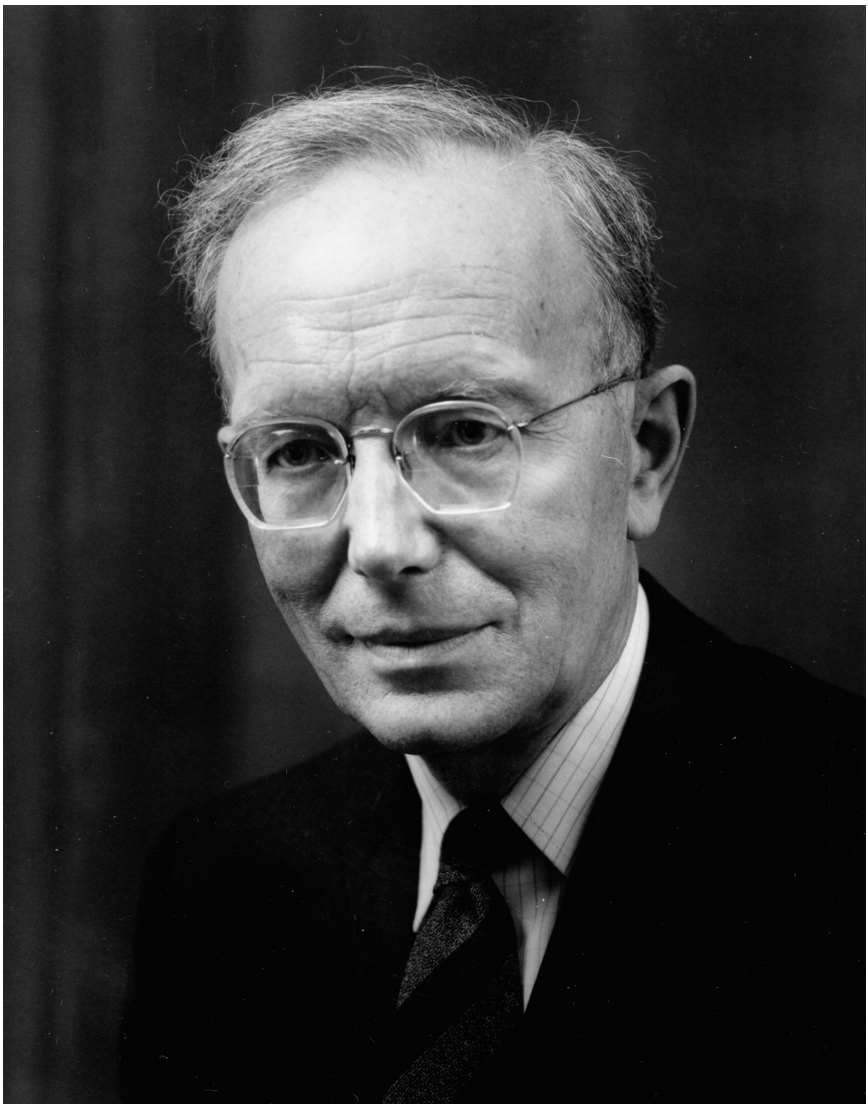

BILL WADE

Henry William Rawson Wade
1918–2004

I

SIR WILLIAM WADE, known to his friends and colleagues as 'Bill', died on 12 March 2004 at the age of 86. His obituary in *The Times* stated that 'he dominated two diverse areas of law, real property and administrative law, by writing the textbooks that became a source of first reference for students, scholars, practitioners and judges'. While he was the leading academic land lawyer of his generation, he will principally be remembered as one of the two scholars who did most to revitalise our administrative law during the twentieth century. The other, Stanley de Smith, died at the early age of 51 in 1974.[1] Wade's scholarly career lasted over sixty years, and he remained active into his eighties. He wrote with penetrating clarity and an elegant and memorable turn of phrase, often expressing himself in trenchant terms. He did this both when grappling with the technicalities of property law and, in the heady atmosphere of constitutional principles, with the respective roles of executive government and the courts. Lord Denning said that Wade's 'felicitous presentation of complex problems is beyond compare'.[2] This was in part the result of the certainty of his intellectual vision.

Wade's work has meant that principles of judicial review, more or less dormant in the common law, or seen as what he described as a 'Tennysonian wilderness of single instances', were rediscovered and reactivated to address the questions thrown up by the role of the modern

[1] See H. W. R. Wade, 'S. A. de Smith', *Proceedings of the British Academy*, 60 (1974), 477, 478.
[2] Letter to HWRW, 1 Nov. 1988, on receipt of the 6th edition of *Administrative Law.*

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administrative state. Wade was a believer in the common law and equity rather than in statute, thinking, for example, that it was for the courts to regenerate administrative law and that the old equitable doctrines achieved fairer results than the Land Charges Act.

Bill Wade was born in London on 16 January 1918, the son of Colonel H. O. Wade, a solicitor. He was educated at Shrewsbury School. In 1936 he was awarded a major Classics scholarship by Gonville and Caius College, Cambridge, the college in which he spent the last twenty-eight years of his life, as Master between 1976 and 1988, and thereafter as a Fellow. After obtaining a First in Part 1 of the Classics Tripos in 1937 after one year rather than the usual two, he switched to Law. He obtained a First in Part 1 of the Law Tripos in 1938, and a starred First in Part 2 in 1939. His success in the Tripos led to a Cholmeley Scholarship at Lincoln's Inn and a Tapp postgraduate scholarship at Caius. As an undergraduate he was a keen oarsman, and as Master he made a formidable sight urging on the Caius eights from his enormous bicycle on the towpath. His later passion for mountaineering may have had its origins when, in 1937, as a 19-year-old, he climbed the Wildspitze in the Otzal Alps.

Wade spent part of 1939 and 1940 as a Henry Fellow at Harvard. During the war he was a temporary officer at the Treasury, stationed for much of the time in Washington DC. It was in the United States that he met his first wife, Marie Osland-Hill, born in Beijing of British parents, who graduated from Swathmore College in 1940.[3] They married in 1943 and had two sons, Michael, who after post-doctoral work in experimental physics worked on technology exploitation and product development, and Edward, a metallurgist by training. Only one of his direct descendants, his granddaughter Marianne, a post-doctoral researcher in European criminal law at the Max Planck Institut in Freiburg, has a link with the law.

In 1946 Wade left the Treasury, was called to the Bar, and was elected to a Fellowship of Trinity College, Cambridge. Thereafter, his career fell into four roughly equal parts. The first was in Cambridge from 1946 to 1961, from 1947 as a lecturer in the Law Faculty and from 1959 as a Reader. Perhaps as a result of his experience working for the Treasury during the war, he became part-time assistant to Trinity's Bursar, T. C. Nicholas. A colleague has said that he was sure the college hoped Wade would succeed Nicholas. Wade, however, decided to stay with the law, and the college elected John Bradfield, an outstandingly successful Bursar.

