



JOHN TILEY

John Tiley

1941–2013

JOHN TILEY WAS BORN IN Leamington Spa in Warwickshire on 25 February 1941, the son of William and Audrey Tiley. His exposure to tax came early: his distinguished father was HM Inspector of Taxes for Coventry 1 District.¹

John attended Winchester College, where he excelled as a scholar but also lived school life to the full—football, cricket, music, astronomy and the Cadet Force reveal the energy and breadth of interest that he would bring to his later life and career. A passion for sport and music would enrich his life.²

When he left Winchester in 1959 he went to Lincoln College, Oxford, where in his second year he won the Winter Williams Law Scholarship by prize examination. Rather than choosing to exercise his considerable abilities in practice, either as a solicitor or a barrister, he chose instead to pursue an academic life. After graduation he stayed on at Lincoln College to lecture in law, before leaving to take up a lectureship at the University of Birmingham. In 1964 he married Jillinda Draper, a newly qualified barrister, later academic and Law Fellow of Lucy Cavendish College, Cambridge. Later that year he was called to the Bar by the Inner Temple, to which he was always devoted and subsequently became a bencher. He intermitted his academic career to do a pupillage with Donald Nicholls.

¹When John was honoured with a CBE in 2003, he carried his father's OBE in his pocket, since his father had been unable to collect it personally: J. Tiley, *Revenue Law*, 6th edn. (Oxford, 2008), p. vi.

²See D. Hartnett, 'Foreword', in J. Avery Jones, P. Harris and D. Oliver (eds.) *Comparative Perspectives on Revenue Law – Essays in Honour of John Tiley* (Cambridge, 2008), p. xiv.

He moved in 1967 to a fellowship at Queens' College, Cambridge, and an assistant lectureship in the University.³ Cambridge, and Queens', would remain his home for forty-six years until his death. He held most of the college's senior offices including Senior Bursar and Vice-President. His affection for, and pride in, his college was communicated to visiting scholars who were invited to college dinners in all their splendour, and given personally conducted tours of the college.

In 1984 he was appointed Assistant Recorder on the South-Eastern Circuit and in 1989 Recorder, specialising in family law, a post he held for the next decade.

John was a central presence in the life of the Cambridge Law Faculty. In 1990 he was appointed Professor of the Law of Taxation, the first such in the Faculty. In 1992 he was appointed Chairman of the Faculty, and during his three-year term of office he ensured that his contribution to the Law Faculty was even more than an intellectual one. As Chairman, he oversaw the construction of a new Faculty building to foster the Cambridge community of legal scholars, bringing together the Squire Law Library and teaching and staff accommodation fit to see the expanding Law Faculty well into the future. Owing to his vision, energy, commitment and the closest interest in matters of design and functionality, the new building on the Sidgwick site in West Road, designed by Norman Foster and Partners and formally opened by the Queen with the Duke of Edinburgh in 1996, provides a striking and fitting home for the Faculty. Lying at the heart of law teaching and scholarship in Cambridge, it is described as the hub of intellectual life in the Faculty, for its teaching staff, its students and the many visitors from the United Kingdom and abroad.

Having served as the president of the Society of Public Teachers of Law, now the Society of Legal Scholars, in 1995–6, John's next Cambridge project was to found the Centre for Tax Law as a centre for the teaching of, and research into, tax law. This he did in 2000 with the support of the Chartered Institute of Taxation, the International Fiscal Association Congress Trustees and the accountancy firm KPMG. The Centre, which is located within the Law Faculty building, seeks to promote the study of the law of taxation as an intellectual as well as a practical discipline.

John's distinguished contribution to the discipline of tax law was marked by the academic law community and beyond. He was awarded an LLD by Cambridge in 1995. His work in tax law and policy was formally recognised when he was awarded a CBE in 2003 for services to tax law. His

³ *Ibid.*, p. xii.

outstanding contribution to the academic discipline of tax law received its highest accolade when he was admitted as a Fellow of the British Academy in 2008, the same year as his retirement. In 2008 he was awarded a Leverhulme Trust Emeritus Fellowship for a project entitled ‘Developing Tax Law’.

Neither work nor honours ceased on his retirement. It was marked by a Festschrift, and the volume of essays in his honour was published in the following year.⁴ The distinction of the contributors reflects John’s own. The volume was received, in the words of Professor Roger Kerridge, ‘with a mixture of awe and sadness. Awe at a life so well spent, and sadness that this phase is over.’⁵

Having been made a life fellow of Queens’, to which he was so committed, and Emeritus Professor in the University, in 2009 he was appointed honorary Queen’s Counsel, and in 2011 Winchester College received him *Ad Portas*, a practice of recognising exceptional Old Wykehamists and the highest honour the college bestows. He continued to teach, to write and to organise those workshops and conferences so appreciated by the tax community. With his two sons Nicholas and Christopher and his daughter Mary established with careers and children of their own, John continued, with Jillinda, to travel extensively. This was partly facilitated by constant invitations to visit, personally and professionally, colleagues and past students all over the world.

