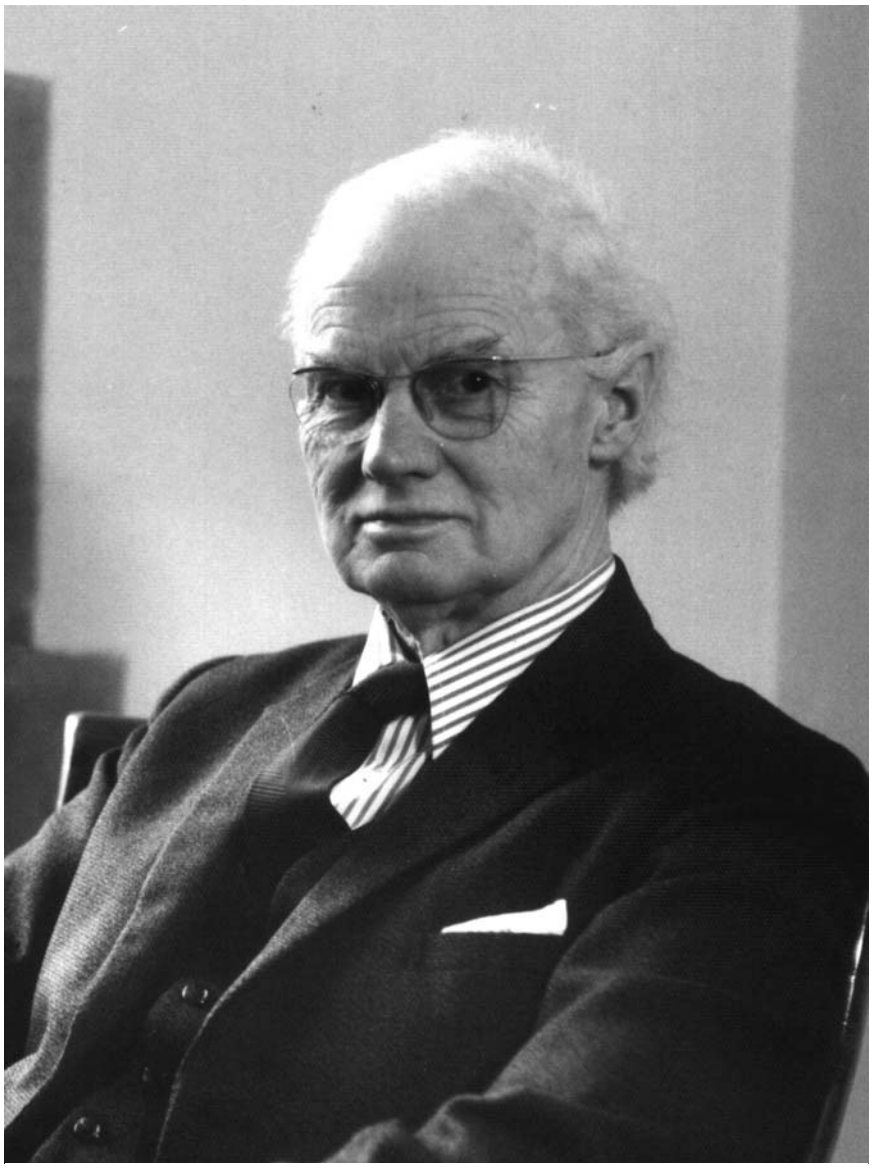

GLANVILLE WILLIAMS *Dona Haycraft*

Glanville Llewelyn Williams
1911–1997

WHEN, IN 1957 at the age of 46, Glanville Williams was elected a Fellow of the Academy his name had long been a byword among both practising and academic lawyers throughout the English-speaking world as that of its sharpest, most radically critical, and most prolific living jurist. He had published three monographs on complex and defective aspects of the common law of obligations whose originality, sophistication, penetration, breadth of reference, historical acuity, and analytical and critical clarity had set new standards for legal writing in this area. He had been the first to demonstrate how the techniques of linguistic analysis could be used to expose the emptiness of much jurisprudential debate and the irrationality of many a legal distinction. And he had capped all this with (what in its second edition was) a nine-hundred page treatise on the general principles underlying the criminal law, which not only marked a fundamental change of direction in his own work but also transformed the study of that subject setting the agenda in it for several decades, and had led to his appointment as the only foreign Special Consultant for the American Law Institute's great project for a Model Penal Code. He had gone on, following paths first trodden by Jeremy Bentham, to appraise and find wanting, many of the sacred cows of the English way of administering criminal justice, equalling his mentor in critical rigour and in the disdain shown for 'Judge & Co.', but writing infinitely more readable prose that re-ignited debates which still continue. He had also made a pioneering and outspoken study of the lengths to which Anglo-American law went to protect human life that would be seen as a seminal text when, nearly two decades later, medical law

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and ethics began to attract the attention of English Law Faculties. There had, moreover, been very few years in which he had not published half-a-dozen or more papers unravelling doctrinal complexities or critically analysing, often with iconoclastic zeal, judicial decisions and parliamentary legislation. And he had written a best-selling guide for aspiring law students which for half-a-century was for almost all of them to be their first introduction to their chosen profession. On top of all this, he had been active in the cause of law reform as polemicist, committee member, and draftsman.

His election to the Academy could not, therefore, be said to have been premature. He was then a Fellow, and Director of Studies in Law, of Jesus College, Cambridge and Reader in English Law in the university. But he had already held two chairs in the University of London (the first at the London School of Economics, the second—at the age of 39—its senior law chair, that of the Quain Professor of Jurisprudence at University College), and he was to hold two more at Cambridge (initially one of the university's first 'personal' chairs, and then the Rouse Ball Professorship of English Law). On reaching retiring age—he never, of course, really retired—he was rightly acclaimed by another member of the Academy, Sir Rupert Cross, Vinerian Professor at Oxford, as 'without doubt the greatest English criminal lawyer since Stephen'.[1]

I

Born on 15 February 1911, Glanville Williams was the son of Benjamin Elwy Williams of Bridgend, Glamorgan, and his wife Gwladys, daughter of David Llewelyn of Pontypridd. His father, who came from a long line of modest, chapel-going, Carmarthenshire and Cardiganshire farmers, was then a partner in a local firm of tailors. His mother had been a primary school teacher.

The infant was precocious. There was no stage of baby language. On his first visit, aged three, to the dentist, hearing that a milk tooth was to be extracted, he looked up in alarm and asked 'Is it imperative?' An only

[1] 'The Reports of the Criminal Law Commissioners (1833–1849) and the Abortive Bills of 1853' in P. R. Glazebrook (ed.) *Reshaping the Criminal Law* (1978), pp. 5, 20. The reference is to Sir James Fitzjames Stephen (1829–94), author of *A General View of the Criminal Law of England* (1863), *A History of the Criminal Law*, 3 vols. (1883) and a *Digest of the Criminal Law* (1877), who drafted a Criminal Code which though it received the blessing of a Royal Commission was not enacted in England, but was adopted elsewhere in the Empire.

child with poor health, sometimes confined to bed, who was uncomfortable in large groups, preferring the companionship of a few close friends, he developed his own interests and games. He built an elaborate model theatre, with performing puppets, and became a sufficiently competent conjuror to perform at school entertainments. Family holidays were often spent on the beautiful Glamorgan coast at Ogmore, where a neighbouring cottage was occupied by the young family of the Reverend William Evans, who (as Wil Ifan) was to be crowned bard at the National Eisteddfod. During the day the children played on the long empty stretches of sand, exploring the rock pools and caves; in the evenings the two families read verse and prose to one another. These holidays left lasting impressions and life-long loves both of the countryside and of the classical poets, novelists and essayists of these islands.

