
An Index to Common Law ***Festschriften***



Michael Taggart

An Index to Common Law *Festschriften*

From the beginning of the genre up to 2005

EDITED BY
Michael Taggart

*Alexander Turner Professor of Law
Faculty of Law
University of Auckland*

With the assistance of
Roslyn Smith, LLB, DipNZLS
Bernice Cole, NZLSCert

Financially supported by
The Law Foundation of New Zealand



OXFORD AND PORTLAND, OREGON
2006

Published in North America (US and Canada) by
Hart Publishing
c/o International Specialized Book Services
920 NE 58th Avenue, Suite 300
Portland, OR 97213-3786
USA

Tel: +1 503 287 3093 or toll-free: (1) 800 944 6190
Fax: +1 503 280 8832
Email: orders@isbs.com
Website: www.isbs.com

© Hart Publishing 2006

Michael Taggart has asserted his right under the Copyright, Designs and Patents Act 1988, to be identified as the author of this work.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any mean, without the prior permission of Hart Publishing, or as expressly permitted by law or under the terms agreed with the appropriate reprographic rights organisation. Enquiries concerning reproduction which may not be covered by the above should be addressed to Hart Publishing at the address below.

Hart Publishing Ltd, 16C Worcester Place, Oxford OX1 2JW
Tel: +44 (0)1865 517530 Fax: +44 (0) 1865 510710
Email: mail@hartpub.co.uk
Website: <http://www.hartpub.co.uk>

British Library Cataloguing in Publication Data
Data Available

ISBN-13: 978-1-84113-641-7 (hardback)
ISBN-10: 1-84113-641-7 (hardback)

Typeset by Forewords, Oxford

Printed and bound in Great Britain by
TJ International Ltd, Padstow, Cornwall

An Index to Common Law *Festschriften*

An Index of Common Law Festschriften is the first ever index of contributions to common law *Festschriften* and fills a serious bibliographic gap in the literature of the common law. The German word *Festschrift* is now the universally accepted term in the academy for a published collection of legal essays written by several authors to honour a distinguished jurist or to mark a significant legal event. The number of *Festschriften* honouring common lawyers has increased enormously in the last thirty years. Until now, the numerous scholarly contributions to these volumes have not been adequately indexed. This *Index* fills that bibliographic gap. The entries included in this work refer to some 296 common law *Festschriften* indexed by author, subject keyword, editor, title, honorand and date. It therefore includes over 5,000 chapter entries. In addition, there are more than a thousand entries of English language contributions to predominantly foreign language, non-common law legal *Festschriften* from Germany, Austria, Switzerland, Denmark, Finland, Iceland, Norway and Sweden.

To Sir David Williams
No stranger to Festschriften

Acknowledgements

A large number of people helped to make this *Index* a reality.

The generous funding provided by the Law Foundation of New Zealand was essential to undertaking the production of this *Index*. The Trustees of the Law Foundation, and its Executive Director Lynda Hagen have been kind, supportive and patient throughout. I am grateful for the faith they have shown in this project. My referees on the grant application were Dame Sian Elias, Chief Justice of New Zealand, and Sir David Williams, University of Cambridge. I am grateful to them both. This *Index* is dedicated to Sir David, not only for his support of this project and his numerous contributions to common law *Festschriften*, but also for his long-standing support of the research environment in New Zealand.

A large number of jurists and librarians (and happily these are not mutually exclusive groups) gave advice and supported the project in various ways. The following listing is in alphabetical order: Laurie Ackermann (South Africa); Helga Arlington (New Zealand); Margaret Banks (Canada); Dr Helmut Dau (Germany); Alan Edwards (New Zealand); Dame Sian Elias (New Zealand); Colin Fong (Australia); Margaret Greville (New Zealand); Sir Kenneth Keith (New Zealand); Justice Michael Kirby (Australia); Halvor Kongshavn (Norway); Margaret Leary (USA); Horst Lücke (Australia); Nial Osborough (Ireland); Jim Phillips (Canada); Tom Reynolds (USA); Bernard Rudden (UK); Mary-Rose Russell (New Zealand); Joachim Schwietzke (Germany); Hanne E. Strømø (Norway); A.W. Brian Simpson (UK/USA); Sir David Williams (UK). Margaret Leary and her team at the University of Michigan Law Library sent much material and this sped up the process considerably.