Tax as an academic subject

John Tiley’s paramount professional achievement was to establish tax law as an academic discipline, taking its rightful place not only in the curricula of British universities but also as the subject of rigorous analytical research worthy of a place in the scholarship of law. This feat can only be fully appreciated in the context of the orthodox perception of tax law which pervaded the legal system until well into the twentieth century.

Tax is found universally in the modern world. There is no construct that is more influential on the personal and working lives of both individuals and communities, and no one is immune to its effects. As the Bill of

⁴J. Avery Jones, P. Harris and D. Oliver (eds.), *Comparative Perspectives on Revenue Law – Essays in Honour of John Tiley* (Cambridge, 2008).

⁵R. Kerridge, ‘Publication review – *Comparative Perspectives on Revenue Law – Essays in Honour of John Tiley*, Edited by J. Avery Jones, P. Harris and D. Oliver’, *British Tax Review* (2009), 155–8.

Rights in 1689 laid down that there could be no taxation without the consent of the taxpayer, taxes must be expressed in Acts of Parliament in order to ensure parliamentary consent. Tax statutes state the substance and scope of the charge to tax, any exemptions and allowances, and determine how the tax is to be implemented. As it is constitutionally required to be levied only under the authority of statute, tax is unambiguously law, and it could be thought that its age, nature and importance would make it the exemplar of conventional law and process, standing squarely within the legal system and subject to its values, standards and safeguards. This was, however, not so. Tax law differed from the orthodox model, and in various ways it stood outside the norms of the legal system in the key elements of that structure.

Its prominent constitutional underpinning in parliamentary consent and the liberty of the subject was the first way in which tax law stood apart from other branches of law. It gave it a special nature savouring of public affairs and fundamental rights, with an immensely strong political context and constitutional basis not shared by other branches of law, and was even characterised by a special parliamentary procedure applicable only to such legislation. This public character was generally unfamiliar to the majority of those involved in the practice of law who were in their daily lives more concerned with the private law of property, contract, wills and trusts, and domestic relations between individuals. Secondly, the principle of consent required the charge to tax to be stated as clearly and unambiguously as possible, to ensure that taxpayers were charged only by express and clear words in the legislation. Because of this requirement, and the increasingly technical nature of the subject matter, tax statutes were exceptionally lengthy and highly complex, and necessitated the strictest interpretative approaches by the judiciary. Unlike other branches of law, however, tax law had remarkably little judge-made law, and this constituted a third distinction from other branches of law. For policy reasons, appeals to the regular courts were denied in relation to the direct taxes until the late nineteenth century. Instead appeals were only permitted outside the cadre of professional judges and the resolution of disputes was dominated by untrained lay adjudicators. Not only did this mean that judges only exceptionally had the opportunity to interpret tax statutes, it gave a prominent and enduring role to the executive in the interpretation of tax statutes in the first instance. The level of bureaucratic involvement constitutes the fourth and unique feature of tax law. The complexity of tax law led to its administration by a highly specialised bureaucracy that, in its exclusive understanding of it, and its appreciation of pressing

political and economic demands, came to dominate tax law. Furthermore, the implementation of tax law by tribunals possessing an admixture of administrative and judicial functions, and the powerful influence of the officers of the revenue department of the executive, led to its perception as administrative regulation rather than law, and of the issues coming before tax tribunals not as legal issues, but as factual issues of finance and accounting. The intimate relationship between tax law, its implementation and the imperatives of the executive obscured boundaries which were clear in other branches of law.

These four characteristics set tax law apart from other branches of English law to the extent that it was not seen as law in the generally accepted sense of the term. Its perception as part administration, part accountancy and only part law was firmly embedded in British legal culture from the nineteenth century. This equivocal position within the orthodox legal system resulted in the isolation of tax law. This isolation was exacerbated by a certain passivity in regular judicial and legal circles, an unwillingness to get involved with tax. This was partly for all the reasons above, but also because tax law required some specialist accounting knowledge with which, traditionally, lawyers were not comfortable. This not only alienated lawyers from the subject, it also left open an opportunity for accountants to dominate the field, and this they grasped. This further marginalised tax law within the legal establishment and contributed to the inaccessibility of tax law to taxpayers, legal professionals and students of law.

