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MEMORIES OF PROFESSOR ALICE EHR-SOON TAY

INTERVIEW WITH THE HONOURABLE MICHAEL KIRBY

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I thought we would work chronologically and begin with your first impressions of Alice Tay. Did you meet her for the first time when she examined your thesis?

Yes, I had not met her before she became my examiner. That is an unusual and disadvantageous situation in which to meet another human being. However she was very feisty, energetic, dynamic and her questions were spot on the issues that I had been writing about. She was, I would say, a dominant personality and I had an immediate respect for her and I should admit a little bit of fear.

Oh right. Was it the feistiness that caused the fear?

It was a couple of factors. First of all, remember that we are talking about 1967 or thereabouts. At that time feisty women were thin on the ground in the law. It was a very unusual experience for me to be interrogated in such an assertive, confident, upfront and dynamic way by a then still quite young person who was a woman. Secondly, the times were still in the midst of White Australia. So not only did I have to grapple in my psyche with the fact that my interrogator was a woman. She was an Asian woman. She was not in the least lacking in confidence because of that. On the

contrary she was assertive and obviously in charge of the examination. Thirdly, she was someone whom I had not met before and was somewhat different from the quiet, reflective, contemplative atmosphere of the Jurisprudence Department at the University of Sydney.

That Department, relevantly to my thesis, was controlled by Doctor Ilmar Tammelo, later Professor Tammelo, who was a person who had come to Australia as a refugee from Estonia. He set up the Australian Society of Legal Philosophy (ASLP) and there is an excellent biographical note on him that I have only just seen in the *Australian Dictionary of Biography* which is worth seeing. He was a very thoughtful man who spoke 15 languages, according to the biographical note. He had translated all of the relevant texts of the speeches in the Supreme Soviet from Russian into English. I used them for the purposes of giving me an insight into the official orthodoxy and dynamics of Soviet legal philosophy, if one can call it that. He was very quiet, contemplative, thoughtful, patient and understated. But here was then this dynamic, feisty, woman who was going at me hammer and tongs to search every little recess of my mind and thinking of the subjects I had been studying for the purpose of my thesis.

I didn't feel that I had done so well in my thesis. But later on, as you know, I was awarded first class honours. So I didn't do so badly. But at the time I felt rather down about it.

Did Eugene Kamenka question you in a similar manner?

No. He questioned me but he was gentle, ironic and relatively quiet. I don't think Eugene was as interested in my thesis as Alice was. Perhaps that was because he took all the Soviet so-called philosophising on the withering away of the state with a grain of salt because he had grown up in an environment where he was acquainted with the high levels of hypocrisy that existed in the verbal loyalty to Marxist philosophy but the actual day to day practical indifference to it. But Alice was dealing with it as an intellectual challenge. She was testing the boundaries of the propositions that I had advanced.

That's interesting. Did you refer to either of their scholarship in your thesis? Did you pick up on any of their articles or perhaps Kamenka's book?

I don't remember now. I did come across my thesis recently when I was clearing out papers from my father's shed at Concord in Sydney after he died. I think I sent the thesis to the National Archives Authority which has most of my papers. I certainly don't have it on me now. A summary of my thesis was written up for the *Journal of the International Association for Law and Social Philosophy* which published at the German headquarters of the International Association of Legal Philosophy. This was a one off part of their journal devoted to the Australian section which was the Australian Society of Legal Philosophy, founded by Ilmar Tammelo. In that, which I do have, was a summary of what I had explored and conclusions I had reached. But as for the full thesis I'm not sure whether I referred to them but probably I did because

not that many Anglophone, and not that many Australians, were writing on that subject.

I was trying to work out whether there were any other suitable examiners for your thesis in Australia.