[3] She had an American step-mother.

The second part of Wade's career was in Oxford. He moved there in 1961 at the age of 43 as the first holder of a new chair of English Law and a Fellow of St John's College. He told Francis Reynolds, a Faculty colleague, that this was his last move and he expected to play out his time in Oxford. While his return to Cambridge in 1976 as Master of Caius was not a surprise, his departure was regretted. In 1978 he succeeded Glanville Williams as Rouse Ball Professor of English Law. He retired from the chair in 1982 and from the Mastership in 1988. His retirement from the Mastership marked the beginning of the last part of his career, in which he was active and productive until not long before his death.

II

The foundations for Wade's later contribution to administrative law were laid during his time at Trinity. C. J. Hamson, then Director of Studies, persuaded him to teach it and constitutional law, and writing soon followed the teaching. In two important articles he argued for a broader approach to the principles of natural justice which required a fair hearing be given to those who were to be the subject of a decision by a public body.[4] He lamented the toleration by the courts in this period, which he described as 'the twilight of natural justice', of what he saw as unfair administrative procedures, and wrote about the defects in procedures at planning inquiries.[5] Almost two decades before the Law Commission recommended the simplification of the ancient prerogative remedies,[6] Wade argued for procedural reforms to enable them to continue to play a part in the control of administrative powers in the modern state.[7]

Wade must have largely completed his text on *Administrative Law* in Cambridge although it was not published until after he moved to Oxford in 1961. In Cambridge the family lived in Barrow Road. He constructed ingenious gadgets for the house and garden, made a working model of a railway engine for his sons, and was a keen gardener. Marie shared the

[4] '"Quasi-judicial" and its background', *Cambridge Law Journal*, 8 (1949), 216; 'The Twilight of Natural Justice', *Law Quarterly Review*, 67 (1951), 103. See also *Cambridge Law Journal*, 12 (1954), 154.

[5] *The Times*, 23 Dec. 1954; *Solicitors Journal*, 99 (1955), 19; 'Are Public Inquiries a Farce?' *The Listener*, 25 Aug. 1955.

[6] *Report on Remedies in Administrative Law* (1976) Law Com No. 73, implemented by SI 1977 No. 1955.

[7] 'The Future of Certiorari', *Cambridge Law Journal*, 16 (1958), 218.

latter interest and did much of the lighter work, as she did after their move to Oxford at their house at East End, near North Leigh. Wade also kept up his interest in rowing, going out regularly with Tony Jolowicz, a younger Trinity colleague and former pupil.

Wade's growing reputation led to invitations to lecture abroad, including lecture tours for the British Council in Scandinavia in 1958 and in Turkey in 1959. This period also saw conspicuous public service, from 1958 as one of the inaugural members of the Council on Tribunals (on which he served until 1971) and as a member of the JUSTICE inquiry set up in 1960 which proposed the establishment of a British Ombudsman.[8] The proposal was largely enacted in the Parliamentary Commissioner Act 1967.

It can, however, be argued that during this period Wade made his principal contribution in constitutional law and land law. His seminal article 'The Basis of Legal Sovereignty' was published in the November 1955 edition of the *Cambridge Law Journal*. This restated in a modern form A. V. Dicey's concept of Parliamentary sovereignty, taking on Dicey's many critics, in particular Jennings, Keir and Lawson, and Cowen. It was controversial and some of its propositions were ultimately rejected by the courts. But it has had a fundamental influence on the study of constitutional law. The arguments Wade first expressed in it have also been important components in wider debates about the concepts of sovereignty and the source of legal power at times of constitutional change. This became particularly evident in the debates about the legal implications of the United Kingdom's membership since 1972 of what is now the European Union. It was also seen in the discussion of the nature of legislation passed without the assent of the House of Lords under the Parliament Acts.

Wade argued that:

> The rule of judicial obedience [to Parliament] is in one sense a rule of common law, but in another sense . . . is the ultimate political fact upon which the whole system of legislation hangs. Legislation owes its authority to the rule: the rule does not owe its authority to legislation.[9]

For Wade 'the relationship between the courts of law and Parliament is first and foremost a political reality': sovereignty is a political fact which is acknowledged and recognised by the courts. The rule of common law which says that the courts will enforce statutes is 'a rule which is unique

[8] JUSTICE, *The Citizen and the Administration, The Redress of Grievances* (1961).
[9] *Cambridge Law Journal*, 13 (1955), 172, at p. 188.

in being unchangeable by Parliament—it is changed by revolution, not by legislation; it lies in the keeping of the courts, and no Act of Parliament can take it from them'.[10] It is thus ultimately the courts which determine the seat of sovereignty. When faced with great changes, the courts have to decide for themselves what they will recognise as the proper expression of sovereign legal power.

The article attracted considerable attention and generated correspondence between him and leading scholars. Only the Canadian, D. M. Gordon, was convinced by it.[11] Wade's argument that laws made under the Parliament Act 1911 are to be classed as delegated legislation, was doubted by Arthur Goodhart, whose doubts were vindicated forty-eight years later in the context of the Hunting Act 2004.[12] Stanley de Smith and Herbert Hart described the article as the best defence of the classic conception of Parliamentary sovereignty, but did not agree that no statute can alter or abolish the rule.[13]

The correspondence between Wade and Hart, since 1952 the Professor of Jurisprudence at Oxford, is particularly interesting. In his first letter Hart said he agreed with what Wade said about the 'fundamental rules upon which the legal system depends' but that Wade then fell into a logical error in arguing that because fundamental rules are not created by legislation they cannot provide for their own transformation by legislation. This was like saying that because a man cannot create himself so he cannot kill himself. Wade accepted that the fundamental rule could provide for its own modification by statute but said he had probably not stated this because what he had in mind was the authority behind the rule rather than its content.[14] Wade later added that what interested him was how the legal system is to provide itself with a new basic rule after cutting itself off from its old basic rule and the source of the new rule.[15]

Wade considered Hart was taking the source for granted and assuming a complete and settled legal system in which all fundamental rules are already in existence, so that the task of ascertaining them was merely one of deduction or interpretation in the ordinary legal way. He considered that the *grundnorm* analysts were logically right in saying that a *basic rule* differs from legal rules generally in having a political, not a legal, source.

[10] Ibid., at p. 189.
[11] DMG to HWRW, 18 Jan. 1956.
[12] *R (Jackson) v Attorney-General* [2006] 1 AC 262.
[13] SAdeS to HWRW, 9 Dec. 1955; HLAH to HWRW, 15 Dec. 1955.
[14] HWRW to HLAH, 19 Dec. 1955.
[15] HWRW to HLAH, April 1956, in reply to a letter from Hart dated 30 Dec. 1955.

