Editorial Policy and Limitations of the Index

What counts as a common law Festschrift?

This Index aspires to include every English language legal Festschrift published at any time in England, Wales, Scotland, Northern Ireland, Ireland, United States of America, Canada, Australia and New Zealand. It this it hopes to be comprehensive. It includes also every English language legal Festschrift that came to our attention from other parts of the common law world, including India, Malaysia, Singapore, the Caribbean, and the African continent. Due to limitations of the library holdings and finding aids in New Zealand, we make no claim to comprehensiveness in the latter category. We would be grateful to learn of any common law Festschriften we have missed.

This Index does not include legal Festschriften from so-called mixed jurisdictions, such as South Africa, Sri Lanka, Mauritius, Cyprus and Quebec, an exeption was made for Scotland as it is part of the United Kingdom. Many of these are ineligible in any event, often containing non-English language contributions. Once again, the reasons for exclusion are the limitations of the library holdings and finding aids in New Zealand.

Most English language legal Festschriften published in non-common law countries are excluded from this Index. This rules out, for example, most of the legal Festschriften published in continental Europe. It proved unacceptably arbitrary, however, to exclude all such Festschriften. Take, for example, the case of Lon L. Fuller of Harvard Law School, one of the great common law legal philosophers of the twentieth century. The only stand-alone Festschrift for Fuller was published in English in the Netherlands. That volume is included, as are those Festschriften for similarly towering common lawyers that just happened to be published in countries other than those specified above.

The Editor is solely responsible for making the decision whether a prima facie ineligible Festschrift should nevertheless be included because of the standing of the individual in the common law world. Each case was considered on its merits (how appropriately common lawyerly!). It was often a close call, and the Editor hopes he did not make too many bad calls, either way! The guiding principle was whether the omission would strike academic peers as odd or perverse.

The line was largely held on the requirement that the collection be completely in the English language. But once again the Editor made decisions on a case-by-case basis if the majority of the entries were in English and the honorand was very well known in the common law world. In those few instances where a legal Festschrift with a minority of foreign (i.e. non-English) language contributions is included, the foreign language entries are not included in this Index. To do so would have required the involvement (and consequent expense) of those with the relevant language skills.
This leads on to the related difficulty of drawing a line around "common law". By far the largest number of English language legal Festschrift published outside the common law countries mentioned above honour distinguished international lawyers and comparative lawyers. These were looked at closely by the Editor and again decisions were made case-by-case. Happily, while this Index has been in gestation, the gap in the literature as regards international law has been filled. In 2002, Peter Macalister-Smith & 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: “Festschriften in Public International Law: An Annotated Bibliographical Compilation of Titles, 1930-2000/2001” (2002) 71 Nordic Journal of International Law 349-430. Now the same scholars have published a comprehensive index to contributions to Festschriften in the public international law field. This invaluable volume – Peter Macalister-Smith & Joachim Schwietzke, Public International Law: Concordance of the Festschriften (C.F. Müller Verlag, Heidelburg, 2005) – covers 384 Festschriften and contains over 8,500 chapter entries.

Festschriften honouring eminent historians, philosophers, classicists and interdisciplinary scholars, such as criminologists, presented considerable difficulty. We included Festschriften for distinguished historians who had significant interests in law and whose Festschriften contain treatments of legal topics. But where the Festschrift had little to say about law, we applied the rough-and-ready rule that for inclusion the honorand had to have either 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.

Exclusion of special issues of law reviews

For the purpose of this Index, we have excluded from the category of legal Festschriften the special issue of a law review or journal honouring a person, event or institution for the following reasons. 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. Second, and this is more to the 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. Third, 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, of dedicating a law review issue to a distinguished lawyer. Such dedicated issues simply lack the gravitas of a stand-alone Festschrift.

Anti-Festschriften

The term “anti-Festschrift” was first coined by Horst Lücke (Book review, (1985-86) 10 Adelaide LR 267), and deserves mention. Far less numerous but no less worthy for that, these are attacks on the work and philosophy of the ‘great man’, deprecating his baleful influence. Philosophers and Philosopher-Kings seem particularly susceptible to this fate. H.L.A. Hart, the subject of two Festschriften, was the subject of an anti-Festschrift: P. Leigh & P. Ingram (eds), The Jurisprudence of Orthodoxy: Queen’s University essays on H.L.A. Hart (Routledge, London, 1988). At a lower level of abstraction, so was Lord Denning: P. Robson & P. Watchman (eds), Justice, Lord Denning and the Constitution (Gower, Farnborough, 1981). Anti-Festschriften are included in this Index.
In between the Festschrift and the anti-Festschrift is a book of essays by several authors examining the work and ideas of a particular jurist, which is neither celebratory in the sense of a Festschrift nor as unrelentingly critical as an anti-Festschrift. The person’s work is taken seriously, explored and usually built upon. Although the line is a hazy one, such works are not covered here.

**English language contributions to non-common law Festschriften published in Germany, Austria, Switzerland and the Nordic countries**

The major departure in this Index from the territorial limits of the common law world is that though the generosity of several scholars and their publishers we have been able to use their bibliographic sources to locate English language contributions to non-common law Festschriften published in Germany, Austria, Switzerland and the Nordic countries.


By allowing us to reproduce the English language contributions from the Bibliographies, the Index has been able to cover the contributions of many distinguished lawyers writing in English for largely foreign language legal Festschriften over the last century and a half. They account for nearly a thousand entries in the Index. The Editor identified the contributions from the Dau Bibliographies (and is responsible for any omissions or errors), Mrs Rachel Wyatt typed them, and Ms Bernice Cole entered them into the database.

On a necessarily smaller scale, Hanne E. Strømø & Halvor Kongshavn have done the same thing as Dau for legal Festschriften published in Denmark, Finland, Iceland, Norway and Sweden: *Nordic Legal Festschriften: A Bibliography of the Essays written in English, German and French until 1999* (Det juridiske bibliotekfond, Oslo, 1999). These authors also generously agreed to allow us to reproduce the English language contributions to the indexed Nordic legal Festschriften. These account for just over 60 entries in this Index. Once again, the Editor identified the contributions (and is responsible for any omissions or errors), Mrs Rachel Wyatt typed them and Ms Bernice Cole entered them into the database.

Hanne E. Strømø & Halvor Kongshavn have produced an updated bibliography covering Nordic legal Festschriften from 1998-2002: *Nordisk jurisk festskriftbibliografi: innholdet i juridiske festskrift fra Danmark, Finland, Island, Norge og Sverige 1998-2002* (Innbundet, 2003). This publication was not available at the time this Index went on-line in September 2005.