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JOHN C. F. S. DAY:

HIS FORBEARS AND HIMSELF.

A BIOGRAPHICAL STUDY
By ONE OF HIS SONS.

WITH INTRODUCTIONS BY HIS EMINENCE FRANCIS AIDAN CARDINAL GASQUET, O.S.B., AND SIR ROBERT BANNATYNE FINLAY, K.C., M.P.

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OPTIMIS

PARENTIBUS

PREFACE

SHORTLY after my father's death a London publisher, considering that some form of biography of him was desirable, approached me on the subject. At the time it was impossible for me to promise any substantial co-operation in the task, which after a few weeks was abandoned. Since then the feeling has been always with me that some reparation was owing to my father's memory. The late Judge Willis, in his *Recollections of Sir John Day*(1) paid a kindly tribute of friendship to one whom he had frequently accompanied on holiday rambles abroad. But he regards the subject of his brochure almost entirely from the point of view of a travelling companion ; and, not unnaturally, he himself figures somewhat more conspicuously in the course of the fifty-seven pleasant pages of his little work. Nor is the book accessible to any large number of readers.

My intention now is to focus together all the memories of my father which may help to construct a true portrait of the man. If only I can perform the task with a reasonable measure of success it will not fail, as a human document, to interest many who knew him only from a distance, and yet suspected that there was much beneath the externals which would repay a more intimate acquaintance. The writer approaches his subject with a firm resolve to be truthful in his delineation, and

to allow lights and shades to play on the canvas as they once played on the living personality. The belief that my father's character was not one of a group, but rather a distinct type of its own, gives me confidence to undertake this modest but sincere study in psychology. John Day never contemplated that a Life of him would be written, and made no provision for it: he would undoubtedly have objected to a Life written in the stereotyped way. He has left no diaries, no resumés of conversations, nor expressions of opinion: no raw material in writing for a prospective biographer. My endeavour shall be merely to recall all that I can, and collate it: the rest is supplementary. Such a memoir, on such lines, might not profit, and might even suffer, by too much help from others, or by a profusion of data.

The prefixing of three initials before the surname may seem to savour of affectation. It will save the title-page from this reproach if I say here that the C. F. S. stands for the Christian names of Charles Frederick Sigismund de Haren, who fell on the field of Waterloo, and that these names were bestowed on my father by his aunt, the widowed mother of the young hero. In the centenary year of that decisive victory the fact is pleasant to recall.

The introductory chapters of domestic history, for which I am in great measure indebted to the *Family Papers* compiled for private circulation by my brother, Mr. S. H. Day, are inserted with a view to showing the sources from which some of the features in Sir John Day's complex character were drawn.

Were I to panegyrise my father, or to treat

vaingloriously of his connections, his frown (a formidable one!) would not fail to be visited on me. That risk shall not be run. The true glory of any family should be in the present rather than in the past. "So little doth nobility serve for story but when it encourageth to action." (2)

POSTSCRIPTUM.—This volume has not escaped the influence of the war. Whilst the author has been composing it, he has been hoping for a summons to act as Chaplain to the Forces. It has come at the eleventh hour. A friend has generously offered to take charge of the final arrangement and revision, and see the book through the press. The writer alone is responsible for any ragged edges there may be, or dropped stitches; but he knows full well that in the circumstances he will be leniently judged. His very best thanks are due to His Eminence Cardinal Gasquet, to Sir Francis Gore and to Sir Robert Finlay for their valued contributions.

A. F. D.

Bournemouth, October, 1915.

I HAVE been asked to write a few words of introduction to this book, and for several reasons I am unable to refuse altogether. But I have a difficulty. As I have had no opportunity of perusing its pages, I naturally find it impossible to speak about the volume itself, except to express my conviction, from my personal knowledge of the author of this biographical study and of the remarkable man who is the subject of it, that it will be found to be interesting, entertaining, instructive and stimulating. The few remarks I have to make will be confined to my appreciation of the personal character of the late Sir John Day as I knew him.

Although my direct relation with Sir John came only in the latter years of his life, my personal recollection of him dates back to the early "Fifties," when as a boy I saw him as a regular attendant at the Church of St. Mary of the Angels, Bayswater, of which Monsignor Manning, the future Cardinal, had just become the Superior. I recall to-day, although it is more than half-a-century ago, how impressed we young people used to be by the earnestness which Sir John Day displayed whilst assisting at the Offices of the Church, and by his manifest and solid piety. At that time he had been practising at the bar for some ten years, and was pointed out in London as a rising lawyer likely to become eminent in his profession. My boyish notions about gentlemen of the law

were of the vaguest kind, but for some unknown reason I did not associate an earnestness in the practice of religious duties with the profession. Possibly for that very reason, the sight of Mr. Day, as he then was, throwing himself into it with obvious wholeheartedness and sincerity and with the evident thoroughness of entire belief, made an impression upon my mind which remains fresh to this day.

It was many years later when I was brought into closer personal relations with Sir John Day, and came to appreciate his many sterling qualities. I may say that I never knew anyone else quite like him; and from my experience I can quite endorse what his son, the author of this book, writes about him: "His character was not one of a group, but rather a distinct type of its own." I had met Sir John at various times after 1870, and had many opportunities of coming to know something of the almost startling contrasts of his complex individuality, and perhaps what impressed me always most of all in him, was the earnestness with which he entered into everything discussed, even in ordinary conversation, and which appeared in everything he did. He seemed to be the living exponent of the principle inculcated by Holy Writ: "Whatever thy right hand findeth to do, do it with all thy might." He quickly formed his opinion about men and things, and made no secret of his impatience with those who professed one thing and did another. In any question of religion he was uncompromising. "Is the man a Catholic?" he once asked about someone we had been talking about. And, on my replying that he was, he added with vehemence:

"Then he should act as one, and not try to minimise his obligations. I've no use for, or indeed patience with, anyone who knows his duty and hasn't the honesty and strength to do it."