There were some which were associated with the Jurisprudence Department. There was a teacher named Otto Bondy I think it was and Charles Alexandrwoicz. So circling around Julius Stone were a number of people who were jurisprudes from the Soviet Bloc. Therefore there would have been a few. But it wasn't an area that was much examined in Anglophone dialogue about jurisprudence. Julius Stone did have a section in *The Province and Function of Law* and successor volumes addressed to Soviet Marxist state philosophy and specifically the doctrine of the withering away of the state. He denounced the doctrine as a most unlikely text for an oppressive autocratic totalitarian political system that was hardly likely to consent to its own withering away. I've been thinking about that more recently because of the work I've been doing under the Human Rights Council of the United Nations on the Commission of Inquiry on North Korea, where to an extent, they still adhere to Marxist philosophy and the idea of the withering away of the state as the natural outcome of the perfect Communist state. Likewise it is very unlikely that they would allow anything to happen that would lead to the withering away of their power. Most of their effort is directed, as it was in the Soviet Union, towards the preservation of the state's power and intolerance of anything that challenged it.

Was it Julius Stone or Ilmar Tammelo who arranged for Alice Tay and Eugene Kamenka to be your examiners?

These are the mysteries internal to the University of Sydney Faculty of Law. I was just told to present and I did. I remember it was in the new wing of the old law school building. The old law school building abutted Phillip Street. The new wing abutted Elizabeth Street. The two buildings were joined at several floors. The floors were not exactly even and so you had to go up a ramp. There were swift lifts in the new wing; but an old decrepit lift in the old wing in Philip Street. The interrogation took place in a new room I hadn't previously seen, which was a University Senate room I think on the top floor of the new wing abutting the old portion of University Chambers where the law school was then housed.

Did either Ilmar Tammelo or Julius Stone ever speak to you about Alice Tay? Did they ever give you their opinions of her or her work?

No. I don't think it would have been seen to be appropriate at that time. She became a senior colleague in Sydney. I think she had been a teacher of law in Singapore. And then she came to ANU, I think.

Yes, that's right.

I can't quite remember but she later became a professor at the University of Sydney Law School. It may be that in these more

informal times when professors are known by their first names they would discuss colleagues with students. But that was not the environment in which the law school was operated in the 1960s. I called her Professor Tay and him Professor Kamenka.

You have mentioned that you stayed in touch with Alice Tay. How did that come about?

I didn't stay in touch with her because she had been my examiner. I kept in touch with Doctor Tammelo and with the Department of Jurisprudence. I owed a great debt to Julius Stone and I've repeatedly expressed that debt. He had given me the opportunity to work with him on the successor volumes to his book *Province and Function of Law* and I helped him write a chapter that related to Marxist philosophy of law. He said in the foreword to the book that he was grateful for my help but was not sure whether I would agree with the conclusions that he had reached on the basis of our work together. He suspected that I did not but that was presuming to me a mental attitude towards Professor Stone that I didn't really feel. I didn't feel that it was my role to approve or disapprove of the God professor. He was a very considerable intellect, a greatly respected law teacher in Australia and overseas and a public figure who was broadcasting regularly and therefore very well known beyond the narrow confines of Philip Street, Sydney.

You delivered a paper of the Extraordinary World Congress of the International Association for the Philosophy of Law and Social Philosophy. Is that the time that you next had involvement with Alice Tay?

I believe the involvement was renewed when she came to the University of Sydney law school. I don't know when that was exactly.

It was 1975.

1975 coincided with my appointment as a Deputy President of the Australian Conciliation and Arbitration Commission and as a member, and later Chairman, of the Australian Law Reform Commission. So her arrival in Sydney coincided with my arrival into public office and the office to which I went on secondment from the Arbitration Commission was the Law Reform Commission. That was a body that required deep consideration of the values that we were giving effect to in writing our reports and recommending reform of the law and drafting legislation to give effect to our recommendations. So it is natural that I would make the effort to dialogue with people in the University of Sydney Law School and particularly in the Department of Jurisprudence (Legal Philosophy) which had been the Department of that Law School of which I had been most familiar. So when Alice Tay came to that law school, it was natural that we would begin bumping into each other quite a lot. I was invited to serve on a number of committees, for example the committee of the Institute of Criminology and other bodies in the Law School. So therefore I would be attending meetings and I would see her quite often. We would go to conferences on legal themes. She would be there and I would be there. Presumably this 1977 conference (which I have

forgotten) would be one of those occasions. The papers would be on my website which has the papers going back to 1975.

