm..." (Q10).

In the event, the paradoxical consequence of being a science pupil at the grammar school had a remarkable outcome for John Baker's subsequent legal history career: "The ...stroke of luck I had was that, because I was in the science sixth form, we had to do something cultural and one of the options was to go down to the local record office and do something, I was set the task of editing some 14th century manorial rolls³⁴. So I was taught palaeography by one of the archivists (who had actually written a guide to palaeography, so I had the right person teaching me³⁵). Later on, when I turned to look at legal manuscripts, it never occurred to me that I was reading funny handwriting, because I had already done that at school. I'd never have had that advantage if I had been reading History at school." (Q10).

Coupled with the coincidence of having to take courses in Latin, which "I didn't know why I was doing it³⁶, I didn't like it very much..."", but "[which, in retrospect,] was probably the most useful thing I learned." (Q10), John Baker emerged from school unwittingly well-equipped for the career the fates had destined him to follow. In our conversations he was only too willing to recognise these happy coincidences in his childhood, without which his ability to have followed the stellar path of scholarship would have been so much more difficult.

The second crucial contingency was in his early undergraduate years. It was, in fact, a concatenation of two others, interwoven. Failure to gain admission to Oxbridge seems an unlikely candidate for the epithet 'lucky break', but in 1961 John Baker was interviewed by TE Lewis³⁷, the Librarian of the Cambridge Squire Law Library, for a place at Trinity Hall to read Law. TEL turned him down: "he was quite right to turn me down....I would have done the same. I had an awful interview on my part." (Q45).

As a consequence, John gladly accepted an offer he had received from University College London. In short, this failure to gain entrance to Cambridge in 1961 led directly to his being taught by the late, inspirational Professor Toby Milsom.

Because of wartime bomb damage in London, as late as the early 60s, "we still had the very last remnants of inter-collegiate teaching at London when I was there. We had to go down to King's College for instance to do Evidence with a

Professor Nokes³⁸ and for Legal History we were sent down to the LSE to Milsom³⁹. It was, I think, only his second year there, if I remember rightly. He had just taken over from Plucknett⁴⁰. That was the most fascinating course I had done. Of course, it tied in with all my interests.” (Q15).

The style of Milsom’s teaching suited John Baker: “[T]hey were very small classes and he had a completely different method of teaching than he had of writing, so he never had lectures written out. It was just one or two notes scribbled on the back of an envelope or a card. They were very chatty, and yet you learned a lot without seeming to. He was a very brilliant man.” (Q17).

Inexorably, John Baker became closely associated with the legal historian who was to overturn key elements of the then accepted wisdom of mediaeval common law legal history founded on the work of the iconic Frederic Maitland⁴¹.

Further opportunities that his time in London offered were summed up by Sir John as “we were very lucky at UCL, being only five minutes away from the British Museum - which was where the library then was - and so I could go down and look at manuscripts, which I started doing as an undergraduate...I was enthused by an article that Brian Simpson⁴² wrote about Spelman’s⁴³ reports which he discovered, so I went off and looked at the manuscript myself. And I thought, that’s very interesting, perhaps I should edit that. (I ended up doing that later.) It was also in those years that I discovered Coke’s⁴⁴ notebooks, which was probably the most exciting discovery I ever made actually and I’ve only just got round to editing them.(That’s what I’m doing at the moment [2017]). But that was discovered in those years at UCL.”(Q31).

Although Professor Baker told me that his own academic pathway did not become clear to him until 1971, when he himself moved to Cambridge (ironically as T Ellis Lewis’s successor), there is no doubt that his failure to impress TEL in 1961 led unerringly to his meeting Professor Toby Milsom under circumstances that were so formative to his early legal development.

This resulted in John Baker’s inspiration by, and lifelong friendship and collaboration with, Milsom. If circumstances had been different it is arguable whether such a relationship would have formed, and during our conversation it was clear that John Baker was acutely aware that this exposure in his early years had been critical to his own grasp of the fundamentals of the subject matter he was destined to follow - viz avoiding the pitfalls that had mired Maitland’s own understanding of mediaeval common law.

As an illustration. In answer to a question on the importance of Professor Toby Milsom’s work, it was salutary to hear Professor Baker, who has been knighted for his own services to Legal History, recognising the significance of his lecturer’s 1967 paper on “Law and Fact in Legal Development”⁴⁵. “Legal development in the common law - that is, increasing sophistication in working out the detailed application of legal principles - could only occur as and when procedures were developed which required courts to consider facts in more detail than the forms of action

themselves disclosed. It was blindingly obvious when pointed out, but nobody ever had. That influenced a lot of my work. So his work was fundamental, yes.” (Q219).

The two events which were beacons in his career - the heraldry exhibition and circumstances of his University College years - were told with an enthusiasm that is imparted by their telling. Only an oral record could capture such an elusive sentiment.

Professor Anthony Terry Hanmer (Tony) Smith and ICJ Judge Professor James Richard Crawford

The circumstances of my other personalities’ selection of career pathways have a dual commonality - both scholars are from the antipodes, and both were inspired by the same politically-charged phenomenon. Interestingly, although they were in many ways similarly affected in a political sense, they were propelled along different legal avenues.

Tony Smith was born in Christchurch in 1947, and entered its university (Canterbury) in 1965, where he took an LLB (1968). James Crawford was born in Adelaide in 1948 and entered his local university (Adelaide) in 1966, and emerged in 1971 with a BA and LLB. The two contemporary antipodeans from provincial backgrounds, armed with their LLBs descended simultaneously on the UK in 1972 at Gonville & Caius College, Cambridge, and University College, Oxford, respectively, where they proceeded to study for their doctorates.

They then went their separate ways. Two decades later, they both arrived at Cambridge via diverse routes, and were contemporaries in the Faculty when it occupied the Old Schools (until 1995), and then the Sidgwick Site: Smith (1990–2006) and Crawford (1992–2015).

It was during my conversations with these two scholars that I learned they had a political factor in common, to which I have alluded above. To understand its significance, some global political perspective is in order.

