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# Interrogating the Self-told Narrative: Lord Lindley's Autobiography, his Life and his Legal Biography

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## ABSTRACT

Autobiographies are now popular forms of literature, but for those in the legal profession, this tradition has a much longer history. This article examines the memoir written by Lord Nathaniel Lindley (1828–1921). Lord Lindley is famed for his writings in company law and for his judgments in a considerable number of landmark cases in the court of appeal and in the house of lords. The article uses Lindley's memoir alongside other archival records to shed some much-needed light on Lindley's background, his relationships and his private life. In doing so, it raises points of note about his life but also some wider methodological concerns. Lindley's memoir is key in unearthing new insights into Lindley's life. In this document, he explains how he was able to reach the upper echelons of the legal profession. This article considers the way that autobiographies can be used to present certain narratives. The analysis shows how the evidence presented in these sources can be triangulated and combined with other sources to overcome natural biases and flaws in order to create a fuller and more balanced legal biography. Overall, the article considers the value of autobiographies and memoirs in the construction of a legal biography.

## I. Introduction

Lord Nathaniel Lindley was of particular prominence during his career, which spanned the second half of the nineteenth and early part of the twentieth century, but he remains of relevance today. He is not an overlooked, underappreciated or an otherwise 'marginalised' legal actor.<sup>1</sup> Through his judicial role and his academic writing, Lindley had a clear hand in shaping doctrinal thought in private law. His name remains present on one of the leading texts in company law.<sup>2</sup> Lindley's role in creating legal

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<sup>1</sup>See Rosemary Auchmuty, 'Whatever Happened to Miss Bebb? Bebb v The Law Society and Women's Legal History', 31 *Legal Studies* (2011), 229; David Sugarman, 'From Legal Biography to Legal Life Writing: Broadening Conceptions of Legal History and Socio-Legal Scholarship', 42 *Journal of Law and Society* (2015), 7.

<sup>2</sup>Roderick l'Anson Banks, *Lindley & Banks on Partnership*, 20th ed., London, 2019.

change is well recognized by the literature which surveys doctrines in this area of law.<sup>3</sup> Despite his prominence, Lindley's biography and his life remain relatively unknown.<sup>4</sup> This article redresses the balance by focusing on Lindley's early life and his professional career. In 1850, at age twenty-one or twenty-two, Lindley was called to the bar and by 1854, began practice as a barrister in the court of chancery. In 1875, he became a judge and by 1881, he was appointed to the court of appeal. There he was chosen to serve as master of the rolls. Almost nine years later, in 1900, Nathaniel Lindley became Lord Lindley and lord of appeal. He resigned from this post in 1905 and died in 1921.

How did Lindley reach this position in the upper echelons of the legal profession? This was after all an accomplishment that only a handful of others achieved. A set of answers to this question can be found in a memoir Lindley wrote prior to his death in 1921. The memoir is noted but little used in legal history.<sup>5</sup> This is because the information contained in it is not easily digestible and the document is not widely available. It is ordered chronologically and consists of over 150 pages of handwritten script.<sup>6</sup> When transcribed, the memoir contains about 50,000 words. A copy of the autobiography is located in Lincoln's Inn, the inn from Lindley's time at the bar, together with some other professional paraphernalia. A reading of this document sheds some much-needed light on Lindley's personality and on the lives of those in the legal profession more generally.

In undertaking this task, this article critically examines Lindley's autobiographical memoir. It considers whether self-told narratives and these kinds of private documents should be given prime status in legal and historical work, as is traditionally the case. Archival documents are, for most conducting legal and historical research, a treasured resource. They have a somewhat prized status. This is not only because of the rarity of documents in English legal

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<sup>3</sup>Catharine MacMillan, *Mistakes in Contract Law*, London, 2010, 144–146, 251, 255; David Kershaw, *The Foundations of Anglo-American Corporate Fiduciary Law*, Cambridge, 2018, 290–293, 308, 348, 384–385; Joshua Getzler, 'Legal History as Doctrinal History', in Markus D. Dubber and Christopher Tomlins, eds., *The Oxford Handbook of Legal History*, Oxford, 2018, 188.

<sup>4</sup>There have been several attempts to capture elements of Lindley's life. See Martin Dockray, 'Savigny and the Squatter', 6 *The Journal of Legal History* (1985), 109; Gareth H. Jones and Vivienne Jones, 'Lindley, Nathaniel, Baron Lindley (1828–1921)', online edn. of the Oxford Dictionary of National Biography, 2006. Available online at: <https://doi.org/10.1093/ref:odnb/34535>.

<sup>5</sup>Martin Dockray, 'Lord Lindley's Autobiography', 7 *The Journal of Legal History* 1986, 102.; Mathias Reimann, *Historische Schule und Common Law: Die deutsche Rechtswissenschaft des 19. Jahrhunderts im amerikanischen Rechtsdenken*, Berlin, 1993; Carla R. P. Edgley, 'Backstage in Legal Theatre: A Foucauldian Interpretation of "Rationes Decidendi" on the Question of Taxable Business Profits', 21 *Critical Perspectives on Accounting*, 2010, 560; Oliver Radley-Gardner, 'Learning to Remember: Civil Law in the Common Law', 76 *Rabels Zeitschrift Für Ausländisches Und Internationales Privatrecht / The Rabel Journal of Comparative and International Private Law* 2012, 1101.

<sup>6</sup>Middle Temple Archive. Lindley, Nathaniel (1828–1921) Baron Lindley, Lord of Appeal memoirs, GD.42 [hereafter, Lindley's Memoir].

history and the manuscript tradition,<sup>7</sup> but also because materials which are held in archives are usually private records. They were written for private consumption and so authored in a way that was uninfluenced by worries about contemporary readership and the reaction of one's peers. It follows that these documents can be used to create a reliable and honest account of an individual's feelings about events, the circumstances in which they made decisions and ultimately, their choices.<sup>8</sup> These are the sources which are traditionally used to construct life stories and legal biographies. This article, rather than extolling the value of these sources, raises some wider methodological issues. It questions the meaning of private or personal documents and challenges our understanding of the value of self-told narratives in legal and historical research.<sup>9</sup>

The article begins by explaining why Lindley decided to write a memoir and the natural biases that should be expected when reading this form of document. In his autobiography, Lindley attributes his success to three factors. The first is the role of family members in supporting his career and the influence of family members and their traditions in his professional development. The second is the relative ease in career progression. The third factor which helped Lindley to progress was his professional connections and friendships. Here, he presents himself as a lawyer's lawyer and as a non-political actor. We deal with these claims in turn.

## II. Motivations, Biases and Aims

What motivates a person to write their own biography or tell the story of their life? For the most part, biographies are written at the end of an era – whether that be a watershed moment, the end of a political era, or, indeed, a lifetime. There are, of course, a few exceptions to this general rule.<sup>10</sup> Lindley's autobiography, however, presents us with a typical example. He wrote his biography in a moment of political and national flux, which was at the tail end of his legal career. He wrote over the course of 1914, following the outbreak of the first world war. It is also clear that he updated this memoir at several points during the late 1910s.<sup>11</sup> The outbreak of the war and its end prompted reflection. Those writing and re-telling the narrative of the period and the story of the war sought to diagnose its cause. How had nations, politicians and diplomats come to engage in military activity that resulted in such a catastrophic

<sup>7</sup>John Hamilton Baker, 'Why the History of English Law Has Not Been Finished', 59 *The Cambridge Law Journal* 2000, 62.