At twelve, he went, with a scholarship, to Cowbridge Grammar School as a boarder. Dogged by a weak chest, he spent almost as much time in the school sanatorium as in the classroom, he nonetheless won a classical scholarship to the University College of Wales at Aberystwyth; to which he went aged 16 in 1927, living (in view of his age and frail health) at the home of his uncle (Sir) William Llewelyn Davis, Librarian of the National Library of Wales, a Celtic scholar, and author of two Welsh grammars. His uncle's efforts to make him a Welsh speaker—his father, as a Carmarthen man, was bilingual but his mother was not—were, however, unavailing. Throughout his life Glanville remained unmoved by the claims of either Welsh nationalism or the Welsh language.

His four years at Aberystwyth were formative ones. (The first, before he turned to Law, was spent on Latin, English, Philosophy, and History.) The Law Department, under the charismatic Professor T. A. Levi, was, in that inter-war period, a remarkable legal nursery. Among the students were a future Lord Chancellor, two Law Lords, a bevy of other judges, and more than half-a-dozen professors of law, while several of the lecturers were also to have distinguished careers elsewhere. A First, and a scholarship, was to take him as an affiliated (i.e., graduate) student to St John's College, Cambridge, where the Law Fellows were Stanley Bailey (who had lectured at Aberystwyth) and (Sir) Percy Winfield. Winfield was to supervise his Ph.D. research—after another First (Division 1), with an outstanding paper in Legal History, in the Law Tripos in 1933—and to secure his election as a Research Fellow of the college in 1936.

While at Aberystwyth the law student had invented an alphabetical shorthand system for taking lecture notes. He patented it (as 'Speedhand')

and compiled a manual,[2] and it was long taught in secretarial schools in Britain and South Africa. He also learnt to play golf on the finely sited course at Harlech and (under the tutelage of members of his uncle's staff) to bind books. Both hobbies were pursued for many years. More significantly, he was active in the university's vibrant pacifist movement, becoming President of the University of Wales branch of the League of Nations Society and representing it at a League conference in the USA in 1931.

II

For all lawyers, whatever their specialism, Glanville's name (and for many, even beyond the circle of friends and colleagues, this was both a sufficient and the customary appellation) is now inseparable from the criminal law, but it was the law of civil obligations, and particularly the law of torts—which governs the payment of compensation for injuries to person, property, business interests, and reputation—on which he cut his scholarly teeth, and established his formidable reputation.[3] Torts lawyers long mourned his desertion of their subject. His Ph.D. dissertation was on 'The History of Tortious Liability for Animals.' It was completed, in little more than two-and-a-half years during which he had also sat the Bar exams. Its examiners (Sir William Holdsworth and Winfield) not only recommended that 'in view of its exceptional merit' the oral examination should be dispensed with, but each also went on to say that if only the dissertation had been in print and its author of sufficient standing, they would have recommended the award of the LL.D. 'The minute study of the authorities, of all periods, printed and manuscript', reported Holdsworth, 'the grasp of principle which he has shown, and his power to criticise the rules and principles which he has expounded, make his thesis an admirable example of the manner in which legal history ought to be studied and applied. It is obvious that it is only a lawyer of very remarkable ability who could turn out a piece of this kind.'[4] The examiners' sole complaint was of the severity of the candidate's criticisms of the illogical reasons offered by judges for decisions that produced practically convenient results. They were, however, mistaken in thinking that increasing age would remedy this trait.

[2] 1st edn. 1952, 8th edn. 1980.

[3] See generally, B. A. Hepple, 'Glanville Williams 1911–1997: Civil Obligations', *Cambridge Law Journal* (1997), 440–5.

[4] Cambridge University Archives.

The dissertation was expanded to become *Liability for Animals. An account of the development and present law of tortious liability for animals, distress damage feasant and the duty to fence in Great Britain, Northern Ireland and the common-law Dominions*, published by the Cambridge University Press in 1939[5] and greeted as 'one of the best legal treatises' to be published 'in England'.[6] The subject is fascinating and complex, presenting problems which go to the heart of notions of legal responsibility and have demanded solutions ever since the human race began to keep animals for its own purposes and to look to tribunals for the settlement of its disputes. For it is the animals, not the humans, who do the damage, and they have wills of their own. Yet taking it out on them, though it has in various societies and in various times been done, affords those whom they have harmed rather limited satisfaction. And the arrival on the scene of motor vehicles had added one more problem: hitherto there had been no reason why animals and humans should not share the highways on more or less equal terms. Although a modern law, the author argued, ought to be based on negligence, penetrating historical analysis[7] explained how and why so much liability without fault had survived.

Someone who could, in his mid-twenties, handle such a wide-ranging topic in so masterly a fashion was clearly going to be a jurist to be reckoned with, as a 1938 paper on the 'Foundations of Tortious Liability'[8] had also signalled. Two generations of grand old men (including his own research supervisor) had, he argued, all got it wrong. The law of torts was neither founded on a single general principle that was subject to exceptions, as some of them had concluded, nor was it, as others said, simply a host of single instances. Rather there were several general rules of, and also several general exceptions to, liability, together with stretches of disputed territory. A further sixty years of hard-fought debate, judicial and academic, has confirmed the accuracy of this analysis.

Plans for a year at the Harvard Law School were frustrated by the onset of war in 1939. He registered as a Conscientious Objector and, being (in the event unnecessarily) well-stocked with arguments for his

[5] The Syndics, having noted the receipt of several grants in aid of publication (and gravely underestimated sales) magnanimously agreed to bear 'the remaining losses'. At about the same time they agreed to publish David Knowles's *Monastic Order in England* only after his father, a successful businessman, had promised to underwrite the costs.

[6] Dean Cecil Wright of Toronto, *Canadian Bar Review*, 17 (1939), 613, 615.

[7] Which 'represents an important stage in the development of our knowledge' of the emergence of the action on the case: M. J. Prichard, *Scott v. Shepherd (1773) and the Emergence of the Tort of Negligence (Selden Society Lecture)* (1976), p. 35.

[8] *Cambridge Law Journal*, 7 (1939), 111.

interview with the tribunal, was without ado allotted to Civil Defence work and encouraged to continue teaching Law, which he was to do in the company of a handful of the elderly, the medically unfit, and of refugees from Germany. His jurisprudence lectures are remembered by its briefly sojourning students (and those of the evacuated LSE) as a bright spot in a muted Cambridge. He continued, too, to act as a 'Poor Man's Lawyer' (Legal Aid still lay in the future), and to help with the Society of Friends' club for refugees. No new university appointments were being made and when his Research Fellowship and University Assistant Lectureship expired in 1941, he combined practice at the Bar[9]—for the rest of his life he was to marvel at how little law many very successful barristers knew, and even then how often they got that little wrong—with ad hoc law teaching and, during the long vacations, work on a fruit farm.