As explained more fully in Chapter 1, this book has ‘morphed’ from a web-based, fully searchable database. The production of that web-based *Index* – also funded by the Law Foundation of New Zealand – was a team effort and a very rewarding one. Roslyn Smith, an experienced law book

cataloguer and law librarian, was involved throughout and shouldered much of the workload of indexing, cataloguing and inputting with good cheer and dedication. The *Index* would not have been completed without her considerable efforts and devotion to the project. Bernice Cole, another experienced law librarian, came to our aid when another pair of hands was needed and she input all the English language contributions to the foreign language legal *Festschriften*, as well as assisting Roslyn on the others. My secretary, Rachel Wyatt, typed all the English language contributions to German, Austrian, Swiss and Nordic legal *Festschriften*.

In many respects the web-based *Index* project centred on the Davis Law Library in the University of Auckland. Both Roslyn and Bernice have worked there, and it has been my primary law library for more than thirty years. The present Manager of the Davis Law Library, Mary-Rose Russell, has been extremely supportive of this project. The Digital Services division at the University of Auckland Library provided invaluable experience and expertise in constructing the web-based database, and ensured that it could be converted into physical book form. Brian Flaherty was very helpful and Leonie Hayes created an excellent database out of thin air, and transported the data to Hart Publishing. Mary-Rose Russell contributed also to the design and usability of the database.

All grants have to be administered, and Jonathan Taylor did this extremely well. Many other law school colleagues have taken an interest in the project over the last four years, and made suggestions for improvements. They help make Auckland Law School a remarkably good place to work.

All scholarship builds on the work of others, and bibliography is no exception. The pioneer in relation to common law *Festschriften* was Lilly Melchior Roberts, whose writings about legal *Festschriften* proved invaluable as a starting point. Ms Roberts was educated in Germany and was an appellate court judge in Berlin before leaving Germany in the 1930s. She worked first as a research assistant at Michigan Law School from 1940-45 (for Professor Ernst Rabel, also a refugee from Germany) and from then until her death in 1966 she worked in the Michigan Law School Library. Her spirit lives on at the Michigan Law School Library, as shown by the unstinting help this project has received from Margaret Leary and her colleagues there. I stand also on the shoulders of Dr Helmut Dau from Germany, and Halvor Kongshavn and Hanne E. Strømø from

Norway. As explained more fully in Chapter 1, they and their publishers kindly allowed me to incorporate into this index all the English language contributions from their impressive bibliographies of legal *Festschriften* published in Germany, Austria, Switzerland and the Nordic countries. This has considerably enhanced the coverage of this index and I am most grateful.

Covers for indexes test the imagination, and the default position seems to be stripes on black. I had hoped to use an image from the British cult television series *Fawlty Towers*. John Cleese as Basil Fawlty is discomfited by the arrival of German guests at the guesthouse and, as the picture shows, disregards his own advice to staff not to mention the war. The Anglo-Commonwealth legal world was similarly uncomfortable with *Festschriften* for a long period and, in my view, it was the “war” (and the rise of the Nazis that preceded it) that led decades later to the rise to maturity of the genre in the common law world. Hitler’s gift was a talented group of German-speaking émigré lawyers who made England their home. In the 1970s and early 1980s there was a gradual build-up of common law *Festschriften* for David Daube, Otto Kahn-Freund, Wolfgang Friedmann and Clive Schmitthoff, and these were supplemented by foreign-sourced *Festschriften* honouring Kahn-Freund, Schmitthoff, Ernst Cohn, Kurt Lipstein and F.A. Mann, to which higher-than-usual numbers of common lawyers contributed. The bringing of the genre to prominence in the home of the common law is one of the many ways these legal scholars and practitioners enriched the common law. See generally J. Beatson and R. Zimmermann (eds), *Jurists Uprooted: German-speaking Émigré Lawyers in Twentieth-century Britain* (Oxford University Press, Oxford, 2004). Much the same is true of the United States.

