

Conversations with Professor Peter Frederic Cane

by
Lesley Dingle¹ and Daniel Bates²

10th July 2012

This is the fourth interview for the Eminent Scholars Archive with an incumbent of the Arthur Goodhart Visiting Professor of Legal Science. Peter Cane is professor at the John Fleming Centre for Advancement of Legal Research at the Australian National University, Canberra. He holds the Goodhart chair jointly with his wife Professor Jane Stapleton.

Interviewer: Lesley Dingle, **her questions and topics are in bold type**

Professor Cane's answers are in normal type.

Comments added by LD, *in italics*.

All footnotes added by LD.

1. Professor Cane, normally at this juncture I would be interviewing the incumbent Goodhart Professor as a follow up to a first interview, and would concentrate on how the time during the tenure had transpired. In your case, we are faced with an interesting circumstance, because the first interview was with Professor Stapleton. So, here we are, at the end of the academic year but, instead of just a backward glance, I hope we can spend a good deal of the interview looking at your early career, as well as some reflections of your time here. You and Professor Stapleton constitute the fourth holder of the Professorship, but you are the fifth incumbent to be interviewed. So, briefly, could we look at your early career, how it developed, and then come to the Goodhart material and perhaps at the end, very broadly, some aspects of your personal research interests?

You were born in Maitland in New South Wales in 1950.

Correct.

2. Do you have any recollections of the small town?

No, I don't, because we left when I was two years old. I was born, curiously, in a flood, so the best memory I have of my very early life comes from a photograph of my mother handing me up to an ambulance man in an amphibious vehicle, which we call in Australia army ducks - I think they're probably called that here as well - because our house was on high ground and the hospital was on high ground, but everything in-between was flooded. But since we left Maitland, when I was two, I don't really have any recollections of being there.

We moved to Newcastle, which is on the coast about 30 miles from Maitland and about 100 miles North of Sydney.

3. And that is where you went to school?

We moved around a lot. I went to primary school in Newcastle and then we moved to Sydney, and I went to primary school for one year in Sydney, and then I went to high school

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

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



in Sydney. I went to university in Sydney. So, really, I became a sentient adult in Sydney, rather than in Newcastle.

4. You went to Sydney to read classics, graduating in 1971. I wonder what your particular interests in classics were?

Well, it's interesting because when I went to high school, I went to a state school, but it was a selective state school, and it was an unusual state school, because it had a lot of classics separate Latin and Greek departments, Latin and Greek Masters and Latin and Greek teachers. I started out doing Latin and French and at the end of my first year at school the librarian, who was herself a maths teacher, said to me "You should be doing Greek". So, she was clearly very influential, because I there and then made the decision that I'd do Greek and I studied the first year of Greek over the summer holidays and went into second year doing Greek and Latin. So, I did Greek and Latin for the whole of my time at school. Then, when I went to university, it just seemed an obvious thing to on doing. So, that's how I ended up doing classics. It was all a bit happenstantial really, as many things in life are.

5. What made you switch to law?

I didn't switch to law. When I started at university, it was, I think, the first year of the introduction of combined degrees. So, this was a combined degree course where you would do another degree course with law, and indeed, I think probably the majority of law students in Australia now do it this way. They do a combined arts law or science law or economics law degree which, when I did it, it was six years. So, it was effectively two years of arts and four years of law, but now it's two years of arts and three years of law for most people, so it's a five year course. You end up with two degrees at the end of it, but you don't actually do two full degree courses. The first degree course is a bit truncated because of the law component, but you end up with two degrees. So, that was why I did that, because I think I'd always wanted to do law. I had, at one stage, planned to do Honours in classics. I can remember the time that I decided that wasn't really for me, so I gave up the plan of continuing classics and just went straight into the law. But I didn't change to law. I started out doing law right from the start.