Among the many legal problems exposed by the outbreak of war was the unsatisfactory state of the law governing contracts whose performance had for that or any other reason become impossible. It remained as the litigation engendered by the First World War had left it. Glanville edited, and added to, a monograph[10] written by one of his contemporaries as a research student who had returned to New Zealand to practise law there. And when the Law Reform (Frustrated Contracts) Act 1943 was enacted he wrote a Commentary on it,[11] which said, elegantly, almost all that has ever needed saying. 'No one who consults this commentary', wrote H. C. Gutteridge, 'can fail to be impressed by the depth of [the author's] learning and by the amazing versatility which he displays. Nothing seems to have escaped his attention. In fact [he] has at times allowed his flair for incisive criticism to get the upper hand of him so that it becomes a little difficult to distinguish between his expository conclusions and his views as to what Parliament ought to have done or the draftsman should have said.'[12]

Having shown his paces as both lawyer and legal historian, Glanville was next to demonstrate his skill as a legal philosopher. A five-part article, 'Language and the Law'[13] and a paper, 'International Law and the

[9] In Walter Raeburn KC's chambers in King's Bench Walk.

[10] R. G. McElroy, *Impossibility of Performance: a treatise on the law of supervening impossibility of performance of contract, failure of consideration and frustration*, ed. with additional chapters by G. L. W. (Cambridge, 1941).

[11] *The Law Reform (Frustrated Contracts) Act 1943* (1944) and *Modern Law Review*, 7 (1943), 66.

[12] *Law Quarterly Review*, 61 (1945), 97.

[13] *Law Quarterly Review*, 61 (1945), 71–86, 179–95, 293–303, 384–406; Ibid. 62 (1946), 387–406; supplemented by '*A lawyer's Alice*', *Cambridge Law Journal*, 9 (1946), 171–84.

Controversy concerning the word "Law"',[14] which, but for war-time publishing difficulties, might well have appeared together as a monograph, were the first serious attempt to apply the philosophical technique of linguistic analysis to law and jurisprudence. In the paper on international law, he sharply attacked the many jurists and international lawyers who had debated whether international law was 'really' law. They had been wasting everyone's time, for the question was not a factual one, the many differences between municipal and international law being undeniable, but was simply one of conventional verbal usage, about which individual theorists could please themselves, but had no right to dictate to others. This approach was to be refined and developed by H. L. A. Hart in the last chapter of *The Concept of Law* (1961) which showed how the use in respect of different social phenomena of an abstract word like 'law' reflected the fact that these phenomena each shared, without necessarily all possessing in common, some distinctive features. Glanville had himself said as much when editing a student text on jurisprudence[15] and he had adopted essentially the same approach to 'The Definition of Crime'.[16]

In 'Language and the Law', he ranged more widely, taking as his starting point C. K. Ogden's and I. A. Richards's *The Meaning of Meaning* (1923). He showed, with examples from a vast variety of legal rules and decisions, and references to a host of juristic debates, that the resolution of legal and jurisprudential questions called for careful attention not just to the different meanings and uncertainties attaching to almost all words, but to (at least six) different sorts of meaning, behind which value judgements almost always lie concealed. It was with these, rather than verbal distinctions and semantic issues, that the jurist should be primarily concerned. The mistakes of supposing, for instance, that abstract concepts could usefully be discussed otherwise than in regard to 'concrete referents', that law had an existence other than as a 'collection of symbols capable of evoking ideas and emotions, together with the ideas and emotions so evoked', that uncertainties in the meaning of words could be eliminated by technical legal definitions, that there were any 'single' facts to which single terms could be applied, and that distinguishing between the 'substance' and the 'quality' of a thing, or between a person's 'identity' and 'attributes' could resolve legal problems,[17] were all ruthlessly

[14] *British Yearbook of International Law*, 22 (1945), 146–63.
[15] Sir John Salmond, *Jurisprudence*, 10th edn. (1947), p. 33.
[16] *Current Legal Problems* (1955), 107–30.
[17] Elaborated on in a classic article: 'Mistake as to Party in the Law of Contract', *Canadian Bar Review*, 23 (1945), 271–92; 380–416. Later examples of this genre are 'Forgery and Falsity',

exposed, as was the claim of the extreme logical positivists that ethical, and therefore legal, statements were meaningless. As Hart said, 'these articles not only sweep away much rubbish, but also contribute much to the understanding of legal reasoning'.[18]

Many of their arguments were incorporated and developed in an edition of Sir John Salmond's classic student text-book on *Jurisprudence*,[19] many pages of which were extensively revised or rewritten, marking out ground which others were later to till. A key theme (sections IV–VI) of Hart's influential lecture, *Definition and Theory in Jurisprudence* (1953) was foreshadowed in the treatment of the juristic controversy as to whether legal corporations were to be regarded as 'real' or 'fictitious' persons.[20] Glanville's concentration on legal rules and rulings did, however, lead him to exaggerate the arbitrariness of ordinary linguistic usage, and so to underestimate the connections which underlie it, with the result that these writings had more influence among lawyers than philosophers.[21]

In 1945 his war-time connection with the LSE solidified with his appointment as Reader in English Law there. He became Professor of Public Law the following year. He did his duty by the title of his chair[22] with (among several other papers) a scathing denunciation of the shabby reasoning offered by the Law Lords for holding that William Joyce ('Lord Haw-Haw'), a United States citizen of Irish birth, owed allegiance to the British Crown, and so had committed treason when he broadcast for the Germans during the war.[23] And he wrote another elegant commentary on another reforming statute, the Crown Proceedings Act 1947,[24] in which Parliament had at last recognised both that the immunity of the Crown (i.e., government departments) from civil suit could no longer be justified, and that legal fictions were not the right way to the outcomes which justice required. His principal interest still

Criminal Law Review (1974), 71 (demonstrating the fatuity of a general offence of forgery) and 'The Logic of "Exceptions"' *Cambridge Law Journal* (1988), 261 (discussed at page 428 below).

[18] 'Philosophy of Law and Jurisprudence in Britain (1945–52)' *American Journal of Comparative Law*, 2 (1953), 354, 361.

[19] See above n. 15. The editor's alterations and rewritings are listed in Appendix V.

[20] Ibid. p. 330.

[21] Cf. J. Wisdom *Philosophy, Metaphysics and Psycho-Analysis* (Oxford, 1953), pp. 249–54, which show that Wisdom had not read the papers of which he was so critical with any care.

[22] S. A. de Smith's classic *Judicial Review of Administrative Action* (1st edn., 1959; 5th edn., 1999) began as a Ph.D. dissertation under his supervision.

[23] 'The Correlation of Allegiance and Protection', *Cambridge Law Journal*, 10 (1948), 54–76.

[24] (1948).

lay, however, in the darkest areas of private law. The immensely obscure and (as he demonstrated) gravely defective rules governing cases where a legal obligation is owed, or harm has been caused, by more than one person, were made the subject of two complementary treatises,[25] totalling over 700 pages, which half-a-century later had not been replaced. The 'great analytical and dialectical ability'[26] displayed in them was admired by judge[27] and jurist alike.[28]

It was not until the early 1960s that Glanville decided to devote himself single-mindedly to the criminal law. But it is in what Professor B. A. Hepple has described as his 'astounding' Inaugural Lecture as Quain Professor in 1951 on 'The Aims of the Law of Tort'[29] that his work in private law may be seen to culminate.