The initial work on what became this *Index* flowed out of research undertaken when I was Maines Visiting Fellow at the Centre of Public Law in the University of Cambridge in 2001. In Cambridge, Jack Beatson, Christopher Forsyth, Ivan Hare, Sir David Williams and Peter Zawada were very kind. The following people commented on that initial research: Bernard Brown, Peter Cane, Brian Coote, David Dyzenhaus, Richard Hart, Paul Myburgh, Mark Perry, Barbara Tearle, John Turner and Tony Weir. Joshua Pringle provided research assistance, and his assistance was funded by the New Zealand law firm of Chapman Tripp.

Nick Allen in Oxford has done a wonderful job of massaging the data from the web-based *Index* database into book-form in an intelligent, efficient and expeditious manner. It has been a pleasure to work with him.

Finally, Richard Hart has supported this project from its inception, and has published this book-form of the *Index* as a service to legal researchers. I salute Richard's commitment to publishing legal scholarship in all its forms.

Michael Taggart
Auckland

I

Turning the Graveyard of Legal Scholarship into a Garden: Indexing Common Law *Festschriften*

Introduction

In 1985, Lord Denning admitted “*festschrift* is not a word known to me”.¹ At that time, no doubt many in the legal profession were similarly placed. Like the Ph.D. and the Christmas tree, as Tony Weir has pointed out, the *Festschrift* is a German import.² The literal translation of the German is *Fest* meaning “celebration” and *Schrift* (singular) or *Schriften* (plural) meaning “writing”.³ Although the word “trips awkwardly off the English-speaking tongue”,⁴ *Festschrift* is now the universally accepted term in the legal academy for a published collection of essays written by several authors to honour a distinguished jurist or to mark a significant legal event.

* This chapter draws upon several earlier pieces of work: M. Taggart, “Gardens or Graveyards of Scholarship? *Festschriften* in the Literature of the Common Law” (2002) 22 *OJLS* 227; M. Taggart, “Turning the Graveyard of Scholarship into a Garden: The Indexing of Common Law *Festschriften*” (2006) 17 *PLR* 85; a conference address under the last title published electronically as [2005] ANZLH e-journal 254; and the introductory pages to the web-based version of the *Index*, as described later in this chapter.

¹ “Judges and the Judicial Power” in R. Dhavan, R. Sudarshan and S. Kurshid (eds), *Judges and the Judicial Power: Essays in Honour of Justice V.R. Krishna Iyer* (Sweet & Maxwell, London, 1985) 3.

² T. Weir, “Book review” [1984] *CLJ* 176, 176. The concept did not originate in Germany: R. Pick, “Some Thoughts on *Festschriften* and a Projected Subject Index” (1959) 12 *German Life & Letters* NS 204, 204–05.

³ Entry under “*Festschrift*” in J. Pearsall and B. Trumble (eds), *The Oxford English Reference Dictionary* (Oxford University Press, Oxford, 2nd edn, 1996) 514.

⁴ A.P. Kenny and L.J. Workman, “Volumes of Homage” (1980) 11 *Scholarly Publishing* 143, 144–5.

Until quite recently, such volumes were relatively rare in common law countries.⁵ Those that did exist usually had a “foreign element”,⁶ clustering around the areas of international law, comparative law and Roman law. On the Continent of Europe the genre dates back to the mid-nineteenth century,⁷ but it made very little impression on the literature of the common law. Indeed, prior to the late 1960s only a dozen such tomes had been published in the home of the common law.⁸ Since then, however, there has been an veritable explosion in the number of *Festschriften* published in the UK honouring distinguished common lawyers, and more than 130 such volumes have poured forth. If one adds to that number those produced elsewhere in the common law world – including the USA, Canada, Australia, New Zealand, Ireland, India, Malaysia, Singapore, the Caribbean and Anglophone Africa – the total number of common law *Festschriften* in existence is very close to 300 and these volumes contain over 5,000 substantive contributions. Although each of these contributions is the equivalent of a law review article, until

⁵ This was true also in the rest of the humanities in the UK. See S.G. Morley, “The Development of the Homage-Volume” (1929) 8 *Philological Quarterly* 61, and D. Rounds and S. Dow, “Festschriften” (1954) 8 *Harvard Library Bulletin* 283.