Although Mr. Day had not often revisited his old School at Downside after he left it in 1845 on taking his degree at the London University, he still continued to take an interest in the place, and to the last retained affectionate memories of many of his old masters. Once or twice, when staying at Bath with his uncle, Mr. Samuel Day, who was always a welcome visitor at Downside, he came over to his old College to revisit the scenes of his boyhood. But it was later, in the year 1877, that he gave a substantial proof of his interest in the studies of the establishment.

At that time I had charge of the educational side of the School, and we were making great efforts to bring the studies up to the standard of modern requirements. Talking over the matter one day with Mr. Day, he rather surprised me by the interest he manifested in this matter, and at once offered to give for a period of years a substantial money prize to encourage the efforts then being made by the staff of his old School to raise its standard of the education. He chose Greek as the special object of his generosity, because he held that the campaign then being fought against the classical basis of education in favour of one founded upon modern languages and science, would prove fatal to a really liberal education. He had no desire to preserve methods which could be proved to be antiquated, but he held most

strongly that the old-fashioned Greek and Latin basis of education must be maintained at all costs. In speaking of this, he referred more than once with entire approval to the views expressed by Cardinal Newman in his lecture on "Christianity and Letters," printed in his *Idea of a University*.

As expressing the views of Sir John Day, the words of the illustrious Cardinal on this matter are perhaps worth recording. After pointing out that in the Middle Ages there had been a similar agitation as in our own times to oust the classics from their pre-eminence in the curriculum of the liberal arts, Newman continues: "The instinct of civilisation and the commonsense of society prevailed, and the danger passed away, and the studies which seemed to be going out gained their ancient place, and were acknowledged, as before, to be the best instruments of mental cultivation and the best guarantees for intellectual progress."

In this same belief, and because the study of Greek had been singled out as a special object of condemnation and sarcasm, at a time when the value of education was to be measured more by immediate result than by the mental training it afforded, Sir John Day determined to make it the special object of his generous encouragement.

In 1882, Mr. Day was appointed to a Judgeship in the Queen's Bench. I was at that time the head of his Alma Mater at Downside, and by chance happened to be in London on the day his elevation was announced in the newspapers. I was able at once to call upon him and express in the name of all connected with his old

College our sincere congratulations at his well-deserved promotion. A year or so later he paid a visit to Downside, when the students presented him with an address. He replied in an earnest and feeling speech, in which he recalled his old impressions of the School and recorded his affectionate memory of his old masters, most of whom had long passed out of this life. He earnestly begged the new generation to be worthy of their predecessors, and to make the best use of the opportunities they had to prepare themselves for the part they would be called upon to fill in the world. No one who listened to his impressive words on that occasion could fail to be impressed by the charm of his speech, and above all by his manifest earnestness.

After 1884, when I was living in London, I came more frequently into contact with Sir John; and on one occasion, in 1896, when he was Treasurer of the Middle Temple, I was his guest at one of the great dinners given in that Hall. During this period I was increasingly impressed by many traits in his character. His deep religious sentiment was always evident. He was a solid and sincere Catholic, and although he never obtruded his religion, he never concealed his convictions. His faith was certain and uncompromising, but he could find amongst his friends many who differed from his religious views. The writer of his Life in *The Dictionary of National Biography* says : " Day's Catholicism was of the Continental rather than the English type." This was never the impression it made upon me. His whole-hearted earnestness was seen in his religion, as in every other thing that he did ; but although he had received the early part

of his education abroad, he was strongly English in his sentiments, even in religious matters. His faith was so certain that he perhaps sometimes failed fully to appreciate the mental difficulties of other Catholics, who had not been equally well grounded in the principles of their religion. He was in my opinion a man, sincere, upright, and earnest in everything, whom it is a privilege to have known.

A. CARD. GASQUET.

I HAVE pleasure in complying with the request that I should write a few words by way of introduction to the biographical study of the late Sir John Day which has been undertaken by one of his sons.

I cannot hide from myself the difficulties with which a biographer has, in such a case, to contend. There are no thrilling events to narrate. The triumphs of the profession of which Sir John Day was an ornament are in all but the rarest cases ephemeral, and it would require, in addition to intimate knowledge, the skill of a consummate artist to give anything like an adequate impression of a character so many-sided. Sir John Day will never be forgotten by those who knew him, but those who knew him best will be the first to recognise the difficulty of drawing any portrait which will convey to others a just idea of what he was.

It was in the year 1867, in the old Court of Common Pleas at Westminster, that I was first introduced to Mr. Day by my dear friend, Maurice Powell, so well known in the legal profession as the editor of Roscoe's *Nisi Prius* and Day's *Common Law Procedure Acts*. These treaties were of enormous value to the busy advocate, but can hardly be considered as light literature. Charles Lanyon, a popular and witty member of the old Home Circuit forty years ago, had a legend that, on one occasion, he woke up Powell, who had fallen asleep in a carriage on the Metropolitan Railway, by shouting into

his ear, with the tones of a newsboy : " Day's *Common Law Procedure Acts* by Powell, sixth edition ! " with the result that the editor started up from his slumbers under the happy impression that the treatise, on which he had spent so many years of hard work, had at last become a really popular book.

At the time of my introduction to Day I had just been called to the Bar. I had spent my time as a student in trying to acquire a systematic knowledge of law, with the assistance of the admirable system of lectures which was then in vogue, and was on the look-out for the best chambers to " read in," so as to see the profession on its practical side. I became Day's pupil, and I have always attributed any success I have had at the Bar to my friendship with Powell, leading, as it did, to my having the inestimable advantage of a training under Day for the practical work of the profession.