Both the Australian and New Zealand governments, as part of the ANZUS⁴⁶ alliance in the Pacific area, had committed their countries to assisting the US in military operations during the Vietnam War⁴⁷. By the mid-1960s this issue was the cause of public protest, particularly in Australia, on the matter of sending troops into combat.

There was less in the way of public demonstration in New Zealand, but the issue did affect Tony Smith, in two ways. As an undergraduate at Canterbury he was impressed by the views of “a man called James Flynn⁴⁸ who was an American refugee really from the Vietnam War, but had a very considerable mind...” (Q11).

Flynn is a charismatic Irish-American who settled in New Zealand to escape political harassment in the USA in the 1960s for his activist and socialist views. He spent four years at Canterbury in the department of Political Science under another of Tony’s influential academics, John Pocock⁴⁹, prior to obtaining a post at the University

of Otago (Dunedin). In an interview (2014), Flynn mentions that he spoke to Norman Kirk, Labour New Zealand Prime Minister, on the subject of pulling New Zealand troops out of Vietnam in 1972⁵⁰.

As an undergraduate, Tony Smith was influenced by Flynn's political views and explained how his own interest in the anti-Vietnam War protests in New Zealand threw up legal problems with which he wrestled. These crystallised into a life-long interest in the issue of public order and how the police dealt with it and resulted in his text *Offences Against Public Order*⁵¹, written when he was Professor at Reading. I asked him how his interest therein had been kindled:

"I had an interest in public order for quite a long time. In New Zealand we had legislation which criminalised disorderly conduct and that was used against the protestors in the Vietnam demonstrations in New Zealand in the late 60s⁵². New Zealand having been a military participant in that war, and it always used to offend me that the way in which the judges dealt with it at that stage was merely to say, "Well, disorderly means disorderly and we can't paraphrase it, but what you did was disorderly and therefore that's a criminal offence," without explaining why, or having any kind of apparatus with which to balance the aspirations of the protestors, their right to freedom of speech. Those kinds of things weren't part of the mix at all.

They just more or less said, "Well, Parliament says it's an offence to behave in a way that is disorderly. This was disorderly, that must be a criminal offence. The end," and people who tried to lecture the judges on the right to freedom of speech got very, very short shrift. A lot of the judges had been fighting in the Second World War and they didn't want young barristers giving them lectures on the rights to freedom of speech, thank you very much.

I always thought that was a very unsatisfactory framework in which we were trying to work out the balances you have to get between the conflicting interests that are stake when you get public demonstrations and so forth..." (Q103).

Tony Smith's legacy from the Vietnam War was filtered through the lens of public protests. Initially it had been the complex relationship between disorder and freedom of speech, but it evolved into a general interest in the whole topic of how law enforcement is affected by statute and common law practices in public law⁵³.

James Crawford, on the other hand, was influenced by the Vietnam War through direct participation in such protests. This followed a school-boy's perception of the seriousness of the "...1962 Cuban Missile Crisis and the feeling that there could've been thermonuclear war... and the feeling that we've got to do something to arrange these things more sensibly than we have done..."⁵⁴

The Australian Liberal/Country party coalitions led by Sir Robert Menzies⁵⁵ and Harold Holt⁵⁶ had taken Australia into the war in 1962, and this had caused a good deal of political controversy on a national scale, with street protests.

"I was much affected by the Vietnam War. I'm really the Vietnam War generation. There was a form of conscription in

Australia whereby your numbers were balloted, your birthdays were balloted and if your birthday came up you were conscripted into the army and could be sent to Vietnam...I remember I participated in a few anti-Vietnam demonstrations. I remember one Quaker demonstration standing in front of Parliament House... So I suppose the strongest influence, apart from my parents and school, was the development of Australia's international relations with some emphasis on Vietnam and the increasing influence of the United States as compared with the United Kingdom." (Q5)

This antithesis with the Vietnam War and the geopolitics involved, engendered an interest in international relations which was one of the subjects he studied at Adelaide University⁵⁷, along with English and History. His strong views on the war also influenced James Crawford's relationship with Dan O'Connell⁵⁸ who was then Professor of International Law. "[I was influenced] to some extent [by O'Connell], although I was never close to [him]... he was very much in favour of the Vietnam War, I was very much against the Vietnam War and that was a point of disagreement and he was aware of that." (Q8).

This viewpoint accompanied James Crawford as part of his luggage to Oxford, whence he ventured in 1972 on a Shell Scholarship to undertake doctoral studies. He was inclined to follow his interest in international relations and "international law appealed to me as it was a legal reflection of the rest of the world and I hadn't seen very much of the rest of the world and wanted to do so..."(Q10).

By coincidence, Dan O'Connell was the newly-installed Chichele Professor at Oxford, but any likelihood of their co-operation was dampened by O'Connell's focus on the law of the sea (in which James was "not particularly interested" (Q11)). But prospects of collaboration were also in thrall to their divergent political views, which had been epitomised in Adelaide by the now-ended Australian Vietnam involvement. Crawford diplomatically summed up the difference in our interviews as "O'Connell was rather conservative and pro-Liberal Party, while I was more Labour Party." (Q10).

By contrast, another noted international lawyer, an ex-Communist Party member with liberal/radical views, Ian Brownlie⁵⁹ was at All Souls College. His recent international law text "*Principles*"⁶⁰ was a book with which James Crawford had become familiar while an undergraduate, and his views were "much more in line with my general thinking about international relations at the time." (Q10).

Crawford was thus drawn towards working with Brownlie, in contrast to O'Connell, and he persuaded Brownlie to support his ventures into uncharted parts of the ocean of international law. He recalled how Brownlie, in his 1966 book, had re-iterated something that then Whewell Professor Robbie Jennings had noted three years earlier in *Acquisition of Territory in International Law*⁶¹, that the literature on statehood was sparse. James determined to fill this legal vacuum, and only seven years later produced his own acclaimed volume *The Creation of States*⁶². From this foundation James Crawford's career

progressively flourished, culminating at the Peace Palace in 2015.

