



JIM GOWER

# Lawrence Cecil Bartlett Gower

## 1913–1997

LAWRENCE CECIL BARTLETT (UNIVERSALLY KNOWN AS 'JIM') GOWER was one of the country's most distinguished and influential academic lawyers with an outstanding record of achievement as a scholar, educator, practising solicitor, law reformer, and vice-chancellor.

### Family and Infancy

Gower was born at Forest Gate, Essex on 29 December 1913. A difficult delivery left him with a permanently damaged left leg on which intensive and painful orthopaedic treatment throughout his childhood had little effect (although few who saw him on the tennis court or the dance floor or in his later life striding vigorously from appointment to appointment would have realised that anything was amiss). Gower himself described his family background as upwardly mobile lower middle class of the kind depicted by the Grossmith brothers in *The Diary of a Nobody*; but the evidence suggests that the genetic inheritance and family environment was more than somewhat out of the ordinary.

Gower's paternal grandfather was a twenty stone plus Smithfield butcher with a carefully cultivated foot long waxed moustache and a personality as massive as his build. Gower's father, Henry Lawrence Gower, the eldest son amongst the butcher's seven children, began his working life as an office boy. He rose to be Company Secretary and Chief Accountant of Ingersoll Rand (the large engineering company) and also had other business interests, not all, as will appear, successful.

*Proceedings of the British Academy*, 101, 379–404. © The British Academy 1999.

Gower's maternal grandfather was an enterprising East London builder whose political beliefs and pride in his daughter's family are still evidenced by the West Ham street names Disraeli Road and Gower Road. However, his premature death left his widow with four infant children (of whom Gower's mother, née Daisy Ethel Lee, was the youngest) and a half finished heavily mortgaged building estate. Grandmother Lee successfully raised the finance necessary to complete the buildings; and thereafter personally managed the properties, making regular visits to the tenants until the Second World War. In 1914 she and her three unmarried children moved from Forest Gate to Westcliff-on-Sea (a genteel suburb of Southend-on-Sea) where the Gowers also set up house. Grandmother and aunts played a large part in Gower's upbringing. Although Jim Gower did not inherit either his paternal grandfather's build (he was, on the contrary, tall, spare, and angular) or his father's remarkable arithmetical skills it is tempting to believe that the contrast between the grandmother's busy and fulfilled life and that led by his two maiden aunts (brought up conventionally to have no ambition beyond finding a husband) may have had some influence on the strongly positive attitude he was to take to improving the legal and economic position of women in society. Be that as it may, the influences on Gower's upbringing were overwhelmingly female, and neither the efforts of his maternal uncle Len to dilute this and 'toughen him up' nor the strict but kindly discipline imposed by his mother prevented his becoming (in his own estimation) an intolerably spoiled child.

### Education

The Gower family experienced fluctuating fortunes during his childhood. In the 1920s they enjoyed a measure of affluence; but disaster then struck. His father gave a personal guarantee for an Essex building company pioneering, apparently successfully, what subsequently came to be called system building; but the company's initial success was short-lived. The building trade unions, realising that system houses would be erected more quickly and by a much smaller labour force, called their members out on strike. The company was forced into liquidation, and Gower's father (unable to meet his liabilities under the guarantee) was bankrupted. Recovering from that blow, he suffered

financially in the economic turbulence of 1929 and was latterly in poor health. But these reverses did not prevent Gower enjoying a happy childhood with sing-songs round the piano with his mother and younger sister, paddle-steamer and charabanc excursions, band concerts and visits to the Fol-de-Rols and other concert parties. Nor were his parents' financial problems allowed to interfere with Gower's education at Lindisfarne College (a 'private school with ambitions to become a Public School' as he was to describe it) whose undemanding academic standards may for his parents have been outweighed by proximity to the Gower's house. It seems that Gower did not benefit from any great academic stimulus at school; but he did acquire something of a reputation as a trouble-maker. In particular, his refusal to become a prefect (on the ground that he and his fellow sixth formers were too young to wield executive power) did not increase his popularity with either masters or contemporaries.

### Becoming a Solicitor

Gower's father's business brought him into contact with lawyers and the law; and in the early twenties a friendly city solicitor had offered to take Jim as an articled clerk (or apprentice) when he left school without payment of the then customary premium. Thereafter (although he admitted that he had only the haziest idea of what a solicitor did) Gower's career choice seemed fixed. Sadly, the solicitor died in 1929; but father Gower's contacts enabled him to arrange for his son to serve Articles of Clerkship with the five-partner firm of Smiles & Co of Bedford Row, London WC1. Providentially, a chance conversation during the search for articles had revealed that it was possible by taking a university degree to abbreviate the period of articles from five to three years; and Gower was duly admitted to University College London at the age of fifteen. There his contemporaries were (as he recorded in characteristic language) a 'very mixed bag . . . ranging from the very bright to the near moronic'; but he counted his three undergraduate years as among the happiest and most productive of his life, and attributed his transformation from exceptionally shy and immature schoolboy into reasonably self assured adult in large part to involvement in activities of the London University Law Students' Society (such as debates, mock-trials, moots, and even black tie dinners) of the kind

which progressive student opinion three decades later would stigmatise as irrelevant and even juvenile.

Intellectually, Gower was evidently stimulated not only by the lectures of a distinguished group of Professors (H. F. Jolowicz, Harold Potter, T. F. T. Plucknett, and David (later Sir David) Hughes Parry) but by the friendship of other exceptionally able undergraduates including Dennis Lloyd (later Lord Lloyd of Hampstead, QC, Quain Professor of Jurisprudence in London University and Dean of the Faculty of Law University College London) F. R. Crane (later Professor of Law at Nottingham University and King's College London and Dean of the Faculty of Laws at Queen Mary College, London) and above all the remarkable Arnold Goodman (later Lord Goodman, Master of University College, Oxford, and a figure of major importance in twentieth-century British public life not least by his role as adviser and confidant of Harold Wilson and other leading figures associated with Wilson's administration). Goodman dedicated his own highly entertaining and sometimes informative memoirs<sup>1</sup> to Gower, 'a lifelong and stalwart friend'—an estimation later to be validated by the devoted support which Gower gave during Goodman's own particularly distressing last illness. Gower read widely, and in 1933 he was one of the five members of what was evidently a vintage year to graduate with first class honours. In recognition of this success (which was followed by the LL M in 1934) Smiles & Co waived the £500 (possibly £18,000 in today's values) premium then customarily payable by an articulated clerk to his principal; and after a few months Gower began to participate in the exciting work generated by the firm's wide general practice. Today a five solicitor practice would be regarded as far too small to undertake substantial commercial work, but at the time the law restricted solicitors' partnerships to a maximum of twenty members; and the influence of talented individuals—such as Charles Llewellyn (with whom Gower worked closely on major company flotations and international commercial transactions, and whom Gower rated the best commercial draftsman he was ever to meet)—was perhaps greater than is now possible in the huge law firms on the North American model today dominating the City of London.