Sitting in this way outside the norms of the legal system in its key elements, at best perceived as distinct from other branches of English law, and at worst as not law at all, tax was not embraced within the academic study of law in Britain. It is this deep-seated perception which John Tiley recognised when he began his career in the mid-1960s. His professional challenge, to which he devoted his academic career, was to bring tax into the mainstream of academic law. John was well aware of the insularity of tax law. He wrote:

Avoiding a feeling of isolation is important for the good of the academic. Dialogue can be particularly useful with those who find tax materials interesting for their own research, e.g. in jurisprudence and legal reasoning. Tax should be at the forefront of the minds of our political philosophers as the area where their theories can be tested yet, perhaps, because of the reputation our subject has for technicalities, few of them appreciate this.⁶

⁶J. Tiley, '50 years: tax, law and academia', *British Tax Review* (2006), 238.

Developing the vision of Professor Ash Wheatcroft, he created and ensured the place of tax law as a field of academic study.⁷ He did so in three ways: through his scholarship; through his teaching; and through his leadership.

Scholarship

First, John led by example and grew academic scholarship in tax. He wrote what has become a classic of tax law texts, *Revenue Law*, distinctive on any law library shelf not only by its size but also by the striking colours of the cover, famously chosen by his children and then his grandchildren. The first edition of this majestic work appeared in 1976,⁸ when John was a young lecturer at Cambridge, and at the time of his death was in its seventh edition. It was published, from 2000, by Richard Hart. For the fifth and sixth editions John worked with one of his past students, Glen Loutzenhiser, who went on to co-author the seventh edition with him. Thanks to him, John's work lives on, with Dr Loutzenhiser having in 2016 produced the eighth edition.⁹ Entitled *Tiley's Revenue Law*, it takes its place in the mould of the classics of English law texts known by their author's name.

Tax texts before *Revenue Law* had almost invariably followed the traditional pattern of stating the legal rules applicable to the taxes in question, often in the form of merely a brief comment on the statutory provision just stated, in exhaustive detail, with a consideration of any relevant judicial decisions and possibly with some calculations where appropriate. The content was rarely contextualised, with the purpose of taxation, the history of its legal framework, wider influences of economics or politics, and the nature of United Kingdom tax law as compared with that of other jurisdictions rarely if ever discussed. This style reflected the status of tax law as the province almost exclusively of tax practitioners; in other words, it accurately reflected the perceived place of tax law on the margins of academic law.

When *Revenue Law* appeared, therefore, it was a revelation. John's approach maintained a rigorous doctrinal core, covering the principal taxes, namely income tax, capital gains tax, corporation tax and inheritance

⁷On Wheatcroft, see J. F. Avery Jones, 'Ashcroft, George Shorrocks Ashcombe (1905–1987)', *Oxford Dictionary of National Biography*, <<http://www.oxforddnb.com/view/article/20102>> (accessed 11 January 2017).

⁸J. Tiley, *Revenue Law* (London, 1976).

⁹G. Loutzenhiser, *Tiley's Revenue Law*, 8th edn. (Oxford, 2016).

tax. From its first edition it addressed international matters and, increasingly, the impact of European law. For the first time, however, it contextualised tax law within the wider principles of law, and drew on history, economics and political theory, as well as revenue practice, all the time grounding the doctrinal study in an appreciation of underlying policy considerations. Furthermore, he never neglected a comparative perspective when he thought it would be illuminating. His belief in the value of this was confirmed in the titles of both his inaugural lecture,¹⁰ and that of the volume published in his honour on his retirement.¹¹ He was also more open to the writings of academics in journals and cited such legal literature extensively. *Revenue Law* was continually updated, no small task in view of the technicality and dynamic nature of tax law, but it retained the basic structure which had served him—and its readers—so well, and he ensured that the underlying and largely unchanging principles of tax law formed the core of the book.

It was, nevertheless, a battle to remain true to this intellectual ideal of an academic tax law text for students of the discipline. In the early 1980s, at the time a fourth edition was due, John's vision for the exposition of tax law would take what in his view would be a retrograde step—to turn *Revenue Law* into a book for practitioners. As a result, the more practical and technical topics in the third edition of the text were extracted and developed into *Butterworth's UK Tax Guide*, from 1998 entitled *Tiley and Collison's UK Tax Guide*, and marking the beginning of an eleven-year collaboration with David Collison.¹² It soon found its place as an annual publication, primarily for practitioners, addressing new legal developments, and is now in its thirty-fourth edition.¹³ Again, the contextual material which constituted the hallmark of the original text was for a while cast into a separate *Policy Supplement* to be used with the practitioners' guide, but it was soon understood that this marginalised the key element of the text which made it such an effective and valuable work for students of tax law.¹⁴

In terms of structure and content, *Revenue Law* reached its apotheosis in its fourth edition, published in 2000 by Richard Hart some nineteen

¹⁰ J. Tiley, 'The law of taxation in a European environment', *Cambridge Law Journal*, 51 (1992), 451–73.