⁶ The phrase is taken from F.H. Lawson, but used in a different sense. See “Doctrinal Writing: A Foreign Element in English Law” in E. von Caemmerer, S. Mentschikoff and K.I. Zweigert (eds), *Ius Privatum Gentium: Festschrift für Max Rheinstein zum 70* (vol. 1, JCB Mohr, Tübingen, 1969) 191; reprinted in F.H. Lawson, *Many Laws: Selected Essays*, vol. 1 (North-Holland, Amsterdam, 1977) 207.

⁷ For comprehensive surveys of the genre in Germany and France, see H. Schulze-Fielitz, “Festschriften im Dienst der Wissenschaft” [“Festschriften in Service of Scholarship”] [2000] *Deutsches Verwaltungsblatt* [German Administrative Journal] 1260–6 [in German] and F. Rolin, “Les Principes Généraux Gouvernant L’Élaboration des Volumes de Mélanges: Contribution à l’étude de la littérature mélangiablé juridique” [“General Principles Governing the Elaboration of Mélanges Works: Contribution of the study of mélangiablé legal literature”] in *Les mutations contemporaines du droit public: Mélanges en l’honneur de Benoît Jeanneau* [Contemporary Changes in Public Law: Mélanges in Honour of Benoît Jeanneau] (Éditions Dalloz, Paris, 2002) 221–34 [in French]. See also F. Rolin, “Preface” in X.D. de Boulois (comp), *Bibliographie des Mélanges – Droit français/Bibliography of French legal Festschriften* (La Mémoire du Droit Paris 2001) 9–14 [in French]. In France, mélanges (literally “a mixture; a collection of heterogeneous items . . . a medley”) is the accepted term. See J. Speake, *The Oxford Dictionary of Foreign Words and Phrases* (Oxford University Press, Oxford, 1997) 255.

⁸ In L.M. Roberts (comp.), *A Bibliography of Legal Festschriften* (Martinus Nijhoff, The Hague, 1972).

now they have not been systematically indexed: hence the apt description of *Festschriften* as “graveyards of scholarship”.⁹

As the genre has become increasingly popular, the failure to index the contents has created a serious bibliographical gap in the literature of the Common Law. In 2002, I lamented this failure to index contributions to common law *Festschriften* by author and subject matter, and pointed out it undercut the reasons for publishing legal *Festschriften* in the first place.¹⁰ After failing to interest the publishers of existing legal bibliographic resources in filling this lacuna, I gained a grant from the Law Foundation of New Zealand to produce the first *Index to Common Law Festschriften*. Funding was given in the first instance to produce a web-based version of the *Index* (hereafter referred to the web-based *Index*).

The Web-based *Index* Project

The web-based *Index*, from which his book is derived, exists on the University of Auckland Library website in New Zealand and is accessible free from anywhere in the world on the worldwide web. The URL is

http://www.library.auckland.ac.nz/databases/learn_database/public.asp?record=iclf

The web-based *Index* was launched in mid-September 2005 and was the culmination of three years’ work by a small team at the University of Auckland.¹¹

The web-based *Index* aspires to include every English language legal *Festschrift* published in book form at any time in England, Wales, Scotland, Northern Ireland, Ireland, Canada, the USA, Australia and New Zealand. In this it attempts to be comprehensive. It includes also every

⁹ W.H. Alexander, “Book review” (1953) 46 *Classical Weekly* 153 (2 March 1953), quoted in L.M. Roberts, “The Importance of Legal *Festschriften* for Work in International and Comparative Law” (1962) 11 *AmJCompL* 403 at 410.