The last letter on this topic in Wade's correspondence file is a holding reply from Hart stating that he would defer replying fully until he had rethought a bit. He considered careful description was needed of what it was for a *grundnorm* to change and also that there must be some criteria for distinguishing non-revolutionary changes from revolutions.[16] It is worth recalling that Hart's account of the 'rule of recognition' in his *Concept of Law,* published in 1961,[17] rests on a similar conception of 'political fact' to Wade's conception of legal sovereignty.[18]

In 1972 when the Bill that became the European Communities Act 1972 was before Parliament, Wade wrote an important article in *The Times* entitled 'The Judges' dilemma'.[19] He wanted to explain why the impending loss of sovereignty loomed large in the speeches of the opponents of membership, but was played down by the government which argued that the proposed legislation involved nothing constitutionally out of the ordinary. Wade argued that while there would be a loss of *practical* sovereignty there would be no loss of *legal* sovereignty. He stated that the government could justifiably claim that Parliament's ultimate authority would remain unimpaired: the attempt in the Bill to make Community law prevail over future Acts of Parliament was 'useless' because it fell 'foul of the classic principle of Parliamentary sovereignty'. Wade suggested that the technical problem could be avoided and we could 'show that we intend both to be good Europeans and, at the same time, to preserve Parliament's ultimate sovereignty' by altering the form of Acts of Parliament to provide that they were subject to Community law. His suggestion was not taken up.

At that time some lawyers argued that the judges might spontaneously accept Community law as paramount, even in opposition to later Acts of Parliament. Although Wade's 1955 article had recognised that the judges *could* choose to do this, he said if they did do so this would be 'a true revolution, a shift in the political basis of the legal system'. For this reason his *Times* article described the argument as 'a political prediction which no purely legal argument can justify, and which most lawyers would regard as somewhat fanciful, at present at any rate'. Qualifications such as that in the last phrase were not characteristics of Wade's writing, but this one was appropriate. Less than twenty years later, in 1991, the House

[16] HLAH to HWRW, 10 April 1956.
[17] Ch. 6. There are references to Wade's article in the endnotes at pp. 247 and 250.
[18] See T. R. S. Allan, 'Parliamentary Sovereignty: Law, Politics, and Revolution', *Law Quarterly Review*, 113 (1997), 443.
[19] 18 April 1972, p. 14.

of Lords, in the second *Factortame* case,[20] in effect held that Parliament had indeed bound its successors on European Community law so long as the United Kingdom remained in the EC. Their Lordships, and in particular Lord Bridge, stated that the situation was 'in no way novel'. Also, that by passing the 1972 Act Parliament voluntarily accepted a limitation of its sovereignty. They did not recognise in their speeches that there was any problem of a constitutional kind.

Some considered that what was done in the *Factortame* case was achieved by way of statutory construction under ordinary principles.[21] Wade disagreed. He retorted that if what was done was 'not revolutionary, constitutional lawyers are Dutchmen'[22] and that 'Parliament's powers had suffered a seismic change'.[23] Wade also said this was an example of the ability of the constitution to bend before the winds of change, which he considered 'in the last resort it will always succeed in doing'.[24] In saying this he appears closer to those scholars who consider that the *Factortame* case determined what the existing constitutional order required in novel circumstances.[25]

Wade's writing on land law in the late 1940s and early 1950s did much to develop it as a subject of academic discourse. His articles on licences and equitable mortgages, and on the effect of the land charges legislation[26] showed his view, expressed a decade later in a letter to Lord Denning, that 'the Land Charges Act was a bad piece of legislation and that the old doctrines of equity produced much fairer results'.[27] These were, however, the offshoots of what was his principal project during this period. That was to write a treatise on land law in collaboration with Sir Robert Megarry. *Megarry and Wade's Law of Real Property*, first published in 1957, was founded on a manuscript from which Megarry's

[20] *R v Secretary of State for Transport, ex p. Factortame Ltd.* (No. 2) [1991] 1 AC 603.
[21] P. P. Craig, 'Sovereignty of the United Kingdom Parliament after Factortame', *Yearbook of European Law*, 11 (1991), 221; Sir John Laws, 'Law and Democracy', *Public Law* (1995), 72.
[22] 'Sovereignty—Revolution or Evolution?' *Law Quarterly Review*, 112 (1996), 568, at p. 573. He had revisited it in 1980 in his Hamlyn Lectures, see below.
[23] Ibid., at 574.
[24] Ibid., at 575.
[25] T. R. S. Allan, 'Parliamentary Sovereignty: Law, Politics, and Revolution, *Law Quarterly Review*, 113 (1997), 443; J. M. Eekalaar, 'The Death of Parliamentary Sovereignty—A Comment', *Law Quarterly Review*, 113 (1997), 185.
[26] 'What is a Licence?' *Law Quarterly Review*, 64 (1948), 57; 'Licences and Third Parties', *Law Quarterly Review*, 68 (1952), 337; 'Effect of statutory notice of incumbrances', *Cambridge Law Journal*, 12 (1954), 89; 'An Equitable Mortgagee's Right to Possession', *Law Quarterly Review*, 71 (1955), 204; 'Land charge registration reviewed', *Cambridge Law Journal*, 14 (1956), 216.
[27] HWRW to Lord Denning, 20 Dec. 1966.

earlier *Manual of Real Property* had been drawn. It was, however, a larger and deeper work, and soon became acknowledged as the land lawyer's Bible. It remained under their distinguished joint authorship for four more editions. One of his law colleagues at Trinity states that at the beginning of the 1950s Wade was principally working on Megarry and Wade. He remembers two copies of the *Manual* were cannibalised and Wade's room filled with enormous sheets of paper, each with a page of the *Manual* pasted in the middle in the manner of *Coke on Littleton.*

III

With hindsight, Wade's move to Oxford in 1961 may appear to have had something inevitable about it. Even in those less specialised times, his combination of interests in public and private law was noteworthy. His expertise in land law and administrative law strengthened the Oxford Law Faculty. He had published extensively in the *Law Quarterly Review,* then edited by Arthur Goodhart, Master of University College, and his forthcoming book on *Administrative Law* had been commissioned for the influential *Clarendon Law Series* by Herbert Hart.

During his Oxford years the seeds he had planted in Cambridge bore fruit. There were two editions of the *Law of Real Property*, the classic third edition of 1966 and the fourth edition in 1975, and three editions of *Administrative Law*, in 1961, 1967 and 1971. There were also many articles and notes, the latter often in the *Law Quarterly Review.* At that time it was difficult to detect a preference on his part between real property and administrative law. Indeed the 1962 *Law Quarterly Review* contains an important article on each subject by him, his inaugural lecture, 'Law, Opinion and Administration',[28] and an article, 'Landlord, Tenant, and Squatter', on adverse possession.[29] The latter bore two of his fingerprints; it was a scathing critique of a decision of the House of Lords, and it was right. In 1968 and 1969 Wade gave a roughly equal number of lectures on each subject. Although he did not fill a room as David Daube and Otto Kahn-Freund did, he had what was by the standards of the Oxford Faculty at that time a very respectable audience. His lectures were precise, clear but rather dry.