> This has never been bettered as an account of the social function or *raison d'être* of the law of tort, in particular the action for damages. . . . He concluded that there was a lack of coherence with the law . . . trying to serve a multiplicity of purposes but succeeding in none. . . .[30] The future student of the intellectual history of this branch of the law may place him at the end of one period of legal scholarship and the beginning of another. He brought the 'scientific' positivism of early twentieth-century scholars, such as Salmond and Winfield, to its apotheosis, but his utilitarian concerns with the wider purposes and policies of the law were a harbinger of the socio-legal revolution in legal scholarship which began in the late 1960s.[31]

III

Criminal Law: The General Part, first published in 1953, second edition 1963, stands high in the list of great books written about English law in the twentieth century.[32] It was another astonishing achievement, transforming scholarly and (rather more slowly) professional attitudes to its subject. The mapping of the territory was so comprehensive, the analysis

[25] *Joint Obligations. A treatise on joint and joint and several liability in contract, quasi-contract and trusts* (1949) and *Joint Torts and Contributory Negligence. A Study of Concurrent Fault in Great Britain, Ireland and the Common Law Dominions* (1951).
[26] Lord Wright, *Law Quarterly Review*, 6 (1951), 528.
[27] Lord Justice Denning, ibid., 66 (1950), 253.
[28] L. C. B. Gower, *Modern Law Review*, 13 (1950), 400.
[29] *Current Legal Problems*, 4 (1951), 137.
[30] *Cambridge Law Journal* (1997), 444–5.
[31] Ibid. 441.
[32] It was awarded the Ames Prize by Harvard University.

so penetrating, the critique so trenchant, and the prose, enriched with echoes of the Bible and the English classics, so lucid and so elegant. In over (in its second edition) 900 pages there is not a sentence that is obscure or ambiguous or superfluous. It has provided a programme for debate and further research which only now is beginning to be travelled beyond. Much of his own subsequent writing on the criminal law—including the innovatory *Textbook* (first edition 1978)—was devoted to developing, elaborating, and defending the principles propounded in *The General Part*, to which he adhered with remarkable consistency and, in almost all instances, well-warranted tenacity.

It is, first and foremost, its creativity and vision, its breaking out of the straitjacket of traditional legal categories, that makes *The General Part* such a great book. The masterly survey and description of the case and statute law, for which the rest of the common law world was scoured to supplement the rather sparse English material, was there to serve a higher purpose. For 'unfortunately, as has appeared only too plainly from these pages, there is no unanimity about anything in criminal law; scarcely a single important principle but has been denied by some judicial decision or by some legislation.'[33] Nor was the author much concerned to predict how future courts would respond to particular issues, for he took a dim view of the rough and unthinking ways in which 'the charmed circle of the judiciary' frequently resolved questions of criminal liability. Placing few bets he felt no need to hedge them. Rather, he set out to persuade his readers not that England had, but that it was possible for a common law jurisdiction like it to have, a criminal law that was fair and just because principled, internally consistent and rational (the criteria were professedly utilitarian which was why he thought a general 'lesser of two evils'—he called it a necessity—defence so important).[34] The discretions conceded to judges and juries (he profoundly distrusted both) had, therefore, to be kept to the minimum. The cases and statutes that stand in the way are identified, and the arguments for and against them deployed for the benefit of counsel, judges, and Parliament. The statutory reforms that are

[33] *Criminal Law: The General Part* (1953), p. 435; cf. also p. 130. All further page references are, unless otherwise indicated, to this (first) edition. For a fuller discussion see P. R. Glazebrook, 'Glanville Williams 1911–1997: Criminal Law', *Cambridge Law Journal* (1997), 445–55.

[34] pp. 567–87; 'The Defence of Necessity', *Current Legal Problems* (1953), 216; *Sanctity of Life*, pp. 286–7; 'A Commentary on *R v. Dudley and Stephens*', *Cambrian Law Review* (1977), 94; 'Necessity', *Criminal Law Review* (1978), 128. Its introduction, at his urging, into the Model Penal Code (Art. 3) has been said to represent 'a revolution in [legal] thinking': G. P. Fletcher, *Basic Concepts of Criminal Law* (New York, 1998), 142.

needed are then clearly indicated. The Benthamite Criminal Law Commissioners of 1833 and 1845, with their master himself (whose fondness for neologisms he shared) are, it is evident,[35] men after the author's own mind and heart.

Heart as well as mind. The aim was not intellectual tidiness for its own sake—though intellectual untidiness and the logical fallacy was always very shocking—but a criminal law that would operate less heavy-handedly, less discriminatorily, and be less susceptible to the gales of vindictive passion and emotion.[36] Legal argument was, of course, relished. But what lay behind the missionary zeal evident in all his writing about English criminal justice was his belief (for which *The Sanctity of Life and the Criminal Law* (1956) provides further extensive evidence) that, being entangled with the 'mystical' concept of retribution,[37] it was quite unnecessarily punitive. Far too often its enforcement did more harm—caused more avoidable human suffering—than it prevented, and to this the form of the substantive criminal law significantly contributed.

Judges were distrusted not just because they were frequently guilty of 'astonishing assumptions of legislative power'[38] but because they appeared 'convinced of the efficacy of punishment as medicine for all social divergences'[39] and adopted 'a crude retaliation theory, where the degree of punishment is linked rather to the amount of damage done than to the intention of the actor.'[40] So he always opposed the extension of the criminal law, either analogically or legislatively, to omissions to prevent harm.[41] The courts and the prisons were already overburdened with those who cause it; the need for them to deal also with those who failed to prevent it had never been demonstrated. And juries, those figleaves for which judges reach when embarrassed by the nakedness of their own reasoning, were not to be trusted to determine the limits of criminal liability since 'to entrust the defendant's liberty to a jury on these terms is not democracy; it is certainly not aristocracy; it is the despotism of small,

[35] e.g., pp. 28, 54, 65–6, 77, 108, 230, 242.
[36] p. 463.
[37] p. 458.
[38] p. 125; 'Statute Interpretation, Prostitution and the Rule of Law', in C. F. H. Tapper (ed.), *Crime, Proof and Punishment* (1981), p. 71.
[39] p. 90.
[40] p. 109.
[41] e.g. pp. 3–7, 477, 'What Should the Code do about Omissions?', *Legal Studies*, 7 (1987), 92; 'Letting Offences Happen', *Criminal Law Review* (1990), 780; 'Criminal Omissions—the Conventional View', *Law Quarterly Review*, 107 (1991), 86.

nameless, untrained, ephemeral groups, responsible to no one and not even giving reasons for their opinion'.[42]

The aim, therefore, was law that was as clear and certain as the best lawyers could make it, with the minimum of offences and these narrowly, rather than broadly, defined. And among *The General Part*'s many strengths, and an important factor in its persuasiveness, is its repeated demonstration, as the author confronts one question after another, that adherence to a few simple principles and to a consistent terminology reflecting them, would do a great deal to reduce the criminal law's unfairness, harshness, uncertainty, and irrationality.