Both Smith and Crawford's initial reactions to the public protests against the Vietnam War had been grounded in indignity, but it was their respective reactions to this indignity that determined their personal paths. Smith researched the domestic laws of addressing large (and potentially violent) public demonstrations; while Crawford contemplated the laws/rules moderating international relations that give rise to inter/intra-state conflicts. Listening to them describe these situations in matter-of-fact tones, when one is aware of the pathways to which the situations led, is both sobering and inspirational.

The reminiscences of these scholars help researchers establish the vantage points from which each individual viewed and developed their own perspectives of law and the way it has evolved and is applied - vital information for constructing their biographies and understanding their long-term attitudes to various legal concepts.

COMMON REMEMBRANCES OF AN INSTITUTIONAL LANDMARK

Having singled out the oral recollections of four scholars - Higgins, Baker, Smith and Crawford - in which they mention critical points in their own career pathways, I would like to consider what three of these scholars recall of an important moment in the Cambridge Law Faculty's history. Such viewpoints allow researchers to reconstruct all aspects of various landmark events. (The fourth, Dame Rosalyn Higgins, was never on the Faculty staff, and was not involved in the event I have chosen.)

Clearly, once all participants in any event have died, only informal records such as the ESA will remain as a source for reconstructing the narrative of Faculty history. Currently, there is no "official" Faculty recording procedure. I have chosen the 1995 translocation from the Old Schools site to the current Sir David Williams Building on the Sidgwick site as an example. This occurred while Baker, Smith and Crawford were active on the Faculty staff.

Of the three scholars, Professor Baker has the longest and most passionate interest in the history of the Faculty and the Squire Law Library (where he was Librarian 1971–1973). His account of 750 years of its history is indispensable to understanding both (Baker 1996), and his recollections in the ESA, are a valuable supplementary archive. On the important Faculty event I have chosen, he played an active role. In contrast, Smith and Crawford were more passive and played supplementary roles.

The motivation for the great move lay in the manner in which the University administration had increasingly squeezed the Faculty for space on the Old Schools site in the centre of town during the years following the previous translocation from Downing Street in 1935.

Facilities became increasingly inadequate for both the Faculty and the Squire Law Library, and it is relevant to hear recollections of this to understand the necessity for the 1995 move. Professor Baker recalled the Faculty when it was accommodated in the Old Schools, and his account is the most complete in the ESA, although other scholars, such as Professors Lipstein, Schwebel, and Lauterpacht and Cornish⁶³, also mention aspects of it (see Dingle 2017).

John Baker arrived in Cambridge in 1971 and spent three years based in the Squire, which was then housed in the Cockerell Building. Later he was appointed lecturer at St Catharine's (in 1973) and Mr Gordon Hughes became Temporary Librarian-in-Charge.

"[T]he legal history lectures were all in what we used to call Room 4, which was the Mediaeval School of Canon Law, which divides the two courts of the Old Schools, the one that runs across the middle. It was just big enough for the sort of numbers who did legal history and the acoustics were wonderful in there because it had been built by mediaeval architects as a lecture room, so you didn't need to raise your voice or anything....[while] the contract lectures, the other subject I used to give was contract, was I think always in the East Room which was above the arcade of the Old School. It's now being cut up and turned into offices, scandalously, because it's one of the most beautiful rooms in the university, very fine plaster work roof. That was quite hard to lecture in because it had been designed by 18th century architects as part of the university library, so it was designed to lose sound and it did it very effectively. So you had to shout in there.

Then down below, we had a little room that we used for morning coffee....That was a focal point of the Faculty then because everybody met at 11, usually in gowns because they had just been lecturing or going off to lecture, and would have a chat about affairs....and next to that little room there was another little room which was the faculty office, and that was it, with one secretary. Miss Suckling⁶⁴ was secretary to the Chairman of the Faculty, the Chairman of the Degree Committee and the Secretary of the Faculty and had all the faculty files in her office. It was all done from there." (Q67).

By the mid-1980s Professor Baker recalled that the Faculty's facilities on the Old Schools site had become unsatisfactory. *"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 [1986–88]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."* (Q84).

By the time Professor Baker himself became Faculty Chairman (1990–1992), moves were well afoot to consider the plans for a new building.

"[T]hat 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's⁶⁵ term as chairman [1988–90] the decision was made to commission Foster⁶⁶ 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 Jones⁶⁷ 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. Whether the offices should be open-plan or not was another big issue.....

[T]here was [also] 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." (Q101 and Q102)

The responsibility for such important decisions was evident when Professor Baker recalled his dealings with the architects.

"Most of our dealings were with [Sir Norman Foster's] 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 great 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." (Q103).

Once his term as Chairman was finished, Professor Baker was thankful to hand over the ongoing responsibilities, and played no part in the organisation of the physical move.

"[T]hat was in the next chairmanship of John Tiley⁶⁸ [1992–1995] who did the gumboot stage and the actual building. Then the opening took place during John Spencer's⁶⁹ chairmanship [1995–1997] 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." (Q106).

Finally, his comments on the building itself echoed those of several of other Eminent Scholars⁷⁰. When asked if he likes it, John Baker answered "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, and 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." (Q104). (Perhaps it is significant that the Maitland Room, to which Professor Baker referred, had not been included in the original plans, and is a later adaptation.)

In contrast, Tony Smith was not in a senior position at the time of the move (lecturer at Gonville & Caius, 1990–1996). He took up his chair in Criminal and Public Laws (1996–2006) only after the Faculty was housed on the Sidgwick site in Norman Foster's glass and steel titan, a building in which he felt comfortable "I think so. Yes I think so." (Q66). He had played no significant part in either the planning for, or the move itself.

By the time he became Faculty Chairman (1999–2001), his role in the move became one of overseeing various remedial building activities, which are inevitable in any large complex building. He alluded to the infamous 'noise problem' brought about by the original open-plan design to which John Baker had referred: "I wasn't here when the decision to move over here was taken. I was just talking about the difficulty that we had with the noise when the building first opened and when the glass screen was put right through the middle." (Q67)

His account indicated nevertheless, that four years after translocation "We [still] saw a great deal of the architects at that stage, particularly with the help of Kirsty Allen⁷¹, who had the major job of refereeing that whole business." (Q68). "The other thing we did during my time was put that little café in down in the basement, that had been just unused and I can't remember whether it was my suggestion but I think it was. I got in a certain amount of trouble about it actually." (Q69).