<sup>8</sup>Ludmilla J. Jordanova, *History in Practice*, 2nd ed., London, 2010, 88–94.

<sup>9</sup>For more on the balance between the methods of law and history in legal biography, see R. Gwynedd Parry, 'Is Legal Biography Really Legal Scholarship?', 30 *Legal Studies* (2010), 208.

<sup>10</sup>Campbell, for instance, wrote the *Lives of the Lord Chancellor* before he had taken this office in England.

<sup>11</sup>Although Lindley cannot see particularly well at this point in time, he was physically author of the document. When his health declined further, he dictated letters which were handwritten by another.

loss of life? In asking such questions, they sought to understand who was to blame for the conflict and how it could be prevented from escalating and occurring again.<sup>12</sup> Lindley was, no doubt, influenced by the *zeitgeist* of the time. He too looked to the past as a way to understand how things had come to be in the present.

Lindley's situation in 1914, when he began writing, was this: he had enjoyed a long and successful career as a lawyer and had reached the height of his profession. With failing physical and mental health, his legal career had now ended. He retired and looked to his children – and in particular, his third child, Jessie Louisa Lindley – to care for him.<sup>13</sup> It was primarily for this audience, namely his descendants, that he allegedly wrote his memoir. Lindley made this clear in a passage, which explained how he learned first to behave like a judge:

In a small note book which I kept when on Circuit will be found notes on the persons and things which a judge had to take with him and what he had a right to expect as regards his reception, invitations he ought to accept, and ought to give, the dress he ought to wear and other matters of Etiquette. I made these notes from what older judges told me and what I learned myself; and I have lent to other judges who like myself had to go [on] circuit without previous experience of circuit life. Such details however are not of sufficient interest to my family to induce me to reproduce them in this sketch.<sup>14</sup>

Lindley professed the readership for this document was his family rather than his professional colleagues. This is doubtful. For a memoir that was written primarily for family members, there is scant detail on his family, his parents or the early life of his own children, which they might not remember and would probably be interested in. This is especially true given that his family was spread disparately across the British empire. There are other sections and notes which suggest that he believed that those in the legal profession might also eventually read his memoir. As the rest of this article will show, he identified with his professional persona most of all and wrote of little else aside from his career in this document.

In contrast to his thoughts about judicial etiquette, which Lindley did not wish to discuss in depth, one of the explanations that he expanded upon in some detail was how his career had come to a close. His career, the start, the middle and the end, were all at the focus of his autobiography. Lindley described his physical and mental deterioration which brought about an end to his career. He suffered mental and physical ailments that curtailed his ability to function in a courtroom. Lindley explained that:

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<sup>12</sup>This debate was historicized by A.J.P. Taylor, *War by Time-Table: How the First World War Began*, London, 1969.

<sup>13</sup>In 1901, at the age of thirty-seven or thirty-eight, Jessie Louisa Lindley still lived with her mother and father in Norfolk. She did not marry.

<sup>14</sup>Lindley's Memoir, 77.

It was blowing and raining hard and my umbrella and hat fell out of my hand and my head fell heavily on the pavement. I was not stunned but was a good deal cut and I bled freely. I was helped up and after bathing my head at the Athenaeum I went home in a cab and saw my doctor. The matter was treated too lightly. I went on with my work as usual: but about ten days afterwards when in church the organ completely upset me and my head felt a rattling noise such as a lot of marbles makes if shaken in a tin. I went and consulted an eminent Physician who told me I was suffering from concussion of the brain and that I must leave off all work and be as quiet as possible. The holidays which were not far off enabled me to do this; but with very little good effect ... After the Long Vacation I felt fit for work again and I went back to the House of Lords and Privy Council and resumed work accordingly. But I soon found that I could not do my work properly: my power of attention and power of getting a clear view of what I was attending to failed me and I felt all in a muddle. With great reluctance therefore and on my 77th birthday the 29th November 1905 I resigned my judicial post.<sup>15</sup>

Over the course of the next decade, Lindley took up other roles. None were as prestigious as his role in the house of lords but his health declined sharply in 1914. He remained active in the local community which surrounded his home in Norwich. After he left judicial office, he joined the Swainsthorpe bench of justices and offered justices of the peace advice on judging.<sup>16</sup> In this capacity, he was still able to impart knowledge that he had accumulated in his vast legal career, although he had no real influence over the making of the law. By 1914, Lindley could not act even in this role any longer. He explained that '[o]n the 5th August [1914] I sat on the Bench at Swainsthorpe for the first time since I lost the use of my right eye a year ago and I practically resigned my post of chairman'.<sup>17</sup> He left purely for health reasons. It was job that he enjoyed. He stated that 'I found my impaired sight and increasing deafness and failing memory prevented me from attending properly to my work in the chair'.<sup>18</sup> This was probably a turning point for Lindley – and the last detail given in his memoir. It was from this moment in 1914 that he acknowledged that he could not function as a lawyer. It was a profession that he had been part of since 1854 and with this new development and end of his professional life, he looked back over his career. In his memoir, he looked to explain how he had come to this point in time. He pointed to a number of factors in his background to explain his professional accolades. The first reason was his family and background. We now turn to discuss this in detail.

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<sup>15</sup>*Ibid.*, 133–134.

<sup>16</sup>See the speech given by Lindley as reported in 67 *Justice of the Peace* (1903), 77. 70 *Justice of the Peace and Local Government Law* (1906), 438.

<sup>17</sup>Lindley's Memoir, 143.

<sup>18</sup>*Ibid.*, 143.

### III. Early Life, Background and Family

Comparatively little was said in Lindley's memoir about his family, his siblings, and his children.<sup>19</sup> He wrote in his memoir that he had a good relationship with his family. He believed that his parents and his early childhood influenced his career trajectory. This was most apparent in his explanations of how he managed to flourish at the bar and in the first part of his career. He said:

I attribute my success at the Bar first to good health, moderate ability, power of sleep and power of close attention to what I was about, power and habit of dismissing from my mind what I had done with; and general industry. Secondly to my Father's excellent training in encouraging my studies in other subjects besides law viz. natural history, physics and chemistry, and the importance he attached to method, zeal and perseverance in whatever I undertook. He also urged to me look beyond rules and get at the principles on which they were founded; thirdly to the freedom from all domestic cares from which my dear devoted wife relieved me. The care and bringing up of a large family fell upon her; and admirably she managed all that this involved.<sup>20</sup>

Lindley's relationship with his father was, he thought, instructive. His father was not a judge or politician – John Lindley FRS (1799–1865) was a professor of botany at University College London. These notes perhaps give us some insight into what Lindley believed were his father's personality traits and the level of time and attention which his father had for Lindley while growing up. Lindley attributed his 'power of close attention', the 'importance [he] attached to method, zeal and perseverance' and his determination to make full use of his own 'moderate ability', to his father's training.<sup>21</sup> Lindley's mother was not, in his view, influential in terms of developing his character to foster a set of professional skills or in setting out his career path. Nevertheless, his mother, Sarah Freestone (1791–1869), was an equally important force in his life. Lindley believed that his mother played a role behind the scenes in assisting the work of John Lindley, her husband and his father. The relationship between his mother and father was a supportive one as Lindley believed that his mother 'did a great deal for my Father; especially in the way of covering the microscopical slides with paper and of mounting his dried specimens on large sheets of paper and relieving him from all household troubles'.<sup>22</sup> This is the same role that Lindley saw his wife, Sarah Katherine Teale (1831–1912), as fulfilling. He explained that as a child, his personal relationship with his

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<sup>19</sup>It is perhaps that he expected them to write their own biography and in some cases, they did. See Francis Oswald Lindley, *A Diplomat Off Duty*, London, 1947. Lindley also wrote one for his own father, see BCPA, MS 0055, Box 21, File, 19, Miscellaneous papers relating to Dr John Lindley including sketch of his life by son, [Nathaniel], ca. 1911 (typescript).