6. I see, so you graduated in 1974. Were there were any special mentors in the department at Sydney whom you recall?

Well, I worked as a research assistant for a professor of contract law, David Harland³, and that was quite an important opportunity for me, because it was the first time that I'd really done any serious research. So, he employed me over the summer holidays as a research assistant. That was an interesting job to do and relatively unusual. He didn't really personally inspire me but, doing that job was important. Intellectually, I suppose, Bill Morison⁴, who was a professor of torts, was quite influential, although in later years, I fell out of love with his intellectual style. Bob Austin⁵, who became a judge of New South Wales Supreme Court, impressed me. But I didn't really take off intellectually in law until I went to

³ David Harland, (1940-2004), Challis Professor of Law, University of Sydney (1982-2004).

⁴ Professor William Loutit Morison, (1920 – 2000), taught in the Faculty of Law at University of Sydney from 1946 - 1985, Challis Professor of Law, Sydney (1959-1982). A philosopher and follower of John Anderson (1893-1962), a controversial Scottish-born Australian philosopher, Challis Professor of Philosophy at Sydney University (1927-1958).

⁵ Dr Robert Austin, University of Sydney, former Supreme Court of NSW Judge (1998-2010), taught company law and equity at the University of Sydney (1969-90), later a partner with the law firm Minter Ellison (1990-98).



Oxford. So, my real intellectual influences were not in Sydney, they were in Oxford, definitely.

7. Did you practise at all? You qualified as a solicitor?

Well, I did, yes, because when I did law, there was no college of law, law society's practical law course. It was all done by an articles system and very many people did articles concurrently with the last two years of their degree, which was a pretty demanding schedule, because we'd go to lectures in the morning and then go to work, go to a lecture at lunch time and go back to work, go to a lecture in the afternoon and then go to the library at night. It was a pretty full on-experience. I did articles for the last two years of my degree and then I worked as a solicitor for the nine months before I went to Oxford, but I knew that I wasn't going to be a practitioner at that stage. No, I haven't ever practiced in any serious way.

8. What made you decide to come to Oxford in 1974?

Well, curiously, I'd always known that I wanted to be an academic and so I knew I wanted to do graduate work and I started searching around. I really wanted to come to England partly, I suppose, because of the classical background and because I'd used many classical texts that were edited by professors of Latin and Greek at Oxford. So, it had that sort of mystique about it, I suppose. It's very important for Australians to get out of Australia, academic Australians anyway, and experience a different system. It's good for everyone, I guess. It looked, at one stage, as if I might go to University of Virginia because they offered me some money but then, at the last minute, I got a scholarship from Sydney University that I was able to use at Oxford, so I came to Oxford.

9. Where you stayed for 20 years, moving from a Lectureship to a Professorship?

Well, yes, I was there for two years as a graduate student, then I went back to Australia for about 18 months and then I came back to Oxford at the beginning of 1978 and was there until 1997. The employment structure is rather different in Oxford from what it is in Cambridge, so I started out as a tutor at Corpus Christi College and a lecturer, a university lecturer, and then, in 1996, I got a Readership and in 1997 a Professorship.

10. And it seems to me that it was a very productive time in your life. The milieu must have suited you academically?

Yes, as I said, Oxford was an intellectual awakening for me, because it was an extremely exciting period in Oxford in the early 70s. Dworkin⁶ had just taken over the Chair of Jurisprudence and I was exposed to ways of thinking that I had never experienced before. So, it was intellectually extremely exciting, yes.

11. Do you have recollections of Dworkin?

Oh, yes, lots of recollections of Dworkin. He was a very powerful lecturer and the most articulate speaker I think I've ever heard. Later, when I was an academic in Oxford, I can remember he ran a series of seminars with Bernard Williams⁷, the very famous philosopher and Amartya Sen⁸, the very famous economist. Of course, Williams and Sen

⁶ Ronald Myles Dworkin, QC, FBA (1931-). Frank Henry Sommer Professor of Law and Philosophy at New York University and Emeritus Professor of Jurisprudence at University College London, Yale and Oxford.

⁷ Sir Bernard Arthur Owen Williams (1929 - 2003), Knightbridge Professor of Philosophy at the University of Cambridge, Deutsch Professor of Philosophy at the University of California, Berkeley.