[28] *Law Quarterly Review*, 78 (1962), 188.
[29] Ibid., at p. 541.

Wade did his fair share of administration including two years as chairman of the Faculty Board. He was a successful Secretary of the Law Club, a dining club of Oxford law dons and Oxford educated judges. He is reported to have said that the primary differences between Oxford and Cambridge were small, but the secondary differences great. Within the Faculty, some thought that although he was well-intentioned, he did not really grasp the secondary differences.

In St John's, Wade was well-liked and quite active. The College was pleased to have secured such a distinguished first holder of the Chair and was quick to elect him an Honorary Fellow in 1976 when he returned to Cambridge. Presidents found him a very good source of legal and practical wisdom. Perhaps as a result of his experience as assistant to Trinity's Bursar, he suggested changes in the College Statutes in the area of trusts and property holding which have stood the College in good stead. He was particularly supportive of the efforts of Mark Freedland, who became the Law Tutor in 1970, to revive St John's law from the sorry state in which the previous tutor had left it. In Freedland's early days, Wade gave some helpful and memorable revision classes to the finalists. Bill and Marie Wade were also prominent (without being obtrusive) on the Oxford social scene. They entertained in the old style, and Marie also organised coffee mornings and the like for faculty wives.

In 1964 Wade was elected an Honorary Bencher of Lincoln's Inn, an honour he attributed to Lord Denning.[30] His contacts there gave him enormous social pleasure and intellectual nourishment. He enjoyed the exchanges with judges and senior barristers. Many were also invited to dine with him in Oxford, and later in Cambridge. His files suggest that it was during the mid-1960s that he started to correspond with senior members of the judiciary and lawyers in this country and abroad. In these ways he built up a formidable network with whom he discussed the legal issues of the time. He remained a great feast-goer into his late seventies, with an iron constitution and greater stamina for these occasions than many considerably younger than himself.

Administrative Law was presented 'in the form of a general discussion rather than in the cut and dried form of a textbook'.[31] For Wade, administrative law is the law relating to the control of governmental power and largely consists of general principles of judicial review. The book puts the courts rather than administrative process at the centre of the subject and,

[30] HWRW to Lord Denning, 20 Dec. 1966.
[31] Preface to 1st edn., at p. v.

while alive to the wider constitutional context, and aware of the particular administrative context, is less sensitive to the latter. In part this was because Wade considered that the cause of the dismal state of British administrative law in the middle of the twentieth century was the dispersal and fragmentation of material. He gave administrative law a unity and an internal anatomy of its own. His concise statement of principle and clarity meant that the book was soon regarded as a classic. It has had an enormous influence on legal thinking, not only in this country and the Commonwealth, but in many other countries. It has been cited on innumerable occasions, and has been translated into Italian, Spanish and Chinese. What started as a 'slim volume of fewer than 300 pages'[32] is now, in its ninth edition, over 1000 pages and a major treatise. The 1977 edition at over 850 pages could no longer be part of the *Clarendon Law Series*. Wade described it as only 'nominally' a fourth edition of his present book on the same subject.[33]

In his inaugural lecture at Oxford Wade argued that it was possible for the courts to develop the principles of judicial review without improper judicial law-making. 'The materials handed down by previous generations of judges supply all the right raw material.'[34] The courts soon responded with landmark decisions extending the circumstances in which the principles of natural justice required an administrative body to give a person a hearing in 1963, the limits of executive discretion in 1967, and the power of courts to control errors of law by administrative bodies, even where statute appeared to exclude judicial review, in 1969. In January 1967 in a letter to Lord Denning Wade said:

> I feel that Administrative Law is now really getting going at last. But most important things still seem to hang by a hair. Five of the nine judges concerned with *Ridge* v. *Baldwin*[35] were against natural justice, but fortunately the three Lords decided in favour.

His public work continued with membership of the 1966 Royal Commission on Tribunals of Inquiry chaired by Lord Justice Salmon.[36]

[32] Preface to 7th edn., at p. v.
[33] HWRW to Secretary-General of Cambridge University, 1 March 1977.
[34] 'Law, Opinion and Administration', *Law Quarterly Review*, 78 (1962), 188, at p. 198.
[35] [1964] AC 40. Lord Reid's critical questioning of Desmond Ackner QC, counsel for the appellant, led Ackner to consult Wade on the distinction between 'judicial' and 'administrative' acts. Wade cancelled an outing to the theatre, worked on Lord Reid's questions overnight, and provided Ackner with the answers to them before the next day's hearing.
[36] HMSO Cmnd 3121, Nov. 1966.

He was appointed Queen's Counsel in 1968 and elected a Fellow of the British Academy in 1969.

Wade had his critics, in particular those who favoured a more contextual approach and those who favoured less judicial intervention. They sometimes expressed themselves in extravagant language, but he was tolerant in his dealings with them. While strongly supporting a wide judicial review jurisdiction, Wade always showed concern about its proper scope, for instance disapproving of the review of non-binding guidance and arguing that if the judges claim more than their due share of constitutional power, nemesis may be in store. A former research student, Professor Mark Aronson of the University of New South Wales, considers Wade was far more politically astute than many of his detractors ever began to acknowledge.

The success of *Administrative Law* ensured him a warm welcome in many countries but especially within the common law world of the Commonwealth and the United States. He lectured widely, particularly in India, in Delhi in 1971 and 1982 and in Madras in 1974, where his Chettyar lectures comparing the protection of fundamental rights in India and the United Kingdom, attracted a crowd of 2,600. In a letter to Lord Justice Salmon he observed that academic work 'reaches so few people in this country (it is otherwise in India, and even in Nepal, where I was surprised to discover how notorious I am).'[37]

Wade's 1961 Cooley Lectures at the University of Michigan, published in 1963 as *Towards Administrative Justice*, were an attempt to explain British administrative law and its potential in the absence of any constitutional safeguards to an American audience. In 1969 he was a member of the third Anglo-American Legal Exchange. Led by Lord Diplock and Judge Henry Friendly, of the US Court of Appeals, Second Circuit, the exchange was productive. It resulted in *Legal Control of Government* (1972), by Wade and Bernard Schwartz of New York University, which compared the systems of the two countries. In 1981 Wade wrote to Lord Diplock saying his approach to standing in the *Fleet Street Casuals* case, in what Wade described as a 'bold and enlightened speech', brought back memories of their discussions on the exchange.[38] The exchange also fostered friendships. Sir Nigel Bridge, then a High Court Judge but later a Lord of Appeal in Ordinary, became a close friend.

[37] 16 Jan. 1971.
[38] 13 April 1981. Lord Diplock replied on 14 April 1981.