Yes I've had a look at that. Did your impressions of her change? Was she still fearsome?

Oh yes my impressions changed entirely because by the time we were interacting again I was a person with a judicial title, chair of an important new statutory authority, the ALRC, and myself becoming a public figure. The way we did law reform was very much out in the open and transparent. That encouraged the dialogue with the community and that led to a different level of intimacy and friendship which had not really been possible when I was simply her examinee.

She is known for the social events that she held and a few people I have interviewed have mentioned that you were at a number of them. Did that occur at around that time in 1975? Did she invite you to the Astor Apartment at around that time?

I have in my mind that it was a bit later, that I was not an immediate invitee. But my public persona enlarged as I was more and more involved with television, radio and selling the product of the Law Reform Commission. I think that possibly led to her thinking 'Well, he will be an interesting person to have at the table'. So I started to get the invitations. Wherever possible, if I was in Sydney, I would accept because they were always extremely interesting and a little bit off the track in which I was normally mixing. I was normally mixing with judges and barristers. They

are not half as interesting as legal academics and, in particular, legal academics who come to problems from a tradition different from the common law which we practise in Australia.

The good thing about Alice was that she was eclectic and catholic in the taste of her luncheon guests. Which is what made the events interesting. Often we would discuss matters that were on the agenda of the Law Reform Commission at the time. The directions in which we were travelling and the values which we were seeking to give effect to. That would lead to vigorous and sometimes heated discussion over lunch which was very enjoyable and stimulating. Alice was nothing if not stimulating.

So she was keen to help you think about various issues relating to the law reform commission?

Yes she was. She saw it as a way of translating the work she did in jurisprudence into a practical journey. She later, of course, became a part-time Commissioner of the Australian Law Reform Commission herself. But in this period she was simply a person with a Chair in Jurisprudence at the University of Sydney who was seeking to find out what was going on in the Australian Law Reform Commission and to contribute in a constructive and imaginative way. So that's what she did.

Do you remember some of the other people who were at the social events?

I dimly recall she would invite senior judges of the State system. Because I was in the Australian Law Reform Commission, a federal body, I was mainly mixing in the federal circle. But she would invite Sir Laurence Street, who was a very gracious and highly intelligent man. I would get to know him better than I did then, because he was really outside my circle of acquaintances. But I think also Sir John Kerr was an occasional attendee. However, the main point of the lunches was usually to invite a visitor who was passing through and therefore that meant a parade of senior and interesting professors many from the United States, who were passing through the Department of Jurisprudence at the University of Sydney.

Were students ever at the events?

I may be wrong; but I don't think so. I think they had an element of formality and the food was always extensive and delicious. But the main point of the exercise was conversation and, I think, display of the Australian's attending, relevantly myself, for the edification of the visitors in order to indicate that Australia had people who were interested in legal theory and who were in positions, where they were able, to express and give effect to their views on legal theory.

Did Julius Stone ever run similar events when he was the Chair of Jurisprudence and International Law?

He did run occasional garden parties at his home which was at the upper North Shore of Sydney. Ilmar Tammelo lived at Roseville, I think that Julius Stone lived at Turramurra. But both of them were

at the upper leafy suburbs of the North Shore of Sydney. Their events were European events. They were more formal. In the case of Ilmar's occasions for the Australian Society of Legal Philosophy, we all sat in the living and dining room space, which was combined and large, with sofas put around the circumference of the space. We exchanged thoughts and, when younger, I was extremely tongue tied. Later, I became voluble and towards the end I was probably trying to hog the conversation. But at Julius Stone's less frequently. I went to his home on a few occasions because I was helping him with the successor volume on *The Province and Function of Law*. I remember sitting in his small study with *Die Staalmeesters*, the Rembrandt painting with the merchants of Amsterdam sitting around the table. He was smoking his pipe and I was trying to propound my views or knowledge about the withering away of the state to his skeptical gaze.