¹⁰ M. Taggart, “Gardens or Graveyards of Scholarship? *Festschriften* in the Literature of the Common Law” (2002) 22 *OJLS* 227.

¹¹ I was the editor and was ably assisted by two experienced law librarians, Roslyn Smith (Cataloguing Department, University of Auckland Library) and Bernice Cole (Davis Law Library, University of Auckland). Leonie Hayes and Brian Flaherty (Digital Services, University of Auckland Library) developed the database, and Mary-Rose Russell (Manager, Davis Law Library, University of Auckland) provided encouragement and other support. See further the earlier “Acknowledgements” section: above at pp. v–vi.

English language legal *Festschrift* that came to our attention published anywhere else in the common law world, including India, Malaysia, Singapore, the Caribbean, and Anglophone Africa.

The reason for the qualification as to the comprehensiveness of coverage of the latter group of common law jurisdictions is the lack of access via the worldwide web to comprehensive law library catalogues in those jurisdictions. For the most part, the common law *Festschriften* included in the web-based *Index* were identified by searching the on-line library catalogues of the Library of Congress, the Max Planck Institutes, Harvard University, the Universities of Michigan, California at Berkeley, Toronto, and the twenty-four leading UK research libraries (including the universities of Oxford, Cambridge and London).¹² While one would expect that between them these great libraries would hold every common law *Festschrift* ever (and wherever) published, there is no guarantee. It is hoped users of the *Index* will bring any overlooked volumes to my attention.

One advantage of a web-based index is that it can be continuously updated, as well as corrected. Another advantage of a web-based index is that it is instantaneously searchable by word(s) in book title and titles of contributions, and by subject, editor, contributor and honorand.

Given the existence now of a cost-free, fully searchable and regularly updated web-based *Index*, the question arises: why publish a book-form of the *Index* at all? It is certainly true that a book form of the *Index* derived from the web-based version cannot be searched as easily, and cannot be easily updated, and so is limited in time to those *Festschriften* available as at the end of 2005. The beauty of legal research, much like that of the common law itself, is that it is “a maze and not a motorway”.¹³ The ‘on-ramp’ to the “motorway” that is the web-based *Index* will take time to be widely known, and may never become universally signposted. Scholars will continue to use library catalogues and shelves in the time-honoured way of browsing and finding as much, if not more, in the book next to the one the researcher was looking for. Certainly, my acquaintance with legal *Festschriften* occurred in this way, long before I knew what the term meant. The publication in book form ensures that an index to this

¹² For the combined library holdings of the leading twenty-four research libraries in the UK and Ireland, see www.copac.ac.uk.

¹³ *Morris v C.W. Martin & Sons Ltd* [1966] 1 QB 716, 730, per Diplock LJ.

relatively new genre of legal literature in the common law world will appear on library shelves and will be available for use in hard copy in libraries. It will alert some researchers to the existence of the updated web-based *Index*. As a public record of the state of the genre as at the end of 2005, I hope this book will serve a useful function.

The publication of the book-form of the *Index* has been made possible by an additional grant by the Law Foundation of New Zealand and by the public spiritedness of Richard Hart and his remarkable publishing house.

The book-form of the *Index* bears the signs of its web-based parent, and thus has inevitable limitations. As noted above, the web-based *Index* is fully searchable by honorand, editor, author, title, and any word in the title of book or in the title of the more than 6,000 individual contributions. This liberated us from the necessity of devising and utilising an extensive list of subject-matter headings and sub-headings. The conversion from the web-based version to book-form has meant that we are locked into a rather rudimentary list of subject-matter headings. The list of subject headings (and further explanation) appears in the next chapter entitled "How to Use this Index".