In his typically self-deprecating manner Tony Smith claimed “[That] these... happened while I was the Chair and I’m not claiming credit for them by any means, but I think it was sort of plotting with a lot of helpful colleagues: I’ve mentioned Jack Beatson⁷², but there were others, John Spencer, Bill Cornish, various people really.” (Q72)

He summed up this immediate post-move period as “I think it was consolidating the use of the building really. We’d not had anything like that before. Something that was ours. I tried quite hard to get pictures into the basement on the walls, and spoke with one of the curators of the National Gallery I think. She came down and had a look at it, and we talked for quite a while about the possibility of getting the products of art students’ work and putting that sort of thing on our walls on a rotating basis. Because I wasn’t very keen on having pictures of, dare I say it, deceased white men, all over the place. I wanted other things really. But the practicalities of it were all too great. All kinds of problems about insurance and what happens if they’re damaged and all of that kind of thing, so in the finish it came to nothing. I’m sorry about that.” (Q73).

Professor Smith’s recollections give us a valuable insight into some of the unsung detail that the move created.

James Crawford had not been a student or junior staff member in the Faculty and his joining as Whewell Professor (1992–2015) coincided with the dying years of the Faculty’s occupation of the Old Schools site. By the time he held the post of Faculty Chairman (2003–2006), the ripples of upheaval to the Sidgwick site had largely died down.

Despite its shortcomings, he clearly had some affection for the Old Schools complex, or at least the architectural grandeur and historical associations of the Cockerell Building, in which the Squire Law Library was housed. Asked about this accommodation he replied ““Accommodation” is putting it strongly. It was very cramped quarters and John Tiley, of blessed memory, was instrumental in the design of the new building and the move to the new building which occurred later in the 90s...I remember teaching in the Old Schools. The teaching room was rather nice and old fashioned, but the Faculty accommodation had nothing to be said for it and the Squire Law Library was at least grandly squeezed into what is now the ...Caius Library.” (Q38)

Apropos the Squire and the late Kurt Lipstein’s⁷³ association with it, Professor Crawford recalled “It is a beautiful building and Kurt’s spirit still, I’m sure, inhabits it. I don’t believe in ghosts, but if one wants to believe in ghosts it would be Kurt in relation to that building. I understand during the war he was a fire warden on the roof of that building...and I’m sure he protects it in some sense even now.” (Q41–42)

James Crawford spent none of his time in the new Foster building, his pre-occupation being the Lauterpacht Centre in Cranmer Road, which underwent numerous changes during his stewardship. “I worked from college for the first few years and then when Eli Lauterpacht retired as Director of the Research Centre [1995], I moved to the Research Centre and spent the rest of my Cambridge life working from Cranmer Road.” (Q39).

He did, however, have a considerable influence on the SLL, which, after the move, has occupied a large portion of the new complex. This interest was partly engendered by the fact that the Lauterpacht Centre does not, as a conscious policy introduced by Professor Crawford, maintain its own library, and relies on the Squire to tend to the needs of its visiting scholar and students. [It should also be noted that the Squire became an integral part of the main University Library in 1982, when it formally cut ties in oversight by the Faculty (see Dingle 2017)].

James Crawford commented on this interest as “When I came to Cambridge [1992] the library was in a fairly bad way. It had a very low budget, and John Tiley was very concerned about that, as he was concerned about any things associated with the Faculty. In the early 90s I became Chair of the [Law] Library Syndicate [1993] and pushed for an increase in budget, which happened, but still not magnificent. It doesn’t compare with most North American libraries, but it’s better than it was.

Of course, the library moved to its current premises where it has at least a modicum of space. I was very supportive of the library and still am. It’s obviously essential to research and scholarship in law, including International Law. I was never in favour of the Lauterpacht Centre having its own library. For resource reasons it was much more sensible to have an integrated collection with professional librarians and that’s what we’ve got, with yourself as a very important part of that.” (Q62).

These examples show the type of observation that individual scholars can make on an important aspect of Faculty history. Singly they add only details, skewed to the involvement of the individual, but collectively they can provide a more comprehensive picture of a complex situation. In the example I have chosen, further comments, some quite amusing, are available in the interviews of Mr Prichard, and Professors Sealy, Jolowicz, Lauterpacht, and Lipstein. A researcher wishing to document fully this event might find such reminiscences rewarding.

ORAL HISTORIES IN BROADER SOCIETAL CONTEXTS

While the main function of the oral histories that constitute the core of the ESA is to help preserve the heritage of the Faculty of Law at Cambridge, details contained therein can also be a resource for documenting socially-wider topics.

Since I last reviewed the content and function of ESA (Dingle 2014), numerous other academic and institutional archives in the UK have expanded⁷⁴. Public interest in heredity and related issues now ranges across the spectrum of society, and includes popular TV programmes and a host of online sources (eg. see Stewart 2013 p.51). Some of these have a focus on legal issues (Mulcahy and Sugarman 2015 p.1).

I shall now add a few observations on how ESA can make contributions to some socially-wider areas, beyond the boundaries of Cambridge Faculty-related histories.

I will first consider a recent survey of life-writings, and then focus on one category therein, namely “group-biographies”.

Legal ‘life writings’

In a recent article, Sugarman (2015, in Mulcahy and Sugarman 2015, p. 2) set out to demonstrate that “legal life writing demonstrates the value of historical thinking as a means to comprehend law, politics, and culture, and that it can supplement the study of law”.