Day was at that time a Junior with a very large and a very varied practice. His chambers were the best school of law in the world. Unless he was in Court, or engaged in conference or consultation, he spent his whole time in the pupils' room. Every case was discussed by him with his pupils. He had an intuitive insight into legal principles which took him, and his pupils with him, to the very heart of a case at once. Every point was debated by master and pupils with the utmost freedom. These friendly disputes were *à outrance :* argumentatively, quarter was neither given nor taken. Authorities, of course, were referred to, but our master never allowed the discussion to degenerate into a mere counting of decisions.

Precedents were kept in their proper place as merely guides to principle. Day's unique sense of humour brightened every discussion, and a jest from him often threw more light on the dark corners of a case than could have been achieved by an elaborate dissertation from anyone else.

In him the shrewdest knowledge of the world was combined with a native goodness and kindness of heart. His geniality was as genuine as his insight into human nature was profound. His coming into the pupils' room was like the entrance of a ray of sunshine, and I am sure that those of his former pupils who still survive will agree with me in saying that a year in Day's chambers was in itself a liberal education.

Day was a born advocate. No one was ever quicker in seizing the points of a case. If there had been a law to the effect that no one should ever read his brief before coming into Court, Day would have been *facile princeps*. He had the most exquisite tact in the conduct of his cases. Difficulties seemed to disappear at his touch. I recollect his once saying to me, with a dash of that sardonic humour in which he abounded, that a client was sometimes apt to ascribe his success more to the merits of the case and less to the skill of the advocate than strict justice demanded. As he put it: "If you conduct a case well and quietly, you may win the case, and the client thinks he won it solely on its merits, and that little or nothing was due to the advocate, with the result that he forgets all about you. But if you exaggerate by your conduct of the case every difficulty there is in it, and create fresh difficulties of your own, he sees you fighting and labouring

and struggling for him with admiration, and you impress yourself upon his memory for ever. It is true you lose the case, but it is said : 'How could you win it with such materials ?' and your client is eternally grateful." There is perhaps, a kernel of truth in this humorous satire upon the methods of some advocates less skilful than Day.

It was by hard and honest work that Day made his way at the Bar. He owed nothing to connection. His progress was, I believe, at first slow, and I well remember his telling me of the first gleam of success that cheered him when he won a case with which he had been entrusted in a County Court. I rather think he had been holding the brief for someone else, according to the good old practice which prevailed in those days (and has, I hope, not fallen entirely into desuetude) and which opened for him, as for many others, the path to success. He despised not the day of small things, and gradually rose into a very large general practice.

While still in stuff he had a great number of leading briefs. Finlason, a member of the Home Circuit, who for a long series of years acted as reporter in the Law Courts for *The Times*, used to say that, when a Junior was beginning to think of taking silk, there was one unfailing test of his chance of success : "Do you *lead* causes ?" If a Junior is trusted to lead causes, he need not fear to take silk, as his capacity for leadership has been recognised. When Day took silk his success was marked and immediate, and for many years he had a leading position at *Nisi Prius*. Of his many triumphs

in that sphere it is unnecessary that I should speak.

His method in cross-examination was unique. He seemed to approach a hostile witness as one anxious for information, and grateful for any light that the witness could throw upon the case. Many a witness, while giving himself away as well as the case that he thought he was supporting, regarded the cross-examiner as a well-meaning but ignorant and rather stupid man whom it was his business to enlighten. I remember his saying to me of one case in which a young lady in the witness-box had made a statement to him which he afterwards used with telling effect in addressing the jury: "She looked at me, and thought I was a fool."

In his face he had one great asset as an advocate. His play of countenance was extraordinary: whether genial, shrewd, sarcastic, humorous, or severe, it had a fascination for the Bar, and, I doubt not, for juries. I believe that my late friend, Francis Williams, K.C., for many years leader of the South Wales Circuit, used to tell how he and other members of the Junior Bar, in days when they had more time to spare than afterwards, used to follow Day about from Court to Court, and, in watching the play of feature and ever-changing shades of expression upon his face, found a never-ending source of amusement.

It was my privilege to know Day intimately in private life. During the years when I worked in his chambers we had many a long ramble, starting from his house at Hampstead, over country which has been so changed by the

activity of the builder that it is hardly now to be recognised. I often travelled with him in vacation, and a more delightful companion there could not be. Runs with him through Cornwall and to the Scilly Isles, round the coast of Scotland, through Brittainy, through Belgium, through Holland, stand out vividly in my memory. His interest in churches and in pictures added zest to every expedition. He never failed to explore any church within reach, and I well remember how, in one holiday week, we raced one another to the top of the belfries in Belgium. His taste in art was excellent and severe. All the pictures he admired were good, but there were many good pictures which he did not admire. I think he acquiesced in the justice of the criticism when I said something of this kind to him. The same might have been said of his taste in poetry.

He was the most tender-hearted and humane of men. One marked feature of his character was a singular purity of heart and intolerance of everything that was base or unworthy.

The visits which, for many years, he paid to us here in the autumn were an unfailing source of delight to all who met him. There is no one who enjoyed his friendship with whom it will not be an abiding memory.

R. B. FINLAY.

Newton, Nairn, N.B., 28th December, 1915.