<sup>20</sup>Lindley's Memoir, 72.

<sup>21</sup>*Ibid.*, 72.

<sup>22</sup>*Ibid.*, 10.

mother was stronger than his relationship with his father. He remarked '[w]hen we were children we were rather afraid of my father who at times was irritable and rough, and we used to go to my mother for comfort. She was a dear loving woman active and alert'.<sup>23</sup> It is noticeable that Lindley said much about his mother's nurturing and his father's professional persona, and in particular, the lessons which he taught him and proved to be later in his professional life.

Lindley did not believe that women should have equal political or professional status with men; he was not sympathetic to the suffragette movement, for example. Given the views that Lindley presented here in his memoir about his life and his influences, this point about his political views may be unsurprising. His ideals about gender roles were outlined more clearly in some private correspondence. He explained in 1910 that 'I do not believe in "votes for women"; and I feel pretty confident that the country as a whole is against them'.<sup>24</sup> After the women's suffrage bill in 1913 was rejected, he remarked, again in a letter, 'the nation is getting angry with the militant suffragettes and I hope that the government will put them down without any squeamishness now'.<sup>25</sup> Lindley believed in strict division between the private and public sphere; the function of women therein was to assist in domestic life. The autobiography of Lindley's son, Francis Oswald, confirms this. He noted that '[m]y father, ... always encouraged and expected his sons to take a serious view of their professions'.<sup>26</sup> Lindley did not see the role of women in the domestic sphere as a lesser purpose but a different and complementary position. He wrote in another letter that 'I always think that wives' work is hard and sometimes harder for their living than their husbands' and [they] get less real relaxation'.<sup>27</sup>

Lindley was born as the second male child. He had an elder brother, George, who died of scarlet fever in 1831 when Lindley was three years old. Lindley was one of three surviving children; he was the middle child and between two sisters, Sarah and Barbara. Expectations for him – as the only surviving male – were no doubt high. His eldest sister Sarah married Sir Henry Pering Pellew Crease in 1852. He noted that '[i]n the Autumn of 1859 we went to Worthing; and my sister Mrs (Sarah) Crease and her 3 children left England for British Columbia and I have not seen her since'.<sup>28</sup> Sarah Crease's diaries tell us more of her brother 'Natty's' upbringing and his relationship to the

<sup>23</sup>Ibid., 10.

<sup>24</sup>British Columbia Provincial Archives, Victoria, British Columbia, Canada [hereafter 'BCPA'], MS 2879, Box 71, File 2, AE C86 C861 L64, Letter from Baron Nathaniel Lindley to Sarah (Lindley) Crease, 18th July 1910.

<sup>25</sup>BCPA, MS 2879, Box 71, File 2, AE C86 C861 L64, Letter from Baron Nathaniel Lindley to Sarah (Lindley) Crease, 8th May 1913.

<sup>26</sup>Lindley, *A Diplomat Off Duty*, 117.

<sup>27</sup>BCPA, MS 2879, Box 34, Folder 2, A/E/C86/C86/L641, Letter from Baron Nathaniel Lindley to Henry Crease, 9th Dec. 1877.

<sup>28</sup>Lindley's Memoir, 51.



Crease family than the single glib line which appeared in Lindley's memoir. Lindley also managed the trust that was put together for Sarah; he invested it and returned the profits to Sarah, whom he called Totty, every six months. Away from England, the Crease family struggled financially and were in need of liquid capital.<sup>29</sup> From the Crease collection of diaries and letters, we see the family ties and responsibilities which were hidden and obscured in the memoir. Debts and financial difficulty were concealed and not matters for public discussion. Even the type of money – bank notes and paper money or bills and letters of credit – a person held was seen as a marker of wealth.<sup>30</sup> Share ownership in a bank would provide access to credit.<sup>31</sup> Where there was open discussion of indebtedness among those with a high social standing, it was usually due to legal proceedings and Margot Finn shows that individuals attempted to recast explanations in order to uphold notions of moral character.<sup>32</sup> Sarah Wilson has argued that status and these aspersions of bad and good character influenced the understandings of fraud and financial crime.<sup>33</sup> Debts, financial struggles and maintaining perceptions of affluence were not the only matter that Lindley revealed only in his private letters.

Religious beliefs were not expounded upon in the memoir either but these views were plainly articulated in personal correspondence. Sarah Crease's letters note that her father was a member of the Church of England but chose science over religion. Sarah, on the other hand, did not. She wrote to her father on his death bed to urge him to have greater faith.<sup>34</sup> She held views on religion that her biographer, Kathryn Bridge, describes as typical of the time and place in which she lived.<sup>35</sup> Lindley's younger sister, Barbara, presumably had also felt a strong connection to the Church of England as she married Reverend Edmund Thompson in 1867.<sup>36</sup> Lindley's views on religion were discussed in the memoir but the pages are missing; his views can be found in other sources. Lindley, like his father, was not an overtly religious individual. He debated the importance of holding religious beliefs and even challenged the views of Sarah, his eldest sister, in the later decades of his life.<sup>37</sup> This said, Lindley was not an atheist nor was he agnostic.

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<sup>29</sup>Kathryn Anne Bridge, *Henry & Self: The Private Life of Sarah Crease 1826–1922*, Victoria, BC, 1996, 100.

<sup>30</sup>Mary Poovey, *Genres of the Credit Economy: Mediating Value in Eighteenth- and Nineteenth-Century Britain*, Chicago, 2008, 87–93.

<sup>31</sup>Lucy Newton, 'The Birth of Joint-Stock Banking: England and New England Compared', 84 *Business History Review* (2010), 53.

<sup>32</sup>Margot C. Finn, *The Character of Credit: Personal Debt in English Culture, 1740–1914*, Cambridge, 2003, 64–80.

<sup>33</sup>Sarah Wilson, *The Origins of Modern Financial Crime: Historical Foundations and Current Problems in Britain*, Abingdon, 2014.

<sup>34</sup>BCPA, MS 0055 Crease family papers, Sarah Crease correspondence outward, Box 11, File 1, items 11–17, Sarah Crease to John Lindley, 17th Jan. 1873.

<sup>35</sup>Bridge, *Henry & Self*, 95–96.

<sup>36</sup>Kensington Marriage Records for October, November and December 1867, vol. 1a, 207.

<sup>37</sup>BCPA, MS 2879, Box 71, File 1, AE C86 C861 L64, Letter from Baron Nathaniel Lindley to Sarah (Lindley) Crease, 24th Oct. 1901, 30th Nov. 1901.