He distinguishes legal “life writing” as a species of legal biography and autobiography that looks beyond conventional notions of legal history, biography, and socio-legal studies. Sugarman (op cit p.29) also includes memoirs, letters, diaries, personal essays, obituaries, eulogies, anthropological data, oral testimony, eye-witness accounts and digital forms (eg. blogs and emails) in this genre. He concludes that life writing provides a means of exploring how aspects of law functioned for the English people as covert political thought by viewing the lives of legal personalities in their socio-historical context.⁷⁵

While Sugarman (2015 p.30) sees life-writing as “democratization of the past”, because of its heterogeneous nature (p.32), he is of the opinion that “legal biography has an image problem” (p.12). In particular, there is “limited acceptance of biography and other forms of life writing within the academic discipline of law” (op cit. p.11), and that this is caused, *inter alia* because life-writing can be thought of as “an unstable and hybrid genre” combining, as it can do, elements of history and fiction writing (op. cit. p.15). There is a danger that these can morph into a hybrid of the biographies of the subject and the biographer, with a tendency to simplify complex narratives and “render[ing] the story too smooth” as a result of underplaying contingencies and nuances (p.15).

Specifically referring to legal life writing, Sugarman (op cit p.11) observed that life-writing, being multi-disciplinary, has traditionally been “at odds with the notion of law as a singular field of education and scholarship...[and that it is] a peculiar branch of history and the humanities” (p.11). He concludes that it was this tension between law and history, especially social history, that partly explained the “marginalization” of legal biography in “orthodox and socio-legal scholarship” (p.12). In addition, he maintains that the focussing of legal biographies on the lives of the elite white male judges, while ignoring, *inter alia*, women, artisans, and people of colour, has cut-off legal biography from modern socio-legal scholarship and “from the new and challenging ways in which biography, autobiography and other forms of life writing can be discussed” (p.11–13).

A contemporary legal biography Sugarman (2015) cites favourably is Lacey’s treatment of the Oxford Professor of Jurisprudence HLA Hart⁷⁶, as “it brings Hart’s life and work, and the outside world, together” (op. cit. p.21). Other biographies in similar veins have been crucial in “recovering the lives of the first women

lawyers, judges, and law teachers.... and the obstacles, challenges, choices, and possibilities they confronted” (op. cit. p.22).

Sugarman’s advice on the art of life-writing are salutary, if somewhat tongue in cheek (2015, p.16): “Life writing can be controversial, scandalous, and embarrassing...and it may not be good for your academic career...[as] it fits ill within the current regime for assessing the quality of research at United Kingdom educational institutions.⁷⁷”

It might be fruitful to ponder how the ESA addresses some of the issues raised by Professor Sugarman in his 2015 article on legal life writing.

The interview-based entries in ESA are presented in composite biographical and autobiographical format. Each entry in the archive focuses on capturing the life of an individual scholar as recounted in their own words and through their own voice. Recording the latter for posterity, and nuances in delivery, is a unique feature of an oral history, and allows the listener to place their own interpretation on the reminiscences and captures something of the interviewee’s character.

Many of the essential elements stressed by Sugarman in his 2015 article, such as family background, social context, interactions with colleagues, acquaintances and fellow students and researches, are interwoven into these accounts, and much social and cultural context is incorporated thereby. In particular, I also encourage interviewees to restate and summarise some critical aspects of their written works in the hope that a new presentation of familiar aspects of their contributions to legal scholarship will shed fresh light on some fundamental aspects therein.

Sugarman (2015) raises the question of the “biographer” influencing the narrative by simplifying, compressing and “rendering the story too smooth” (op cit p. 15). Given that ESA entries are very short (compared, for example, with a biographical monograph), the nature of compressing a complex career into a two to three hour conversations makes this inevitable. Certainly, the interviews focus on the type of career “highlights” I have mentioned earlier in this paper. Nevertheless, although I pose the questions, the ambiance that I endeavour to develop is to encourage scholars to take the questions as cues and expand their responses into areas of their choosing.

In the ESA presentations, the only part of the website that I compile solely is a biographic summary, and this is typically a factual chronological account of the scholar’s life. Outwith the archive itself I do indulge in subjective discourse in subsequent articles that I might submit to a journal and in which I reflect on aspects of the scholar’s career. Although the latter may be construed as partly novel-like, I do submit these to the scholar for comments before publication. Nevertheless, such pieces certainly fall into the category of “constructed narrative” mentioned by Sugarman (2015 p.15).

A particular genre that Sugarman identifies is group-biography or collective biography (2015 p.23–24), the

“scientific” manifestation of which is known as prosopography. This form of collective study has been successfully applied to the legal profession⁷⁸, and to some extent the judiciary, but generally he dismisses the efforts so far as having neglected the intellectual, philosophical and cultural aspects of the group being investigated. Examples he cites are the 19th century Bar, the Tudor court, and pre-Civil War lawyers.

Although ESA is an assembly of individual cameos, collectively it is an example of group-biographies: viz, senior Cambridge-associated scholars. Within the main interviewed-groups (Faculty and Goodhart), biographies of sub-groups occur which can be designated by legal speciality: international lawyers, legal historians, public lawyers, commercial lawyers, etc.

One area where the ESA does deviate from what Sugarman (2015) poses as ideal legal life writing, is in its focus. It falls foul of his strictures on emphasising “elite, most often white, male[s]”, to the exclusion of “women, artisan and working class society, people of colour and other outsiders” (op cit p.13). This is because its main target group, viz eminent senior Faculty members, of a particular vintage, are the designated subject matter. Similarly, the section including Goodhart Professors is an exclusive category, though here the “choice” of interviewees reflects the Faculty’s predilections.

To address the diversity deficit raised in Sugarman’s article would require an increase in resources to expand ESA’s scope and its catchment. This could be a long-term ambition, but, for the present, one has to accept practical and historical realities: resources are limited, and the Faculty history is fact - for example the first woman Cambridge law professor was only in place in 2012 (Eilís Ferran, Professor of Company & Securities Law).

Two recently published examples of systematic and comprehensive studies of UK-based group-biographies on which I can focus, and with which I make some comparisons with ESA, have been undertaken at the British Library and the London School of Economics.

Family histories and familial responses.