¹¹ Jones, Harris and Oliver, *Comparative Perspectives on Revenue Law – Essays in Honour of John Tiley*.

¹² See D. Collison, 'Professor John Tiley; lives remembered', *The Times* (10 July 2013), p. 47.

¹³ X. M. Manzano and K. Gordon (eds.), *Tiley & Collison's UK Tax Guide 2016–17*, 34th edition (London, 2016).

¹⁴ R. Kerridge, 'Publication review, *Revenue Law* by John Tiley', *British Tax Review* (2001), 283–7.

years after the previous edition and reuniting in a work of substantial size the doctrinal, contextual and—where appropriate—the practical. John acknowledged the great generosity of the first publishers, Butterworths, who allowed him freely to use the material from the earlier text. Its reviewer, Professor Roger Kerridge, described it as ‘a truly outstanding book, a monumental work, one which should be welcomed back with loud rejoicings by all those who are interested in tax law as an academic discipline’.¹⁵

Writing a tax law text book is a daunting task. In no other area of law are there annual statutes to be incorporated and explained, the consequences foreseen and elucidated, the ever-present danger of a sudden and often unforeseen abolition of sometimes extensive parts of the subject matter, major politically driven initiatives such as the Tax Law Rewrite Project initiated in 1997,¹⁶ the unrelenting growth of the subject in terms of volume and complexity and the need to master it all to the high degree needed to explain it as simply, clearly and accurately as possible.

As always in tax law, periods of transition from one code to another pose particular problems for all students and practitioners of tax, and succinct explanation, analysis and guidance are essential. As the work of the Tax Law Rewrite Project led to a recasting of the income tax legislation, so the successive editions addressed the changes in their full legislative context, beginning with the comprehensive guidance in relation to the new Capital Allowances Act 2001, the Income Tax (Earnings and Pensions) Act 2003 and the Income Tax (Trading and Other Income) Act 2005 in the fifth and sixth editions. The seventh edition, which appeared after an interval of four years, saw the first major restructuring of the work. The bulk and nature of the material had grown to such an extent that the decision was taken to make the principal taxes of the United Kingdom the focus, and to address a number of other matters in a new and discrete text. Corporation tax, the examination of international and European matters and the taxation of savings were accordingly moved to form the basis of *Advanced Topics in Revenue Law*.¹⁷

While *Revenue Law* and its cognate publications formed the core of John’s work and the basis of his reputation across every sector of the tax community of students, academics and practitioners, he refined many of his ideas in a body of scholarship published in the form of discrete articles.

¹⁵For the history of the text, see *ibid*.

¹⁶John was a member of the Steering Committee.

¹⁷The eighth edition, published in 2016, reunited the material in one text.

These, he said, were a ‘sideline’.¹⁸ They were published principally in the *British Tax Review*, the *Cambridge Law Journal* and editions of collected essays, and tended to reflect his own particular interests. He published extensively on the subject of tax avoidance,¹⁹ and contributed materially, and with insight,²⁰ to the adoption by the United Kingdom government of a general anti-abuse rule through his academic writing and his membership of an advisory body established to consider that issue. Tax avoidance figured most strongly in John’s publication portfolio partly because it was an ideal candidate for comparative analysis since, unlike many Common Law jurisdictions, the United Kingdom had no statutory anti-abuse provision, preferring a judicial doctrine. He also explored the taxation of the family,²¹ estate duty and then inheritance tax, capital gains tax and tax issues in employment law, and wrote on European and international tax perspectives. His substantive articles were supported by masterly case comments and analyses on all the major developments in tax law as they occurred, published over some thirty years in the *British Tax Review* and the *Cambridge Law Journal*. John also contributed regularly to the *All England Law Reports Annual Review*, indeed he did so every year from 1985 to 2012. This work played to his skills and he was a master of the genre—acute, insightful, detailed, knowledgeable and accessible analyses of the court decisions in tax of the year, and expressly intended to bring together the academic and the practical. And all were leavened by the sparkle of irreverence, wit and anecdote.