JOHN C. F. S. DAY

CHAPTER I

The Days of Englesbatch

Our first English ancestor of whom, so far, we have traced the record, settled about the year 1650 at Englesbatch or Englishbatch, within the manor of Englescombe or Englishcombe, a few miles from Bath. (*a*) This manor was long ago confiscated to the Crown, and settled on the Duchy of Cornwall. We have always supposed, though we cannot prove, that our origin is Norman and the first form of the name De Haie. (*b*) Family tradition points to John Day's having hailed from Kent ; Queen Mary's famous printer John Day, who died at Saffron Walden in 1584, leaving twenty-six children to perpetuate the family, was probably a kinsman of John Day of Englesbatch, though the armorial crests, birds, are not quite the same. The latter came with the land-hunger on him, and acquired several tidy-sized farms in the parishes of Burnet, Priston, Wellow and Foscote. The country comprising these properties is fine open undulating land, typically English, and even to this day bucolic. His advent at Englesbatch was preluded by a tragedy. The former occupier, named Bean, had impoverished himself by too great an outlay on building. When the bailiff came to arrest him, he was shot by Bean's son and heir, who then hanged himself in the malthouse. The mur-

derer-suicide's skeleton was dug up at the cross-roads by Thomas Miles about 1770, but there is no mention of his ghost haunting Englesbatch.

Only Johns and Thomases succeeded their forefather, the first John Day, at Englesbatch. We will, for convenience sake, designate these under dynastic numbers; not reckoning others bearing those names who belonged to the family.

John Day I. married Dorothea Phippen of Harptree. Phippen is the Saxonised form of FitzPaine, a name familiar enough to those who study the historic byways of the Norman Conquest. Her will was proved at Wells, April 12, 1692, and her husband's August 17, 1694. Evidently he had well kept up and improved his estate of Englesbatch. According to a manuscript memorandum, "the old orchard was planted to apple-trees, one half the winter before John Day was born in 1687, and the other half the winter after." This first John Day had three other sons besides John thus commemorated. He names Thomas, the eldest (Thomas I.), as heir to Englesbatch, and all its messuages, tenements and estates. Robert, the second, gets Prior Stanton, Somerset; John inherits Wilmington, "where I now live." The youngest, Samuel, is not given an estate in the will, but he came into possession of Burnet, near Keynsham. and there died and was buried. Thomas Day I. married Mistress Elizabeth Diaper of Nettleton, Wiltshire, and both lived into old age. Their son, John Day II., although we know that he died in 1773 a Catholic, married the daughter of the parson of East Harptree. A first cousin of John Day, Samuel II., of

Burnet, married another daughter of the same Rev. Thomas Smith. (Bearers of that widely-diffused patronymic may like to recall the dictum of Mr. G. K. Chesterton, that whatever name may be unromantic and unhistoric, it can never be Smith !)

A floating legend relates that the Day who was first to abandon the old faith was thrown from his horse on his first visit to the parish Church from which the Mass had been banished. However, this belongs to our prehistoric period.

But if the Day family conformed at the Reformation period, they became Catholics again in or about 1750. The tradition amongst us is that our family, and our neighbours the Coombes (*c*) were both drawn to this religious change owing to the example of a faithful journeyman tailor, probably Hibernian, who in all sorts of weather passed Englesbatch every Sunday, on foot, on his long hilly way to Bath. He was tracked to the Catholic Chapel ; the *exploratores* returned profoundly edified, and very shortly afterwards the two families gave in their allegiance to the Holy See.

Thomas Day, the second son of Thomas I., died of smallpox in 1706, aged eighteen. He was then a student for the priesthood. His father was in the Bath Trained Band at the time of the passing of the Duke of Monmouth from Bristol to Frome. The Royalist troops, who set out with much confidence, suffered a sharp reverse at Philip's Norton. My grandfather's great-aunt Susan is the authority for the family account of this historic incident, and she told him that the Jacobite Loyalists claimed this as a victory, and proclaimed Philip's Norton

as a "city." She also handed on the tradition that John Day I. was a very tall man. Thomas, who may have inherited this persistent family quality, must have been at least prepared to do deeds of valour! His grandson, Thomas Day III., who married Susana Hall of Dundry, remembered this warrior, and that he was accustomed to poke him, when a boy, playfully with his stick. John Day III. married a cousin, Mary Day, then Mrs. Phelps, a widow. Their son, Samuel, whose estate of Hinton Charterhouse came through his wife, Miss Skurray, became High Sheriff of Somerset; his son, Samuel Skurray Day, J.P., won to wife the eldest daughter of Lord Ribblesdale. (*d*) The Sheriff may be regarded as having died a martyr to party politics, having met his end a few days after an accident caused by the collapse of the hustings at Bridgwater. He died in 1806, and in *The Gentleman's Magazine* stands his panegyric: "He supported the character of a country gentleman in its primitive purity: humane, upright, hospitable, pious." This was a non-Catholic branch of the family; obviously in those days, Papists would not have attained to just that kind of recognition from a secular journal.

In 1777 Thomas Day IV. married Mary Alice Fleming at Foscote, and received with his wife, from her father, a house in King Street, Bath, and £100. A certificate shows that the year following, at the Bath Quarter Sessions, Thomas Day of Englesbatch took the oath appointed to be taken by Papists, by the Act of 18 George III., to relieve them from penalties and disabilities imposed by 11 and 12 William III.

There are similar documents granted to other members of the family in the same year and in 1791. Although Thomas was one of a family of nine, seven of whom were boys, it looks as if the Days would have become extinct in that generation had it not been that he reared a family; and yet of all his offspring only one, John Day V., seems to have left children, of whom the eldest was my father, John VI. Thomas Day IV. died, before his wife, in 1807, of a rupture caused by a kick from his horse fifteen years before. (*e*) He was an excellent man of business, active and enterprising, and, "which speaks his principle, much sought after as an arbitrator." He left sons, John V., Thomas, Samuel Edward, and several daughters.