Sounds terrifying. I know you weren't a student of Alice Tay's but do you see there being any similarities between the way that she ran the Department of Jurisprudence and the way that Julius Stone ran the Department?

I think there were similarities in their views about the operation of law in society. Neither of them really swallowed the then legal orthodoxy which was propounded by the most senior judges and lawyers in the country, specifically the orthodoxy of Sir Owen Dixon, the long time Chief Justice of the High Court, "about complete and absolute legalism". This was a highly orthodox version of the positivist Austinian view of law that every legal problem had its objectively correct answer. The secret was simply

to analyse the problem correctly in order to come at that objectively correct answer. Neither Julius Stone nor Alice Tay nor the acolytes of the Department, Professor Tammelo and Professor Blackshield (and also Upendra Baxi, who later on went on to become a leading academic lawyer in India and the Vice Chancellor of the University of New Delhi) none of them accepted that orthodoxy. In the politest possible way, they went about white-anting that philosophy. Which was most beneficial.

So they had commonalities of belief. But Stone was truly the God professor and a remote figure. I worked closely with him but I couldn't say that I loved him as students sometimes learn to love a great teacher, because he was deliberately quite remote. He was very conscious of his status as an important figure in global jurisprudence in the English speaking world. Therefore, a mere student, even one who was advancing through the rather suspect ranks of student politics at the University of Sydney like me, was a very small player on a field that he dominated. Alice was more democratic in that sense. She knew her status and was also a professor but she was vivacious and voluble, talkative, excitable. Julius Stone was controlled and reserved and formal, conscious of his high status. So they were just different personalities and of course they came from different ethnic backgrounds.

I get the impression that Alice Tay was very devoted to her students, would you say the same thing of Julius Stone? In the sense that she thought that teaching was very important, it wasn't just something done to support her research?

I was never taught by Alice Tay. I saw her engagement when she would come to ALRC meetings to discuss topics. I think we overlapped as Commissioners too. But the relationship was different to the relationship I had with Julius Stone. I think Julius Stone was selective in those students to whom he felt a special obligation. He kept a card system which had notes on all of his leading students and I'm on one of those cards. He showed a good perception in selecting out to help him those students who later went on to senior positions in the legal profession. He'd been a professor of law for a long time even when he came to Sydney and thereafter so he formed a good judgment of students. But people admired and respected Julius Stone rather than engaged with him. Alice's personality was more outward going and more engaging. That's not to say that Julius didn't have a greater impact. Julius Stone had a greater impact because, essentially, he was challenging the orthodoxy of the greatest God of all, the Chief Justice of the High Court of Australia.

Sir Owen Dixon. That's very useful.

Alice Tay went on to become a commissioner of the ALRC.

What year was that?

I think it was the early 80s. I'm only really familiar with the work that she did with James Crawford out in the desert.

Yes that was the Aboriginal Customary Law reference, which I think finished in 1987. I hope you'll contact Judge Crawford as he

now is at the International Court of Justice. I'm sure he would have a lot to say about Alice Tay, because he went on to become Dean of Law at the University of Sydney.

Yes, I have interviewed him. Do you recall any other work she did for the ALRC?

I don't. But it would be in the reports of the ALRC. Under each report there is a note of who is the commissioner on the reference for each particular subject and perhaps earlier there is a reference to who is a commissioner on an individual subject.

I will look at that. This might not be something you know but I guess one of the questions I would like to have answered is why she was appointed to the Chair of Jurisprudence at Sydney in 1975. Do you know anything about the circumstances of her appointment?

I don't. The Department of Jurisprudence had an unhappy relationship with the Department of Common Law at the University of Sydney. That arose out of differences over the philosophy of law (the positivists against the semi realists) and also over the personalities involved. I think one and possibly two members of the common law Department had applied for the Chair of Jurisprudence which Julius Stone secured it. So there were both personal and philosophical differences. It may be that Alice Tay was invited to come to Sydney because she would act as a lightning rod to terminate this hostility which had lasted 20 years. I'm not sure, I don't know. I had nothing to do with the appointment

and I was not a Fellow of the [Sydney University] Senate at the time the appointment took place.