The principles he found (and recommended) are these. The description of the prohibited occurrence must be seen as including all the legal rules relating to the offence save those concerning the defendant's fault.[43] For all offences that merit the name of crimes, including those where Parliament had been silent on the point, proof that the defendant intended or knew that he was or, at the very least might be, bringing about that occurrence so described should be required.[44] That an ordinary—a reasonable—person in the defendant's position would have realised that he was or might well be doing so supports an inference, but no more than an inference, that the defendant himself realised that. Such inferences are rebuttable by the defendant.[45] For those offences where there are good reasons for departing from the last two principles there should be liability only where the defendant was proved to be negligent.[46] Further, it is rarely, if ever, practicable for the criminal law to distinguish between the defendant who intended the occurrence that was prohibited and the defendant who knew that it was virtually certain that he would bring it about.[47] It is, on the other hand, often desirable to distinguish between such a defendant and one whose fault lies in knowingly taking an unreasonable risk of doing so, this (advertent recklessness) being a form of negligence.[48] The prosecution must prove both the occurrence and the

[42] 'Conspiring to Corrupt', in R. E. Megarry (ed.), *Law in Action* (1965), pp. 71, 76; 'Law and Fact', *Criminal Law Review* (1976), 472, 532; 'The Standard of Honesty', *New Law Journal* (1983), 636.
[43] pp. 15–16, 19.
[44] pp. 21, 59, 138.
[45] pp. 49–51, 77–81.
[46] pp. 29, 87–8; *The Mental Element in Crime* (Jerusalem, 1965) (hereafter *M.E.C.*), p. 59.
[47] pp. 35–9; *Sanctity of Life*, p. 286; *M.E.C.*, pp. 15, 24 and 'Oblique Intention', *Cambridge Law Journal* (1987), 417.
[48] pp. 59–62, *M.E.C.*, pp. 27, 29, 32 and 'Intention and Recklessness Again', *Legal Studies*, 2 (1982), 189.

required degree of fault beyond reasonable doubt.[49] The only significance to be attached, therefore, to the description of a matter as one of defence is that a defendant who invokes it may fail if he does not introduce some credible supporting evidence.[50]

It was not suggested that the courts always adhered to these principles—many a statement is carefully qualified by the phrase 'on the view advanced in this book' or by the word 'generally'—nor that adherence to them would produce fully nuanced moral judgements. All that was contended for was that these were the fairest and most practicable principles for law courts—human tribunals—to follow when what was at stake was liability to state-inflicted punishment. So judges should not pick and choose between the various elements of the prohibited occurrence because, once they started doing that, there was no point at which the slide to liability without fault could be halted.[51] It was, likewise, essential that advertent recklessness should be recognised as a distinct form of fault, for then there would be little reason for law enforcers to strive after any stricter liability.[52] Each principle had its place and its purpose in this carefully constructed scheme.

Much, if not all, of the scheme now sounds boringly orthodox. And, as is the fate of all orthodoxies, its principles are now being attacked by retributivist critics who, as they hanker after those that satisfied eighteenth- and early nineteenth-century lawyers, sometimes appear to forget that what the argument is all about is not only blame but liability to state-inflicted punishment, and the amount of it that should be ladled out. Deterrence and prevention being, in Glanville's view, the only moral justifications for punishing its citizens that were open to a state, the principles (and rules) of criminal liability should reflect that. This might mean an extension of the criminal law (for instance, to catch intending criminals at an earlier stage,[53] and even those who had made a big mistake,[54] or those who dealt in the proceeds of any sort of crime, and not just in stolen goods[55]). Or it might mean the widening of a defence (in favour, for

[49] pp. 77–81, 355, 691–719.
[50] pp. 173–4, 719; 'Offences and Defences', *Legal Studies*, 2 (1982), 189, and 'The Logic of "Exceptions"', *Cambridge Law Journal* (1988), 261.
[51] p. 159.
[52] Chap. 7, passim.
[53] p. 486; 'A Fresh Start with the Law of Attempt', *Cambridge Law Journal* (1980), 225; 'The government's Proposals on Criminal Attempts', *New Law Journal*, 80 (1981), 104, 128.
[54] pp. 487–503; 'Criminal Attempts—A Reply', *Criminal Law Review* (1962), 300, 'Attempting the Impossible—A Reply', *Criminal Law Quarterly*, 22 (1980), 49.
[55] p. 183.

example, of those who unwittingly furthered the enforcement of the criminal law[56]). But either way he was ready to argue for the changes that consistency with his view of the moral justifications for criminal liability and punishment seemed to him to require.

In 1953 the principles of liability for which he was contending were by no means orthodox, as *The General Part* itself, and a decade later, *The Mental Element in Crime* (1965) recognised. Other doctrines had not only historical but contemporary support: the latter coming from such powerful judicial figures as Lords Reid, Denning and, most pervasively, Diplock. They rejected a unitary view of the criminal occurrence, did not distinguish between intending and knowingly taking the risk of harm, saw no objection to convicting of serious crimes defendants who were not shown to have been anything worse than negligent, and allowed, where a statute said nothing about fault, no more than that a blameless defendant might go free if he proved that he had not been negligent.[57]

This debate about what Glanville justifiably described as 'the kindergarten part of the criminal law'[58] is not yet at an end. There are even those who question the validity and desirability of the very attempt to generalise.[59] The weakest points in his scheme were the failure to deal sufficiently with (though he touched upon), first, the problem presented when elements of a prohibited occurrence are described adverbially or adjectivally and, second, with applying uniform principles to statutes regulating so many different human activities—from being helpful to the King's enemies to misleading the public about one's medical qualifications—many of these statutes having been drafted without any regard to, or in ignorance of, those principles. And he was perhaps, just a little too ready to extract a 'common law principle' out of a decision interpreting and applying a particular statute.

Remarkably few of the issues of principle that have since come before appellate courts are not touched upon in *The General Part*, and very much more often than not these courts have sooner or later gone the way to which it pointed—albeit more quickly and readily in Canada, Australia, and New Zealand than in England, though even here there are some indications of a new and more liberal judicial generation, working in and

[56] p. 25.

[57] Lord Denning: *Responsibility Before The Law* (Jerusalem, 1961), passim; Lord Diplock: *Gould* [1968] 2 QB 65; *Sweet v. Parsley* [1970] AC 132, 163; *Hyam* [1975] AC 66; *Caldwell* [1982] AC 341.

[58] *M.E.C.*, preface.

[59] e.g., N. Lacey, 'Contingency, Coherence and Conceptualism', in A. Duff (ed.), *Philosophy and The Criminal Law: Principle and Critique* (Cambridge, 1998), pp. 9, 29–36.

stimulated by the bracing climate of the Human Rights Act 1998, being increasingly receptive of the principles for which the book contended.[60]

For the next forty years Glanville was to defend, reaffirm and exemplify the themes of *The General Part* in an unceasing stream of articles, as well as in its enlarged (by more than 200 pages) second edition and in the thousand page *Textbook of Criminal Law* (1st edition 1978; 2nd edition 1983), designed, in the first place, for undergraduate readers. Those themes were combined there with a highly critical survey of the law governing individual offences of personal violence and fraud. Such, however, was his continuing and overriding preoccupation with the fault needed for criminal liability that, somewhat oddly, he discussed it at length before considering the different sorts of occurrence for which that liability might be imposed. And reviewers pointed out (as they had forty years earlier[61]) that 'the line between description and prescription is not always as clear as one might expect from an author who takes Williams' evidently positivist line'.[62] But this is, of course, one of the reasons why his writings have proved to be so enormously influential.

The articles were frequently hard-hitting and a degree of irritation crept into some of the later ones. Most spectacular of all was the attack[63] on the House of Lords' decision[64] that someone who thought, mistakenly, that he was doing something which, if he had in fact been doing it, would have been a crime, did not commit an offence (of 'attempt'). It led the bruised Law Lords, as they sorrowfully acknowledged, to change their minds within a year and hold that such a criminally intentioned, but mistaken, person should indeed be convicted.[65] This was all the more remarkable since the issue is a difficult one, for though such a person is wickedly intentioned, nothing that is legally proscribed will have been either done or risked. Much, therefore, can be, and has been, written on both sides of the question, and courts around the world have reached different conclusions.[66] What carried the day was

[60] Notably in a remarkable trio of House of Lords' decisions: *R v. D.P.P.* [2000] 1 All ER 561; *K* [2001] 3 All ER 897; *Lambert* [2001] 3 All ER 577.