Stewart (2013), and Stewart and Brown (2017) considered the reactions and comments of relatives and friends to a cohort of interviewees’ oral history records. The original sources were recorded during a wide variety of studies, many of which are now curated in the Oral History section of the British Library Sound Archive. In particular, the researchers focused on what family members’ reactions were to recordings of interviewees recounting details of their lives and the social conditions in which they lived. These included details of the relatives themselves. It should be remembered that the family histories referred to by Stewart in these two paper are not directly related to legal personalities or issues, but they do raise topics that I have encountered in the course of compiling ESA. Here I shall mention some of these commonalities, as well as pointing out variances.

One of the differences is that in all cases I, and my colleague Daniel Bates, not only curate the ESA, but have created its content using a consistent format. This entails my undertaking all the interviewing and conducting the background research that underlies the questioning⁷⁹. This allows focus to be maintained on the goals of the archive: viz eliciting a particular scholar’s career development, what has influenced its trajectory, as well as his/her relationship with the Faculty. To do this I invariably established a personal relationship with the interviewees (many of whom have been known to me in the Faculty) and often their spouse or partner with whom I interact during the course of the interviews. Consequently, each archive entry is a substantial project that generates its own “goals” and character.

This immediately overcomes the issue of both the interviewee, and their close family’s awareness of the fate of the oral history record in which they are participating, and which was an issue raised in the British Library work. In particular, the point raised by Stewart in both her papers cited above, that close family members were unaware that such recordings existed until they were made available to the public via the British Library, is largely eliminated.

This raises a second, and critical, difference to most of the data referred to by Stewart and Brown. The ESA was digitally-born. It was designed to be a publically-available source and my colleague Daniel Bates has made every effort to announce the arrival of a new entry on the Squire Law Library and Faculty websites. Our objective is to publicise new interviews as and when they become available. It is a specific aim that the oral histories in ESA are part of the Faculty’s heritage and need to be disseminated.

Nevertheless, despite our efforts to publicise interviews and associated materials, there have been several instances when more distant relatives, or children, particularly from previous relationships, have become aware of the archive several years after a tribute had gone public. Usually, this has occurred after a scholar has deceased and family have seen obituaries in, for example, national newspapers. Invariably, the writers of these have referred to the ESA entry but the material therein becomes known to the relations. This leads to their making contact with me or Daniel Bates and a dialogue invariably develops.

On at least four occasions, members of family groups that had been separated from the interviewee by either geography, or marital discontinuities, have ‘discovered’ the scholarly achievements of their illustrious relative, or the prominence accorded to the interviewee’s work by ESA. Invariably, these discoveries have been accompanied by considerable pride, and family members have contacted me and in some cases have become friendly acquaintances. These contacts have proved a touching reminder of the value of ESA beyond the immediate Faculty and the Cambridge diaspora.

An interesting issue raised by Stewart and Brown (2017 p.235) is that of ‘third party’ mentions in oral

history records. Most of the scholars in the ESA have had large numbers of contacts over the courses of their careers, as well as making mention of colleagues past and (then) present in the Faculty during our conversations⁸⁰. On occasions they elaborated or reminisced on these people, providing facts and anecdotes that may not have been widely known. It occurred to me early on in the compilation of the archive that these references would constitute individually minor, but cumulatively major, sources of information for future researchers. Consequently, all mentions of third parties have been referenced to the sequential question number in each interview, and entered into a master spreadsheet. I referred to this database earlier in this paper as the ESA Index of Personalities. Currently, although all interviews are reproduced as pdf transcripts, the ESA has no overall searching facility, and the Index is the only way to correlate these 'third party' references.

The ESA is also potentially a good source for both 'third party' and family-member photographs, as some of our interviewees have provided comprehensive collections of images, often including historically important photographs of their own ancestors.

In summary, the experience from the ESA oral history collection in connection with the reaction of relatives and close relations to their family histories has been touchingly positive. I believe this has been at least partly due to the fact that we have tried to make each ESA entry a tribute to the interviewed scholar, and have added to the website a range of other materials, including obituaries, speeches, bibliographies and biographies, as well as a photographic gallery.

Capturing the lost world of Assize Court clerks

Dr Dvora Liberman's (2018) LSE Legal Biography Project⁸¹ involving her interviewing Crown Court clerks is an exemplary study of capturing lost legal history within Sugarman's group-biography genre. Her strategy stressed that in each of her twenty-one interview cameos it was important, while talking about their full life history, to elicit information on the "interviewees' ancestors, childhood, education, work, leisure and later life". This was so that their social and cultural worlds could be reconciled with the attitudes that they had expressed towards their professional roles (Liberman 2018, p. 121). It was a strategy I have also tried to employ in ESA. [Sugarman (2015 p. 29) also emphasised that life writing needs to include all aspects of a subject's life.]

Such background information was significant to Liberman's study because she was investigating the clerks'

experiences and opinions of the great changes in the procedural culture brought about in 1972 by the destruction of the 800 year-old Assizes system of courts, and its replacement with a new Crown Court structure⁸². There was a sense of urgency to capture the changes in personal and professional circumstances that had affected the lives of the court personnel at the day-to-day level.

There are strong parallels here with the type of major events documented in the reminiscences of ESA scholars *vis a vis* the Faculty (eg. changes in teaching methods, students' attitudes, move from Old Schools to Sidgwick sites etc.). In particular, I empathise with Liberman's urgency in "carry[ing] out this research as the memories [of] transformation from an ancient form of regional justice to a modern centralised one would otherwise have been lost as the pool of court clerks with first-hand knowledge and experiences of these changes diminishes," (Liberman 2018 p.121).

This sense of hoping to preserve memories of vanished unique facets of legal history reminds me poignantly of my original motivation (in 2005) for capturing the reminiscences of the pre- to post-WWII recollections of the indomitable Kurt Lipstein (1909–2006), and then (in 2007) of my conversations with Mickey Dias (1921–2009). Kurt spoke reluctantly of his early years in 1930s Germany, and his nights' "fire watching" on the roof of the Cockerell Building during the war. In contrast, Mickey was laconic in non-academic matters, but had an illustrious family record in the judiciary of Ceylon. Only later did meetings with Mr Dias's daughter provide some unique photographs of Mickey's sea journey with his father from Ceylon to Cambridge on the eve of war (1939), and his participation in preparations therefor immediately after their arrival. Heroically, after his degree at Trinity Hall (1942), Mickey served in the war as a gunner in Coastal Command patrols, before returning to Cambridge in 1951 after seven years lecturing at Aberystwyth. No wonder he was a much-loved doyen of Magdalene College.