Lindley was a member of a community in England which was bound by kinship ties that were based upon religious affiliation. He wrote to his sister Sarah about his new daughter-in-law. He explained that she 'is a tall, bright, intelligent, affectionate, simple lady ... we are all very pleased with her. I wish she was not a Roman Catholic, that is her only drawback'.<sup>38</sup> Lindley also said shortly after the coronation of George V that 'the public want the assurances of the King that he is not and will not be a Roman Catholic',<sup>39</sup> because George had objected to some religious wording in the accession declaration.<sup>40</sup> It is evident that Lindley was not blind to religion as a marker of socialisation. Religion was not only a set of beliefs but as Searle notes, part of the '[d]istinctions in wealth and social order'.<sup>41</sup> Lindley's memorial service was held at Temple Church in London, the church of Inner and Middle Temple. It had religious iconography and a musical theme that was part of a traditional Anglican funeral service.<sup>42</sup>

Lindley's relationships with his siblings – and his eldest sibling in particular – were far more important and instructive in building his personality than he gave credit to in his memoirs. While noting the importance of his father in his life, it is interesting that Lindley spoke little of his own role in the home as a father or his own children.<sup>43</sup> Lindley disclosed nothing about how he shaped the lives of his children – and in return the impact that they had upon his life. His children did have a close relationship with him.<sup>44</sup> One nephew (Arthur Crease) in British Columbia proposed Lindley as a godfather to his son but Lindley declined owing to the distance between them.<sup>45</sup> One of Lindley's sons, Walter, followed in his footsteps and edited the fifth to the eighth editions of Lindley's treatise on the law of partnership, and became a judge in the lower courts in England.<sup>46</sup> He had doubts that another of his sons would work hard enough to make it as a barrister and instead intended for him to go to Sandhurst.<sup>47</sup> None of Lindley's children were discussed in detail in the memoir except for his daughter Mary.

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<sup>38</sup>BCPA, MS 2879, Box 71, File 1, AE C86 C861 L64, Letter from Baron Nathaniel Lindley to Sarah (Lindley) Crease, 30th Nov. 1902.

<sup>39</sup>BCPA, MS 2879, Box 71 File 2, AE C86 C861 L64, Nathaniel Lindley to Sarah Crease, 12th June 1910.

<sup>40</sup>See Vernon Bogdanor, *The Monarchy and the Constitution*, Oxford, 1995, 55–59.

<sup>41</sup>Geoffrey Russell Searle, *Morality and the Market in Victorian Britain*, Oxford, 1998, 10.

<sup>42</sup>BCPA, MS 0055 Crease papers, Lindley Crease Pamphlets, Box 12, File 7, item 1, Memorial service in memory of Lord Nathaniel Lindley, 13th Dec. 1921.

<sup>43</sup>Lindley had eight children: four sons and four daughters. In order of birth, they were John Edward, Walter Barry, Jessie Louisa, Annie Clayton, Mary Beatrice, Percy Hooker, Lennox Hannay, Francis Oswald, and Constance Mary. Lindley's Memoir.

<sup>44</sup>Sarah Crease sent her eldest child to stay with Uncle Nathaniel and both families reported that they were sad when the trip ended. Bridge, *Henry & Self*, 101.

<sup>45</sup>BCPA, MS 0055 Crease family papers, Arthur Douglas Crease Papers, Box 14, File 1, items 96–100, Nathaniel Lindley to Arthur Crease, 7th Sept. 1909.

<sup>46</sup>Anon., 'Notes', 36 *American Law Review* (1902), 892. The news item reads that 'If he [Walter Lindley] is a chip of the old block, he will not always remain a County Court judge, but will go up to the Law Courts building in London'.

<sup>47</sup>BCPA, MS 2879, Box 34, Folder 2, A/E/C86/C86/L641, Letter from Baron Nathaniel Lindley to Henry Crease, 3rd Aug. 1882.

In 1893 our dear daughter Mary began to suffer from a long series of bad headaches and gradually became worse and worse. She was a sweet dear girl and her illness gave us great anxiety. My dear wife suffered greatly from this cause. We got the best advice we could for her; but it was all in vain. The illness took the form of religious melancholy and depression which lasted for 2 years. She died in Florence in 1895 where she had been sent in the hope of her recovery.<sup>48</sup>

Although it is not made explicitly clear here, it is likely that Mary committed suicide.<sup>49</sup> Some in Victorian Britain saw this as murder and a crime against God, while others took a more secular view of it and saw it as rational choice.<sup>50</sup> Lindley presumably fell somewhere in the middle. The dates, which Lindley gave here in his memoir, were also likely to be incorrect. He wrote to his sister Sarah in 1896 to note Mary's illness. It was worded in a similarly vague manner.<sup>51</sup> This limited emotional expression was characteristic of maleness in Victorian Britain. John Tosh explains that '[s]ilent, reserved and unshaken by waves of emotion... represented the most extreme form of manliness as self-control. The stiff upper lip held out the hope of an unequivocal masculinity'.<sup>52</sup> Lindley did not write again to his sister upon Mary's death, perhaps fearing Sarah's rebuke or her censure. Fitting with Tosh's assessment of Victorian masculinity, in Lindley's memoir, it was his wife who experienced the intense emotional turmoil after their daughter's death rather than himself. He continued later to say that:

In January 1898 my dear wife who had long been suffering from the anxiety and sorrow caused by dear Mary's illness and death to which I have already referred went ... [away] for rest and a complete change. She came back much better and refreshed. This was the only occasion that I remember which she left home for any length of time.<sup>53</sup>

Almost two or three years had elapsed since Mary's death. Yet, his wife's vacation, and this incident which precipitated it, was obviously still of some note in Lindley's mind two decades later when he wrote his memoir. The death of one of his sons, Percy Hooker, on the other hand, was not discussed in the memoir.<sup>54</sup> Lindley appeared to have had a close personal relationship with his daughters especially. He would take them on circuit with him even though this was against the informal rules.<sup>55</sup>

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<sup>48</sup>Lindley's Memoir, 106a.

<sup>49</sup>She is buried in Cimitero Evangelico degli Allori, Florence, Provincia di Firenze, Toscana, Italy.

<sup>50</sup>Patricia Jalland, *Death in the Victorian Family*, Oxford, 1996, 71.

<sup>51</sup>BCPA, MS 2879, Box 71, File 1, AE C86 C861 L64, Nathaniel Lindley to Sarah Crease, 1st Jan. 1896.

<sup>52</sup>John Tosh, *A Man's Place: Masculinity and the Middle-Class Home in Victorian England*, New Haven, 2007, 184.

<sup>53</sup>Lindley's Memoir, 122a.

<sup>54</sup>He died aged three in 1871. L. G. Pine, *The New Extinct Peerage 1884–1971: Containing Extinct, Abeyant, Dormant and Suspended Peerages With Genealogies and Arms*, London, 1972, 179.

<sup>55</sup>See 'When I went [on] the North Wales Circuit in 1883 my wife and 2 daughters went with me but left me before I got to Chester. No one objected to this and no one was inconvenienced by it. We all enjoyed it'. Lindley's Memoir, 78.

In summary, the nexus of relationships in Lindley's own private and family life were obscured in his autobiography. It is evident that he had a close and influential relationship with some of his children and family members but they were not discussed here. Rather, he focused upon his childhood and identified his father as a scientist but little more was said about influential characters. The discussion of the women in his life was somewhat muted by comparison. His wife, mother and sister held, in Lindley's view, caring or nurturing roles, which did not seem to have a direct link to his personality nor his professional skills. He supported them financially and they alleviated his domestic capabilities in his view. His family members also provided companionship and preferred their company to that of the barristers and judges who were also on circuit. Lindley's memoir, therefore, does not tell us about 'firsts',<sup>56</sup> but it does tell us about gender roles and norms in Victorian society. It fits in with what was typical in terms of the expectations of behaviour and norms of the time. Those in the judiciary were not pioneering ideas of equality and sameness. To shed light on private lives, personal correspondence provides a fuller insight into these relationships. We now turn to discuss the early part of Lindley's judicial career.