Gower recorded that Smiles & Co was an ideal firm to which to be articulated; but like almost all articulated clerks at the time Gower did not receive any salary from the firm until he was admitted a Solicitor in 1937. This may have had some bearing on his readiness to accept

<sup>1</sup> *Tell Them I'm on my Way* (1993).

employment as a part-time tutor at University College (at an annual salary of £150) whilst still serving his articles; but whatever his primary motivation the continued involvement in both legal practice and academic life was to prove significant for Gower's future. He had managed whilst still a student to write a learned article on the abstruse and technical subject of priorities between competing equitable interests;<sup>2</sup> and he played an important part in ensuring the success of the *Modern Law Review*<sup>3</sup> founded in 1937 (in part as a corrective to the more conservative *Law Quarterly Review*) and destined to become one of the handful of English law reviews with truly international standing. At the same time, his understanding of the impact of the law on ordinary people was being reinforced by experiences in the Legal Clinic which Goodman, Lloyd, and Gower established in the Commercial Road in the East End of London. Before the Legal Aid and Advice Act 1949, such clinics were often the only source of advice for poor people afraid of losing their accommodation or seeking release from intolerable family conditions; and the young advisers encountered what Goodman has described as 'every kind of oddity and a great number of human tragedies'.<sup>4</sup> Gower thus became remarkably (and unusually) well qualified to bridge the gap between academic and practising lawyers. In particular (unlike some academic lawyers) he understood that litigation was only a small part of legal practice, that financial considerations often dictated tactics and even strategy, and (unlike many lawyers, both academic and practitioner) he understood that the law was not an elaborate game played for their benefit but could be used to achieve and protect the legitimate expectations and interests of citizens from all levels of society and to promote humane social objectives.

<sup>2</sup> L. C. B. Gower, 'The Present Position of the Rule in *Dearle v. Hall*', *The Conveyancer*, 35 (1937), 137 and 153. His next published article—'Building Societies and Pooling Agreements', *Modern Law Review*, 3 (1939), 33—might appear equally technical but demonstrated Gower's readiness to explore the effect of conveyancing law on everyday life, for example by making it more difficult for intending house buyers to finance the purchase.

<sup>3</sup> Gower was Editor for Cases and Statutes from the first issue in 1937 and thereafter served as a member of the *Modern Law Review* Editorial Board or its Editorial Committee for the rest of his life. He contributed many important articles, and some fifty shorter case notes (all marked by an incisive appreciation of the true significance of the legal issues before the court and the policy issues which underlay them).

<sup>4</sup> After the end of World War II Gower was also instrumental in organising a similar clinic in Islington—then a deprived inner city borough with far more than its share of acute social problems—staffed by the Law Department at the LSE and a number of lawyers practising in more affluent areas.

Notwithstanding the scale and variety of his professional and scholarly activities, Gower found the leisure to indulge an enthusiasm for opera and theatre; and with increased affluence he graduated from the Gallery Slips at Covent Garden to hear Flagstad, Gigli, Schumann, and other giants of the time from somewhat more comfortable parts of the House. A visit to Italy and Austria in 1937 enabled him to hear Toscanini's *Fidelio* and *Falstaff* (with Lehmann and Stabile) and Knappertsbusch's *Elektra* and *Rosenkavalier* (not to mention the Vienna Philharmonic under Walter and Furtwangler) at the Salzburg Festival. But of much greater importance to his future was a chance encounter on the return journey via the Munich–Ostende boat train with Helen Margaret Shepperson ('Peggy') Birch, a graduate in English from Royal Holloway College who was about to take up a teaching post at Putney High School. Jim and Peggy Gower married four days after the outbreak of war on 3 September 1939 and were to have three children, a daughter Jenny and two sons James and Richard. Throughout the fifty-eight years of their marriage Peggy Gower shared, and unfailingly supported her husband in every aspect of his life.

### A Wartime Interlude

Arnold Goodman wrote,<sup>5</sup> no doubt in a spirit of self-mockery, that the outbreak of war convinced Gower and himself that 'something needed to be done but perhaps not too much'. It is certainly true that neither he nor Gower (the one even then markedly obese and in other respects lacking in the more immediately apparent soldierly characteristics, the other with a congenital weakness of the leg and not temperamentally given to excessive shows of outward respect for hierarchies) were prime candidates for the more glamorous 'teeth' units of the armed forces. Eventually they joined a queue of 'well educated, well disciplined' and unpretentious young clerks and schoolteachers 'determined not to be too late for the great clash'<sup>6</sup> and were amongst the first recruits accepted into the 48th Light Anti-Aircraft Battery Royal Artillery then being formed at Enfield under the command of Mortimer Wheeler (later

<sup>5</sup> *Tell Them I'm on my Way* (1993), p. 47.

<sup>6</sup> Dennis Lloyd [see above p. 382] and Henry (later the Hon. Mr Justice) Wynn Parry were other lawyer recruits; and most career officers would have experienced some qualms at the presence of so conspicuous an assembly of legal talent in the barrack room.

Secretary of the Academy but then, attired in the notably well-cut riding breeches and highly polished riding-boots which justified the sobriquet 'Flash Alf', determined to convert those under his command into an efficient fighting unit to be led by him into active service overseas).

Gower's naturally rebellious nature did not adapt easily to what Wheeler's biographer<sup>7</sup> has described as his 'absurd excess of military zeal' and 'insistence on bull and minute points of discipline'; and there seems little doubt that Gower actively disliked or even hated his commanding officer and had little if any respect for his military skills.<sup>8</sup> Fortunately Gower was transferred to the Royal Army Ordnance Corps, and (together with Goodman) played there an important part in the massive organisational planning necessary (and executed with remarkable success) in the build-up to the D-Day landings in May 1944. After further service in Belgium and Germany Gower was demobilised in the rank of lieutenant colonel and returned to practice as a salaried partner in Bedford Row. His war service enabled him to develop formidable managerial and administrative skills. It did nothing to increase his irreverent attitude to authority figures—indeed, in later life as a senior academic attending prestigious lectures he was wont to keep up a stream of not quite *sotto voce* comments on the often distinguished performer's efforts—but his experience greatly increased his self-confidence. It is true that a sometimes deceptive outward diffidence remained a habitual and enduring characteristic but the Army had also taught him the uses to which assertion of rank can be put. Some years later he explained his success in evading the hospital visiting restrictions<sup>9</sup> then habitually enforced by often Amazonian nursing staff with the words 'When I'm stopped by the police I'm Colonel Gower. When I visit a hospital, I'm Professor Gower'; and as a Vice-Chancellor he once found it necessary to describe himself to a status-conscious but initially uncooperative Scandinavian impresario as the University's 'Rector Magnificus'.

<sup>7</sup> J. Hawkes, *Mortimer Wheeler: adventurer in archaeology* (Abacus, 1982), pp. 7, 197.

<sup>8</sup> The memoir contributed by J. Hawkes to the *Proceedings of the British Academy*, 63 (1977), 483 shows Wheeler's achievements on the battle field much more sympathetically.

<sup>9</sup> The patient (and source of this anecdote) was Gower's colleague at LSE (and successor as a Law Commissioner) Professor Aubrey Diamond.