This body of published work covered the whole spectrum of tax law—its doctrine, history, policy and practice. Neither did John neglect law outside tax. Demonstrating the breadth of his legal expertise, he published in the field of the law of torts, family law and property law, and as early as 1968 wrote *A Casebook on Equity and Succession*.²²

¹⁸ Tiley, ‘50 years: tax, law and academia’, 246.

¹⁹ For example, J. Tiley, ‘An academic perspective on the Ramsay/Dawson doctrine’, in J. Dyson (ed.), *Recent Tax Problems* (London, 1985), p. 19; J. Tiley, ‘Judicial anti-avoidance doctrines: the U.S. alternatives’, *British Tax Review* (1987), 180–97, 220–44; J. Tiley, ‘Judicial anti-avoidance doctrines: some problem areas’, *British Tax Review* (1988), 63–103; J. Tiley, ‘Judicial anti-avoidance doctrines: Part 3 – corporations and conclusions’, *British Tax Review* (1988), 108–45; J. Tiley, ‘Tax avoidance jurisprudence as normal law’, *British Tax Review* (2004), 304–31.

²⁰ J. Freedman, ‘Editorial: Professor John Tiley CBE QC (Hon) FBA 1941–2013: an appreciation’, *British Tax Review* (2015), 2.

²¹ For example, J. Tiley, ‘Tax, marriage and the family’, *Cambridge Law Journal*, 65 (2006), 289–300.

²² J. Tiley, *A Casebook on Equity and Succession* (London, 1968).

Teaching

The second way in which John ensured the place of tax law as a field of academic study was through his teaching. He had a clear notion as to the form it should take, a notion which encapsulated his entire approach to tax law. It should, he said, ‘be broad and demanding’.²³

First and foremost there must be technical competence with a good grasp of the primary sources. That competence can be tested in many ways ranging from elementary computation to planning transactions. However the tax student must go more broadly than technical competence in the current materials. Our subject moves so fast that a failure to understand why things change or have changed or may change in the future will produce someone who has been trained rather than educated, a monkey rather than a Socrates...²⁴

Believing that tax law should be taught to undergraduate and not just postgraduate law students, he taught the subject to both cohorts for some thirty years.²⁵ At Cambridge the Faculty attracted the best young minds to take his courses. He valued the teaching of his subject, believing utterly, as Lord Falconer observed, in the educational value of law,²⁶ and he was a dedicated, popular, caring and sensitive lecturer and supervisor. Teaching and, above all, inspiring generations of students, his influence was immense. As one distinguished past student observed, ‘I am not certain how the tax profession in this country (and sometimes elsewhere) would have fared were it not for the introduction we received in John’s rooms in Queens’. We all owe him an immense debt of gratitude.²⁷

Though believing that the teaching of tax law had already achieved ‘full academic recognition’,²⁸ he was never complacent.²⁹ He echoed widespread concerns as to the place of tax law as a university subject. When the fourth edition of *Revenue Law* appeared, he wrote that ‘tax is seen to be trying to make a more substantial presence in law curricula’, but the qualification was significant. In an article to mark fifty years of the *British Tax Review*, he wrote that ‘[t]here is much that is good and successful but

²³ J. Tiley, ‘Preface’, *Revenue Law*, 4th edn., reproduced in part in J. Tiley, *Revenue Law*, 6th edn. (Oxford, 2008), pp. vi–vii.

²⁴ *Ibid.*

²⁵ Originally he taught family law in Cambridge.

²⁶ Lord Falconer of Thoroton, ‘Address: Professor John Tiley, Fellow 1967–2013’, *Queens’ College Record* (2014), <https://issuu.com/jw463/docs/queens__college_record_2014> (accessed 5 November 2016).

²⁷ P. Baker, ‘An additional appreciation’, *British Tax Review* (2015), 4–5.

²⁸ Tiley, ‘50 years: tax, law and academia’, 230.

²⁹ *Ibid.*

also much that could be better; we must avoid complacency without succumbing to despair'.³⁰ Some commentators felt that the last decade of the twentieth century had seen a decline in tax teaching, with the impetus and progress resulting from the efforts of Ash Wheatcroft at the London School of Economics in the 1950s petering out by the 1980s. And so powerful was the influence of John's *Revenue Law* text that the absence of an updated edition for nearly twenty years between the third and the fourth was regarded as a material check to the development of tax law as an academic discipline in Britain.³¹ It was, indeed, 'both a symptom and a cause' of the decline.³² The interval between editions was thought to be due to the undermining influence of the persistent perception of tax law as the province of practice rather than academe.