#### IV. Making the Transition from Barrister to Judge

Lindley's memoir makes some understated points about the difficulty he found in making the transition from barrister to judge. In the early years of his legal career, he worked as a chancery barrister. Here, he argued a number of important cases and was well versed in the equitable doctrines, which were used in this court. Like most legal practitioners, he specialized in one area of law. Yet, as the doctrines of common law and equity were split and the procedure separated by the court structure in the English legal system, Lindley had experience of one of the two halves of the legal system. He wrote an influential treatise on the *Law of Partnership* in 1860 and this cemented his place as one of the leading lights on the equity side. Company law at this stage in history tended to be argued in the equity courts and the law of trusts was pertinent to complaints.<sup>57</sup> The *Law of*

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<sup>56</sup>Patrick Polden, 'The Lady of Tower Bridge: Sybil Campbell, England's First Woman Judge', 8 *Women's History Review* (1999), 505, Fiona Cownie, 'The United Kingdom's First Woman Law Professor: An Archerian Analysis', 42 *Journal of Law and Society* (2015), 127. See also sixteen studies of first women lawyers in Rosemary Auchmuty and Erika Rackley, eds., *Women's Legal Landmarks*, London, 2018.

<sup>57</sup>Joshua Getzler and Mike MacNair, 'The Firm as an Entity Before the Companies Acts 2006', in Paul Brand, Kevin Costello, and W.N. Osborough, eds., *Adventures of the Law: Proceedings of the Sixteenth British Legal History Conference, Dublin, 2003*, Dublin, 2005.

*Partnership* became the prime work in its field, displacing the rival texts of Bisset,<sup>58</sup> Gow,<sup>59</sup> Collyer,<sup>60</sup> Watson,<sup>61</sup> and Wordsworth.<sup>62</sup>

When it came to his judicial appointment to the house of lords, Lindley considered it was not down to his friends but rather his expertise, specialism and career at the chancery bar. When the Judicature Acts 1873–1875 came into effect, the two streams of law and equity would be fused and otherwise change the way doctrines were applied.<sup>63</sup> Lindley wrote that: ‘I can only suppose that a Chancery man was wanted to help the judge in the Common Pleas to do the work to which they were unaccustomed but which they would have to do when the new act came into force’.<sup>64</sup> Lindley’s specialism was, he believed, one of the reasons for his appointment – but it was not without issue. As well as the substantive law, the procedure also differed in the court of equity when compared to the courts of common law.

The legal scenery, however, changed considerably when Lindley was appointed as a judge. Receiving an initial appointment as a judge was an important step in a lawyer’s career – but it was not a transition that all made. Indeed, even Lindley considered not becoming a judge because he earned more as a well-respected barrister.<sup>65</sup> Lindley noted the difficulty of making the leap from barrister to judge in his memoir. When he worked as a judge, he had to know something of common law and criminal law in addition to the law of equity and trusts, which he knew well. He explained:

Not long after my Uncle’s death viz in May 1875 to my great astonishment I received from Lord Cairns the offer of a Judgeship in the old Court of Common Pleas in which there was a vacancy. I have no idea even now what made him offer this to me. I had no political influence and the work of a common law judge was entirely new to me. I knew no criminal law except what I had learned as a student by reading Blackstone’s Commentaries but I had learned a good deal of Common law pleading and I had kept up what I had learned by reading the common law reports as they came out.<sup>66</sup>

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<sup>58</sup>Andrew Bisset, *A Practical Treatise on the Law of Partnership; Including the Law Relating to Railway and Other Joint-Stock Companies; with an Appendix of Precedents, Forms and Statutes*, London, 1847, xxiv.

<sup>59</sup>Niel Gow, *A Practical Treatise on the Law of Partnership*, 1st ed., London, 1823.

<sup>60</sup>John Collyer, *A Practical Treatise on the Law of Partnership: With an Appendix of Forms*, 1st ed., London, 1832.

<sup>61</sup>William Watson, *A Treatise of the Law of Partnership*, 1st ed., London, 1794.

<sup>62</sup>Charles Favell Forth Wordsworth, *The Law Relating to Railway, Bank, Insurance, Mining and Other Joint-Stock Companies*, 2nd ed., London, 1837.

<sup>63</sup>Patrick Polden, ‘Mingling the Waters: Personalities, Politics and the Making of the Supreme Court of Judicature’, 61 *The Cambridge Law Journal* (2002), 575.

<sup>64</sup>Lindley’s Memoir, 66.

<sup>65</sup>For more on pay and the social background of those at the bar, see Daniel Duman, *The English and Colonial Bars in the Nineteenth Century*, London, 1983. Allyson Nancy May, *The Bar and the Old Bailey, 1750–1850*, Chapel Hill, NC, 2003, 64–65.

<sup>66</sup>Lindley’s Memoir, 66.

Lindley's memoirs allude to the deficit of legal knowledge, which was caused by his specialism and training at the chancery bar.<sup>67</sup> Yet, the problems were more pronounced than described here. The difficulties in moving from a court of equity to the common law courts were not only gaps in learning which could be filled by further legal research. He struggled to manage the courtroom. In his memoir, he revealed that he prepared well but this did not tend to his nerves:

The law relating to Murder and Manslaughter, assaults of all sorts, and Larceny, Embezzlement and False Presences, and the formation of justice were the subjects which I first attended to; and when I had to go [on] circuit I felt I had a stock of knowledge to start with. I was still however very nervous about going and I consulted Sir George Burrows who gave me a sedative and off I went in the summer.<sup>68</sup>

The struggles of moving from arguing a case as a barrister to becoming a judge weighed heavily on Lindley's mind.

The court of chancery operated more through written pleadings than oral proceedings.<sup>69</sup> Cases were overseen by one judge – the chancellor, vice-chancellor or a master.<sup>70</sup> There was no jury, unlike in the courts of law at that time.<sup>71</sup> The jury was a new hurdle. Lindley revealed in his memoir that when he was a judge, 'I also felt the want of experience in dealing with juries and the difficulty of assuming that facts which I regarded as too clear to require comment ought often to be left to them in my summing up'.<sup>72</sup> Lindley's private views are recorded in greater detail in his judicial notebooks. He found allowing the jury to decide the verdict and then determining the sentence himself to be a difficult task. For most offences, with the exception of murder, there was a wide range of sentences which might be used. After the accused was convicted, Lindley's trial notebooks show that in his own mind, he wrestled with himself and could not easily determine a correct length of imprisonment. In one instance, he crossed out the number of years to be sentenced – a total of four times until he settled on fifteen.<sup>73</sup> As his notebooks show, this task became easier as time went on. In his later

<sup>67</sup>Barristers usually trained one pupil and were assisted by one clerk at a time. Lindley was trained by Charles Jasper Selwyn, later Lord Selwyn. Raymond Cocks, *Foundations of the Modern Bar*, London, 1983, 9.

<sup>68</sup>Lindley's Memoir, 73.

<sup>69</sup>See Richard Stevens Tripp, *Forms and Precedents of Proceedings in the High Court of Chancery*, London, 1858.

<sup>70</sup>Michael Lobban, 'Preparing for Fusion: Reforming the Nineteenth-Century Court of Chancery, Part I', 22 *Law and History Review* (2004), 389; Michael Lobban, 'Preparing for Fusion: Reforming the Nineteenth-Century Court of Chancery, Part II', 22 *Law and History Review* (2004), 565.