## Becoming a Professor

Gower's return to law teaching was unplanned. The Sir Ernest Cassel Professor of Commercial Law<sup>10</sup> at the London School of Economics was ennobled as Lord Chorley of Kendal and given two years' leave of absence so that he could take office in the incoming Labour government, and Gower agreed to help out with the teaching. The LSE then refused Chorley's request for an extension of his leave. Chorley resigned,<sup>11</sup> and the LSE in a remarkably perceptive and bold move (for even in those days to appoint to one of the most prestigious chairs in the country a thirty-five year old with no book and only a small number of published papers to his name was distinctly unusual) invited Gower to accept the post. Happily, Gower (apparently influenced by the fact—incredible though it may seem fifty years later—that he would, in the short term at least, earn more as a professor at the LSE than as a salaried partner in Smiles and Co) accepted. The excellence of the LSE's law school, associated with such distinguished figures as Hughes-Parry,<sup>12</sup> Kahn-Freund,<sup>13</sup> Glanville Williams,<sup>14</sup> and J. A. G. Griffith,<sup>15</sup> was already well established; and throughout his fourteen year tenure of the Cassel Chair between 1948 and 1962 Gower exercised a major influence both within London University and outside it on the development of law as an academic discipline.

Gower was an outstandingly popular and successful teacher. He claimed that 'being interesting' was the most important quality required in a university lecturer, knowledge and accuracy coming second;<sup>16</sup> and attracted large and appreciative audiences to his lectures. Always ready to innovate—his Inaugural Lecture<sup>17</sup> had described the Training Film as having the 'greatest future of all' for legal education—Gower was amongst the first law teachers in England to use the Socratic case book

<sup>10</sup> Gower was to complain that his correspondence often miscarried because it was addressed to 'Sir Ernest Cassell, Professor of Commercial Law . . .'; and eventually the title was changed to 'Cassell Chair of Commercial Law'.

<sup>11</sup> Unfortunately (so Gower told friends) Chorley did not establish a good relationship with Lord Chancellor Jowitt, and Chorley's ministerial career was within a few months terminated.

<sup>12</sup> Professor Sir David Hughes-Parry, QC.

<sup>13</sup> Professor Sir Otto Kahn-Freund, QC.

<sup>14</sup> Professor Glanville Williams, QC.

<sup>15</sup> Professor J. A. G. Griffith.

<sup>16</sup> L. C. B. Gower, 'English Legal Training, A Critical Survey' *Modern Law Review*, 13 (1950), 137.

<sup>17</sup> *Ibid.*

method of which he had gained experience as a Visiting Professor at the Harvard Law School in 1954–5. In the hands of some of its North American practitioners the case class can degenerate into a sadistic exercise apparently calculated primarily to demonstrate the superiority of the professor's knowledge and intellect, but this was not Gower's way. Opinions about the effectiveness and suitability of the case method as a pedagogic technique in the English university context differ, and some of Gower's students found the absence of any prescribed textbook disorientating and disturbing.<sup>18</sup> But the stronger and more mature students found (as one of them<sup>19</sup> has put it) that under Gower's sympathetic guidance their half-thoughts and incoherence were magically transformed into intelligent observations. Enthusiasm for subjects expected to be dreadfully dull quickly developed under the spell of Gower's amusing yet profound dialogues; and whilst some of the eighteen year olds in his first year contract classes undoubtedly found Gower a frightening figure no student was ever deliberately humiliated.

Gower actively promoted the development of the London LL M inter-collegiate programme, which became successful beyond anyone's dreams; and he played an important part in bringing together lawyers and social scientists in the University and elsewhere. He was particularly supportive of the increasing number of postgraduate researchers; and the Gowers regularly offered warm hospitality—croquet on the lawn and party games after tea—at their Harpenden home to these often somewhat isolated young people. On occasion his generosity to students extended even to providing personal financial assistance; and in any conflict between student and university he would unhesitatingly take the student's side.

### Modern Company Law

Some academics justified the long-standing absence of company law from English degree courses on the basis that the subject was intrinsically unsuitable for academic study; whilst others more convincingly argued that there was no textbook suitable for university use. The publication of Gower's *Principles of Company Law*<sup>20</sup> in 1954 demonstrated the falsity

<sup>18</sup> Students were instead expected to rely on a Casebook (containing judgments, commentaries and questions), in this case J. C. Smith and J. A. C. Thomas, *A Casebook on Contract* (2nd edn. 1961).

<sup>19</sup> Professor Reuben Hasson of Osgoode Hall Law School.

<sup>20</sup> Sweet & Maxwell, London, 1954.

of the first argument—the historical chapters themselves providing the clearest evidence that the subject was indeed one which raised issues which Maitland and other acknowledged masters had confronted—and triumphantly filled the gap in the market place. Gower believed that the reason students regarded the subject as dull and technical was that they could not put it in its historical and economic context, and did not understand the underlying principles of the common law and equity on which (rather than the statutory provisions which supplemented and amended them) company law was based. A substantial part of the text was devoted to exploration of the historical context (for example, the impact of the eighteenth-century Bubble crises<sup>21</sup>); and fundamental issues of the nature and function of business structures were critically analysed. Gower's book came to define the subject, and many of the thoughtful proposals it made for reform were eventually implemented whether by legislation or judicial decision. As the *Modern Law Review*<sup>22</sup> was to put it: in Gower's handling, company law was 'seen to raise issues of economic and social policy which were entirely appropriate to academic study; in part this was attained by a lively historical introduction, with its functional analysis of partnerships, trading corporations and deed of settlement companies and its demonstration of how their structures made legislation on limited liability possible . . . Seldom can a textbook have made such a radical change in so short a time in the academic status of a legal subject.' The spare but elegant (and on occasion amusing) text made central and exciting what had often been rendered ancillary and dull.<sup>23</sup> It became an 'instant classic'<sup>24</sup>

<sup>21</sup> An area already the subject of an incisive examination: L. C. B. Gower, 'A South Sea Heresy', *Law Quarterly Review*, 68 (1952), 214.

<sup>22</sup> 'Jim Gower—An Appreciation', *Modern Law Review*, 61 (1998), 127–31.

<sup>23</sup> See R. Cranston (Cassel Professor 1993–7, Solicitor-General 1998– ), 'Commercial Law and the LSE' in R. Rawlings (ed), *Law, Society and Economy . . .* (1997), pp 123–4.