So important was the teaching of tax law to John's vision of its place as an academic subject that he was not content merely to do it, nor to accept that it had achieved the recognition that Wheatcroft had sought, but strove to secure it. With his usual energy and commitment he aimed to increase the number of tax academics in British universities. He fought, successfully, for new funding to support a lectureship in tax law at Cambridge from KPMG, a new tax chair at Oxford and bursaries for postgraduate research. This at least ensured robust teaching of tax law at those institutions, and raised the profile of tax law to promote it as part of the curricula of other British universities.

Leadership

Many, indeed most, academic lawyers would have regarded a career of sustained scholarship and teaching of such breadth, depth and quality as singularly successful. John, however, achieved yet more. It was—thirdly—as an outstanding leader of the tax community that he ensured the place of tax law as an academic discipline.

Through his teaching and his writing, John forged relationships with tax practitioners and academic tax lawyers all over the world, many of them of considerable distinction. In his capacity as visiting professor in Australia, Canada, the United States of America, New Zealand and France he created a network of tax lawyers which stretched across the

³⁰ *Ibid.*

³¹ Kerridge, 'Publication review, *Revenue Law* by John Tiley', 283.

³² *Ibid.*, 284.

Common Law world and beyond. His voice, and accordingly that of United Kingdom tax law, was heard on the European stage through the European Association of Tax Law Professors, of which he was a founding member. He sustained these relationships and thereby energised the tax community. Nowhere was this better reflected than in the tax workshops he held on a monthly basis at the Centre for Tax Law at Cambridge which he founded in 2000 to encourage tax law scholarship through the organisation of conferences, discussion groups and workshops, and the Cambridge Tax Law Series published by Cambridge University Press. The monthly workshops at Queens' College—perhaps inspired by Wheatcroft's monthly seminars in the 1960s at the London School of Economics—brought together academic tax lawyers from the United Kingdom and other jurisdictions, Treasury officials and colleagues from HM Revenue and Customs. Bringing together legal theory and the practice of tax on topical issues in tax law and policy across a range of jurisdictions, the discussion was often provocative, invariably lively, erudite and practical, and—as with all John's conferences—liberally endowed with laughter and friendly collegiality. Only through his own standing in the international community of tax could he attract participants and speakers of such calibre. And never a session went by without a participant reminding us that he or she had been taught, at some point, by John.

John's belief in progression through discussion and debate, through bringing together all parts of the profession of tax in a congenial setting not only to address the sense of isolation that many tax academics felt but also better to integrate the discipline within academe, would form the guiding ethos of the Centre for Tax Law. The Centre now expressly promotes the study of tax by early career researchers, postgraduates and undergraduates, and supports this by an annual conference on tax law and policy. Another aim is to encourage discussion with other lawyers and university scholars on taxation topics, which is supported by a Tax Discussion Group and occasional seminars.

Not only did John organise group events, he was equally interested in and immensely supportive of colleagues as individuals, at every stage of their careers, in his own university and in other institutions. He facilitated research visits of days, weeks or even years to Cambridge, and supported more permanent positions. His generous willingness to act as referee for academic funding applications and for book proposals, and his acute anonymous—and always constructive—reviewing of articles submitted for publication or presentation, were invaluable to the individuals concerned who will always remain indebted to him.

The history of tax law

John's entire approach to tax law, and that which made him a pioneer in his field, is that he appreciated that for it to take its full and deserved place as an academic discipline it had to break with the orthodoxy of tax writing in the first half of the twentieth century and develop a young field of law by placing it in its full context. He was not an interdisciplinary scholar—he was a doctrinal lawyer and master of his subject. But what he profoundly understood was that intellectual isolation denied tax law the opportunity to flourish as an academic discipline. He knew that a complete understanding of that subject could only be achieved if it was set in its broad legislative, practical and international context. In his work he drew on different disciplines and their sources to explain the nature and place of tax law, an approach that Professor Judith Freedman has described as ‘the epitome of the “hybrid methodology”’.³³ A major context, the historical, forms another chapter in John's writing where he challenged the insularity of tax law and made yet another material contribution to its status as an academic discipline. His contribution to the legal history of tax is the least written about, and arguably the most pioneering, aspect of his work. This was a field which, until very recently, was the province of a handful of scholars, sitting uncomfortably in pure (and to some extent, legal) history owing to its highly technical nature, and eschewed by pure law for the same reasons that excluded it from orthodox law curricula. Were it not for individual enlightened editors of the *British Tax Review* in the last quarter of the twentieth century—notably John Avery Jones, David Oliver, Erica Stary and, later, Judith Freedman—scholarly work in the legal history of tax would have reached a very small audience indeed.