Common Law Jurisdictions

As originally conceived, the web-based *Index* was only to include legal *Festschriften* published in common law jurisdictions. This would have ruled out all legal *Festschriften* produced in civil law jurisdictions and (with the exception of Scotland) so-called mixed jurisdictions.¹⁴ It proved unacceptably arbitrary, however, to exclude all such *Festschriften*. For example, the only *Festschrift* in book form for Lon L. Fuller of Harvard Law School, one of the greatest common law legal philosophers of the twentieth century, was published in the Netherlands.¹⁵ That volume is included in this *Index*, as are those *Festschriften* for other towering

¹⁴ Mixed legal systems include South Africa, Israel, Sri Lanka, Louisiana, Mauritius, Cyprus and Quebec. Legal *Festschriften* in these jurisdictions frequently were ineligible for inclusion for the additional reason that they contained non-English language contributions. See, e.g., E. Caparros et al. (eds), *Mélanges Louis-Philippe Pigeon* (Wilson & Lafleur, Montréal, 1989).

¹⁵ T.W. Bechtler (ed.), *Law in a Social Context: Liber Amicorum Honouring Professor Lon L. Fuller* (Kluwer, The Netherlands, 1978).

common lawyers that just happened to be published in non-common law countries.

As editor, I am solely responsible for deciding to include a *prima facie* ineligible *Festschrift* because of the honorand's standing in the common law world. Each case was considered on its merits. The guiding principle was whether the omission would strike academic peers as odd or perverse. That is an admittedly vague and subjective criterion.

By far the largest number of English language legal *Festschriften* published outside common law jurisdictions honour distinguished international lawyers and comparative lawyers. Happily, during the gestation of this *Index*, the bibliographic gap in the legal literature as regards international law has been filled. In 2002, Peter Macalister-Smith and Joachim Schwietzke published a valuable article surveying the place of the *Festschrift* within the literature of public international law and listing all public international law *Festschriften* published between 1930 and 2001.¹⁶ Subsequently they have produced in book form a comprehensive index of contributions to those *Festschriften*.¹⁷ This invaluable resource covers 384 *Festschriften* and contains over 8,500 chapter entries.

The requirement for inclusion in this *Index* that a common law *Festschrift* be entirely in the English language was necessary in order to avoid the costs of translation, which the *Index* project budget could not bear. Fortunately, most common law *Festschriften* are entirely in English,¹⁸ but once again this requirement proved unacceptably arbitrary and some exceptions were made. If the majority of the entries were in English and the honorand was very well known in the common law world, the *Festschrift* is included in the *Index*. In those instances, the foreign language contributions to the *Festschriften* are not indexed.

¹⁶ "Festschriften in Public International Law: An Annotated Bibliographical Compilation of Titles, 1930-2000/2001" (2002) 71 *Nordic Journal of International Law* 349-430.

¹⁷ P. Macalister-Smith and J. Schwietzke, *Public International Law: Concordance of the Festschriften* (C.F. Müller Verlag, Heidelberg, 2005).

¹⁸ Even contributions by civilian lawyers to common law *Festschriften* are usually written in English: Roberts, above at note 9, 408 n 23.

Law?

Festschriften honouring eminent historians, philosophers, classicists and interdisciplinary scholars, such as criminologists, presented considerable difficulty. Lilly Roberts attempted to overcome the interdisciplinary difficulty by stipulating that the essays had to be “predominantly legal”.¹⁹ On this basis, I included *Festschriften* for distinguished historians who had significant interests in law and whose *Festschriften* contain treatments of legal topics.²⁰ But where the *Festschrift* had little to say about law, I applied the rough-and-ready rule that for inclusion the honorand had to have a law degree from a common law jurisdiction or at some point in her or his career have had a close association with a law school in the common law world.²¹

Hidden *Festschriften*

A “hidden *Festschrift*”²² is one that is written specifically in honour of an individual, institution or event, but does not disclose this fact on the cover or title page. Although the doyenne of legal *Festschriften* bibliography, Lilly Roberts flip-flopped on this issue and ultimately came down against including hidden *Festschriften* in her path-breaking bibliography,²³ I refuse to accept that the eccentricity of editors or publishers in this regard should

¹⁹ Roberts, above at note 8, x.

²⁰ In this category fall the *Festschriften* for John Crook, Sir James Holt, C.A.F. Meekings and Susan Reynolds.