Their mother, Mary Alice Fleming, a remarkable woman, was the youngest child of Francis Fleming, a kinsman of the last Flemings, Barons Slane of Derpatrick. These great loyalists had forfeited rank and estates for the cause of King James II., who was the guest of the eighteenth Baron Slane on the eve of the battle of the Boyne. (*f*) Francis Fleming, born in Ireland in 1715, had a turn for wandering, artistic faculties, a generous heart, and a shallow purse. He settled eventually in Bath, and married Anne Roland, a French lady, who like himself had social parts, but scant patrimony, and had become a teacher of what was always called then "the Art of Dancing."

Francis Fleming was the author of *Timothy Ginnadrake*, (*g*) to which constant reference is made in *Bath under Beau Nash*, by Lewis Melville. According to this "biographical history" of Fleming's, he acquired proficiency

on the violin, was admitted by Nash into the Pump Room Band, became its director, and figured for years in musical circles. Extracts from his accounts show that he once received £70 for the sale of a violin, compounded 10s. 6d. "to the clargiman for swearing," and for window-tax expanded £1 17s. 2d. He died in 1778.

Francis Fleming's eldest daughter Anne Teresa (Nannette), followed the profession which had been her mother's. She was a Bath "character," most loyal to her friends, but hot-tempered and overbearing, and with more than a dash of the *grande dame*. "Her house was the resort of a great number of persons of all ages and conditions of life. . . Her manners were graceful, and her part noble. . . She would have done justice to a large income, and spent it with dignity." She lived until 1823. Mr. Edward Canning, to whom she had been on the point of being married, lies buried with her in the same vault at Walcot.

Her sister, Mary Alice Fleming, (Mrs. Day) was much better qualified to play the part of a farmer's wife : the mother of ten, an early riser, busy and bustling, economical and religious. She had been educated at the Ursuline Convent at Lille. She would go to Mass every Sunday in Bath, and neither rain nor snow could stop her if only she could get anyone to drive her car. The accounts kept by her are accurate to a penny, and £20 was carefully laid aside to pay the expenses of her funeral. Her hearing was defective ; for the last twenty years she made use of an ear-trumpet. When her son John was going out to shoot with his brother Tom on the 21st September, 1821, (I am extracting this, as much of

the foregoing, from my grandfather's memoranda) she called after him to be sure to bring back a hare for the Sunday dinner ; but they returned laden with spoil, to find that their mother had suddenly been taken fatally ill. On Sunday, the 23rd, the Rev. Mr. Coombes, whose family has been mentioned already as spiritually linked with ours, paid her a visit. He found her deeply occupied with prayer. The Rev. Mr. Brindle was another clerical visitor to her deathbed ; Mr. William Day, Mary Fleming's brother-in-law, Surgeon to the Bath Hospital, accompanied him. She was the last survivor of her immediate family.

John V., her eldest son (Captain Day), became my father's father. A word may be said here, not of himself, but of his immediate family group. He left the management of the paternal acres to his two junior bachelor brothers, Thomas and Samuel, men of genuine worth and much originality, whose memory is still green and honoured. Of these, Thomas was born in 1783, and died in 1874 at Tivoli House, Greenway Lane, Bath. Samuel Edward Day was ten years his junior, and died also at Tivoli, in 1871. Tivoli was the home to which they retired after giving up Englesbatch in 1853. They left it to my father, whose later boyhood, after his parents' death, was passed under their roof. They were hearty, jovial Englishmen of a bygone type, but strictly religious, and, be it added, abstemious. Sam was much more a man of the world than Tom. He was interested in the social advance of Catholics. His becoming a Poor Law Guardian was part of this movement. I have heard also of a meeting of farmers got

together at an inn near Combe Down (an unique procedure at that time !) with a view to explaining the Catholic position and so lessening bigotry. I have also understood that these good bachelor brothers had something to do with the preliminaries for acquiring the property which became Downside College. They were friends to the Benedictines who served the Bath Mission. In a list of subscribers towards the completion of the Catholic Chapel at Bath, 1810, are the following names : W. Day, £50 ; Thos. Day, £50 ; the Earl of Newborough, £50 ; Charles Conoly, £50, etc. The Coroner of Bath, Mr. English, was a faithful ally of my great uncles. They had a saying between them which has come to me through one of my elder brothers : it has, I fear, become slightly mutilated in my memory, but has proved prophetic : " This generation are great cruisers. I suppose the next generation will take to flying ! "

Uncle Tom, in his latter years at any rate, was privileged to hold up in air his large bed-warmer watch when he considered that it was time for the preacher in the Bath Church to pass on to his peroration, and is credited with having performed this singularly delicate task to the general satisfaction. Mr. Sam Day, (so an old nun informed me, years ago, in some notes on the two Day sisters who became Canonesses of St. Augustine at Spetisbury) " was considered a kind and devoted friend of the Community. . . He came every year, and took a lively interest in everything that concerned the Convent. He visited once after the death of his sisters, and kept up a correspondence, writing until his death most amusing and interesting letters.

We always regarded him as the type of a fine old Catholic gentleman, full of religion, and with plenty of humour."

The sisters just mentioned, who became nuns, were Martha and Susan Day, born in 1787 and 1796 respectively. The younger sister led the way to St. Monica's Convent, Spetisbury, Dorset, in 1817, being followed four months later by Martha. They were both professed in 1819. Their names in religion were respectively Mary Ignatia and Anne Austin. They both lived to venerable old age, died in the same year, 1865, and were buried in the Convent cemetery near Newton Abbot, (whither the Sisters had moved in 1861) being amongst the first to be buried there. These daughters of Thomas Day and Mary Fleming were good genealogists, and did not fail to take interest in the history of their own people. The community annals speak of them both as having been exemplary religious. Martha was "always ready to please and assist any of her Sisters, to rejoice or grieve with them as the case might be." She had a good voice. Bedridden for some years, she was very careful to give as little trouble as possible. The day before dying she asked for Holy Communion, saying: "It is now time that I should receive It." She repeated vehemently: "I do believe," and told the bystanders that never before had she known how sweet was the Lord.