Wade also made a significant contribution to comparative law by his editorship of the *Annual Survey of Commonwealth Law* between 1965 and 1976. Launched under Wade's leadership by the Oxford Law Faculty and the British Institute of International and Comparative Law, with financial assistance from the Ford Foundation and All Souls College, the *Annual Survey* reviewed developments in major areas of the law in every Commonwealth jurisdiction. It was aimed at 'lawyers who wish to discover how far the law of other countries can throw light on their own local problems', and reflected and sought to foster Wade's belief in the unity of the common law. Legislative developments were covered but the emphasis was on case law.

Wade and his assistant editor, first Barbara Lillywhite, then Fellow of St Anne's, and later to marry Stanley de Smith, and then Captain Harold Cryer, formerly Chief Naval Judge-Advocate, enlisted members of the Oxford Law Faculty and others to provide chapters or sections of chapters. Contributors were provided with the raw material for other countries but expected to know about developments in the UK jurisdictions and to give them less prominence. During the summer vacation contributors could be identified in the Bodleian Law Library by the slips of paper with the summary details of recent statutes and cases they carried as they did the research.

By 1975 the circulation was dropping and the Ford Foundation grant had not been renewed. After 1972 when the United Kingdom joined the European Community, it was perhaps understandable that there was a shift of interest from Commonwealth law to European law. The original publishers, Butterworths, gave up in 1975 and Oxford University Press took over. In 1976 Wade left Oxford and Captain Cryer was ready to retire (he died not long after he did so). The decision was made to cease publication and John Finnis, assisted by Charlotte Beatson, edited the last, 1977, volume of the *Survey*. The view that there was a unity to the common law of the Commonwealth at the level of principle was probably outdated even in 1965. It should not, however, be thought that the *Annual Survey* was no longer relevant in 1977. The early manifestations of what have since been identified as 'globalising' influences existed, and there was a role for comparative Commonwealth law. In 2001 the Oxford Law Faculty and University Press returned to the area with the *Oxford University Commonwealth Law Journal*.

Wade was also an early advocate of the incorporation of the European Convention on Human Rights. In 1974 he stated that it was 'lamentable that our domestic law of fundamental rights is not raised at

least to the level of our international obligations' and that the gap between them should be closed by enabling the European Convention to be enforced in British courts.[39] He would later argue that rights under the Convention existed not only against the state, but against private citizens and companies.

IV

In 1976 Wade returned to Cambridge as Master of Caius. He firmly, but diplomatically, guided the College in its decision to admit women. Joseph Needham, his predecessor, had not persuaded a sufficient number of the Fellows to agree to the change of statute required and the matter was to come before the governing body soon after Wade assumed office. He judged that some action on his part was required and wrote to all Fellows saying that his personal instincts were against change but that as there was a clear, if not statutory, majority in favour of change, he intended to vote for the change. The dissenters and the doubters were apparently disarmed by this and the statute was changed.

Wade continued writing his books and articles, with the fourth and fifth editions of *Administrative Law* published in 1977 and 1982, and the fifth edition of *Megarry and Wade* in 1984. He left the College officers to manage its day-to-day business as they thought fit, but without leaving any doubt as to who was in charge. As well as his enthusiastic support of the College eight, he endowed travel scholarships to enable undergraduates to share his passion for travel. He and Marie brought their gardening skills to the Master's Garden. He had found it neglected and overgrown with bracken and, early on his first day as Master, was seen 'shifting the broken ground with sturdy stroke'.[40] He was strongly opposed to the suggestion, made after he retired, for a new building to be erected in the Master's Garden. The suggestion was not pursued.

In 1978 Wade succeeded Glanville Williams as Rouse Ball Professor of English Law. By this time Marie's health was failing. Her illness had only gradually become apparent after they had moved back to Cambridge, but her health continued to decline and she died in 1980. In that year Wade gave his Hamlyn Lectures, *Constitutional Fundamentals*. He touched on

[39] *The Times*, 27 May 1974.

[40] *Cambridge University Reporter*, 128 (1998), p. 827 (oration on the occasion of the conferment of Wade's honorary Litt.D. on 24 June 1998).

many issues including reform of the House of Lords, problems of entrenchment and sovereignty, the definition of the royal prerogative, and the role of the judiciary in the 'renaissance of administrative law'. He spoke of 'deep dissatisfaction with the constitution'. His mood is captured in a letter dated 16 March 1980 to Sir Patrick Browne, recently retired from the Court of Appeal. Wade expressed dissatisfaction with 'the present mood of the Lords', and a negative view of the speeches of Lord Wilberforce and Lord Scarman in *Inland Revenue Commissioners v Rossminster*[41] in which they had taken the view that interim relief cannot be given against the Crown under the Crown Proceedings Act. Wade considered that 'it is perfectly obvious that the Act intended to allow it'. He thought the House of Lords was pro-executive and out of step with the Court of Appeal, in a reversal of the roles of the two courts a decade earlier. He considered this to be a serious matter both for the public and the profession and 'particularly deplorable because it is bringing in so much politics and clouding the end of Tom Denning's great career'.

While *Constitutional Fundamentals* was warmly received by some, others were more critical. Writing in *The Listener*, David Pannick said that Wade offered little by way of novel argument or fresh interpretation of fact, and that he was prone to overplay his hand, for example in comparing the Home Secretary's attempt to revoke overlapping television licences and the Minister of Agriculture's abuse of powers under the milk marketing scheme with the way the Stuart kings strained the Royal prerogative.[42] Alan Watkins, in *The Spectator*, stated that Wade

> . . . has a masterly analysis, in a wider context, of the sloppy misuse of 'the prerogative' to explain or justify various governmental powers. Yet the lectures are marred by a certain harshness of manner, a coldness of tone: there is something a little too cocksure about Professor Wade.[43]

Wade served as Vice-President of the British Academy between 1981 and 1983. He was fully involved in the protracted discussions about the decision to move to new premises in Cornwall Terrace and about taking over the postgraduate studentships scheme from the Department for Education and Science. He also chaired a review of the Academy's involvement in university research appointments including the Readership Scheme and the UGC's 'New Blood' scheme. The review supported both. It suggested how to get 'more for less' from the Readership scheme, by

[41] [1980] AC 952.
[42] *The Listener*, 31 July 1980. See also Anthony Lester, QC, in The *Daily Telegraph*, 15 July 1980.
[43] *The Spectator*, 19 July 1980.

reducing the tenure from three years to two, and meeting only the costs of the substitute appointment. He was knighted in 1985. He had retired from the Rouse Ball Chair in 1982, under a generous early-retirement scheme at Cambridge and married Marjorie Browne in the same year. She, the widow of B. C. Browne, the geophysicist, and a Trinity colleague of Wade's, was full of vitality, and like him enjoyed travelling and entertaining others. She died suddenly in 2001, by which time he was beginning to show signs of physical frailness.