That's an interesting theory. I'll try to get to the bottom of it. You have described the Department of Jurisprudence and International Law as the 'light on the hill.' That was obviously in your student days. Do you think it was important for the University of Sydney to have a Department of Jurisprudence?

Certainly it was. I can't imagine having a law school without a Department of Jurisprudence, that is to say, a section of the law school that teaches legal values. There are such law schools nowadays. But it seems to me that, if you don't spend a little time asking what on earth your discipline is really about and what it is trying to achieve, you miss out on a very important segment that warrants having a law school in a university, as distinct from a technical college.

I don't say that it is necessary for there to be such divisions and personal hostility and unfriendliness as existed at the Sydney Law School between the Department of Jurisprudence and Department of Common Law. I think that was simply an accidental outcome of a number of factors including two I've already mentioned.

The Department of Jurisprudence was abolished in 1998. I've received a variety of views on that. Some people have suggested that in the 1990s perhaps there wasn't a need for a Department of Jurisprudence anymore and perhaps the whole

of the Sydney degree should contain some element of jurisprudence in a range of subjects. It has also been pointed out that some jurisprudentially inclined or theoretically inclined scholars sat outside the Department of Jurisprudence. Do you think it was necessary to have a Department in the 1990s? Or had circumstances changed?

I think it is necessary to have such a Department particularly in a country which has the common law tradition and a community that has long taught law as a positivist isolated activity, divorced from social impact and unconcerned with the deep values which inform decisions that are made in that discipline. I think it is necessary as an antidote. There is a similar debate on the issue of statutory interpretation. Do you teach it as a separate topic? Or do you simply teach it where it is relevant in particular legal categories? For me the problem of the latter approach is that, so busy will you be in teaching the categories, that you just don't have time to stop and teach either what are the values that underline the categories (and whether they are good values or outdated values or values that should be reformed) that you don't end up ever thinking about such issues.

After all, when I was at law school, in the way common law subjects were taught, I never once asked why native title of Aboriginal people was not recognized under our legal system. I never once asked why a woman took her domicile from her husband and never vice versa. Above all I never asked why the law had laws against gays and why it punished them most severely. It was really a very unquestioning approach to learning

the law, dependent mainly on rote learning which was the way all subjects were taught in all education in schools inherited from England. And with the cane close at hand in case you got your mathematical tables wrong or forgot a verse of a poem or otherwise overlooked something which you should have remembered. That is just two different views of what education is for and how you best prepare a person to be a lawyer.

It is probably true that, if you are working in the back room of a large legal firm doing one type of activity day in day out, perhaps you don't need to ask about the values and purposes of the law in a particular area. But certainly in the levels of the law in which I've operated over much of my professional life, it would have been unthinkable to have ventured upon them without having had a good grounding in jurisprudence. Which is what Julius Stone and Ilmar Tammelo and Tony Blackshield and eventually Alice Erh-Soon Tay gave the students.

Jeremy Webber was the Dean when the Department was abolished. I have spoken to him about that. I was just wondering whether he spoke to you about changes in the structure of the faculty. Did he ever speak to you about the role of the Department of Jurisprudence?

He spoke to me often about a whole range of matters. He may have spoken to me about it. If he did, I would be fairly sure I would have said to him what I have just said to you. Maybe I was lucky as a kind of poster boy of the Department of Jurisprudence and therefore felt a debt and loyalty to it and to Julius Stone and his

legacy. I would always be suspicious about any attempt by the Common

Law Department to stamp out the memory of Julius Stone and his contribution. Someone has written that if you want to understand the High Court of Australia under Chief Justice Mason, the clue to it was the Justices who took part in *Mabo* and other decision in the 1980s and 1990s were students of Julius Stone. They were questioners. And that was a very good thing for Australia, quite apart from its law. It was a very good thing for the nation. And that is the value of having a valuable component of jurisprudential education that makes you a questioner of all things.