<sup>71</sup>This was in decline: Conor Hanly, 'The Decline of Civil Jury Trial in Nineteenth-Century England', 26 *The Journal of Legal History* (2005), 253; James Oldham, *Trial by Jury: The Seventh Amendment and Anglo-American Special Juries*, New York, NY, 2006.

<sup>72</sup>Lindley's Memoir, 80a.

<sup>73</sup>*R v Riskeard* in Somerset Heritage Centre, Taunton, United Kingdom, Judicial notebooks (indexed) of Hon. Mr Justice Lindley, DD\X\LL\1 N/131 (1877), 128.

notebooks, he ceased second guessing himself and questioning his opinion on the correct length of sentence.

Lindley also struggled to learn how to control a jury – he found them unpredictable. They often in his opinion returned the ‘wrong’ verdict. He made entries in his notebooks when he thought the jury did not find the correct verdict – usually in murder trials.<sup>74</sup> On one occasion, he even told the jury to go back into the jury room to come up with another decision. In one case where three were accused of murder, William Tidbury was found to be guilty – but of being an accessory after the fact. In the course of two hours of summing up,<sup>75</sup> according to the newspaper report, Lindley had given the jury what he thought were clear instructions: if ‘no evidence was offered there must be a verdict of “Not Guilty”’.<sup>76</sup> Lindley said that finding Tidbury guilty of being an accessory after the fact was:

a charge of which he could not be convicted as the indictment was drawn. Still, it was a charge which, if any further evidence should be forthcoming, could be made against him hereafter. Considering the evidence that had been adduced, he [Lindley] failed to see how the jury could have arrived at that conclusion. He did not see in the evidence that which was necessary to convict a man of being an accessory after the fact. He did not see that the evidence as it stood came up to the mark at all in that respect, and under the present indictment he could not give effect to that part of the verdict.<sup>77</sup>

Lindley dismissed the jury’s verdict and interpreted the evidence in the way he perceived to be correct.

Judges in these situations advised on questions of law, while the jury decided matter of fact.<sup>78</sup> The legal problem here was this – an accessory could only be convicted of a crime of which the principal party must be acquitted but only in limited circumstances.<sup>79</sup> As none of those circumstances applied to the two acquitted defendants, the secondary party, Tidbury, could not be convicted of being an accessory to an offence the primary parties are found not to have committed, unless the offence be first proved in respect of a different primary party. The jury should have – if they followed Lindley’s instructions – returned a verdict of not guilty and released Tidbury.

Lindley seemed to find the role of the judge and the task of managing the courtroom was less troubled as the years progressed. Yet, he did not learn to enjoy his experiences in criminal courts. He wrote in a letter to Henry Crease,

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<sup>74</sup>This fits with Coen and Howlin’s work on jury riders where the two claim that juries were reluctant to convict in capital cases. See Mark Coen and Niamh Howlin, ‘The Jury Speaks: Jury Riders in the Nineteenth and Twentieth Centuries’, 58 *American Journal of Legal History* (2018), 505.

<sup>75</sup>*Cheshire Observer* 24th Feb. 1877, 7; *Berrow’s Worcester Journal* 24th Feb. 1877, 6.

<sup>76</sup>*The Standard*, 22nd Feb. 1877, 6.

<sup>77</sup>*Ibid.*, See also *The Dundee Courier & Argus and Northern Warder* 23 Feb. 1877, 6.

<sup>78</sup>Some relationships were more balanced. See a discussion of Lord Mansfield’s view in James Oldham, *The Varied Life of the Self-Informing Jury*, London, 2005.

<sup>79</sup>E.g. if the principal is found not guilty by reason of insanity, or was below the age of criminal responsibility.



his brother in law and fellow lawyer,<sup>80</sup> in 1882 that '[m]y circuit only finished last Saturday; the work at Bristol was hard and I am right glad of a holiday'.<sup>81</sup> A year later in 1883, he had not changed his mind about disliking the assizes. Lindley explained again to Crease that 'I have not to go on circuit until July. We are looking forward to a longer spell of quiet at home than usual'.<sup>82</sup> By this point, Lindley had been judging for seven or eight years. He had been in the court of appeal since 1881. This initial feeling of uncertainty and dislike persisted. These were no longer the thoughts of a novice learning his trade but of an experienced judge who maintained a sincere dislike for moving outside of his specialism in private law and administering criminal justice and travelling around the provincial courts in his judicial career.

## V. Connections, Networks and Friendships

Connections, networks and friends were no doubt important in Lindley's rise to the top of the legal profession. The extent to which they influenced his career is difficult to unpick from reading his autobiography. He named those in the legal profession to whom he felt he owed a debt of gratitude and had benefitted from their guidance. When it came to his move from the high court of justice to the court of appeal,<sup>83</sup> he identified his mentors and patrons clearly. In explaining how – or why – he was appointed to the court of appeal in 1881, he said: 'I was extremely pleased by this promotion and I do not know what brought it about. I never sought it; but judging from Mr Gladstone's letter I think I owe it to Lord Coleridge's good opinion of me confirmed by Lord Selborne'.<sup>84</sup>

Lord Selborne, Roundell Palmer (1812–1895) was lord chancellor and responsible for appointing judges. Unlike Lindley who was deeply private, Lord Selborne did not confine his faith, his thoughts and interpersonal relationships to the private sphere.<sup>85</sup> Lindley developed a strong relationship with Selborne. Lindley explained that 'Lord Selborne was always most kind to me and was truly a great friend and good man. He was naturally a shy and unobtrusive man and that made him less popular with strangers than he otherwise would have been'.<sup>86</sup>

<sup>80</sup>For more on Lindley's relationship with the Crease family, see the text at nn. 28–29.

<sup>81</sup>BCPA, MS 2879, Box 34, Folder 2, A/E/C86/C86/L641, Letter from Baron Nathaniel Lindley to Henry Crease, 15th Aug. 1882.

<sup>82</sup>BCPA, MS 2879, Box 34, Folder 2, A/E/C86/C86/L641, Letter from Baron Nathaniel Lindley to Henry Crease, 28th Jan. 1883.

<sup>83</sup>Lindley was initially appointed to the old court of common pleas and he worked there from May until November 1875. The court was then transformed into the high court of justice where he worked in the common pleas division. John Sainty, *The Judges of England 1272–1990: A List of Judges of the Superior Courts*, Oxford, 1993, 85.

<sup>84</sup>Lindley's Memoir, 92.

<sup>85</sup>See Charlotte Smith, 'Roundell Palmer, Earl of Selborne', in Mark Hill and R. H. Helmholz, eds., *Great Christian Jurists in English History*, Cambridge, 2017.

<sup>86</sup>Lindley's Memoir, 112.