The fifth edition of *Megarry and Wade* appeared in 1984. Stephen Tromans, then a Fellow of Selwyn and now an environmental law practitioner, helped and did much of the research. Sir Robert Megarry, had retired as Vice-Chancellor of the Chancery Division in 1981. He was 74 and Wade did most of the writing. By then, however, Wade's principal interest was constitutional and administrative law, areas in which there continued to be important court-led common law developments. In 1992 he asked Charles Harpum, then a Fellow of Downing, to prepare a new edition. Wade was then working on the seventh edition of *Administrative Law* and, for understandable reasons, said he did not have the time to do both books. *Megarry and Wade* was a work born in an era of non-compulsory land registration. The authors described the legislation as of exceptionally low quality and in need of a thorough overhaul.[44] By the beginning of the 1990s reform was in the air, and if *Megarry and Wade* was to survive, it was important to have a new edition with the registered land system occupying the central ground. Megarry and Wade recognised what needed to be done, although in some ways found it difficult to let go of the book. The sixth edition was delayed when Harpum was appointed a member of the Law Commission in 1994, with responsibility for the Commission's work on land registration. It was published in 2000 with a generous recognition in the preface over the initials of both authors, but in words bearing Wade's hallmarks, of the advantages of the book being in the hands of someone described as at the 'epicentre' of 'seismic upheavals'.

Wade continued to be fully engaged with *Administrative Law* until shortly before he died but, since the sixth edition in 1988, Professor Christopher Forsyth, Fellow of Robinson College, has been his co-author. The collaboration was a happy one. Forsyth states that they 'worked together easily'; their 'views on almost all aspects of administrative law meshed together perfectly'; and they 'wasted little time on

[44] 5th edn., p. 196, cited in *Clark v Chief Land Registrar* [1994] Ch. 370, 382 (*per* Nourse LJ).

disagreement'.[45] The success of the partnership is also seen by the fact that one cannot tell which of them wrote a particular section of the book.

In 1988 Wade retired from the Mastership to a house in Fulbourn which Marjorie and he had bought in anticipation of his retirement. He continued to work in his rooms in Caius and in the Squire Law Library, until 1995 in the Cockerel building, and thereafter in the new Law Faculty building on the Sidgwick site, producing the seventh and eighth editions of *Administrative Law* with Forsyth. They had completed most of the ninth edition before Wade died. He attended meetings of the European Group of Public Law on the island of Spetses, and travelled extensively with Marjorie. In 1991 he was elected to an Honorary Fellowship of Trinity. Cambridge University awarded him an honorary Litt.D. in 1998, the year of his eightieth birthday. His writing had earned him his Cambridge LL.D. and Oxford DCL many years earlier. The Cambridge Centre for Public Law celebrated the birthday at its inaugural conference on the constitutional reforms planned by the new Labour government. A collection of essays on public law was presented to him and it was at that conference that he first argued that the Human Rights Act would give citizens rights against each other as well as against public authorities, a view which led to a vigorous debate, not yet resolved by the courts. He developed his argument later that year in his Judicial Studies Board lecture. The meeting of the European Group of Public Law that September included a *laudatio* for him.

V

Wade's contribution extended well beyond the world of scholarship. Apart from his public service, he deployed his felicity with the written word in articles and letters in newspapers on matters such as sovereignty, the European Community, and the European Convention on Human Rights. With his reputation came an advisory practice on Commonwealth constitutional problems in which his clear and decisive opinions were appreciated by those who sought his advice.

Wade built strong links with judges and practising lawyers at a time when the gap between academic law and the world of practitioners and judges was wider in the United Kingdom than in almost any other part of the common law world and far wider than it is now. He consequently

[45] Preface to 9th edn., p. v.

exercised considerable influence over decisions of the courts and the work of law reformers. He fostered and maintained these links at academic and professional meetings, in correspondence with members of the judiciary, and at social occasions, whether at Lincolns Inn, in one of his Colleges, or at meetings of the Oxford Law Club.

Judges read his books, articles and notes (sometimes because he sent them to them) and his criticisms were often picked up. So, in 1973 Lord Justice Roskill wrote to tell Wade that his criticism in the *Law Quarterly Review* of the procedural requirements imposed on universities in a case involving Aston University was to be upheld in a later case. Wade hoped the case would be reported 'since it will be a great aid and comfort to the hard pressed Vice Chancellors and their colleagues'.[46] In 1980 Lord Lane, newly appointed Lord Chief Justice, and a contemporary at Shrewsbury, wrote thanking Wade for 'a kind if over optimistic' letter of congratulation, adding that 'as you already know, Administrative Law is not my strong point, and I shall be reading your book under the desk of the Divisional Court'.

The power of Wade's ideas is also shown in a letter from Lord Wilberforce dated 10 June 1974. Written after argument but before the House of Lords gave judgment in the *Hoffmann-La-Roche* case[47] on the effect of disputed orders pending judicial determination, Lord Wilberforce said that Wade's note in the April 1974 issue of the *Law Quarterly Review* about the decision of the Court of Appeal:

> . . . plunges me into some consternation since (confidentially) my own opinion in the case corresponds exactly with the note—to such an extent that I shall certainly be charged with pillaging your ideas. The purpose of this note is just to say I acknowledge with gratitude the influence of your writing and teaching over the years which has clearly produced this community of outlook, while also putting on record that on this particular matter my piece was my own work in an immediate sense. That we were both thinking along these lines was brought out at our recent conversation.

Wade replied saying he was touched by Lord Wilberforce's 'very generous' letter, that there was no one with whom he would be more honoured to be in agreement, and was delighted that this was so. He continued:

[46] 23 July 1973. The case is *Herring v Templeman* [1973] 3 All ER 569, 587. It refers to the 'trenchant criticism by Professor Wade' in *Law Quarterly Review*, 85 (1969) of *R v Aston University, ex p. Roffey* [1969] 2 QB 538.
[47] [1975] AC 295.

> It is only rarely that one can detect any connection between academic work and concrete decisions, so I am all the more gratified by what you say—even though in this case the parallel lines did not actually meet.

Wade's ideas may have matched Lord Wilberforce's but they did not prevail in that case. Nor were they acknowledged. As was common then, and is still not unknown, Lord Wilberforce's dissenting speech does not refer to Wade's note. In the October issue of the *Law Quarterly Review* Wade observed that there was much to be said for Lord Wilberforce's view.[48]

After the decision in *O'Reilly v Mackman*[49] in 1982 Wade became very critical of Lord Diplock. In a single speech given by Lord Diplock the House of Lords articulated a procedural dichotomy between 'public' and 'private' law proceedings, holding that a litigant who seeks a remedy for an infringement of a right in public law, *must* as a general rule proceed by the application for judicial review with its short time limit. Wade expressed his doubts to Lord Diplock in a letter written five days after the decision.[50] While he agreed there should be a single uniform procedure and time limit, he hoped that the distinction which Lord Diplock made so fundamental 'will prove sufficiently clear in practice, so that litigants are not caught out by using the wrong avenue. Otherwise we would be in the same trouble as the French.' Lord Woolf's 1986 Harry Street lecture[51] was more sympathetic to the distinction, and Wade wrote to him stating that, while Lord Diplock 'had a genius for getting down to the bedrock', his desire to restate the law in his own terms, notwithstanding its brilliance, had left 'a legacy of rigid statements which [seemed to Wade] to contain the seeds of much future trouble'.[52] The sixth edition of *Administrative Law,* published in 1988, contained what Lord Denning referred to as 'your sly dig at Kenneth Diplock'.[53] Wade also considered sweeping remarks in another case[54] typical of Lord Diplock's fondness for generalising on the basis of a single case.[55] Wade's views on the dichotomy introduced in *O'Reilly*'s case ultimately prevailed. So too did his long-held view that a minister of the Crown was bound by an injunction ordered in