Susan "discharged responsible offices with much prudence, order and care. . . In all points relating to the Rule, she was resorted to as to an oracle." As Procuratrix, she developed her mother's zeal for economy to a pitch which some were tempted at times to

regard as excessive. For many years she was Novice Mistress, and, though inclined to be severe, was greatly loved by the novices. When the term of her office expired, the novices said they felt as if they were losing a real mother. Towards the end of her life she suffered from her eyes, and had to live in a darkened room. A few days before her death, Sister Anne Austin asked to be taken to the chapel, as she " wanted to leave her heart in the tabernacle."

My father took his three eldest girls to the Spetisbury Convent, that they might commence their education under the wing of their two Augustinian great-aunts. Emily (Mrs. Louis King) was a special favourite of her father. In the spirit of Sir Thomas More, he had taken great pains to teach her the elements of Latin, for which she had later to pay the penalty, as other girls spoke teasingly of her as " the little girl who knows Latin." They travelled partly by coach and partly by train, and felt the parting with their father intensely. He wrote one of them a letter for the occasion of her First Communion which was considered by the Sisters so beautiful that they asked permission to read it in public to all the pupils. On special occasions the nieces were privileged to take " a dish of tea " in the cells of their great-aunts. These kindly souls would even save for them, from time to time, cakes or portions of pudding from the community table. One of the objects of this benevolence still remembers (with mixed emotions !) having obtained a school prize, while there, for " intelligent assiduity."

The reader is now introduced to several of the

chief *dramatis personæ* in the early scenes of my father's life. We reserve further details of his father, Captain John Day, and of his mother, Emilie Hartsinck, and her family, for the following chapters.

CHAPTER II

The Hartsincks of Holland

As Thomas Day, departing from the staid precedents of his forbears who selected partners from the neighbourhood, married a wife in whom Irish and French blood were blended, so his eldest son John took to himself the daughter of a Dutch political refugee driven to these shores by the Napoleonic upheaval.

The Hartsincks (*h*) were an important Amsterdam family, which since the close of the fourteenth century had displayed conspicuous activities in the public service. Akin to them or allied with them, and eminently connected with the history of Holland, were the families of Valcke, Baerdorp, Dankerts, Vriese, Layerus, van der Heim, Graafland, van den Velden, van Rijneveld, Lampsius ; and Barneveldt and Elzevier, families of European fame. It was especially in the Admiralty and at sea that the Hartsinck abilities showed to the best advantage. The Dutch Dictionary of National Biography commemorates three prominent sailors sprung from that stock. Several members of the family evinced a keen and intelligent interest in the welfare of the Dutch Colonies. One, Jan Jacob Hartsinck, born in 1716, gave evidence of an unusual variety of talents. In addition to his public achievements, which were considerable, he shone in a minor degree as a

writer of poems and plays, mostly of a humorous nature; he also appears to have been the inventor of some mechanical appliance connected with water-mills, with which, as a dyke-reeve, he was officially concerned; and he found time to write a work in two volumes on Dutch Guiana, Essequibo, Demerara, and the rest. His first wife, Constantia Sweedenryck, shared his literary tastes; and his second marriage, with Anna Adriana Hasselaar, brought the Hartsincks into contact with a family the name of which conjures up the memory of Kenau Hasselaar, who, fighting at the head of her Amazons in the defence of Haarlem, offered, if need arose, to cut off her right arm to help provide food for the half-famished burghers; and of Pieter Hasselaar, who with consummated heroism, gave up his life on the scaffold for a cousin, saying to the Spaniards: "If you want Ensign Hasselaar, I am the man." (*i*) The birth of a little Hartsinck in 1795 was sung by one of the great poets of the Netherlands, Bilderdijk, who has much in common with Browning. The first Hartsinck Admiral of whom we find any record was born in Japan of a Japanese mother, in 1638; and the last, whose name is inscribed in the annals of Holland, had to serve, reluctantly, under King Louis Napoleon (1806). He was blamed for obeying orders too literally, and Napoleon I. declared that if only Pieter Hartsinck and the French Admiral Linois had worked together unitedly, the fate of Europe in India would have been decided in favour of the French. In some other circumstances no doubt Pieter, like Nelson, could have read the signals with a blind eye, instead of in

the spirit of "blind obedience." At Java he fell ill, and obtaining a berth on a boat bound for America, died at Baltimore in the July of 1808.

To their Catholic descendants it is gratifying to discover, amongst the earliest known bearers of the name, Willem Hartsinck, a Whitefriar at the Monastery of Perck, outside Louvain. At the Reformation the family would seem for the most part to have stood for the old religion and for the Spanish ascendency. But after a hundred years in the opposition, most of them adopted the national religion, and threw in their lot with the House of Orange. By the strange sport of circumstance, it was a descendant of the Catholic branch who was taken to wife by the first King of Holland, a staunch Protestant. Johanna Susana Hartsinck, second daughter of Andries Hartsinck, Commander-in-Chief (Opperhoofd) of Sourabaya, had married Colonel Ferdinand-Louis-François-Michel, Comte d'Oultremont de Wegemont; and their daughter Henriette-Adrienne-Louise-Flore became the morganatic wife of William I., King of the Netherlands. (*j*) It will be noticed during the course of this chapter that my father's mother, Emilie Hartsinck, the last of the direct line, reverted in her girlhood (following her mother's example) to the faith of her fourteenth-century Carmelite kinsman.