Adopting the view which pervaded his approach to tax law, and just as he encouraged his students to range widely across disciplines in their attendance at lectures according to interest, so he understood the value of legal history in establishing tax law as an academic discipline. John had been taught and mentored by A. W. Brian Simpson, one of the greatest legal historians of his generation,³⁴ as a student at Oxford, and indeed he had himself taught the subject at Birmingham at the beginning of his

³³ J. Freedman, ‘Establishing the foundations of tax law in UK Universities’ in Jones, Harris and Oliver, *Comparative Perspectives on Revenue Law – Essays in Honour of John Tiley*, p. 290.

³⁴ On Simpson, see C. McCrudden, ‘Alfred William Brian Simpson 1931–2011’, *Biographical Memoirs of Fellows of the British Academy*, 11 (Oxford, 2012), pp. 547–81.

academic career. John saw that the history of tax law transcended even the fundamental role of tax in the constitution, being ‘so much more ... than the execution of kings or other seventeenth century struggles’.³⁵ Governments needed to learn: ‘one lesson from history’, he wrote, ‘is that it can save us from reinventing the wheel. Another lesson, no less important, is to know when not to change the wheel.’³⁶ The story of tax law needed to be studied and recorded, in its full richness, depth and rigour, and the Tax Rewrite Project made that need all the more urgent. Only through its history could the purposes, nature and substantive doctrine of tax law be properly understood. Fundamental concepts and institutions in tax—from the definition of income (or absence of it) to the jurisdiction of tax tribunals—could only be explained historically, and only historically could patterns of change and development be discerned. Such studies involved the bread and butter of tax lawyers, namely such matters as legislative drafting, statutory interpretation, bureaucratic administration and the practicalities of the implementation of a tax. And it would inevitably require the exploration of the social, political and wider legal context of such issues. John saw, too, that the converse was true. Not only would such research enable tax lawyers to grasp the essentials of their subject, it would open tax law to wider academic scholarship. It would lead to a recognition that tax law could inform and illuminate other discourses in history, social policy, politics and government.

Seizing the challenge and the opportunity, John sought to encourage work on the history of tax by establishing the Cambridge Tax Law History Conference in 2002. It was begun under the auspices of the Centre for Tax Law which John had founded two years before. This conference has become a biennial fixture for all academic and practising tax lawyers with an interest in the legal history of tax. The conference attracts academic tax lawyers from many different jurisdictions, as well as historians, accountants and economists, whether postgraduate students, early career researchers, established scholars or retired colleagues, and invariably includes colleagues from HM Revenue and Customs. It is widely accepted by participants that it is one of the most inclusive, friendly, enjoyable, eclectic and stimulating conferences in the calendar of academic conferences in both tax and legal history. Through the good offices of Jillinda Tiley, the conference is held at Lucy Cavendish College. John was particularly keen to ensure that the numbers did not grow beyond the accom-

³⁵ J. Tiley, ‘Preface’, *Studies in the History of Tax Law*, 1 (Oxford, 2004), p. vii.

³⁶ J. Tiley, ‘Editorial, tax law history forum’, *British Tax Review* (2007), 210.

modation offered by the main meeting room in the college—namely forty—to maintain its informal and supportive ethos, and this is being continued by Professor Peter Harris, John’s friend and colleague for over a decade, and Dr Dominic de Cogan who, in the testing circumstances of John’s death, and with the gratitude of the tax history community, took upon themselves the task of continuing with the conference.

John eloquently and perfectly evoked the spirit of the conference:

Over two perfect English September days in 2002, a group of some 40 interested people gathered together for the first Tax Law History Conference ... Our days were passed in the beautiful surroundings of Lucy Cavendish College and the air was heavy with the scents of a Cambridge Edwardian garden in late summer. No less perfect and no less intoxicating were the technical discussions as we sat and listened to the speakers and talked among ourselves.³⁷

It was a founding principle of the conference that papers would not be restricted to a theme,³⁸ and this has been continued to this day. As a result, the presentations are diverse, reflecting a range of historical periods, topics, sources and, indeed, disciplines. They address both the substantive doctrine of tax law (the primary purpose of the conference programme) and the more general history of taxation (a study with a longer academic pedigree). The first volume set the tone: from the sixteenth century to the twentieth; from Tudor estate planning to Victorian tax tribunals; from Britain to Australia via Israel and Hong Kong. John himself contributed to the first conference, with a presentation on the taxation of imputed income from land. Over the next ten years, a wide range of taxes was considered from a variety of perspectives—stamp duty, income tax, capital gains tax, estate duty, excess profits tax, excise duties, poll taxes, the danegeld and the land tax, and, occupying a borderline region, tithes. The perspectives adopted were equally diverse—often doctrinal, as in examinations of the concept of total income, or the remittance basis for foreign income and the taxation of charities, but also philosophical, as with the model of taxation in the age of enlightenment and the influence of Montesquieu; social, as with the development of the tax professions or the impact of the window tax on public health; biographical, as with a study of Edwin Seligman, indicating what is set to be a growing field. The ethos was not merely interdisciplinary but international. Tax treaties, for example, provided a fruitful subject of discourse, but the domestic taxes of individual jurisdictions were increasingly the subject of presentations.