After the Department closed they created the Julius Stone institute. Do you think that was an adequate substitute for the Department of Jurisprudence?

I'm not sufficiently aware of the role it plays in the education of undergraduates or JD students. That would depend on the extent to which it is an active proselytizer. The importance of questioning and of understanding the values of what you are pursuing amongst those who are going to come forward into the legal profession in the future. Or whether it is an exotic offshoot of an isolated kind that has occasional distinguished lecturers and really leaves the rest of the legal profession untouched and unconcerned by the meandering minds of those who work in jurisprudence. My impression is that the Julius Stone Institute does not have the same intellectual impact on the students of the Sydney Law School today that the Department of Jurisprudence and International Law had when I was at the law school.

A few people have said that the reputation of the Faculty of Law at Sydney or at least its international reputation really derived from the Jurisprudence Department, first under Stone and then under Tay. Do you think that is a fair comment?

Because Jurisprudence and International Law are, by definition, matters that are universal and not merely of the legal system of the common law (the legal system derived from England, the legal system of Australia, the legal system of New South Wales) it's inevitable that those who are working in the field of jurisprudence and International Law are going to have more contacts with relevance to, and interests in developments that are happening beyond the little world of, Philip Street Sydney. Maybe that is the poison that was placed in my mind by the Department of Jurisprudence and International Law at Sydney: that I could never really accept the supremacy and even centrality of our own little post colonial back water of the common law system. I was taught in that Department by Julius, and Ilmar and Tony Blackshield to think big. Maybe that explains why, when I got to the High Court of Australia, that is why I approached problems in a slightly different way. Because by the time I came, most of the Justices had not gone through the hands of Julius Stone. Justice Gummow had, Chief Justice Gleeson had, Justice Mary Gaudron had but she departed. Justice Heydon had not. I don't think Justice Kiefel had and Justice Hayne certainly hadn't.

It really comes down to what a law course in a university is about. Is it simply to make a lot of students learn a lot of things off by

heart that will be of immediate practical value? In fact even you spend a lot of time teaching the detail of particular common and statute law. Or is it to arm them to now tackle problems that take them back to the basic values of the legal system and make them question those values? Certainly, the advances we've made since the 1950s and 1960s, when I was at the law school, demonstrate that there were a lot of areas of law that required thorough questioning. They didn't get it unless they got it through the Department of Jurisprudence and International Law.

Do you know what Alice Tay's ambitions were for the Department? I know it is a difficult question to answer. Do you think she had anything in mind that she wanted to achieve through the Department?

I don't really know. An interesting question would be the extent to which she saw a value in getting the common law students in Australia to think about the law in the countries of Asia and the Pacific, from which she came. I'm not conscious of her playing any particular role in that department. When she was at the law school there was still the left over of the White Australia policy and the superiority complex which we had in those days. After all they only began dismantling the laws that underpinned that policy in 1966. So I'm not conscious that she ever pursued a specifically Oriental or Asian approach. Her scholarship seemed to be mainly about the universally important scholars, who were mostly from Europe.

That's right.

Some from the United States.

Yes, there was one woman from Singapore who she had as a research assistant for a little while and she set up the Centre for Asian and Pacific studies but I think that actually was an initiative of Alex Ziegert.

Did you read very much of her scholarship?

I have at various times, mainly for speeches I had to give or lectures on particular people including herself. One aspect of my life is that I'm now involved in giving a lot of memorial lectures. That takes me back to trying to recapture the mind and thinking of people of my youth. Last night I launched at Glebe Books a new book by Professor Michael Hogan on the history of the Department of Government and Administration at the University of Sydney. That took me back not only to the personalities - Henry Mayer and Denis Altman and Peter King - who were important in the Department of Government and who taught me when I did an economics degree following my law degree. It also took me back to the mood and attitude of that time with the Vietnam war and the ballot for military service and conscientious objection and street riots and civil liberties actions on behalf of Aboriginals and women, feminism and so on. So it was a very different time from today.