⁸ Professor Bharat Ratna Amartya Sen (b. 3 November 1933). Indian economist, Thomas W. Lamont University Professor and Professor of Economics and Philosophy at Harvard University.



were both very great intellects, but Dworkin had a facility in extemporé argument which was superior even to the facility of both Williams and Sen.

12. Very interesting. Having now spent a year at Cambridge, are you in a position to draw some comparisons with the two, in terms of the style, or the *modus operandi*?

Well, part of the problem is that I haven't been in Oxford for now almost 15 years. We left in 1997, so I am a bit out of touch with Oxford, but I do think that there are important differences in the *modus operandi*, of the two faculties. The structure of Cambridge is somewhat like the structure of Oxford, until they introduced the office of Dean to the Law Faculty in Oxford, and I think that's changed a lot of things. So, coming to Cambridge is a bit like going to Oxford, as it was when I was there, before the current system was introduced. There wasn't a Dean when I was there. Cambridge is, in some ways, reminiscent of what Oxford was like in the 1980's and early 1990's in terms of its general structure and the *modus operandi* of the faculty, as you put it. I probably shouldn't go any further than that. So, they're different, yes, quite different.

13. You returned to Australia in 1997 and I wonder what drew you back?

It was a complex of things, really. It was, to some extent, roots. I wanted to go back to Australia. I'd lived in England for a long time. There are some Australians who become more English than the English. There are some expatriate Australians, who grow very deep roots into the soil, but I never did and I think that was part of the reason. I didn't feel particularly strongly connected with my college in Oxford which, in the Oxbridge context, is a disadvantage because colleges are a lot of what Oxford and Cambridge are about. I had, in earlier years, felt strong connections with the college, but for various reasons, they became looser. But also I had a Leverhulme Trust Research Fellowship in 1996, which rather spoilt me for the life of full-time research. As it happened, we got a letter through the letterbox in the middle of that year, I think it must have been in May 1996, alerting us to jobs in Canberra, which were pure research jobs. The combination of all those factors really came together, I think.

14. Throughout your career, you've had many sabbaticals and I notice that you've gone to the States many times, a frequent visitor to Texas at least four times; you've been to North Carolina, Columbia. What is of particular interest to you in US law, or the US legal system?

Yes, that's an interesting question. Except for North Carolina, which was a long time ago in the early 1980's, I think, when I was in Oxford - apart from that, most of my connections with the US are in connection with Jane, because she's a member of the Texas Law Faculty. So, the reason I go to Texas so much is because she goes to Texas. That was the initial catalyst. Jane's an expert on US law, whereas I'm not. But, as a result of going to the US, I've developed quite a lot of interest in comparative law using the US, the UK and Australia as jurisdictions to compare. So, that's now why going to the US is important for me because in public law, not in private law, but in public law, I do quite a lot of comparative work comparing those three jurisdictions. So, going to the US was not something that I initiated originally, but it's proved to be fruitful for me.

15. Also you also have links with China. You went there in 2008 and at least three of your books have been translated, which is interesting.

Yes, that's amazing, isn't it?



16. Why is that?

Well, I don't know. So, yes, the visit to China was originally scheduled for 2004. There's a philosophy summer school in China that's run by the Royal Society of Philosophy here, the Academy of Social Sciences in Australia and there's an American end of it as well. When we went in 2008, it was the 20th anniversary of this summer school, and it just so happened that they were doing a year on legal philosophy, which was originally meant to be in 2004, but bird flu caused the cancellation of it in 2004. It didn't actually happen until 2008. There's usually an Australian person involved, it's a three-week summer school for graduate students and junior faculty from all around China, and there are four or five lecturers. The Academy of Social Sciences in Australia nominates an Australian and I was approached to find out whether I was interested in going, and I said yes I was. Probably I was approached because I'd recently published a book on *Responsibility in Law and Morality*⁹. My work had become quite theoretical when I went back to Australia and I think that's probably why I was approached.