<sup>24</sup> The book is now in a sixth edition, undertaken by Professor Paul Davies a successor to the Cassel Chair at the LSE. Gower remained solely responsible for the second and third editions (1957 and 1969); a fourth edition, to which J. B. Cronin, A. J. Easson and Lord Wedderburn of Charlton contributed, was published in 1979 (at a time when Gower had become Vice-Chancellor of Southampton University: see below). B. E. Pettett of University College London produced supplements (*Gower's Principles of Modern Company Law: Second Cumulative Supplement*, 1988) which kept the book alive for teachers of the subject and Pettett's contribution in this respect may not have been sufficiently recognised). In 1992 Gower assumed prime responsibility—at the age of 79—for a fifth edition (which incorporated contributions by D. D. Prentice and B. E. Pettett). Gower (who found the increasing dominance of statute law uncongenial and increasingly burdensome) insisted that the views expressed in all five editions published in his lifetime remained his own and not that of the other contributors.

illuminating company law not only for students but for scholars, practitioners, and judges.<sup>25</sup> The book convincingly demonstrates that the traditional divide between academic and practitioner 'could be bridged by a reflective practitioner-turned-academic, to the mutual benefit of both'.<sup>26</sup>

The book also helped to consolidate Gower's reputation and standing throughout the common-law world. Over the years he had carried out an intimate and wide-ranging correspondence with Professor Louis Loss; and the highly successful term he spent at Harvard<sup>27</sup> in 1954–5 consolidated his role as an influential contributor (like Harold Laski before him) to the American legal culture associated with such names as Erwin Griswold. Gower was attracted to the scholarly environment he found in the United States (in which academic lawyers were not treated as the poor relations of the practising profession) but resisted repeated offers of chairs—one apparently made even after he had reached the British retirement age. He contented himself with building up exchange and similar relationships, not least the appointment of Loss as Visiting Ford Professor at the Institute for Advanced Legal Studies in London.

### English Legal Education: the Defects

Gower's background and experience made it inevitable that he should be aware not only of the strengths but also of the deficiencies in English legal education; and it is perhaps not surprising that he should have devoted his Inaugural Lecture to an exhaustive and highly critical review of this subject.<sup>28</sup> Gower took no prisoners: defects in the relations between the universities and the professional bodies (and the

<sup>25</sup> The book was influential in many other Commonwealth jurisdictions, and a supplement designed to make the book accessible to users in Australia was published: I. Kavass and R. Baxt, *Supplement to the Third Edition of Gower's Modern Company Law* (Sydney, 1970). Cranston in 'Commercial Law and the LSE' (see note 23 above), p. 124 n. 76 records a personal anecdote of an experience as a recent graduate working in a Brisbane law firm evidencing the book's standing and influence in the world of practice: '... I found ... a passage in Gower on the point. There was no other authority, least of all judicial, but we quoted Gower's view to the other side. Such was Gower's authority that they immediately paid.'

<sup>26</sup> 'Jim Gower—An Appreciation', *Modern Law Review*, 61 (1998), 127–131 at 132.

<sup>27</sup> See above p. 387.

<sup>28</sup> For the expanded published version, see 'English Legal Training: A Critical Survey' *Modern Law Review*, 13 (1950), 137.

complacency of the latter) were unsparingly exposed as was the intellectual poverty of much training for practice. He berated the patronising air of mock humility affected by judges addressing academic gatherings; and was equally critical of the ‘back-scratching’ prevalent amongst English academic lawyers who (Gower thought) suffered from an acute inferiority complex inhibiting them from commenting with sufficient vigour on judicial decisions. But Gower’s main criticism was directed against the inefficiency of the system. He called for a four year university degree focusing on the study of law in its social context as a necessary qualification for the practising lawyer, to be followed by a two year apprenticeship, and for sweeping changes to the regulations and procedures governing and often restricting entry to the profession (not least the £80—well over £1,000 in today’s money—stamp duty levied by the Government on Articles of Clerkship<sup>29</sup>). The content of this lecture was certainly radical;<sup>30</sup> but its expression—the ‘tone of sarcasm and the self confident manner’ with which the thirty-six year old Professor ‘presumed to sit in judgment on professional lawyers and find them wanting’—caused grave offence. The Law Lords summoned Chorley, then editor of the *Modern Law Review*, to their presence and solemnly rebuked him for allowing such criticisms to be published in the journal.<sup>31</sup> Two decades had to pass before the Official Enquiry for which Gower had called was set up;<sup>32</sup> but in that time Gower had greatly extended his own practical experience of educating and training those who were to practise the law.

### Three years in Africa

One of the notable features of the post-war legal scene in London was the number—over 3,000 by 1960—of students from Africa and other overseas territories. The more fortunate were happily integrated into University Law Faculties; the less fortunate majority paid large sums of money to the Inns of Court (where they outnumbered English students

<sup>29</sup> The stamp duty on articles of clerkship was abolished by Finance Act 1949, s. 35 and Sched. 8, Part I, para 5.

<sup>30</sup> The chair at the Inaugural Lecture was taken by one of the few judges who then had an established reputation for radicalism, Lord Justice Denning.

<sup>31</sup> See L. C. B. Gower, ‘Looking Back’, *Journal of the Society of Public Teachers of Law*, 14 (1978), 155; C. Glasser, ‘Radicals and Refugees’, *Modern Law Review*, 50 (1987), 688, 703–5.

<sup>32</sup> See below at p. 397.

by more than two to one) and in return received the status of students and the traditional dinners but little else. The more persistent were rewarded with the prize of call to the English bar and the more gifted were, thus equipped, able to practise as advocates or in Government service in their home countries, often with great success. But the training did not extend to such matters as office and financial management, or how to approach the non-litigious work which forms the great bulk of legal practice in developed societies and for which there was an increasing need in the former colonies. As a solicitor, Gower was acutely aware of the gap and of the need for comprehensive training in the many legal skills other than court-room advocacy.

Gower had acquired first hand experience of the strengths and weaknesses of legal practice in Colonial Africa during the six months he spent in Ghana in 1958 engaged in codifying the newly independent country's company law,<sup>33</sup> and this gave him an obvious qualification for membership of the *Committee on Legal Education for Students from Africa* set up by the Macmillan government under the chairmanship of Lord Denning. It may say something for the often maligned Lord Chancellor Kilmuir that he was prepared to accept for membership of a committee required to investigate so sensitive a subject a person with an established reputation amongst the higher judiciary for unacceptable behaviour and attitudes.

The committee's brief was to recommend measures to ensure that lawyers with an English qualification practising in Africa should have the necessary knowledge and practical experience; and its Report<sup>34</sup> recommended that graduates be required to undertake a year's practical training at national Schools of Law.<sup>35</sup> Gower believed the emphasis traditionally placed on advocacy had left lawyers uninterested in, and untrained for, routine legal practice; and the heavy emphasis on practical training was intended to remedy a situation which increasingly caused difficulty.<sup>36</sup>

In 1960, two years after publication of the *Denning Report*, Gower took a step which today seems unbelievably rash and was indeed remarkable even at a time when the Peace Corps—which Gower

<sup>33</sup> See *Report of the Commission of Enquiry into the Working and Administration of the Present Company Law of Ghana* (Accra, 1959); see further below.

<sup>34</sup> *Report of the Committee on Legal Education for Students from Africa*, Cmnd. 1255, 1960.

<sup>35</sup> The Report also urged the establishment of a Law Faculty in Tanganyika to serve the whole of East Africa.