About 1760 Susana Cornelia Hartsinck married one of the family of Muilman, and at almost the same date an American-born gentleman, Charles Crokatt, of Weatcomby, Somerset, led to the altar Anna, only daughter and heiress of Henry Muilman of Dagnam Park, Dagenham,

Essex, and of his wife, Anne Darnall, a granddaughter of Sir Thomas Jenner. This Henry Muilman and his brother Peter, two out of seven brothers, sons of the Burgomaster of Amsterdam, came to England in 1715 and 1722 respectively, and took to commerce, from which few Dutchmen can keep entirely aloof. It was thought that so many young men would get in each other's way if they stayed at home. The Muilmans thoroughly established themselves amongst the gentry of Essex. They were originally Counts of Bérenger in Brabant. A younger branch had separated from the family "on account of the Spanish persecution and Inquisition," and settled near Deventer in the province of Zutphen on an estate called De Muyl. "Three hundred years ago they took from this house their name, changing it to Muilman," wrote Peter Muilman on the margins of a copy (now in the British Museum) of his own book, *A New and Complete History of Essex, down to* 1770, *By a Gentleman.* This Peter Muilman of Yeldham and Kirby Hall was younger brother and partner of our ancestor, Henry Muilman aforesaid, who was from 1734 to 1742 a South Sea Director, and died suddenly in 1772.

Anna Muilman, of the Dagnam Park family just mentioned, wife of Charles Crokatt, bore to him a daughter, Anna Peterella Crokatt, who in 1775 married Jan Casper Hartsinck, forming the last of many alliances between the families of Hartsinck and Muilman. An elder daughter of Charles Crokatt had married Sir Alexander Craufurd, and from these two sprang the modern Craufurds, a whole family of illustrious

soldiers. (*k*) As the pedigree among the notes to this volume will make clear, the Muilman-Crokatt union eventually gave the Days of the nineteenth and twentieth centuries a direct descent from that interesting and high-minded worthy, Sir Thomas Jenner, Baron of the Exchequer, (1637-1707) and with his son-in-law, Sir John Darnall, Judge of the Marshalsea Court. (*l*) It allied us collaterally with the Boucheretts (descended from Armon de Boucheret, Avocat du Roi de France about 1560), and through them with Charles Newdegate, M.P. (born 1816, died 1887), of anti-convent notoriety, who in 1882, after a fit on the hunting-field, pluckily remounted and went on with the hunt. Through the same family we claim kinship with the Rowleys, who, within the period 1730-1845, count four distinguished Admirals within their direct line. One more memorandum on this branch of the family tree. John Julius Angerstein, a delightful personality, married the widow of Charles Crokatt. He was of Russian extraction, born at St. Petersburg (now Petrograd) in 1735, and he ended his long life in 1823. He was famous in connection with the enlargement and general expansion of Lloyd's Insurance. He was an important figure in the financial and philanthropic world, and was also an art collector. (*m*)

The year 1755 had seen the birth of Jan Casper Hartsinck, whose long life of eighty years was cast for the most part in troublous times. He was the eldest son of Cornelis Hartsinck and Sara Maria Volkerts van Rijneveld, and grandson of Jan Casper Hartsinck, Commissary of the Little Seal and Director of the

Surinam Company. His portrait as a young man is distinctly attractive. Yet as a child of six he had suffered severely from smallpox, a spectre that was to haunt his immediate family in the years to come. He climbed the ladder of promotion in a way which combined legal, municipal, commercial and diplomatic success. Towards the close of 1784 he came to England with matrimonial intent, and returned with his bride, Anna Peterella Crokatt, early in the following April, to Helvœtsius. They were married on February 9, 1785, at St. George's, Hanover Square.

During the years 1786-9 Holland was in a state of political ferment. Jan Casper threw in all his influence on the side of the Stadtholder, which was also the pro-English side. His zeal caused him to be banished from his country. He fled again to England. In 1794 he received an appointment as Plenipotentiary of their High Mightinesses to the Lower Saxon Circle at Hamburg. We have a sheaf of letters addressed to him by five members of the House of Orange, and copies of numerous letters from him to them. The Prince of Orange writes usually from Hampton Court, and in one instance from Brighthelmston (now Brighton) : he writes as to one in whom he has complete confidence.

But more trouble was in store for Hartsinck. During his exile in London he was entrusted with the task of arranging conjointly with Count de Pfaffenhofen (commonly referred to as M. de Pfaff) and the English Government, for a muster of soldiers in Germany. Much intelligent care would be needed to disentangle the rights and wrongs of the question. Apparently money

had been expended which it was expected would be made good by England. Count de Pfaff and Hartsinck were both threatened with heavy pecuniary loss. Recourse was had to the law-courts; and it transpires from two or three passages in letters that Hartsinck was considerably vexed at the "law's delays," nor altogether favourably impressed with our legal procedure. In several letters he urged the Prince of Orange to accept interest on the money expended on the muster, which he regards as of the nature of a loan. The Prince generously refuses to receive anything beyond the capital. The whole episode was evidently painful and humiliating, but he emerged from it with unblemished reputation; and the Prince writes to congratulate him on the good result of his lawsuit. Hartsinck had written to him, dating from Islington, 13 December, 1798: "I have always endeavoured to act as an honest man, and to make good use of that which Providence has been pleased from time to time to bestow upon me. The only moment in my life when I can remember having wished for a larger fortune, was when I thought that circumstances gave me an opportunity of persuading Your Serene Highness, by deeds, that nothing equals my feelings of devotion and my loyal attachment for Your Serene Highness's person and house, which will remain unchanged in all circumstances and always, and will not end except with my life." Three weeks with his brother-in-law de Bylandt at his place in Gelderland, where the writ of banishment did not run, helped to soften the memory of these dark days.