The translation of the books into Chinese is a bit of a mystery to me, actually. The first one to be translated was *Responsibility in Law and Morality*. I got out of the blue one day an email from a woman in Beijing. She was Chief Legal Counsel for GE in China, but her father was a very distinguished academic at the University of Peking, and he'd suggested it to her, she must have had translation experience or translation aspirations, I don't know. Anyway, her father had suggested to her that she should translate this book into Chinese. So, she emailed me and said "Can I translate your book into Chinese"? And I said "Yes, why not"? So, she did, at the same time as being pregnant. So, she delivered her translation and her child at much the same time! So, that was the first one. Then it's just been happenstantial after that, I think. *Accidents Compensation and the Law*¹⁰ had already been translated into Chinese, I think. Yes, that was the first one to be done. I didn't have anything to do with that. That was done through CUP. *The Anatomy of Tort Law*¹¹ was also translated into Chinese. The publisher approached my publisher here, so I didn't have much to do with that either. But, actually, the *New Oxford Companion to Law*¹² is also being translated into Chinese at the moment, but of course, I didn't contribute very much to that. I co-edited it, and it was a really big project. I think that's being done by Peking University Press. Anyway, I can't explain it.

17. That brings us to your Goodhart tenure, this is the first joint tenure, and I wondered how it had been. Has it been a good year for research and teaching? What did you hope to work on and achieve research wise?

Well, I brought with me a lot of projects that needed to be finished off. So, I haven't been doing one major project since I've been here. I've done a couple of new editions of Australian student books, and I've written a couple of papers. They are the main things that I've done since I've been here and, yes, I've got enough done. How long is a piece of string? You could always do more. I've got a major project that I had hoped to get underway this year, but haven't, but will have to do when I get back to Australia. It was probably unrealistic to expect to be able to do that. From our point of view, the Goodhart has been marvelous

⁹ *Hart Publishing, Oxford, 2002, 303pp. Chinese translation, Commercial Press, Beijing, 2008.*

¹⁰ *Atiyah's Accidents, Compensation and the Law* (7th Ed.) Cambridge University Press, 2006, 498 pp. Chinese simplified character edition (2007) and Chinese translation (2008) of 6th edition, China Renmin University Press.

¹¹ *The Anatomy of Tort Law*, Hart Publishing, Oxford, 1997, 237pp. Chinese translation, Peking University Press, 2010.

¹² *The New Oxford Companion to Law* (Edit., with J Conaghan). Oxford University Press, 2008.



because we haven't been expected to do a lot, so we've had plenty of time just to do our own work, which suits me fine. I've done a bit of teaching, which has been very interesting and a bit of supervision, undergraduate dissertations, but mainly just been left to get on with our own work. Jane and I, in the Easter Term, did put on a series of seminars, Goodhart Seminars, in which younger members of the faculty predominantly gave papers and this, I think, was an innovation and it's an innovation, I think, that will stick. So, in terms of our lasting impact on Cambridge, one would hope that that will be the lasting impact that we've made, that is to encourage more seminar giving.

18. In private law?

Well, not necessarily. If it's private or public, it doesn't really matter what area it's in. It can be in any area. It's just to start a pattern of having regular annual seminar series that gives members of the faculty an opportunity to present their work in the faculty.

19. It certainly will leave a lasting legacy.

One hopes so, yes. How long it will go on, or not, one doesn't know, but I think that's probably the most high profile thing that we've done since we've been here.

20. What would be your abiding memories of the year that you've spent here?

Well, you're going to find this funny, our house, because the Goodhart Professorship comes with a huge house in Trumpington Road, which has the most splendid garden. So, having lived in Goodhart Lodge you would never forget having lived in Goodhart Lodge. That's a memory. Being involved with the colleges, going to lots of college feasts, which are a particularly Cambridge institution, I think. It doesn't exist in quite the same form in Oxford.

Jane's had a connection with St John's, and we've had a lot to do with St John's, and that's been a marvelous experience as well. So, I'm not really telling you work things, and we've done some marvelous travel as well. We've been to Istanbul and we've been to Sicily and we've been to France and we've been to Spain.