<sup>36</sup> L. C. B. Gower, *Independent Africa, The Challenge to the Legal Profession* (Oxford, 1967).

believed to have been ‘unquestionably’ one of the world’s greatest success stories<sup>37</sup>—and other volunteers saw Africa as a continent of enormous potential where much could be achieved.<sup>38</sup> He resigned the Cassel chair,<sup>39</sup> and accepted a brief under the aegis of the British Institute of International and Comparative Law and with funding from the Gulbenkian Foundation to give advice to those concerned in Africa about the provision of legal education. Based in Lagos (where he was not only adviser on Legal Education to the Federal and Regional Governments and Adviser to the Nigerian Council of Legal Education with an office in the Professional Law School established in down-town Lagos but also Dean of the Faculty of Law in the University of Lagos) Gower threw himself enthusiastically into the task of providing each country with its own system of legal training, visiting most of the Anglophone countries in Africa,<sup>40</sup> and encouraging colleagues to write the basic texts needed by students.<sup>41</sup> Expatriate staff (including Brian Harvey,<sup>42</sup> Andrew Park,<sup>43</sup> and Peter Willoughby<sup>44</sup> from the United Kingdom) were recruited; but the principle (rapidly achieved in most cases) was Africanisation.

Gower’s first two years in Nigeria were happy and successful, and under the leadership of Vice-Chancellor Eni Njoku (whom Gower greatly admired) the foundations for a new multi-racial Lagos University were laid. A Nigerian colleague has said that some of the founding generation of Lagos graduates revered him even to the extent of adopting his addiction to pipe smoking. But the idyll did not last. In 1965 Njoku was replaced by someone of a different tribal background.

<sup>37</sup> Gower, *Independent Africa*.

<sup>38</sup> Other distinguished British lawyers also joined in this movement, not least the Vinerian Professor of English Law at Oxford, H. G. Hanbury, QC, who served the University of Nigeria Law Faculty at Enugu at this period.

<sup>39</sup> The LSE kept the chair vacant for a time, and there were many in the School who wanted Gower to return. But eventually, in 1964, K. W. Wedderburn (later Lord Wedderburn of Charlton, QC) was appointed as Gower’s successor.

<sup>40</sup> And often assuming longer term advisory links, for example in both Uganda and Ghana: see Y. Ghai, ‘Law, Development and African Scholarship’, *Modern Law Review*, 50 (1987), 750. Gower also acted as consultant on the development of legal education in Hong Kong.

<sup>41</sup> For example, A. E. W. Park, *The Sources of Nigerian Law*, Law in Africa Series No. 6, Lagos, 1963; and C. O. Okonwu and M. E. Naish, *Criminal Law in Nigeria*, Law in Africa Series No. 9, Lagos, 1964.

<sup>42</sup> Subsequently Professor and Dean of the Faculty of Law, Birmingham University.

<sup>43</sup> At the time a Temporary Assistant Lecturer at the London School of Economics; subsequently QC (1978) and Judge of the High Court (Chancery Division) 1997.

<sup>44</sup> Subsequently Director of Professional Education and Professor of Law at the University of Hong Kong.

Gower believed there had been serious injustice and resigned from the University Council in protest. There were riots and other violence and at least one fatality, and for a time the University was closed down.<sup>45</sup> Gower was summarily sacked from his office as Dean; but the fact that he was also employed by the Government prevented his being forced to leave Nigeria.

Gower had become widely known and liked in Nigerian governmental, business and artistic circles, and did not allow the unhappy (and indeed frightening) experiences of 1965 as Nigeria moved towards civil war to sour his attitude. As his Oliver Wendell Holmes Lectures given at Harvard in 1966<sup>46</sup> evidence, his confidence in the ability of Africans to teach and research at the highest levels remained undimmed; and his planning and vision ensured that firm foundations were laid upon which others had the opportunity to build. Gower left part of his heart in Africa; and Africa remained a real passion in his life.

### Gower and the Law Commission

In the event, fortunately for Gower (whose position in Nigeria had clearly become untenable) and even more fortunately for the development of law reform in England, the 1964 Wilson government had committed itself to the appointment of five Law Commissioners charged with undertaking the systematic development and reform of English law; and it seems that, as the Nigerian troubles moved towards climax, Gower was approached by Lord Chancellor Gardiner.<sup>47</sup> Gower's experience as a practising solicitor and as a university teacher

<sup>45</sup> Accounts were published in *The Times Educational Supplement*, notably on 13 and 21 May 1965.

<sup>46</sup> Published as *Independent Africa—the Challenge to the Legal Profession* by Oxford University Press in 1967. The lectures, given in 1966, had been scheduled to take place early in 1965 but 'at the last moment had to be cancelled . . . since a dispute at Lagos University made it impossible for me to leave my post there.'

<sup>47</sup> The fact that Gower was one of the persons likely to be appointed was revealed in *The Guardian* on 17 Mar. 1965. The premature disclosure caused the Government some embarrassment, not least because the names correctly identified did not include a single solicitor in active practice. *The Observer* sarcastically noted that although Gower had been 'trained as a solicitor . . . in the last few years he has been far away from England, telling the Nigerians how to run their law schools'.

of law<sup>48</sup> (not to mention his proven track record in law reform in Ghana)<sup>49</sup> gave him exceptional qualifications; and he took up his duties in June 1965 with the other Commissioners under the chairmanship of Sir Leslie Scarman.

Gower's appointment was outstandingly successful. It is true that at that time the Commission was not able<sup>50</sup> to tackle the reforms of Company law which would have been within his special competence.<sup>51</sup> It is also true that a project to produce a codified law of contract for the whole of the United Kingdom foundered, in part on the rock of opposition based on conceptual differences between the English and Scottish legal traditions—these last being zealously defended by the separate Law Commission established in Scotland—and in part on the difficulty experienced in reconciling the statements of general principle to be expected in a Code with the precise and detailed form required in modern English statutes.<sup>52</sup> But Gower did play the dominant role in planning and bringing to fruition the Commission's ambitious Programme for reform of Family Law.<sup>53</sup>

<sup>48</sup> Law Commissions Act 1965, s. 1(2).

<sup>49</sup> See above. The *Final Report of the Commission of Enquiry into the Working and Administration of the Present Company Law of Ghana* was published in 1961. Gower did not accept the advice previously given to Government for a mere modification of the UK Companies Act 1948, and his proposals were intended to create a codified and comprehensive 'up-to-date streamlined system of company law' which could eventually serve as the basis for uniform legislation throughout the ex-colonial African states.

<sup>50</sup> At the time, many Government departments were unsympathetic to what they saw as outside interference in their affairs: see generally S. M. Cretney, *Law, Law Reform and the Family* (Oxford, 1998), chapter 1.

<sup>51</sup> Gower had been a member of the *Company Law Committee* appointed (under the chairmanship of the Law Lord, Lord Jenkins) by Reginald Maudling as President of the Board of Trade in 1959. The Committee's *Report* (Cmnd. 1749, 1962) was inspired by the philosophy that the onus lay on those advocating change in the law on such matters as the use of one-man companies, nominee holdings, take-over procedures and non-voting shares and investor protection to make out their case. Gower's lack of sympathy for this approach was evidenced by his signing both of the *Notes of Dissent* (concerned with the measures to be taken against the use of non-voting shares and with the privileges of Banks and Discount Houses).