[61] Text at n. 12 above.

[62] N. Lacey, 'The Territory of the Criminal Law', *Oxford Journal of Legal Studies*, 5 (1985), 453, 454.

[63] 'The Lords and Impossible Attempts or *Quis Custodiet Ipsos Custodes?*', *Cambridge Law Journal* (1986), 33.

[64] *Anderton v. Ryan* [1985] AC 567.

[65] *Shivpuri* [1987] AC 1.

[66] The legislative history had been lengthy and contentious. The Law Commission had been in favour of liability, the Home Office's lawyers against it. Glanville's evidence to the House of

Glanville's exhaustive demonstration that distinguishing between a defendant who was trying to do what was factually impossible of achievement (whom nearly everyone agreed ought to be convicted) and one who was mistaken in other ways was forensically impracticable. This was but the latest occasion on which his critical analysis had deprived a decision of the House of Lords of all real authority.[67] Indeed, the abandonment of the quaint convention forbidding explicit reliance in argument or judgment on the writings of the living to which English courts were still adhering in the 1960s was due in some considerable measure to him. His writings were at the head of those that were just too formidable to be left unacknowledged.

Almost as much attention was devoted to the law governing the powers of the police, to the procedure followed at criminal trials, and to the admissibility (and exclusion) of evidence at them, as to the substantive criminal law, but his work here was never built into a grand treatise. Instead there is a shorter book, 'profound and thought-provoking',[68] *The Proof of Guilt* (1st edition 1955, 3rd edition 1963) based on his Hamlyn Lectures, together with over two dozen articles. These writings show him as keen to have laws which would ensure the conviction of the guilty as the acquittal of the innocent. For if the substantive law took the lean, utilitarian shape he believed it should, it would be absurd not to remove all obstacles to its effective and accurate enforcement.[69] This coolly rational approach to highly emotive issues was to bring the liberal-minded scholar some strange allies, and even stranger opponents. For here, too, he was, in the comprehensiveness and comparative sweep of his scrutiny of the rules, procedures, and institutions of the English criminal justice system, a pioneer, providing a stimulus for other scholars,[70] whose work in its turn generated much public debate which still continues, and to which he was himself, until well into his eighties, a prominent contributor.

Commons' Special Standing Committee persuaded it in favour of the Law Commission's (and his own long-maintained) view, but the draftsman of the Criminal Attempts Act 1981, though then instructed to do so, had still failed to deal adequately with the point. See P. S. Atiyah, *Pragmatism and Theory in English Law* (1987), 180–183.

[67] Earlier instances are *Joyce v. DPP* [1946] AC 347 (see n. 23 above); *DPP v. Smith* [1961] AC 290 after a turn over article in *The Times*, 12 Oct. 1960 and *Modern Law Review*, 23, 605; and *Shaw v. DPP* [1962] AC 220 after *The Listener*, 66, 275, 280.

[68] J. R. Spencer, *Cambridge Law Journal* (1997), 456.

[69] See Spencer's persuasive interpretation, ibid. 456–63.

[70] Notably Professor W. R. Cornish, *The Jury* (1968) and Professor Michael Zander (who was an undergraduate pupil), who has written extensively on the provision of legal services and on trial procedures.

There were—and are—many areas of concern. Professor J. R. Spencer has picked out[71] half-a-dozen of the most salient to which Glanville drew attention. First among them was the need for the police to be given power to detain suspects for questioning. This happened, of course—people were always 'helping the police with their inquiries'—but the practice could only be regulated if it was first legalised. These interviews should, however, he said, always be tape-recorded. Eventually the police came to see that this would be a protection not only for suspects against being manipulated, but also for the police themselves against defence allegations that a confession had been fabricated or obtained by improper means. A quarter of a century later the detentions were authorised, and the tape-recording required, by the Police and Criminal Evidence Act 1984. The requirement has transformed the nature of criminal trials.

Also attacked were the rules that during a trial forbade reference to, and comment on, a defendant's failure to offer any exculpatory explanation of the conduct for which he was being tried either when he was first arrested and charged or at the trial itself. These rules, like others which excluded relevant and credible evidence and were subjected to similar criticisms, flew in the face of human experience, were a bizarre shackle on the prosecution, and could be a trap for the innocent. Here it took even longer to overcome long-standing professional shibboleths, as the Criminal Justice and Public Order Act 1994 to a large extent eventually did.

There was, too, the inherent unreliability of an eye-witness's identification of a suspect, and therefore the need, here and elsewhere, for an effective system of appeal against a jury's findings. Parliament had long since been ready to grant this,[72] but the judges had dragged their feet, for fear of undermining the jury system. For if appellate judges move from overruling the decisions of other judges to overturning jurors' verdicts, who would take those verdicts seriously—why, indeed, should jurors take themselves seriously? It remains to be seen whether the Criminal Cases Review Commission established by the Criminal Appeal Act 1995 will enable this dilemma to be resolved.

Being more alert than most lawyers to technological developments,[73] Glanville also saw that many of the problems that arose when it was necessary to rely on the evidence of children could be met by video-recording it at the first opportunity, when the child's recollection would

[71] See above, n. 68.

[72] Criminal Appeal Act 1907.

[73] *The Textbook of Criminal Law* (1978) is believed to be the first law book printed in the United Kingdom directly from the author's disks.

be fresher and the surroundings less harrowing and intimidating than a court room many months later. A long campaign, which Spencer was to join,[74] led to the establishment of a government committee,[75] and the enactment in the Criminal Justice Act 1997 of some, though not all, of their proposals.

Excoriated, too, were the frequent departures made by Parliament, aided and abetted by the judges, from the principle that proof beyond reasonable doubt by the prosecution of the case it adduced required disproof beyond reasonable doubt of defences raised by a defendant. This, however, was a case that made no progress at all (except with the Criminal Law Revision Committee in its Eleventh Report (1982)) until the Human Rights Act came along. The Law Lords were then to find, and to acknowledge that they had found, in Glanville's oft-repeated view[76] that a statute requiring a defendant to prove some exculpatory matter should be read as requiring only that he should adduce credible evidence of it (which the prosecution would then have to disprove), the way to square the intransigence of the Home Office and other government departments, which Parliament had so constantly endorsed, with the protection given to the presumption of innocence by the European Convention.[77] Lord Cooke thought, indeed, that 'one could hardly ask for more than the opinion of Professor Glanville Williams' that such a reading was possible.[78] The argument, as deployed in 'The Logic of "Exceptions"',[79] is, characteristically, as bold as it is elegant and simple. The courts read the word 'prove' in a statute, even when occurring within the same section, as meaning 'prove beyond reasonable doubt' when it is the prosecution which is doing the proving, and as 'prove on a balance of probabilities' when it is the defendant. 'Having swallowed this camel, why strain at the remaining gnat', when 'the fate of individual human beings' is at issue, of reading it, as the presumption of innocence demands, as meaning 'adduce sufficient evidence to raise a reasonable doubt'?[80] For, as he exhaustively

[74] 'Child Witnesses', in Peter Smith (ed.) *Essays in Honour of J. C. Smith* (1987), p. 188; 'Videotaping Children's Evidence', *New Law Journal*, 137 (1987), 108; 'The Corroboration Question', ibid. 131; 'More About Videotaping Children', ibid. 369. 'Child Witnesses and Video-technology: Thoughts for the Home Office', *Journal of Criminal Law*, 51 (1987), 444, though published under Spencer's name, was really, he says, a joint effort.