21. Wonderful.

So, we've done some travel as well. We certainly will never forget the year, and being able to spend more time with colleagues and being able to observe the faculty has been very interesting and to understand more about how Cambridge works and what its strengths and weaknesses are as a Law Faculty. That's all been very interesting.

22. Any long term, perhaps, collaborations that might ensue as a result of this year?

I'm not thinking in the long term, because I'm only five years from retirement. I don't know what you mean by long term, but no, I have not developed any plans for long-term collaboration with colleagues here. I knew a lot of colleagues before I came here, and deepening those relationships has been very good, but there are no concrete collaborations.

23. Can we briefly pick up one or two points in your extensive research output and interests? You have a very illustrious and extensive publication list and, of course, I cannot begin to attempt to cover even a summary, but I have had a chance I'm very pleased to say, and benefitted greatly, from looking at some of your books and papers and picked out a few points.



First of all, I selected your Tort Law of Australia¹³ because it was your first text book in its fifth edition now, and I wondered what drew you to this area originally, because several of my previous interviewees also started out with tort, Mr Dias¹⁴, Professors Jolowicz¹⁵ and Hepple¹⁶ and then they moved on to other topics, and I wondered why you—

Why did I start in tort law? Well, Bill Morison, whom I mentioned earlier as one of the people at Sydney taught me torts and, at the time I found his teaching very stimulating. I then got involved in the *Sydney Law Review* and was allocated a tort case, *Dutton v Bognor Regis*¹⁷, a very famous tort case from the early seventies, to write a case note on for the issue of the *Sydney Law Review*¹⁸. That was actually my first publication. So, that was what really got me started in torts, and I just went on from there. I found the subject interesting and attractive, and I think I always found it more interesting than contracts in the private law area. I think, to some extent too, you tend to be influenced by your teaching. So, I think the fact that I found the teaching in tort quite stimulating probably helped.

24. I enjoyed looking at your book on Administrative Tribunals when you returned to Australia¹⁹ - a very unusual neglected topic, breaking new ground, and there was a link for me because a previous interviewee, Professor Hepple, was at one stage heavily involved in UK industrial tribunals in contrast to your administrative. He eventually moved on because he found them intellectually frustrating because they were too fact driven.

Yes.

25. And I wondered whether you think that this is a feature of all tribunal work or whether, in fact, it is a topic that legal theorists and academics can really get their teeth into, or is it too fact driven?

Well, I think there are two different questions there actually. One is, yes, the work of most tribunals is very fact-oriented because the main function of tribunals is to resolve appeals, essentially on issues of fact from decisions. Leaving aside employment tribunals, and focusing on administrative tribunals, their main function is fact finding. It's only probably, when you get up into the higher reaches of the tribunal system, the Upper Tribunal, as it's now called, that there will be a greater legal content in what they're doing, but certainly at the initial level it's very fact driven. It doesn't follow from that, though, that tribunals are not intellectually or academically interesting as phenomena. So I'm not sure whether Hepple meant that he stopped studying tribunals or whether he stopped doing tribunal work. But I think the fact that tribunals have been so little studied by public lawyers reflects, perhaps, that sort of judgment - that is that there's nothing terrifically interesting from a constitutional point of view about tribunals. But actually, they are extremely interesting from a constitutional point of view, from a legal point of view, from a political point of view, from an institutional point of view, and they're extremely important. So, yes,

¹³ *The Law of Torts in Australia* (5th edn with K Barker, M Lunney and FA Trindade) Melbourne: Oxford University Press, 2011, 825 pp.

¹⁴ Mr Reginald Walter Michael (Mickey) Dias, (1921-2009). Lecturer in Law, University of Cambridge (Jurisprudence & Tort) (1951-1986).

¹⁵ J. Anthony Jolowicz, (1926- 2011), Professor of Comparative Law, University of Cambridge (1976-93).

¹⁶ Professor Sir Bob Hepple, (b. 1934), Emeritus Professor of Law, Master of Clare College (1993-2003).

¹⁷ *Dutton v Bognor Regis Urban District Council* [1972] 1 QB 373

¹⁸ *The Liability of Builders and Surveyors for Negligence* (1974) 7 *Sydney LR* 284-93.