Lindley had made a number of other close connections and strong friendships over the years. He was part of an exclusive group of lawyers as he explained in his memoir:

I also had the honour of being elected a member of 'the Club'. It consisted of a few members of the Chancery Bar who met once a year and dined at Greenwich or Richmond just before the Long Vacation. Selwyn I believe proposed me and as one black ball would have excluded me I felt greatly honoured and pleased. The members were very merry at their dinners and several of them sang corny songs. There was a good deal of good-natured chaff without respect to persons.<sup>87</sup>

This information helps us to understand how and why Lindley was promoted. It is difficult to imagine that he got on with every single lawyer in his peer group but the insights provided here reveal the way that the bar and legal profession functioned at the time. As Abel states, the 'behaviour [of barristers] was governed by implicit understandings reinforced by informal sanctions'.<sup>88</sup> Individuals conformed and integrated within the legal community. The bar and profession were proudly self-regulating,<sup>89</sup> and Lindley especially so. He pushed for changes 'without any Government assistance at all'.<sup>90</sup>

Lindley had what are now famed disagreements with fellow judges when deciding cases.<sup>91</sup> Perhaps those in the judiciary did not allow dissent to move beyond the case itself or ego to creep into an intellectual discussion. It is also likely that Lindley did not see his autobiography as a vehicle through which he would settle scores or provide honest assessments of his contemporaries. This contention is supported by his remarks about going on circuit. While we know that Lindley was generally unhappy working in a criminal court and being away from his family,<sup>92</sup> he parcels up this experience with others in a positive manner. He said that '[h]owever I learned much on circuit. I saw many places of great interest, and was most kindly received by everyone with whom I came in contact, and had many invitations from country gentlemen which I accepted and greatly enjoyed'.<sup>93</sup> He was similarly pleased with the help of one of his marshals, who assisted him on circuit, and remarked on their supportive performance:

My Marshal was Mr Amphlett, a nephew of Baron Amphlett. Mr Amphlett was the greatest use to me. He knew just what I could not learn from books, little matters of practice and routine which every one practising in the courts knew and I alone knew nothing about. With the constant and kind help of

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<sup>87</sup>Ibid., 55.

<sup>88</sup>Richard L. Abel, *The Making of the English Legal Profession*, Washington, DC, 1998, 97.

<sup>89</sup>Cocks, *Foundations of the Modern Bar*.

<sup>90</sup>Nathaniel Lindley letter dated 30th Oct. 1863 in William Thomas Shave Daniel, *The History and Origin of the Law Reports*, London, 1969, 65.

<sup>91</sup>See *Carlill* in A. W. Brian Simpson, *Leading Cases in the Common Law*, Oxford, 1996.

<sup>92</sup>See text at n. 55.

<sup>93</sup>Lindley's Memoir, 80a.

Field and Amphlett and the great and kind consideration which I met with from the members of the Bar I got on much better than I had expected.<sup>94</sup>

Lindley again noted the admiration that he had for those in the legal profession. It is perhaps unreasonable to appear to be cynical of his expressions of gratitude. Indeed, he – at this point in his career – had little to be disgruntled or complain about. His colleagues had not treated him poorly – his career had gone well. He had reached the highest point that a lawyer could achieve. It is likely that he had few regrets and in these circumstances, he felt it was churlish to complain. Yet, during his career, when his personal success was less certain, Lindley was more honest about his personal relationships and forthcoming about those which he enjoyed less. His letters to his sister were detailed in this respect and it was in these documents he commented on those colleagues he found less likable. He proceeded to note one unnamed pupil whom he did not enjoy training.<sup>95</sup> Lindley had several pupils who became established lawyers in their own right. Frederick Pollock, for example, was one of his.<sup>96</sup>

A theme that recurs more evidently in the document is the improvements and developments within the legal academy and the profession itself. This is the historical context which Lindley places his narrative within. He was a firm part of efforts to improve the resources, which were available to members of the legal profession, in the nineteenth century.<sup>97</sup> Indeed, he was keen to place himself within these internal shifts, notably the scientification of law. He discussed his thoughts on law in the German-speaking world and the translation of Thibaut's text.<sup>98</sup> These German jurists were well known for conceiving of law as a science.<sup>99</sup> This was not Lindley's only link to science. His father was a scientist.<sup>100</sup> It was particularly common at this point in the nineteenth century to see law as a science, and this was the way that Lindley portrayed himself.<sup>101</sup> Law was thought to be an objective subject. In doing so, this delineated law from the humanities – it was not subjective nor concerned with ideological

<sup>94</sup>*Ibid.*, 74.

<sup>95</sup>BCPA, MS 2879, Box 71, File 1, AE C86 C861 L64, Letter from Baron Nathaniel Lindley to Sarah (Lindley) Crease, 22nd Sept. 1863.

<sup>96</sup>Stephen Waddams, 'The Authority of Treatises in English Law (1800–1936)', in Mark Godfrey, ed., *Law and Authority in British Legal History, 1200–1900*, Cambridge, 2016, 282.

<sup>97</sup>See for instance his involvement in law reporting and in legal education. Nathaniel Lindley, 'History of the Law Reports', 1 *Law Quarterly Review* (1885), 137. See his addresses to the students after their exams in Cambridge, 'Cambridge Local Examination address by Lord Justice Lindley', *Eastern Evening News*, 18th Sept. 1882, 21(a); *Norwich Mercury* 20th Sept. 1882.

<sup>98</sup>Nathaniel Lindley, *An Introduction to the Study of Jurisprudence, Being a Translation of the General Part of Thibaut's System Des Pandekten Rechts*, London, 1855.

<sup>99</sup>Stefan Vogenauer, 'An Empire of Light? Learning and Lawmaking in the History of German Law', 64 *Cambridge Law Journal* (2005), 481.

<sup>100</sup>See text at nn. 19–22.

<sup>101</sup>Michael Lobban, 'The Politics of English Law during the Nineteenth Century', in Paul Brand and Joshua Getzler, eds., *Judges and Judging in the History of the Common Law and Civil Law: From Antiquity to Modern Times*, Cambridge, 2012, 110.

questions. This premise would be so later in the early twentieth century with the advent of legal realism and again in the second half of the twentieth century critical legal studies movement in the United States and the growth of socio-legal scholarship in United Kingdom.<sup>102</sup> Lindley was far keener to discuss his professional associations with lawyers and less so his personal relationships with those in science or politics.

By convention, the law lords were not to speak in the house of lords (the legislative chamber), although as Patrick O'Brien's empirical study shows this convention was ignored by some outspoken and vocal characters.<sup>103</sup> Indeed, Lindley did not think he was an active legislator in the house of lords. He explained that he spoke seldom:

During the 5 years that I attended the House when sitting as a Legislative Assembly I often voted but never addressed the House. I made up my mind not to do so unless I felt that I could usefully say something worth hearing on some subject that I thoroughly understood; and I always found that if I waited a little anything I could have said had been said by others and generally better than I could have said it myself.<sup>104</sup>

Despite presenting an appearance in his autobiography as an apolitical actor, Lindley did indeed have political views and political connections. He thought of himself as a liberal who had shifted his allegiances later in life. He wrote at the rear of his notebook '[l]ittle wonder if I am a disgusted Liberal. So much for my politics'.<sup>105</sup> This was how he thought of himself but the political shifts in the latter part of his life were seismic. In the 1890s, the issue of Irish home rule divided those in the liberal party.<sup>106</sup> Those who no longer agreed with Gladstone's leadership, liberal party policy and Irish home rule formed the liberal unionists; they later joined with the conservatives in the 1895 election. Sir William Cameron Gull, the son-in-law who helped to edit the fifth edition of Lindley's treatise,<sup>107</sup> was a member of parliament for the liberal unionist party as well as a barrister and justice of the peace.<sup>108</sup> The beginnings of the labour party in 1900 as a working class and trade unionist movement further blurred the lines between the liberals and the conservatives.<sup>109</sup>

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<sup>102</sup>Juhana Salojärvi, 'A Counter-Culture of Law: Jurisprudential Change and the Intellectual Origins of the Critical Legal Studies Movement', 59 *American Journal of Legal History* (2019), 409.

<sup>103</sup>Patrick O'Brien, 'Judges and Politics: The Parliamentary Contributions of the Law Lords 1876–2009', 79 *The Modern Law Review* (2016), 786.