Both scholars provided us with unique moments in the Faculty's history before their respective sad demises not long after our interviews.

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I thank David Wills, the current Squire Law Librarian, for his continued generous support and interest. I gratefully acknowledge the technical expertise and advisory support of my colleague Daniel Bates. Without his participation, the archive would not exist in its present form.

Footnotes

¹ Eminent Scholars Archive <https://www.squire.law.cam.ac.uk/eminent-scholars-archive>.

² *Legal Information Management*, 2014, 14 (1), 58-68.

³ Emeritus Professor, Law School, Lancaster University <https://www.lancaster.ac.uk/law/people/david-sugarman>

- ⁴ 1917-1999, Professor, Faculty of Law and Economic Science, Paris.
- ⁵ b. 1953, Professor of International Law, Director of the Erik Castrén Institute of International Law and Human Rights, University of Helsinki.
- ⁶ b. 1944. Laureate Professor Emeritus at Melbourne Law School.
- ⁷ 1930-2014, Robert Garran Professor of Law, Australian National University (1977-92).
- ⁸ Dame Rosalyn Higgins (b.1937), Emeritus Professor of International Law, LSE (1981-95), President of the International Court of Justice (2006-09).
- ⁹ Sir John Hamilton Baker (b.1944), Emeritus Downing Professor of Laws of England (1998-2011).
- ¹⁰ Antony Terry Hanmer (Tony) Smith (b.1947), Emeritus Professor of Criminal & Public Law (1996-2006), Pro-Vice Chancellor Victoria University Wellington (2007-15).
- ¹¹ James Richard Crawford (b.1948), Emeritus Whewell Professor (1992-2015), Judge ICJ (2015-).
- ¹² Professor Sir Hersch Lauterpacht (1897-1960), Whewell Professor (1937-55), Judge/President ICJ (1954-60).
- ¹³ Lassa Francis Lawrence Oppenheim (1858-1919), Whewell Professor (1908-19).
- ¹⁴ Alexander Pearce Higgins (1865-1935), Whewell Professor (1920-33), Member of The Hague Permanent Court of Arbitration (1930-35).
- ¹⁵ Lord, Professor Sir Arnold Duncan McNair (1885-1976), Whewell Professor (1935-37) Member of The Hague Permanent Court of Arbitration (1945-65), Judge/President ICJ (1946-55).
- ¹⁶ Sir Derek William Bowett (1927-2009), Whewell Professor (1981-91).
- ¹⁷ Professor Sir Robert Yewdall Jennings (1913-2004), Whewell Professor 1955-81), Judge/President ICJ (1982-95).
- ¹⁸ Philip J Allott (b. 1937), Emeritus Professor of International Public Law.
- ¹⁹ Sir Christopher Greenwood (b. 1955), Professor of International Law, LSE (1996-2009), Judge ICJ (2009-18).
- ²⁰ Sir Michael Charles Wood (b. 1947), Member of the International Law Commission, Principal Legal Adviser Foreign and Commonwealth Office (1999-2006).
- ²¹ Marjorie Tappan Hollond (1895-1977), Lecturer in Economics, Bursar of Girton College. Born in New York, PhD Columbia, came to Britain in 1920.
- ²² Professor Henry Arthur Hollond (1888-1974), Rouse Ball Professor of English Law (1943-50).
- ²³ Hisashi Owada (b.1932), Former Japanese diplomat, Judge ICJ (2003-18), President ICJ (2009-12), and with whom she has remained in contact ever since.
- ²⁴ Sir John Birch, (b.1935), Ambassador to Hungary (1989-95), Corpus Christi College, Cambridge.
- ²⁵ Who was head of this department. Oscar Schachter (1915–2003). US international lawyer and diplomat at United Nations. Hamilton Fish Professor of International Affairs, Columbia University (1980-2003).
- ²⁶ Andreas Jacovides, Cypriot Diplomat & Former Member of International Law Commission, Geneva.
- ²⁷ Stephen, M Schwebel (b. 1929) President of ICJ (1997-2000).
- ²⁸ Professor Myres S McDougal (1906-98). Yale Law School (1934-84).
- ²⁹ Rosalyn married Terrence Langley Higgins (b. 1928), later Baron Higgins of Worthing, KBE, in 1961.
- ³⁰ Staff Specialist in International Law, Royal Institute of International Affairs, Chatham House.
- ³¹ Professor of International Law, University of Kent.
- ³² Professor of International Law, LSE.
- ³³ King Edward VI Grammar School in Chelmsford.
- ³⁴ Roxwell Manor records in the Essex Record Office.
- ³⁵ Hilda Elizabeth Poole Grieve (1913-1993), archivist and historian, Essex Record Office (1939-1966).
- ³⁶ In those days it was a requirement for Oxbridge entrance.
- ³⁷ Dr T Ellis Lewis "TEL" (1900-1978), Squire Law Librarian (1931-1968), Lecturer in Law, Fellow of Trinity Hall 1932.
- ³⁸ Gerald Nokes, Professor of Law, King's College London (1955-66).
- ³⁹ Stroud Francis Charles (Toby) Milsom, QC MA FBA (1923-2016), Professor of Legal History LSE (1964-76), Professor of Law Cambridge (1976-90).
- ⁴⁰ Theodore Frank Thomas Plucknett (1897-1965), Professor of Legal History LSE (1931-63). Literary Director of Selden Society (1937-63).
- ⁴¹ Frederic William Maitland (1850-1906), Downing Professor of Laws of England (1888-1906).
- ⁴² Alfred William Brian Simpson (1932-2011). Lincoln College Oxford (1955-73), Professor of Law, Kent (1973-83), Professor of Law University of Michigan (1987-2009).
- ⁴³ Sir John Spelman (1495?–1544), judge of the King's Bench.
- ⁴⁴ Sir Edward Coke (1552-1634), Attorney General (1594-1606) to Elizabeth I & James I, Chief Justice of Kings Bench (1613-16).
- ⁴⁵ *Univ. Toronto Law J*, 17, 1-19.
- ⁴⁶ Australia, New Zealand, United States Security Treaty 1951.
- ⁴⁷ Depending how it is defined, relevant US military activity was primarily 1960-73.
- ⁴⁸ James, R Flynn, (1934 -) Emeritus Professor of Politics, University of Otago, (1967-96).