¹⁹ *Administrative Tribunals and Adjudication*, Hart Publishing, Oxford, 2009, 285 pp.



they are predominantly fact-finding bodies, but they play an extremely important part in the constitutional set-up, and that's why I got interested in them.

In fact, why I got interested in them, as I think I say in the book, is because of the particular institutional structure of the tribunal system in Australia and, because of that particular institutional structure, tribunals are constitutionally very interesting in Australia. But people tend not to think of them as constitutionally interesting, or used not to think of them as constitutionally interesting in England, but they are actually, once you start thinking about it, and the contrasts and comparisons between the three jurisdictions are very interesting.

26. Thank you. You have edited several OUP compilations and one that I selected was the *New Oxford Companion*, and that is because all the reviews that I have read of your scholarly books have been highly commending and praising, and I found one exception, and that was by someone at Glasgow, Ross Gilbert Anderson²⁰, who criticized the change in emphasis in the *New Oxford Companion* and I wondered whether you think he was justified in criticizing your deviation from the original 1980 Walker edition²¹ concept.

So, what did he say? Tell me a bit more.

27. I've brought it along.

I haven't seen this review. This will be very interesting.

28. He said the *New Companion* has moved away from detail to themes. The content is more broad brush. He felt that, where Scots law is perhaps over represented in the original *Companion*, it has been relegated to a few short generic headings. He also seemed to think that the *New Companion* records the shift in the world of legal science from the scholarship of what he calls the doctrinal drudge to the "ologies" and "isms" and that academic lawyers are no longer concerned with details of private legal science, but with theory and then, of course, the obvious shift from private law to public law.

I plead guilty to all that, all to the good, I'd say. In one sense, it's a very tricky thing. The first *Oxford Companion to Law* was written by one person, an absolutely monumental project, highly impressive, but because it was written by one person, it did reflect very much that person's interests and preoccupations and intellectual stance and, when it came to doing the *New Oxford Companion*, we simply made a decision that it was not going to be a second edition of Walker's *Oxford Companion*. We needed something that was different and new and, yes, the intellectual styles have changed. I am not a doctrinal scholar in the way that Walker²² was a doctrinal scholar. We were trying to produce a book that would have wide international appeal. Books like this really only are financially viable if they potentially have a sale outside the UK, particularly in the US, although there's a *Companion to US Law*, but nevertheless, we wanted to make it a very international volume. So, yes, there is much less Scots law in it. It is much more theme-based. We deliberately made the choice not to put too much detail into it, partly because detail tends to go out of date very quickly and, also, partly because we conceived our audience differently. We conceived the audience as being very

²⁰ Ross Gilbert Anderson, Lecturer in Law, University of Glasgow. Publication Review: The *New Oxford Companion to Law*, Edited by P. Cane and J. Conaghan. *Edinburgh Law Review*, 2009, 13(2), 340-341.

²¹ *The Oxford Companion to Law*. By D. M. Walker, Oxford: Clarendon Press. 1980, 1,315pp, (two Appendices 50 pp).

²² David Maxwell Walker, (b. 1920) MA, PhD, LLD, FBA, Her Majesty's Counsel in Scotland, of the Middle Temple, Barrister, Emeritus Regius Professor of Law, University of Glasgow



broad. I certainly conceived this as being a contribution to public legal literacy, which I think was not probably the frame of mind in which Walker was approaching it. So, yes, it is just a completely different book with a completely different ethos, a completely different purpose, a completely different approach, and people simply have to judge whether they think that's a good thing or a bad thing. I happen to think it's a good thing, but the difference is summed up in the fact that, whereas Walker wrote the whole of the original, the new one, which is slightly bigger - I think his was about a million words and I think ours is about 1.2 million words - we had over 700 authors, and we had 40 people involved in constructing the head words for the book. So, yes, it is a completely different book.

29. Fascinating. Yes. The other book that I looked at, which I thought was extremely interesting, was your *Empirical Legal Research*²³ and, as far as I am aware, the Faculty is not heavily engaged in this kind of activity here.

No.