<sup>52</sup> Gower also evidently found the law of contract a somewhat more difficult subject than he had anticipated and than some of the long-established traditional textbooks suggested.

<sup>53</sup> Gower never taught Family Law—a subject which was not recognised until the pioneering work of Professor Otto Kahn-Freund, FBA, at the London School of Economics and the publication of the first edition of Professor P. M. Bromley's pioneering text, *Family Law*, in 1957. However, in the days before solicitors confined themselves to narrow specialisms Gower had had experience of the impact of the law both in private practice and in the work of the Poor Man's Lawyer Clinic; and he contributed a number of important notes and articles on the subject to the *Modern Law Review*: see for example '*Baxter v. Baxter* in Perspective', *Modern Law Review*, 11 (1948), 176.

Gower, a one time committee member of the Divorce Law Reform Union, had made no secret of his distaste for the hypocritical basis of the English divorce law;<sup>54</sup> and the evidence favouring divorce by consent which he gave in 1952 to the Royal Commission on Marriage and Divorce<sup>55</sup> had been widely publicised. His courageous admission that he had personally drafted a letter intended to convert what was in reality a wholly consensual separation into desertion (and thus into a ground for divorce) and his exposure of the reality of bogus adultery cases clearly irritated Lord Morton of Henryton (the Royal Commission's Chairman) and his judicial colleague, Mr Justice Pearce. Judges appointed to the bench from the bar could not have expected to hear the Bar Council's evidence to the Commission dismissed by a young solicitor academic as 'arrant nonsense'; and it may be true that they regarded Gower as an 'apostate, disloyal to his profession'.<sup>56</sup>

In the circumstances, it is perhaps surprising that a decade later Gower should have been able to play so effective a role not only in formulating the Law Commission's report *The Field of Choice*<sup>57</sup> but in persuading the Archbishop of Canterbury's Group to accept the compromise eventually embodied in the Divorce Reform Act 1969 whereby the sole ground for divorce was to be that the marriage had irretrievably broken down, such breakdown being inferred either from facts akin to those of the traditional matrimonial offences or from the fact that the parties had lived apart for five years (or two years if they agreed to the divorce). In the negotiations between the Law Commission and the Church, Gower demonstrated diplomatic and negotiating skills of a high order.<sup>58</sup> Gower also took the lead in formulating the Commission's proposals—all in due course enacted—for reform of the law of nullity of marriage, and for abolition of such outdated remedies as the actions

<sup>54</sup> His enthusiasm for reform had been evidenced in a published comment welcoming the speed and determination with which the *First Interim Report of the Committee on Procedure in Matrimonial Causes* (Chairman, the Hon. Mr Justice Denning) (1948, Cmnd. 6881) had worked to propose abbreviation of the interval between decree nisi and decree absolute of divorce: see *Modern Law Review*, 12 (1949), 249.

<sup>55</sup> Chairman: Lord Morton of Henryton. The Commission's *Report*, published in 1956, Cmnd. 9678, was a disappointment to those favouring reform of the ground for divorce.

<sup>56</sup> O. R. McGregor, *Divorce in England, A Centenary Study* (1957), 139. McGregor's still influential study, prompted by reaction to the Commission's conservative approach, includes a detailed account of Gower's evidence to the Commission and an outspoken criticism of the way in which the Commission treated that evidence.

<sup>57</sup> (1966, Law Com. No. 15).

<sup>58</sup> For a detailed account, see S. M. Cretney, *Law, Law Reform and the Family* (Oxford, 1998), chapter 2.

for breach of promise of marriage, restitution of conjugal rights, and the husband's claim for damages for adultery. Although Gower was less successful in achieving satisfactory reform of the law governing married couples' property rights, it was he who laid the foundations on the basis of which one of his successors as a Law Commissioner could fairly claim that family law had been the Commission's most successful area of activity over the first thirty years of its existence.<sup>59</sup>

Gower was particularly successful in inspiring and motivating the Law Commission's legal staff and was widely regarded by the long-serving as the most successful of all the Commissioners appointed in the first two decades of its existence. However, his time at the Commission was not one of unalloyed pleasure: some aspects of involvement in the public service were irksome, and he was from time to time depressed by difficulties put in the way of what he (usually correctly) believed to be the obvious and right solution. One member of the Commission's staff who (attaching greater importance than most of his colleagues to the civil servant's duty to warn Commissioners of possible drawbacks to reform proposals) had reservations about Gower, describing his temperament as 'mercurial', and there is perhaps a measure of truth in this assessment. In any event, Gower was offended not only for himself but for the standing of academic lawyers in general—a matter which years previously he had highlighted in his Inaugural Lecture<sup>60</sup>—when he discovered that the Commissioners recruited from legal practice were being paid £1,000 (perhaps £11,000 in 1999 values) a year more than the two 'academics' and, although this anomaly was in response to vigorous protest rectified, Gower found the slight to his profession hard to forgive; and he made it clear that he did not wish to serve for significantly more than one five-year term.

By this time Gower had become widely known and respected in what was at the time often called 'the Establishment'. He had been appointed a Trustee of the British Museum in 1968 and his services—including his work as a member of the Trustees' Finance Committee and its Investment sub-Committee and the Public Services Committee—were evidently appreciated both by his colleagues and by the Museum staff.<sup>61</sup> He was enthusiastic in further developing the

<sup>59</sup> The Hon. Mrs Justice Hale, DBE, (formerly, as Mrs Brenda Hoggett, a Law Commissioner from 1984 to 1993) 'Family Law Reform: Wither or Whether?' *Current Legal Problems*, 48 (1995), 217, 232 n.

<sup>60</sup> See note 26 above.

<sup>61</sup> He remained a Trustee until 1983.

Museum's wider educational role (for example, by the formation of British Museum Publications); and his sage counsel no doubt contributed to the Museum's success in an application to the court<sup>62</sup> to broaden its investment powers, thereby enabling it the better to adapt policies and strategy to the increasing globalization of financial markets.

### English Legal Education: Curing the Defects?

Gower's lifelong interest in legal education and his experience in Africa and elsewhere of modernised patterns of training for legal practice made him an obvious choice to serve on The Committee on Legal Education, appointed by Lord Chancellor Gardiner in 1967 and chaired by Lord Justice Ormrod (a judge who had the unusual distinction of having also trained as a doctor). Gower's influence is apparent in the Committee's recommendations (which clearly drew on his African experience) for discrete Academic, Practical, and Continuing stages in the lawyer's education and in its strong emphasis on the need for the provision of efficient practical skills training. But the Ormrod Committee was divided on how this training should be provided: the majority (including Gower) favoured integration into the University system, but a minority was determined not to allow training to pass out of the hands of The Law Society and the Bar. Regrettably, notwithstanding the Committee's unanimous endorsement of the need for collaboration between the universities and providers of practical training, the relationship remained (and continues to be) unsatisfactory.<sup>63</sup> Gower himself was to experience the difficulties. As incoming Vice-Chancellor he was anxious to establish a Legal Practice School in the University of Southampton and long and detailed negotiations took place with The Law Society; but it proved impossible to agree mutually acceptable financial terms and the University's initiative collapsed.