[48] *Law Quarterly Review*, 99 (1974), 436, 439. The earlier note is at p. 154.
[49] [1983] 2 AC 237.
[50] 30 Nov. 1982.
[51] 'Public Law—Private Law: Why the divide?' *Public Law* (1986), 220.
[52] HWRW to Lord Woolf, 22 Feb. 1986.
[53] Lord Denning to HWRW, 1 Nov. 1988.
[54] *Town Investments v Department of Environment* [1978] AC 359.
[55] HWRW to F. A. Mann, 7 April 1986.

judicial review proceedings. This issue, which was settled in *M v Home Office*,[56] was the subject of extensive correspondence between Wade and a number of judges.

For Wade the task of the academic was to search for and identify the fundamental principles upon which a coherent legal structure and system could rest. He remained faithful to this in his exchanges with the judiciary, principally with Lord Denning, but also with many of the key figures in the transformation of our administrative law in the last forty-five years. Reflecting on the difference between the judicial and the academic minds, he said:

> The academic wants everything clear and sharp and logical and in accordance with principle. The judge, on the other hand, always wants to have a way of escape, so that he cannot be driven into a corner by ruthless logic and compelled to decide contrary to what he wants. I am sure that this is a sound instinct for the administration of justice, but I am by my cloth obliged to protest when blurring becomes woolly thinking and blasphemy against basics.[57]

His correspondence with Lord Denning during 1967 and 1968 about the effect of an invalid administrative act is a wonderful example. Wade, with courteous persistence, maintained it had no legal effect at all. Lord Denning, shaken, but not stirred by the force of Wade's argument, with equally courteous resistance, considered it had some effect until set aside by a court.[58] It was no accident that Christopher Forsyth and Ivan Hare, the editors of the book of essays presented to him on his eightieth birthday, called it *The Golden Metwand and the Crooked Cord*. Bill Wade was not a fan of the flexible and possibly more nuanced approach which many with a less certain view of what the 'right' answer is prefer—or are forced into. For him, that was 'the crooked cord of discretion' and antithetical to law.

Lord Cooke of Thorndon put it well when he said that Wade's intellectual vision was 'emphatically not of a twilight world' and that he had 'the gift of seeing things in black and white', whereas judges whose 'daily work constantly reminding them of the infinite variety of facts, sometimes over-sensitive to the need to allow for the case round the corner, are usually cautious to qualify in some way their propositions of principle'.[59]

[56] [1994] 1 AC 377.
[57] HWRW to Sir Robin Cooke (now Lord Cooke of Thorndon), 6 Jan. 1988.
[58] The last letter on this is dated 4 March 1968. By 1978, however, Lord Denning had changed his position. In *Firman v Ellis* [1978] QB 886 he said 'after some vacillation' he would adopt the meanings of void and voidable given by Wade in the 4th edn. of *Administrative Law.*
[59] *The Golden Metwand and the Crooked Cord* (Oxford, 1998), p. 203.

Wade was, as he said in his inaugural lecture at Oxford, a legal positivist. It was the clarity of the rules and principles he identified by what he described as 'a more lively appreciation of the materials lying readily to hand in the law reports'[60] that enabled cautious and even conservative courts to step beyond the twilight not only of natural justice but of the whole of administrative law. His skill in presenting truly original and creative insights as no more than rule identification, removing his own footprints from the trail, was particularly attractive to judges working in a system of precedent. We can now, however, say this was more than mere 'lively appreciation of the materials lying readily to hand'.

In 1972 Wade gave evidence to the Franks Committee on section 2 of the Official Secrets Act 1911. It was robust: he described the section as 'a blot on the statute book which needs to be removed'.[61] In 1980 he gave similarly robust evidence to the Foreign Affairs Committee of the House of Commons when it was considering the 'patriation' of the Canadian constitution and the severance of Canada's last statutory links with the Westminster Parliament.[62] The Canadian Federal Government and Parliament, and the United Kingdom Government considered that the Canadian Parliament did not require the consent of the Provinces before seeking constitutional amendments which affected their powers. Wade's view was that the unanimous consent of the Provinces was required. Although not accepted by the Committee, it may have assisted it in concluding, contrary to the position of the Canadian and United Kingdom governments, and anticipating the decision of the Supreme Court of Canada, that the consent of a substantial majority of Provinces for such amendments was required.[63] In 1985 he played a significant part in the famous Old Bailey trial of the civil servant Clive Ponting for breach of the Official Secrets Act 1959. Ponting had passed information to Tam Dayell, MP, and his defence was that this was in the public interest. In his supplementary remarks to Sir David Williams's obituary in *The Independent,* Tam Dayell states that in his opinion the decisive moment in the trial occurred during Wade's evidence. He describes Wade as a tall shambling figure quietly and most precisely answering the questions that were put to him. Dayell states that when the trial judge, Mr Justice

[60] 'Law, Opinion and Administration', *Law Quarterly Review*, 78 (1962), 188, at p. 199.
[61] Cmnd. 5104 (1972); vol. 2 at p. 411; vol. 4 at pp. 159 ff.
[62] HC 42. I and II (21 Jan. 1981) at pp. 102–14: his was 'the most emphatic' evidence (see Q 127).
[63] *Reference re Resolution to amend the Constitution* [1981] 1 S.C.R. 753 held that while no legal rule constrained the Canadian Parliament, constitutional convention required the consent of a substantial majority of Provinces for such amendments.

McCowan, unhappy that such a defence could be raised 'barked aggressively, "Are you trying to teach me my law" ', those in court thought that the judge had made up his mind on the verdict that he wanted. Dayell states that 'the meting out of such treatment to Wade crucially stiffened any resolve that the jury had entertained to defy the judge and acquit Ponting'.

VI

Engagement with the great and the good is only part of the story. Wade was a conscientious and demanding but supportive supervisor of undergraduates. He was by far the most intimidating of Tony Jolowicz's first year supervisors at Trinity. Jolowicz comments that as a consequence, most people worked hardest for Wade. While Wade did not suffer fools gladly, Jolowicz cannot remember an unkind word in supervision. Two of Wade's Trinity pupils, Lord Lloyd of Berwick and Lord Slynn of Hadley, became Lords of Appeal in Ordinary. Lord Lloyd has said that, while Wade did not have the same ebullience as Jack Hamson, in his own way he was just as inspiring about a subject. He virtually commanded Tony Weir to apply for a Harkness Fellowship and subsequently referred to Weir as 'a brand saved from the burning', which Weir took to refer to saving him from practice as an advocate in Edinburgh which he would not have enjoyed.