<sup>104</sup>Lindley's Memoir, 128.

<sup>105</sup>*Ibid.*, 148.

<sup>106</sup>It was tied to working class politics and the interests of big business. See W. C. Lubenow, 'Irish Home Rule and the Social Basis of the Great Separation in the Liberal Party in 1886', 28 *The Historical Journal* (1985), 125.

<sup>107</sup>Nathaniel Lindley, Walter B. Lindley, and William C. Gull, *A Treatise on the Law of Companies, Considered as a Branch of the Law of Partnership*, 5th ed., London, 1889.

<sup>108</sup>Sir William Cameron Gull married Annie Clayton Lindley. Gull was MP for NW Berkshire between 1895 and 1900. See his obituaries in 67 *Law Journal* (1922), 453; *Gardeners' Chronicle* (1922), 374.

<sup>109</sup>The working class movement of course had a longer history. See J. H. Stewart Reid, *The Origins of the British Labour Party*, Minneapolis, MN, 1955, 3–16.

There was a formal union of the conservative and liberal unionist parties in 1912.

Lindley's politics may not have been inconsequential; they seemed to correlate with the timings of his promotions in the judiciary. When he was appointed to the court of appeal in 1881, it was under Gladstone's liberal government. Lindley was aware of the importance of political affiliation. He wrote in 1890 in a letter to his brother-in-law, Henry Crease, who was by this point judge in the supreme court of British Columbia and close to retirement,<sup>110</sup> that '[w]e have had many changes amongst the judges lately and I cannot say much for the new appointments. The present Chancellor is too much influenced by political partisanship and predisposed to be a good dispenser of important patronage'.<sup>111</sup> The lord chancellor in 1890 was Hardinge Giffard, Lord Halsbury – a member of the conservative party. Lindley was not the only one to make this observation about Halsbury's appointments. Lord Halsbury was lord chancellor again in 1900, when Lindley was appointed to the house of lords. Halsbury was part of a conservative-liberal unionist coalition government. Lindley was appointed in a time where political affixation was important in the judicial appointment procedure, although, this, of course, did not detract from his legal abilities. Lindley instead preferred to focus upon his legal achievements. He did not discuss the developing political context in England or his own political views as he narrated his own life. These friendships, ties and his familial links to politics were left out of his autobiography. This aspect of his life was revealed through his personal correspondence.

## VI. Conclusion

Overall, this article has argued that legal autobiographies and memoirs should be used critically and their contents treated with caution. This observation might well be expected. It essentially suggests that there are differences in opinion about the pushes and pulls in the legal profession and causes of an individual's success. Indeed, where there are several biographies of an individual, biographers adopt different and diverging views about an individual's life. As the title of this article suggests, the autobiography, the life itself, and the legal biography are three – if not more – distinct and separate entities. It is natural that in writing about an individual's life there are a variety of narratives and differences in interpretation. Despite the disagreements and departures in analytical reasoning which are inherent in narrating the trajectory of a person's life and their career, this article adds to the methodological

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<sup>110</sup>Lindley would often write to Crease about changes within his career and the legal profession more generally. See the text at nn. 81–82.

<sup>111</sup>BCPA, MS 2789, Box 34, File 2, AE C86 C86 L641, Baron Nathaniel Lindley to Henry Crease, 21 June 1890. One might look to the recent debates about changes made to the judicial appointment process: Kate Malleson, *The New Judiciary: The Effects of Expansion and Activism*, Burlington, 1999.

considerations in legal biographical writing. It has shown that one way forward is to triangulate these sources with other primary and secondary sources to verify and challenge some of the propositions commonly contained in judges' memoirs and self-told narratives.

Lindley's attempt to create a judicial persona through his memoirs has been successful: his view was persuasive. It has made considerable inroads into the works which are written about him. Lindley's *entry in the Oxford Dictionary of National Biography* was written in 2004 by Gareth Jones and Vivienne Jones,<sup>112</sup> who said that Lindley was '[s]ound and careful, impeccably impartial, he was the lawyer's lawyer, devoted to the law, never tempted by political ambition, and never the creature of any politician or party'.<sup>113</sup> Gareth and Vivienne Jones thought of Lindley as far removed from party politics and the events in the period in which he lived. His life was far richer than this; his network of friends, his mentors, his influences and his life extended far beyond those individuals who inhabited the courtrooms in England and the then British empire.

Through his memoir, Lindley presented himself and his life in a certain manner. He viewed his legal work as being akin to science – his ideas were thus presented as objective and apolitical. It is perhaps the nature of a professional biography to place the subject within the narrative and the network of that profession rather than that of their family or other surroundings. Here, Lindley was keen to portray himself as being embedded within the community of lawyers; he avoided appearing partisan, individualistic or outspoken. Such admissions of his ideology would shatter perceptions of Lindley as an independent and accomplished judge who acted without preconceived views and a set of experiences. By avoiding open discussion of his politics or his religious views, Lindley did not engage in a battle of beliefs and rather appeared as a model for judicial independence.<sup>114</sup> He did, however, hold these views and possess strong convictions. These opinions were articulated clearly in private correspondence.

Lindley's career and his climb to the top of the profession was not a smooth evolutionary process. It was full of peaks and troughs; there were various moments of pressure and insecurity in his personal and professional life. These details were not dissected nor addressed in his memoir. This may be perhaps simply due to the passage of time and the nature of memory: it is difficult to remember the exact feeling one experienced half a century ago. Sources, such as letters or notebooks, which were written at those particular moments recollect precise details about cases and events as they happened. This omission may also have less to do with memory and more, again, to do with the nature of the legal profession and the judiciary itself. If Lindley

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<sup>112</sup>The two wrote and updated a host of Oxford dictionary of national biography articles.

<sup>113</sup>Jones and Jones, 'Lindley, Nathaniel, Baron Lindley (1828–1921)'.

<sup>114</sup>For more on the debates around and limits on judicial independence in the British empire in this period, see John McLaren, *Dewigged, Bothered, and Bewildered: British Colonial Judges on Trial, 1800–1900*, Toronto, 2011.

would have presented himself as he felt – uncertain, hesitant and full of doubt – it would have done little to instil confidence in his lawmaking. For those who were convicted by him or were subject to his judicial scrutiny, admissions of self-doubt may have fuelled complaints and undermined perceptions of justice. Lindley only recalled individual decisions with an air of confidence and certainty, while privately acknowledging his hesitancy.

For judges, like Lindley, who hid their views and connections, considerable work needs to be undertaken to uncover their early life, places of socialisation and private life. Charlotte Smith argues that undertaking biographical work such as this is important, as judicial decisions cannot be considered in an abstract way or removed from their historical setting; they are ‘a powerful reminder of the inescapability of a case’s context, and of the social and religious mores at play’.<sup>115</sup> Indeed, as Paul Mitchell says, these studies tell us about legal change and show how doctrinal shifts occurred, it ‘requires an understanding of the context in which the idea emerged and flourished’.<sup>116</sup> As judges, lawyers, and legal writers gave rise to new law and legal meanings, the contextual framework which shaped their decision – in other words, the social, political and religious mores of those particular legal actors – cannot be readily ignored.

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<sup>115</sup>Charlotte Smith, ‘Bishop of Natal v Gladstone’, in Charles Mitchell and Paul Mitchell, eds., *Landmark Cases in Equity*, London, 2012, 328.

<sup>116</sup>Paul Mitchell, ‘Patterns of Legal Change’, 65 *Current Legal Problems* (2012), 177, 201.