<sup>62</sup> The judgment of the High Court (delivered by the Vice-Chancellor, Sir Robert Megarry, FBA) is of considerable significance for the development of the law of trusts: see *Trustees of the British Museum v. Att.-Gen* [1984] 1 WLR, 418.

<sup>63</sup> See W. Twining, *Blackstone's Tower: The English Law School* (1984); and (for Gower's role) W. Twining, *Law in Context: enlarging a discipline* (Oxford, 1997), pp. 184, 197.

## Vice-Chancellor

Although the late sixties were notoriously a period in which, for the first time in this country, there was significant student unrest in British universities, there were still grounds for rational belief that tertiary education would be allowed to expand and develop along well-established lines of academic progress. Against that background, it is not surprising that in 1971 Gower chose to accept, from the many opportunities open to him, an offer of appointment as Vice-Chancellor of Southampton University. The Gowers immediately threw themselves into the life of the university. Jim Gower rarely refused any of the scores of invitations to give after dinner speeches and attend official functions; and Peggy Gower inspired the existing University Wives' Club by her own very active involvement and helped to establish a University Overseas Wives' Club. At a time before the dual career family had become the norm these helped meet a real need.

Much of Jim Gower's time was given to promoting town and gown relationships and cementing links between the university and the world of industry and finance.<sup>64</sup> The university reaped its reward. Gower negotiated loans on highly favourable terms. The university's stock of student accommodation was greatly increased; but Gower probably derived most satisfaction from his success in thus securing the financial basis for the completion of the university's Turner Sims Concert Hall. Outstanding concerts became a major and widely appreciated feature of university life. The Gowers were rarely absent from the audience and enthusiastically took part in entertaining visiting artists. (At one post-concert party Jim Gower and Rita Hunter launched into a spirited rendition of the seduction scene from *Don Giovanni* made all the more remarkable and memorable by the contrast in physical as well as vocal endowment between the two.)

Gower's attempts to bring about the incorporation into the University of the Roman Catholic La Sainte Union teachers' training college were unsuccessful; but the warm mutual understanding between the agnostic Gower and the devout Sister Imelda Marie did much to influence the development of closer working relationships between the two institutions.

Gower was a highly effective administrator and a skilful conciliator

<sup>64</sup> Gower also found time between 1975 and 1977 to serve on the *Royal Commission on the Press* (Chairman: Professor O. R. McGregor, later Lord McGregor of Durris).

in the internal struggles for power prestige and position which are a normal (and by some greatly enjoyed) part of British university life. His arrival at Southampton coincided with the intake of the first undergraduates into the university's new medical school, and it quickly became apparent that by no means all the academic staff welcomed the creation of a powerful competitor for scarce resources. But Gower was largely successful in convincing the doubters that Medicine was an addition to the University's strengths rather than a cuckoo in the nest. He served on the National Health Service Regional Hospital Board, and effectively sought to protect the interests of the fledgling Medical School and to encourage its acceptance amongst the (happily few) NHS staff who were as suspicious of the new development as were some of the university's own staff.

Gower retained the disregard for hierarchy and pomposity which had marked his time at the LSE (where he had refused to adopt the head of department's traditional position at the head of the conference table). But he himself would probably have regarded building up a close collaborative relationship with the student body as his main priority. Southampton had had its share (perhaps more than its share) of the student unrest of the sixties; but Gower—who had, probably correctly, identified the protests in Britain as Chartist rather than Luddite—quickly established a rapport with the undergraduates and had a marvellously calming effect on student politicians and agitators. Gower himself felt strongly about the inadequacy of student grants and even joined in student-organised off-campus demonstrations and was prominent in a mass student lobby of MPs at Westminster.

On any basis for assessing performance, the Gowers' time at Southampton was an unqualified success, not only (but also not least) because (in the words of one professorial colleague) the Vice-Chancellor's infectious enthusiasm, liberal approach, and ability to delegate responsibility made the university a happy place in which to work.

### Investor Protection

Gower's legendary energy made it improbable that his retirement from the Vice-Chancellorship in 1979 would mean a total withdrawal from intellectual activity. He might have been expected to resume the com-

mitment to his work on company law' (which legislation, both in this country and in the EEC, as well as proliferating case law, made an increasingly heavy burden), to accept the many invitations to lecture both in this country and abroad, and to continue to give wise counsel to the British Museum and to the Academy (to which he had been elected in 1965 and of which he was a conscientious if occasionally irreverent supporter). He might also reasonably have hoped to have more leisure with his children and grandchildren and more time to enjoy music (he was frequently to be seen at Glyndebourne picnicking and vigorously comparing performances) and foreign travel. But events conspired against this traditional pattern. Gower's retirement coincided not only with the return of the Thatcher Government (ideologically committed to deregulation and wider share ownership) but with a period of rapid change in the increasingly international securities markets. Informed observers had long accepted that the legislative framework intended to protect investors from fraud—the Prevention of Fraud (Investments) Act 1958—purported to do things which it did not and could not achieve and was wholly inadequate. The Department of Trade and Industry proceeded with all deliberate speed to consider the measures necessary to remedy the defects which experience revealed, but the collapse of the Norton Warburg investment business in 1981 (and a number of other scandals in the futures and banking industry) revealed that there were forms of business wholly outwith the scope of the existing legislation and precipitated demands for urgent action. John Biffen, Secretary of State for Trade and Industry commissioned Gower to consider the statutory protection required by private and business investors in securities and other property and the need for statutory control of dealers in securities, investment consultants, and investment managers, and to advise on the need for legislation.

Notwithstanding the fact that some critics saw the appointment of a one-man commission as no more than a sop calculated to alleviate demands for instant action, Gower welcomed the challenge of being solely responsible for the conduct of the enquiry and threw himself into the task with his customary energy and incisiveness. Rejecting the methods of the traditional<sup>65</sup> 12 member committee—waiting for written submissions, hearing evidence from selected interest groups, and then formulating recommendations which often represented the lowest common denominator of what insiders were prepared to accept—

<sup>65</sup> *Review of Investor Protection, Report by L. C. B. Gower, Part II* (1985), para. 8.04.

Gower followed the Law Commission's practice of first producing a Discussion Document (in which problems were explored, defects identified, and a range of options for reform set out) and then analysing and evaluating the comments which the Discussion Document's analysis had served to focus. Everybody who had any interest, or anything potentially interesting to say, had a courteous hearing; and this intensive consultation and research not only helped to create more of a consensus than would previously have been thought possible but also created a powerful momentum for legislation.