30. Did you touch on this in your teaching while you were here?

No. You're quite right. Most law faculties are not much involved. Most legal academics are not much involved in empirical legal research and I'm not involved in empirical legal research. I'm a consumer of empirical legal research. I've always been an avid consumer, and I think it's an extremely important form of legal research. I had felt for a long time - and the *Handbook* happened about 20 years after I first started thinking about this - that the empirical legal research community doesn't communicate very well with the legal academy generally. It doesn't communicate the content and the value and the importance and the significance of what it does for a variety of reasons. I'd always thought that I wanted to do something to try and make it more accessible to the large body of legal academics who tend to be more legally oriented, more doctrinally oriented - or philosophically oriented: there are a lot of legal academics now, as the review suggests, who think about law theoretically and philosophically. Empirical legal researchers tend to bunch in particular places. There are some places that do a lot of it. Texas is a place that does a lot, for example. Cornell has a very large group of people doing empirical legal research. So, in the US, there are some places that do a lot of it. The Centre for Socio-Legal Studies in Oxford was a publicly funded centre that did a lot of empirical work in the 1970's and 1980's particularly, and was the main centre for empirical work in the UK at that stage. There's quite a lot of empirical work done in criminal law and in criminology, but not so much outside that area. So, the book is another aspect of my desire to communicate to other people things that I find interesting.

In the case of the *New Oxford Companion*, it was a desire to try and communicate more directly with non-lawyers, whereas in the empirical legal research volume, it's a desire to communicate more directly, and to give empirical legal researchers an opportunity to communicate more directly with the rest of the legal academy, so that's why I did it.

31. About a month or go a so, Yale advertised for an empirical research librarian. I thought that was very interesting, actually. I've made a printout and I'll give it to you at the end. I can't imagine any academic library in this country advertising such a post.

Yes, that is interesting.

²³ *The Oxford Handbook of Empirical Legal Research* (with Herbert Kritzer), Oxford University Press, 2010.



32. Finally, work presented at the Maccabean lecture²⁴ and published while you've been here at Cambridge, and I chose this because it's the only publication I could dateline while you've been here, and that's your morality law and conflicting reasons for action²⁵. Did you conduct your research on Hart²⁶ while you were here?

No. That was mainly written before I actually came.

33. And what made you tackle the link between morality and law?

Well, it's something that I've always been interested in. In the book on responsibility²⁷, there is a lot about the relationship between law and morality, although not very well thought out or very well developed because my preoccupation in that book was responsibility and not specifically the relationship between law and morality, although a lot of the book turns on that. I was invited to give the Maccabean lecture, which is given every second year and has been going since 1956, I think. It was quite an intimidating invitation, because it's a pretty high profile lecture and it had to be on jurisprudence. So I decided I'd try and go back and think more systematically about the relationship between law and morality. I did it through reflecting on Hart's views because, I was feeling my way. He's been an extremely influential legal theorist, the most influential English-speaking legal theorist of the 20th Century, and this was one of his major preoccupations, as indeed it's the major preoccupation of many legal theorists. So, I decided I'd jump in at the deep end, as it were, and have a go at trying to say what I thought about the relationship between law and morality more systematically, and although I hadn't thought about it systematically before, actually doing it through the lens of Hart was quite helpful from my point of view because, at the end of the day, I got to where I wanted to be, but I didn't really know when I started out that I'd be able to do that. So, it was a long, hard process.

34. Well, all I can do is thank you so much for kindly coming and providing such an interesting and fascinating account which is going to be an extremely valuable addition to the archive. I'm very grateful to you.

My pleasure.

²⁴ Maccabean Lecture in Jurisprudence of the British Academy.

²⁵ Morality, Law and Conflicting Reasons for Action (2012) 71 *Cambridge Law Journal* 59-85.

²⁶ Herbert Lionel Adolphus Hart (1907-92). Professor of Jurisprudence Oxford University (1952-69), Author of *The Concept of Law*, 1961.

²⁷ *Responsibility in Law and Morality*, Hart Publishing, Oxford, 2002, 303pp.