[75] *Report of the Advisory Group on Video Evidence* (Home Office, December 1989).

[76] See above, n 50.

[77] *Lambert* [2001] 3 All ER 577.

[78] *R v. DPP ex parte Kebilene* [2000] 2 AC 326.

[79] See above, n. 17.

[80] p. 265.

demonstrated, there was no logic at all in the distinction, so often relied on by the courts, between a rule and the exceptions to it. It was merely a matter of the draftsman's (linguistic) convenience. 'Looking for the line between a rule and an exception is . . . like looking in a dark room for a black cat that isn't there'.[81] There is, in this judicial turn-about, an element of irony. For, as a Benthamite who like the master considered human rights to be 'nonsense upon stilts', and ever distrustful of the judiciary, Glanville had always been opposed to investing it with the power to overrule or rewrite Parliament's enactments. The judges, it has to be said, continue to express a higher regard for him, than he did for them.

IV

It will be apparent that Glanville's legal scholarship was not scholarship done just for scholarship's sake. As Hepple has said, 'he was an accomplished master of the precedents, he could dazzle with his powers of rational analysis, he could be irritatingly logical, but ultimately it was the social justification in modern society for any legal rule which mattered most to him.'[82] His scholarly work was, therefore, seen and almost invariably undertaken as a necessary preliminary to the improvement and reform of especially unsatisfactory or underdeveloped areas of the law, and for this reason it was zealously pursued. And when, as President of the Society of Public (i.e., University) Teachers of Law (1974) he set about transforming it from an (ineffective) pressure group and social organisation into a learned society, law reform was the theme he proposed for every subject section at the annual meeting. While writing *The General Part* he both served (inevitably) on the [Goddard] Committee on the Law of Civil Liability for Damage Done by Animals (which reported in 1953) and edited *The Reform of the Law* (1951) for the Haldane Society. The book advocated a 'Ministry of Justice' to 'keep the law under review' (which became the Law Commission's terms of reference). By far the longest chapter was devoted to the criminal law, and much of the agenda, it is reassuring to find, has been accomplished. The need for reform is, as has been said, a constant refrain of *The General Part*, and there is scarcely a reform proposal that has not been endorsed by some official body, often at his own prompting, either from within or without.

[81] p. 278.
[82] See above, n. 3 (445).

He lobbied vigorously for the establishment of the Criminal Law Revision Committee,[83] and for twenty-three years (almost all its effective life) was its mainstay and the source of many of its ideas.[84] About half the working papers that the Committee considered came from him. They were often very lengthy and closely detailed, and this, at least at first, irritated its judicial and practitioner members, but increasingly he gained their respect and attention, and persuaded them that they should meet all day, and not just after the courts rose, if they were to do the Committee's business adequately. He did not, however, always get his own way, though he was usually right. The Theft Act 1968 would have been a much less unsatisfactory measure if his advice had been followed. In the years 1971–5 he was also serving on the [Butler] Committee on Mentally Abnormal Offenders and on the Law Commission's working party on the Codification of the Criminal Law, a cause to which he was passionately devoted, and in which he, like Stephen,[85] was to be most grievously disappointed. When in 1967 the Commission, encouraged by an exceptional Home Secretary (Roy Jenkins), first espoused it, Glanville proceeded to draft a large part of a code to show how he thought it ought to be done. The Commission quailed before it. For the draft was lengthy, detailed and highly systematised, reflecting his belief that if the draftsman could foresee an eventuality—and he, of course, could think of a great many—then a rule should be provided to govern it. Thirty-five years, and more than a score of reports, consultation documents and working papers later very little has, for want of a directing mind with comparable vision, been achieved. One example of his drafting did, however, reach a statute book: Ireland's Civil Liability Act of 1961 in substance enacts the 'Suggested Codifying and Amending Measure' in chapter 22 of *Joint Torts and Contributory Negligence*.[86]

It was, perhaps, his many letters to *The Times*[87] in support of one legal reform after another which, like his *Third Programme* broadcasts, best displayed his consummate ability to go directly to the point and expound it to non-lawyers with great succinctness and total clarity. They were matched by 'the closely typed and closely reasoned memoranda which,

[83] *The Times*, 10 June 1952; 'Reform of the Criminal Law and its Administration', *Journal of the Society of Public Teachers of Law*, 4 (1958), 217.
[84] Sir John Smith, 'The Sad Fate of the Theft Act 1968' in W. Swadling and G. Jones (eds.), *The Search for Principle: Essays in Honour of Lord Goff of Chieveley* (Oxford, 2000), pp. 97, 98.
[85] See above, n. 1.
[86] See above, n. 25.
[87] A selection are printed in *Cambridge Law Journal* (1991), 1.

deaf to every rebuff, he regularly sent to every Minister, civil servant or M.P. who he thought might listen to his views.'[88] But his persistence and patience in law reform causes were nowhere more fully displayed than in the unremitting support he gave to the campaigns for the modification of the criminal law of abortion, and the legalisation of voluntary euthanasia.

He drafted all four parliamentary Bills (1952, 1961, 1965, and 1966) that preceded the one successfully promoted by David Steel in 1967, and he was a member of the widely based committee which Steel formed to advise him. Glanville disapproved, however, of many of the compromises which Steel made to secure the support needed for its enactment—notably, the dropping of the clause which referred expressly to the mother's incapacity to care for her child, and the requirements for a second medical opinion and notification to the Department of Health.[89] It was natural enough that the author of *The Sanctity of Life and the Criminal Law* should in 1962 have been elected President of the Abortion Law Reform Association, and he thereafter worked closely with its chairman, Vera Houghton, and the parliamentary sponsors of the unsuccessful Bills. But 'his views were always far ahead of those of the [Association's] other members' and he seemed 'indifferent and indeed almost unaware of the outrage some' of them caused.[90] As he had made clear at the 1963 AGM he favoured a law which would, quite simply, permit a registered medical practitioner to perform an abortion during the first trimester, and at any time in order to preserve the mother's life. A third of a century later even the most fervent pro-life campaigner would probably consider this preferable to the irrational and vague provisions of Steel's (now amended) Abortion Act and the wide-spread humbug and deceit to which they give rise. Glanville's own satisfaction at the 1967 Act's success in driving abortionists from the back streets was mixed with sadness that the medical profession had betrayed the trust placed in it by Parliament.

He wrote and spoke equally tirelessly for the amelioration of the law governing voluntary euthanasia and mercy-killing. His position here was similarly uncomplicated, if over-simple. If it was not unlawful to kill oneself there was, he thought, no good reason for it to be a crime to help someone who wanted to die to do so, and absurd that if he happened no longer to be able to put an end to his own life it should be murder

[88] Spencer, see above, n. 68.
[89] Hindell, Keith and Simms, Madeleine, *Abortion Law Reformed* (1971), pp. 133–41, 158, 175–8.
[90] Ibid., p. 119.

actually to kill him. (His wife, Lorna (née Lawfield), whom he had first met through a common friend from Bridgend when she was an undergraduate at Newnham College, and who made with him a true, and immensely supportive marriage of like minds that lasted for more than fifty-seven years, wishing to spare him the unceasing correspondence and the desperate—and despairing—telephone calls she had good reason to expect would ensue, did, however, persuade him to decline an invitation to become President of the Voluntary Euthanasia Society, which as one of its Vice-Presidents he long supported.) A deep interest in medical developments and a willingness to meet doctors in debate on their own ground was supported by wide reading in the current literature. Week by week *The Lancet* and *The Justice of the Peace* were scrutinised with equal care.