³⁷Tiley, *Studies in the History of Tax Law*, p. vii.

³⁸Although within each published volume the papers are grouped by theme.

The United States, Canada, the Netherlands, France, Germany, Algeria, Malta, New Zealand and China were in due course added to the jurisdictions explored. The sources upon which these papers were based were rich and varied. John's preoccupation, however, was how much there was to be done, in the history of tax as in the establishing of tax as an academic subject. For example, and though this is an aspect yet to be presented to the conference, he even saw the importance of oral history in the record of the history of tax.³⁹ As he said, 'if the technique is sound for social history it must also be valid for the institutional and technical history of our subject'.⁴⁰

From the beginning, the conference proceedings were published as fully formed academic pieces, in a volume after each conference and edited by John. The *Studies in the History of Tax Law* have found a unique place within the discipline, supported from their inception by Richard Hart. John died as the sixth volume was going to press. The publisher wrote on that occasion that John 'was immensely proud of this series, which will remain a monument to his energy, vision and passion for tax law and scholarly enquiry more generally'.⁴¹ On behalf of all the contributors, John Avery Jones wrote that 'we shall remember him for his inspiration and encouragement of the study of the history of tax law in organising these conferences and the volumes that record them'.⁴²

Epilogue

The circumstances of John Tiley's tragic and untimely death on 30 June 2013 at the age of seventy-two remain utterly baffling to all who knew him. The shock and pain of his passing was felt beyond his close and devastated family, and affected the entire tax community in this country and across the world. For those fortunate enough to have known John, he was a warm, welcoming, wise, loyal and valued colleague. He had the rare gift of making us all feel we were his friend, and he inspired not just respect, but loyalty and affection. But his influence will be felt beyond this generation. He was, as Lord Falconer described him in his memorial address, 'a giant in academic law, a pioneer and transformer in the study

³⁹J. Tiley, 'Preface', *Studies in the History of Tax Law*, 1, p. vii.

⁴⁰Ibid.; Tiley, 'Editorial, tax law history forum', 210.

⁴¹J. Tiley (ed.), *Studies in the History of Tax Law*, 6 (Oxford, 2013), p. vi.

⁴²J. Avery Jones in *ibid.*, p. vii.

of Revenue Law'.⁴³ His immense scholarship reflecting his powerful intellect, his energy, enthusiasm and geniality, made him not only one of the leading tax lawyers of his generation, but a driving and uniting force in the world of tax law. As a committed and inspirational teacher, a superb communicator, an outstanding scholar and a visionary leader in his discipline, his influence on the national and international community was immense—on the career paths of individuals, both in practice and in academia, on individuals' approach to tax law and, above all, on creating and maintaining tax law as a true academic discipline. Just as Joseph Schumpeter had demonstrated that tax was the prism through which the essential values of any society are distinguished and revealed, so John demonstrated that the true nature of tax could only be discerned through a material engagement with the imperatives leading to its final legal expression, and its interaction with other disciplines thereafter. Isolation and independence, however, are distinct. Much as John valued the contextual approach, he did not allow economics, accountancy, history, sociology or political theory to dominate or threaten the independence and integrity of tax law. It was this unique holistic approach to tax which made John the author of tax law as an academic discipline.

CHANTAL STEBBINGS

University of Exeter

Note. I am indebted to Mrs Jillinda Tiley and Dr John Avery Jones CBE for their comments on the memoir while in draft form, and to the written tributes of many individuals at the time of John's death, notably Lord Falconer of Thoroton and Professor Ellis Ferran at the memorial service for John in Queens' College Chapel,⁴⁴ and Professor Judith Freedman.⁴⁵

⁴³ Lord Falconer of Thoroton, 'Address: Professor John Tiley, Fellow 1967–2013', *Queens' College Record* (2014), <https://issuu.com/jw463/docs/queens__college_record_2014> (accessed 5 November 2016).

⁴⁴ *Ibid.*

⁴⁵ J. Freedman, 'Editorial: Professor John Tiley CBE QC (Hon) FBA 1941–2013: an appreciation', *British Tax Review* (2015), 1–4 at 2.