- ⁴⁹ John Greville Agard Pocock (b. 1924-) Historian, Harry C Black Professor Emeritus Johns Hopkins University (1974-94). Reader & Professor of Political Science, University of Canterbury (1959-65).
- ⁵⁰ <https://www.youtube.com/watch?v=khWxYIO5w-M> Listening to Flynn's interview conveys the intense sincerity that might have affected Tony 50 years earlier. (He mentions Vietnam and PM Kirk at 24.35mins).
- ⁵¹ 1987, *Offences Against Public Order, Including the Public Order Act 1986*, Sweet & Maxwell, Police Review Publishing Company, 326pp.
- ⁵² Eg. see: <https://nzhistory.govt.nz/anti-vietnam-war-protests-on-queen-street> <https://teara.govt.nz/en/photograph/1982/demonstration-against-the-vietnam-war> <https://vietnamwar.govt.nz/memory/john-miller-slide-show>.
- ⁵³ Eg. his work with PAJ (Tank)Waddington while at Reading University on UK policing methods (see Q52).
- ⁵⁴ In answer to a question by Hogan-Doran SC at a meeting of the Australian Bar Association in London about his interest in international law. <https://static1.squarespace.com/static/568c9f234bf1182258eb9fbc/t/5a20b1898165f51b7db7bcb2/1512092043849/James%2BCrawford%2BInterview.pdfsummary>.
- ⁵⁵ Sir Robert Gordon (Bob) Menzies (1894-1978), Prime Minister of Australia (1939- 41) and (1949-66).
- ⁵⁶ Harold Edward Holt (1908-1967), Prime Minister of Australia (1966-67).
- ⁵⁷ He did a dual BA/ LLB degree.
- ⁵⁸ Daniel Patrick O'Connell (1924-1979), Professor of International Law Adelaide (1964-72), Chichele Professor of Public International Law (1972-79).
- ⁵⁹ Sir Ian Brownlie (1932-2010), Chichele Professor of Public International Law (1980-99).
- ⁶⁰ Brownlie, I. 1966. *Principles of Public International Law*, 1st Ed OUP.
- ⁶¹ Manchester University Press, 1963, 130 pp.
- ⁶² *The Creation of States in International Law*, 1st Ed 1979.
- ⁶³ William 'Bill' Rodolph Cornish, QC (1937-), Herchel Smith Professor of Intellectual Property Law, Cambridge University, 1995–2004 , Professor of English Law LSE 1970–1990, Director Centre for European Legal Studies Cambridge, 1990–.
- ⁶⁴ Millicent A "Betty" Suckling (d. 1988). Mayor of Cambridge (1983-84), Cambridge Law Faculty Administrator.
- ⁶⁵ Leonard Sedgwick Sealy, (b. 1930), Emeritus S J Berwin Professor of Corporate Law.
- ⁶⁶ Sir Norman Robert Foster, Baron Foster of Thames Bank, (1935-), architect.
- ⁶⁷ Gareth Hywel Jones (1930-2016). Downing Professor of the Laws of England (1975-98).
- ⁶⁸ John Tiley (1941-2013), Professor of the Law of Taxation (1990-2008). Fellow Queens' College Cambridge.
- ⁶⁹ John R Spencer Professor of Law, President of the European Criminal Law Association (UK), Murray Edwards College.
- ⁷⁰ For example, Professor J Anthony (Tony) Jolowicz (1926- 2011), Professor of Comparative Law (1976-93).
- ⁷¹ Dr Kirsty Allen, then the Faculty's Administrator and Secretary to the Faculty Board of Law, currently Chief Operating Officer, Cambridge University Libraries.
- ⁷² Sir Jack Beatson (1948-), Rouse Ball Professor of English Law (1993-2003), Lord Justice of Appeal (2013-).
- ⁷³ Kurt Lipstein (1909-2006), Professor of Comparative Law (1973-76). Kurt reminisced on the Old Schools library in his own ESA entry.
- ⁷⁴ E.g. <http://www.lse.ac.uk/law/legal-biography-project>, <https://www.bl.uk/collection-guides/oral-history>.
- ⁷⁵ I have here paraphrased Sugarman's concluding remarks (2015, p. 33).
- ⁷⁶ Lacey, N, 2004. *A Life of H. L. A. Hart: The Nightmare and the Noble Dream*, OUP.
- ⁷⁷ i.e the REF (Research Excellence Framework) system where he cites Sir John Baker (2012) - see Sugarman's footnote 51 where he quotes Baker fn 33 (which is in fact fn 32).
- ⁷⁸ *Inter alia*, he cites the work of ESA legal historian John Baker.
- ⁷⁹ For several years now, I have found that a good deal more information can be imparted if the interviewee has prior knowledge of the gist of the questions, particularly on the matter of their scholarly writings.
- ⁸⁰ Currently ~1150 entries in all categories of 'personalities'.
- ⁸¹ Managed by Professors Michael Lobban and Linda Mulcahy of the Law Department <http://www.lse.ac.uk/law/legal-biography-project>
- ⁸² Henry II Assize of Clarendon 1166. Brought about by the Courts Act 1971.

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Biography

Lesley Dingle is the Foreign & International Law Librarian at the Squire Law Library, University of Cambridge. She is the founder of the Eminent Scholars Archive and a Senior Member of Wolfson College, Cambridge.