V

For lawyers who knew him only in his published writings, their image of Glanville was, no doubt, that of the unrelenting controversialist wielding the scalpel and sometimes the sabre. He certainly found it difficult to resist the temptation to put right a judge, or a fellow academic incautiously venturing into print. Pupils, colleagues and friends encountered a very different person who may also be glimpsed in *Learning the Law*. Written in less than a month in 1944 to meet the needs of students, many of whom were soon to return to their books after the interruptions of war, it combines penetrating insights and astringent comments on legal institutions with astute awareness of what bemuses the student and what he needs to know first, and it offers a host of practical tips on how to set about the whole business, conveyed with a sense of enthusiasm and a slightly conspiratorial air—the author was most definitely on the students' side—in language of marvellous lucidity. '"Rather unconventional" [the author] calls it, and the epithet is justified', commented Lord Macmillan. 'Nothing quite like this has been attempted hitherto.'[91] It was no wonder that it was on every reading list and that its publishers paid their highest royalties ever on it.[92]

Much time and thought was given to how law could be best taught and law students examined, considerable inventiveness was displayed in devising new ways of doing so—the potential here, as in the police sta-

[91] *Law Quarterly Review*, 61 (1945), 305.
[92] 11th edn., 1982 (this edition reprinted eleven times); 12th edn. (by A. T. H. Smith), 2002.

tion and the court room, of tape and video recorders was quickly grasped and utilised—and the methods of American Law Schools admiringly observed during periods as a Visiting Professor at several of them. He met, it must be said, with rather limited success in persuading his Cambridge colleagues to experiment, and with even less from an inveterately conservative student body. But he was never discouraged and he had, when Chairman of the Faculty, one lasting success: the introduction into the formal structures of the Law Tripos of undergraduate dissertations, seminars and short, examined, lecture courses on new and developing areas of the law. The *Textbook of Criminal Law* published in the year he retired from his Cambridge chair (1978), which marked a further advance in the scholarly treatment of the criminal law nearly as great as that made by *The General Part*, is constantly interspersed with the questions and comments of a critical and/or incredulous student, with its text divided in the manner of *Les Guides Bleu* between large ('what you mustn't miss') and small ('worth seeing if you have a bit more time') print, which shows him as concerned as ever with the learning problems of the law student.

Few of the Cambridge undergraduates whose studies he for a decade (1956–1966) directed at his Cambridge college then realised quite how great a scholar he was.[93] What struck them was his modest manner, the absence of any trace of condescension, the clarity of his exposition, and the simplicity and purity of his Socratic way of teaching. Intellectual idleness (among either dons or students) was the only failing that he found difficult to forgive. The undergraduates later discovered the trouble he had taken to see that the less as well as the more able among them were placed in suitable solicitors' firms and barristers' chambers. In the Faculty at large he was, as he had been in London, alert to identify, encourage and support those wishing to embark on an academic career—as several present members of the Academy have testified. He did not hesitate to back his own judgements against those of boards of examiners. For his colleagues there was an old world courtesy, thoughtful kindly consideration,

[93] His initial connection with the college was as its external assessor in the search for a Law Fellow to succeed Professor (Sir) Robert Jennings on the latter's appointment to the Whewell Chair of International Law. None of the three short-listed candidates, all of whom subsequently enjoyed careers of great distinction, succeeded however, in commanding the majority necessary for election. Faced with this impasse, Glanville, who had continued to live in Cambridge, hesitantly inquired of Jennings whether he thought it would be improper of him to say that if an invitation were extended he would himself be delighted to become a Fellow of Jesus. The candidates whom he had interviewed were, naturally, more than a little surprised at this outcome.

the notably patient hearing of them out, and only then the gentle criticism of their ideas. Uncompromising as he was on many ethical issues—in particular on abortion, euthanasia, population growth and sexual behaviour—and in his pacifism (which was held against him in Cambridge where the Law Faculty's most influential figures had served in one or both World Wars and also strongly disliked the extreme utilitarian views expounded in *The Sanctity of Life and the Criminal Law*), there was no hint of self-righteousness. He constantly inquired about the safety of a colleague's son sent to the Gulf War.

A total dedication to the life of the mind—the dinner table was an occasion for exploring a new idea or testing the arguments in a new book, not for gossip or idle chatter—the moral seriousness with which he approached every task, and a capacity to work tirelessly and seemingly effortlessly from morn to night, and to abstract himself from his immediate surroundings—he would read while walking in the country and he composed on his portable typewriter while commuting on the train from Cambridge to London—help to explain how a prodigious scholarly output was combined with so much committee work and public activity, without his ever giving the appearance of being busy or pressed for time. And as he approached his eightieth birthday he published articles that were as fresh, forceful, and compelling as anything he had written in the previous fifty years.[94]

His tastes and recreations were simple ones: the countryside[95]—and especially (earlier) sailing on the Broads and (later) canoeing down rivers (camping or B&B rather than a hotel). Second-hand Jaguar cars were driven sedately. Gadgets of all sorts fascinated. New card and parlour games—some with legal themes—were invented. The classical English poets and novelists were read aloud in the evenings with his wife.

He could be persuaded, just, to accept honours that came after the name. In his fifties, the Middle Temple made him a Bencher, and he was given Silk. There was an Honorary Fellowship from his college, and honorary degrees from half-a-dozen universities—including the special

[94] e.g., '*Finis for Novus Actus?*', *Cambridge Law Journal* (1989), 391; 'The Mens Rea for Murder: Leave it alone', *Law Quarterly Review*, 104 (1989), 387 (preferred by the House of Lords Select Committee on Murder to one by Lord Goff) and 'Criminal Omissions—the Conventional View', ibid., 107 (1991), 86.

[95] The reader of the *Textbook* is warned that although picking wild flowers is not theft she may nonetheless commit an offence under the Conservation of Wild Creatures and Wild Plants Act 1975, s.4 (as amended) by 'plucking a posy consisting of such listed plants as ghost orchid, alpine cow-thistle and oblong woodsia' (2nd edn. (1983), p. 735).

tribute for one of its own teachers of a Litt.D. from Cambridge in 1995—together with election as a Foreign Honorary member of the American Academy of Arts and Sciences (1985). But the knighthood offered on the recommendation of the Lord Chancellor and the Law Lords when he retired from his Cambridge chair was declined. Although Glanville was not, as his wife is, a member of the Society of Friends, he practised the Quaker virtues, and respected their values and customs. Deeply modest, he 'thought it incongruous that a man who had refused to wield a bayonet should theoretically bear a sword'.[96]

He died peacefully at home on 10 April 1997 at the age of 86.

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Note. The writer is most grateful to Glanville Williams's widow, Lorna Williams, and their son, Dr Rendel Williams of the University of Sussex, and also to Sir Roger Toulson, and Professors Kurt Lipstein, S. F. C. Milsom, and Sir John Smith for information and advice, as well as to Professors B. A. Hepple and J. R. Spencer with whom he joined in the tributes printed in *Cambridge Law Journal* (1997), 437–65. These have been heavily drawn on for this Memoir, as has the obituary he wrote for *The Society of Public Teachers of Law's Reporter* (Autumn 1997), 23–5. There is a (nearly) complete and indexed list of the published writings to 1977 in P. R. Glazebrook (ed.), *Reshaping the Criminal Law: Essays in Honour of Glanville Williams* (1978), pp. 449–68. A supplement to 1997 is available from the writer.

[96] Spencer, *Cambridge Law Journal* (1997), 439.