Wade also encouraged research students, many from Commonwealth countries, and younger scholars. His friendships with Robin Cooke (later President of the Court of Appeal of New Zealand and Lord Cooke of Thorndon) and Ramu Ramakrishna of Madras had their roots in their time in Cambridge in the 1950s as research students of E. C. S. Wade and C. J. Hamson. Cooke was later a research fellow of Caius. As well as their academic contacts with Bill Wade at that time, both remember his skill on the tennis court. Wade had clear views as to what work needed to be done. Robert Sharpe, later Dean of the Law School at the University of Toronto and now on the Ontario Court of Appeal, recalls that it was Wade who identified the need for work on habeas corpus which led to Sharpe's D.Phil. thesis and what for many years was the only significant book on the subject. Soon after I joined the Oxford Law Faculty he thought I should work on the Ombudsman and invited me to a very good dinner to discuss this. I did not take up the suggestion but I remember the

kindness the rather grand Professor of English Law showed a 25-year-old fledgling academic.

In the late 1940s and 1950s most of the very few research students in law[64] worked on either international or comparative law, or (particularly in Oxford) on jurisprudence. In his first Cambridge period Wade did not formally supervise any research students. Professors E. C. S. Wade, S. J. Bailey, and C. J. Hamson, who were more senior to him, supervised the small number working on his areas.[65]

In Oxford the position was different. Mark Aronson remembers the table as always full when Wade and Marie entertained his doctoral and other graduate students to lunch at St John's. David Elliott of Carlton University in Ottawa remembers Wade as a formal but friendly person, and research supervision meetings as intimidating but inspiring events. Wade's preference was to have something in writing, however short, as a focus for discussion. While he could be a fairly hands-off supervisor, he rigorously scrutinised drafts for looseness of language or of logic. He urged Sharpe, whom he supervised for one term before going on leave, not to think of spending a year or two doing all the research and then writing it up but to select a key area and write a chapter as soon as practicable. Sharpe thought he was very fortunate to have had Wade at the start because he had such a clear and provocative view about the subject and about how to attack it, was quite fearless in questioning authority, and had a profound belief that his vision for judicial review was central to the rule of law. But this certainty of vision was not coupled with intolerance. Aronson says that, some years later when thinking about what he describes as his own somewhat declamatory thesis, he realised just how tolerant Wade really had been of some of his over-confident and brash students.

After Wade returned to Cambridge he supervised a number of students, all working on administrative law. Abhishek Singhvi and Francis Alexis have combined practising law with politics in respectively India and Grenada. Donald Gifford teaches at the University of Queensland, and Edwin Wylie is a New Zealand Queen's Counsel.

[64] Between 1946 and 1961, on average only about 3 per cent of Cambridge's research students were lawyers, and a proportion of those took one year diplomas in comparative or international law.
[65] The contents of this paragraph are derived from the Reports of the Board of Research Studies, published in the *Cambridge University Reporter*.

VII

In 1953 at the age of 35 Wade took up rock climbing in the Lake District and the North West Highlands. In his forties he became a serious alpinist. Between 1958 and 1964 he also climbed many of the major peaks of the Pyrenees, mainly with another Fellow of Trinity, A. M. Binnie, FRS, who was seventeen years older than him. Wade joined the Alpine Club in 1964, supported by Binnie and other Cambridge dons. Although Marie did not share his enthusiasm, she accompanied him and their two sons on the easier walks in the Lake District and Scotland and in 1964 accompanied them on their first and last full family holiday in the Alps. Wade, Michael and Edward (then aged 20 and 17) and two companions were caught in bad weather and spent a very uncomfortable night at about 12,000 feet. Marie had travelled with their luggage from Zinal to Zermatt and the next day they met her wandering up the lower slopes, anxiously wondering if she would see them again. She announced firmly that she would not accompany any more climbing expeditions since she preferred to remain in ignorance of the details of their activities.

When travelling for academic purposes or for his advisory practice, Wade often seized the opportunity to climb. He climbed in New Zealand and Japan as well as in many European countries. He described expeditions to the Moroccan High Altas, the Rockies, and Kenya in articles in *Country Life*,[66] illustrated by photographs he took. He continued climbing into his sixties. In 1978 he asked the archaeologist Anthony Snodgrass to join him as a younger climbing companion at Arolla. They climbed together in the Dolomites in 1979 and in the Pyrenees in 1980. In his seventy-second year he trekked in the Karakoram in north Pakistan.

VIII

Bill Wade was not an obviously informal man. For instance, he thought it inappropriate that Tony Blair, who was a member of his Oxford College and attended his lectures but whom he hardly knew, should greet him as 'Bill'. Some thought him dry and unapproachable. Underneath the surface, however, there was a wry sense of humour and kindness. It was particularly evident in formal speeches and the legal debates in which he

[66] 'From Marrakesh to High Barbary' (25 Feb. 1971); 'The Rockies, a Climber's Elysium' (4 Jan. 1973); 'On the Roof of East Africa' (9 Jan. 1975).

loved to engage. One got the feeling that some of the more provocative things said—with a twinkle in the eye or with his characteristic smile—were teases, designed to get others to sharpen their arguments.

Wade was, as Sir David Williams said in his obituary, blessed by two warm and affectionate marriages. All that he did as a scholar, was done at the same time as being a generous host to many, and avidly and skilfully pursuing his interests in gardening and mountaineering until prevented by age.

JACK BEATSON
Fellow of the Academy

Note. Dr Michael Wade generously provided me with information about the family, access to HWRW's correspondence, and copies of his articles in *Country Life.* I have also been greatly assisted by Mark Aronson, HH Judge Findlay Baker QC, Jock Brookfield, Peter Brown, Sir Richard Buxton, Lord Cooke of Thorndon, Stephen Cretney, Dale Densem, David Elliott, John Finnis, Christopher Forsyth, Mark Freedland, Charles Harpum, Alison Hirst, David Ibbetson, Tony Jolowicz, Lord Lloyd of Berwick, Toby Milsom, Michael Prichard, Francis Reynolds, Stephen Scott, Robert Sharpe, Tony Smith, Stephen Tromans, Sir Guenter Treitel, Tony Weir and Sir David Williams. Many of these will find their words pillaged here, not always with proper acknowledgement. I have drawn on Sir David Williams's chapter in C. Forsyth and I. Hare (eds.), *The Golden Metwand and the Crooked Cord: Essays on Public Law in Honour of Sir William Wade* (1998), my obituary in *The Guardian,* and the obituaries in *The Times, The Independent,* the *Daily Telegraph,* and the *Alpine Journal.*