Indeed. You have made some comments about Alice Tay when she was president of the HREOC. Are there any

particular achievements of hers that stand out from when she was in that role?

I can't recall them off hand. I would have to go back and look at what she was doing. but she was herself. She was voluble and interested. She was interesting. She engaged with the media in a way that predecessors like Dame Roma Mitchell had not felt comfortable doing. So I think that, in that respect, she had probably learned from the experience of the ALRC. I don't wish to be unfair to her by not remembering her achievements. I'm sure there were many. I just don't recall them off the top of my head.

Understandably. Just one final question, a few people have described her and Eugene Kamenka as being conservative. I was just wondering whether you thought that that was an appropriate label?

Think there is an element of that. Indeed some of the questioning that they targeted on my thesis was directed to flushing out the fact that I was (or may have appeared to be) more sympathetic to a Marxist element in legal philosophy than they were. Probably because of Eugene Kamenka's European experience and her experience in Singapore, she and he were not sympathetic to Marxist philosophies. Perhaps they had a more realistic (eyes wide-open) approach to it than I did. My approach was, in part, influenced by the fact that my grandmother had remarried and had married for her second marriage the National Treasurer of the Australian Communist Party. I therefore got to know him and to admire him. He was a very good man. Therefore, I saw a kindly

and benevolent face of Communism or Marxism that probably Eugene and Alice didn't see or didn't accept. That made me a good person to explore the speeches of the Supreme Soviet and to see that, in the dross that featured in most of them, occasionally shining through were some worthwhile and justifiable criticisms of the market system and capitalism. As in all things, no philosophy had all the answers.

But I think they thought I was a bit of a lefty. And I thought they were a bit rightwing. The truth probably is that we were all fairly conservative in fundamentals. We were quite self satisfied with the overall structure of our democratic parliamentary system with its independent courts and uncorrupted judges. Therefore, there wasn't a great deal of difference between us. And as Alice and I got to know each other better in the years after our respective appointments in 1975, our relationship warmed. My original suspicion of them as both anti-communist ideologues was softened by an appreciation that they were simply contributing on the left right spectrum a perspective that came from their own backgrounds which was entirely legitimate and useful. Including useful to me.

She believed that if you worked hard you could achieve greatness irrespective of your background. I guess she didn't see Australia as having the same kind of class divides and injustices as other countries. Is that a philosophy you hold as well?

Not entirely because I myself have seen that, in Australia you can succeed if you work hard. But there are still very big disadvantages that people carry around on the grounds of gender which should have alerted Alice. On the grounds of race that should have alerted Alice. And, in my own case, on the grounds of sexual orientation. I could hide that better than she could hide the issues of gender and race. But even to this day people in Australia suffer because of their sex or because of their race or sexual orientation or gender identity. It isn't a perfect world. And our duty seems to me to keep exposing the areas of injustice and our duty to try to improve things. I think I would still be a little bit more on the left of the centre than Alice or Eugene. Because they had been stung, certainly Eugene, by the gross injustices, horrendous injustices, of the Nazi and Communist ideologies in Europe.

I find it interesting that she never speaks of any difficulty because of her gender or because of her ethnic minority status. She never suggests that that was a hindrance or a problem in any way. It's interesting. She certainly wasn't a feminist or at least didn't want to adopt that label.

No. That's not unusual in the case of successful women. I've known quite a few people who, having succeeded themselves, don't see the problem. But one's own success can depend upon a lot of chance factors. The chances aren't always there for everyone. The cards don't fall the same way for the majority.

That's true.

I think that shows a certain blindness on the part of those who are unquestioning because of their own personal success. I hope I've never had that blindness, I suppose I have. But I've tried to be conscious of, and to learn from the discrimination I've known: the sting of discrimination for anybody on any irrational ground

It's an interesting part of her. I think that is the end of my questions. Is there anything you would like to add?

No I think you've asked your questions and I've answered to the best of my ability.