Gower's review had to deal with what he described<sup>66</sup> as 'a rapidly moving object'. In 1983, the Government and the Stock Exchange agreed that the Government would withdraw the reference of the Stock Exchange's rule book to the Restrictive Practices' Court on terms which were to result in the so called 'Big Bang'. Single capacity (the long-standing division between brokers and jobbers) minimum commissions and restrictions on outside ownership and management of stock market businesses were all to go. All this meant that Gower's objective of producing a draft Bill<sup>67</sup> had to be abandoned; whilst he confessed<sup>68</sup> that some of his recommendations on methods of regulation had been based on an assessment of what was practical politics rather than on personal conviction. For example, Gower originally favoured the creation of a Securities and Exchange Commission on the United States model, of which he had over the years acquired a profound knowledge. But, faced with strong and influential hostility,<sup>69</sup> he drew back from making a recommendation to that effect. Some informed observers believe subsequent events have demonstrated that Gower's first preference was indeed what was required; but on this as on other occasions he recognised that the best must not be allowed to be the enemy of the good.

<sup>66</sup> *Review of Investor Protection, Report by L. C. B. Gower, Parts I and II* (Cmnd. 9125, 1984) para. 1. 09; the *Discussion Document* had been published in 1982.

<sup>67</sup> Gower had secured the appointment of Sir Anthony Stainton, KCB, QC (sometime First Parliamentary Counsel, and a colleague of Gower's at the Law Commission) to draft on instructions from the Solicitor to the Department of Trade and Industry, the relevant legislation; but in the event events moved too rapidly, and although Stainton settled many clauses they were never published. It is believed, however, that some of his work was eventually embodied in the Financial Services Act 1986.

<sup>68</sup> *Review of Investor Protection, Report by L. C. B. Gower, Part I* (Cmnd. 9125, 1984), para. 12.02.

<sup>69</sup> Although it did have the powerful backing of *The Economist* in two articles (one entitled 'Power to Gower') published in Jan. 1984.

Gower had settled Instructions to Parliamentary Counsel for the Bill which he envisaged; and these were found extremely valuable by those eventually responsible for drafting the Financial Services Act 1986.<sup>70</sup> Gower continued to advise the regulators in the City for several years; and his work on investor protection—described by *The Times*<sup>71</sup> as probably his greatest achievement—can be seen as a fitting climax to a career of unsurpassed achievement as a jurist and scholar.

In this (as in his other reform activities) Gower stood firmly in the tradition of English pragmatism, rejecting grandiose schemes and the search for over-arching theory and purely jurisprudential symmetry. He had successfully adapted to the changes in intellectual and cultural attitudes between 1945—when it was reasonable for him<sup>72</sup> in common with many of his contemporaries to assume that the English social system would become increasingly socialistic, adopting measures designed to provide social security and equality of opportunity for all—and the market inspired philosophy fashionable in the eighties. His own explanation of his views about the role of the law (given<sup>73</sup> in response to accusations that he had an ‘excessive passion for logic and tidiness, of wishing to regulate for the sake of regulating, and of thinking that it was both possible and desirable to protect fools from their own folly’) justifies extended quotation:

I regard logic and tidiness, as such, as of little or no importance. They are of importance only insofar as they contribute to a legal regime which can be understood, which will be generally observed and can be effectively enforced. A law which is unintelligible, or which does not treat like alike, thereby understandably being regarded as capricious by those to whose transactions it does apply, will not be observed and cannot be effectively enforced . . . Nor do I favour regulating for the sake of regulation. On the contrary I fully accept that regulation should be reduced to the minimum necessary adequately to protect investors . . .<sup>74</sup>

<sup>70</sup> In January 1985, the Government published a White Paper, *Financial Services in the United Kingdom: A new framework for investor protection* (Cmnd. 9432); and Gower devoted Part II of his own *Review* to a detailed examination of those provisions. Gower expressed certain reservations but broadly speaking warmly welcomed what was proposed: *Review of Investor Protection, Report by L. C. B. Gower, Part II* (1985), para. 8.02.

<sup>71</sup> In the obituary of Gower published on 5 Jan. 1998.

<sup>72</sup> L. C. B. Gower, ‘The Future of the English Legal Profession’, *Modern Law Review*, 9 (1949), 211.

<sup>73</sup> *Review of Investor Protection, Report by L. C. B. Gower, Part I* (Cmnd. 9125, 1984), para. 1.11.

<sup>74</sup> *Review of Investor Protection, Report by L. C. B. Gower, Part I* (Cmnd. 9125, 1984), paras 1.11–1.12.

Gower's place in the first rank of outstanding British legal scholars—recognised during his lifetime by many academic honours<sup>75</sup> (including, in 1976–97 the Presidency of the Society of Public Teachers of Law<sup>76</sup>) and by his appointment as one of the first Queen's Counsel *honouris causa*<sup>77</sup>—is secure. But for many whose lives he touched and enriched his most remarkable quality, and that for which they will most remember him, was his unassuming (albeit sometimes determined) personality and his essential kindness and willingness to offer practical help and counsel. In his own last years he loyally undertook the emotionally draining burden of providing advice and support for his friend Goodman (whose own personal affairs were not in the order to be expected of one who had so successfully advised so many others). Gower himself became increasingly frail in the last year of his life, and died in a North London nursing home on Christmas Day 1997.

S. M. CRETNEY

*Fellow of the Academy*

*Note.* In addition to the obituaries in *The Times*, 5 January 1998, in the 1998 *Newsletter* of the Society of Public Teachers of Law (by Professor John Wilson) and in *The Company Lawyer* Volume 19 (by Professor David Sugarman) I have drawn extensively on material collected by Professor W. R. Cornish in preparation for the *Appreciation* of Gower published in *Modern Law Review*, 61 (1998), 127. I have also relied on the addresses given by Professor Michael Zander, the Hon. Mr Justice Park, Mr P. A. R. Brown, and Dr Derek Schofield at a Memorial Meeting held at the London School of Economics on 18 February 1998. Jim Gower's widow, Mrs H. M. S. Gower, was extremely helpful in providing documentary and other information (not least his autobiographical fragment, *Memoirs of a Maverick Lawyer*, and her collection of press cuttings about events in Lagos) and I gratefully acknowledge the help given by his friends and former colleagues who commented on earlier drafts or supplied information, notably Professor Lord Wedderburn of Charlton, the Hon. Mr Justice Park, Professor Peter Birks, Mrs

<sup>75</sup> Fellow of University College, London (1958); Honorary Member of the American Academy of Arts and Sciences (1986); Honorary Fellow, London School of Economics (1970); Honorary Fellow, Portsmouth Polytechnic (1981); Honorary LL D York University Ontario, Edinburgh University, Dalhousie University, Warwick University, The Queen's University of Belfast, Southampton University, Bristol University; Honorary D. Litt., Hong Kong.

<sup>76</sup> He had served as the Society's Honorary Secretary from 1950 to 1960.

<sup>77</sup> Perhaps surprisingly (apart from appointment as MBE) Gower received no other official recognition.

Elizabeth Brown, Mr P. A. R. Brown, Professor W. R. Cornish, Dr Ross Cranston MP, Professor Paul Davies, Mrs Ruth Deech, Mr Cyril Glasser, Professor Brian Harvey, Dr Derek Schofield, Professor David Sugarman, Professor Sir Guenter Treitel, Professor William Twining, Sir David Wilson, and Professor John Wilson.