²¹ For example, this excluded the several *Festschriften* for Friedrich Hayek. See E. Streissler, F.A. Lutz and F. Machlup (eds), *Roads to Freedom: Essays in Honour of Friedrich A. von Hayek* (Routledge & Kegan Paul, London, 1969); K.R. Leube and A.H. Zlabinger (eds), *The Political Economy of Freedom: Essays in Honour of F.A. Hayek* ((Philosophia Verlag, Munich, 1985); J. Birner and R. van Zijp (eds), *Hayek, Co-ordination and Evolution: His Legacy in Philosophy, Politics, Economics and the History of Ideas* (Routledge, London, 1994). None of these volumes have any significant focus on law. For a treatment that does, see R.A. Posner, “Hayek, Law, and Cognition” (2004) 1 *NYU Journal of Law & Liberty* 147. Hayek graduated with a law degree (Dr Jur) from the University of Vienna in 1921.

²² L.M. Roberts, “Legal *Festschriften*” (1963) 56 *Law Library Journal* 47 at 55.

²³ Roberts, above at note 8, ix. For information on Roberts’ career, see K. Zwiegert, “Epitaphe: Lilly Melchior Roberts 1903–1966” (1967) 31 *Rabels Zeitschrift für ausländisches und internationales Privatrecht* 77, and B.J. Pooley, “In Memory of Lilly Melchior Roberts” (1967) 60 *Law Library Journal* 162.

consign such books to the grave. This *Index* includes hidden *Festschriften*, in so far as I have been able to identify them.²⁴

Exclusion of Special Issues of Law Reviews

For several reasons, special issues of law reviews honouring a person, event or institution are excluded from this *Index*.²⁵ First, they are difficult to locate. After the covers are removed to bind the volume, a special issue may be very difficult to detect except by laboriously thumbing every volume of every journal. Secondly, and this is more to the present point, those contributions to scholarship will be indexed in the usual way and hence will be accessible through standard bibliographic reference works. They will not be lost or buried. Thirdly, there is something more significant, weighty and permanent about a stand-alone tome. This is not to disparage the practice, most common in the United States,²⁶ of dedicating a law review issue to a distinguished lawyer. Such dedicated issues, in my opinion, simply lack the *gravitas* of a stand-alone *Festschrift*.

On the positive side, however, such special issue *Festschriften* have offered contributors wider circulation of their work (often within the honorand's field of specialty) and better bibliographic referencing.²⁷ The existence of this *Index* now nullifies that latter bibliographic advantage. There remains, however, the difficulty of obtaining copies of common law *Festschriften* or photocopies or PDF files of individual contributions.

²⁴ See, e.g., C. Harlow (ed.), *Politics and Public Law* (Sweet & Maxwell, London, 1986) [gift to John Griffith]; W. Finnie, C.M.G. Himsworth and N. Walker (eds), *Edinburgh Essays in Public Law* (Edinburgh University Press, Edinburgh, 1991) [honouring A.W. Bradley]; J.W. Cairns and O. Robinson (eds), *Critical Studies in Ancient Law, Comparative Law and Legal History* (Hart Publishing, Oxford, 2001) [the dust-jacket declares the book to be "Essays in Honour of Alan Watson" but the title page makes no mention of this and the book is simply dedicated to him]; M. Groves (ed.), *Law and Government in Australia* (The Federation Press, Sydney, 2005) [the inside of the dust-jacket, the foreword and the editorial acknowledgements declare this to be a *Festschrift* for Enid Campbell].

²⁵ See further Taggart, above at n. 10, 229.

²⁶ The primacy of the law review over the law book in the US legal academy probably accounts for the preference there for special law review issue *Festschriften*. See generally W.G. Ross, "Scholarly Legal Monographs: Advantages of the Road Less Taken" (1996) 30 *Akron LR* 259, 260.

²⁷ See E.S. Gleaves, "A Watch and Chain and a Jeweled Sword: or, The Graveyard of Scholarship: The *Festschriften* and Librarianship" (1984) 24 *RQ* 466 at 470.