Of the public life of Jan Casper there is little

more for me to say. The material at hand does not enable me to determine at what time he held the post corresponding to our Attorney General. The letters would seem to show that during the eclipse of the House of Orange, lasting till 1813, Hartsinck was obliged to live abroad, and that eventually his regular place of abode was either Chichester or his house near Bath. As a private individual, his domestic sorrows were even greater than the official difficulties through which he had to pass. Out of his five children, only one was to exceed the age of fourteen, she (my grandmother) dying at the age of forty-six. The poor father has left a touching memorandum in which he records the ailments and early deaths of the four who died young. Were this book intended for doctors, their symptoms, duly chronicled in the family Bible, should be reproduced; but the average reader would find it tedious work. The first child was christened "Jean-Charles," showing, in spite of politics, a certain French affinity in the parents. This one died at the age of one, and his place was taken by "John Charles," born in London 1791, dying at Kensington Gravelpits, 1805. John Julius Angerstein stood as godfather. The catalogue of John Charles' illnesses is appalling, culminating in a hip trouble which threatened to cripple him altogether. And yet the poor boy, called a "worthy and almost incomparable youth" in his father's short account, left a truly bright record in the moral order. "Year by year he gave greater proofs of a very sagacious wit, and of a very sound and accurate judgement. He shone forth particularly by his love of truth, virtue and religion."

The children, with the exception of one who died in Holland, were buried in the vault of the Church of St. "Marie-la-bone," where "they are both preserved in lead coffins, so that in case one might think fit at one time or another, they might be transported to their own country."

There is no lack of indication that in the last quarter of Jan Casper's life at least, religion played a very prominent and somewhat dour part. Indeed, he would seem to have been of the strictest sect. His daughter Emilie writing to him on an urgent subject, and wishing him to read the letter on arrival, feels obliged to address it to Miss Mant, Chichester, with the request that she would read it to him, "as it will be Sunday when it reaches him, and I fear he will not open it."

In 1805-6 Anna Peterella Hartsinck had taken, for reasons which she records lucidly (*n*), the bold step of becoming a Catholic. No doubt this had caused a coldness between herself and Jan Casper, her husband, or at any rate had convinced them both that the cause of peace and charity would gain by their living, for the most part, separate lives. When she came to die, she was naturally not at all keen that religious controversies should form any part of her death-bed proceedings. Emilie has to tell her father this as nicely and lovingly as she can, from Bath, on the 19th of December, 1818.

"My dearest Father:

There has been, I trust and hope with the blessing of God, a happy crisis in my beloved Mother. After I finished my letter yesterday, the Abbé gave her the last Sacra-

ments, which she received with the most perfect recollection and devotion; she appeared to us gradually to improve since then, and all that is now required is perfect peace. I have read your very kind affectionate letter to her, and she bids me tell you that should she die, she is perfectly convinced of your sincere affection and bears you the same; she begs, most earnestly, pardon of any offence she may have given you, and assures you of her tenderest attachment, and forgiveness of any you may ever have given her; but that this circumstance of your difference of religion prevents her being able to wish to see you in these trying moments, for it would be impossible for you to say anything that would give her any comfort, and she feels more and more consolation in the blessings the Roman Catholic Faith gives. Your praying and talking always agitates her spirits, and Dr. Gibbs and Mr. Hay both say might counteract the effect of the remedies they give. Mama desires to add, had you been in her state she should not have offered to disturb your last moments by showing an anguish she could not have concealed, and when I said so strongly I would not be excluded your dying room, I only meant I would summon courage to attend you as a most careful and affectionate nurse, but would by no means ever try to interfere with those of your Christian friends whose way of thinking and yours are in unison. Believe me, my beloved Father, it grieves me to have this painful task."

The Abbé mentioned was Abbé Valgalier, a French *émigré,* who lived with Mrs. Hartsinck as chaplain (and afterwards with her daughter in the same capacity) and showed his loving gratitude by the kindly care he took of her soul as it neared its long journey. This good priest brought her " a beautiful odoriferous rose every day, which in some measure compensates her for not seeing her dear garden." " Mama speaks of death with wonderful resignation and peace. The Abbé is broken-hearted." These extracts are from Emilie's letters. Jan Casper Hartsinck was with his wife at the last.

His sister Cecilia, now (1819) Baroness de Spaen, and by her former marriage mother of a young hero of Waterloo, Carel de Haren, writes a very sensible letter of condolence, portions of which have a claim to quotation :

> " Do not condemn her because she died in the religion which she confessed during her life. We Protestants are too enlightened to question the salvation of one dead outside our Church ; and you are yourself, my dear friend. I am convinced that her memory would be less thought of by you if upon the bed of death she had abjured the religion she chose from conviction. I confess that her choice astonished me, knowing her to be endowed with a superior mind ; but having once adopted this religion, I think it fortunate that she persevered in it, believing it to be the best ; and whatever displeasure I experience at the idea of your daughter, dear Emilie, being a Catholic, I should renounce her friendship for ever, if she was capable of

changing, having, as her mother, chosen this religion from conviction. Forget, my dear brother, the different way of worshipping the Supreme Being, and again become not only a father to her, but her friend and her protector. I grieve for her with all my heart, for her loss is vastly greater than yours. I shall venture to offer up my prayers for both of them."

In accordance with the advice of the Baroness, cordial relations were re-established between Hartsinck and his daughter. On the eighth of November, 1819, ten months after the decease of his first wife, Jan Casper married Miss Matilda Hankey. Miss Hankey had long been a friend to all his immediate family, and retained the affectionate regard of her stepdaughter and of that stepdaughter's husband.

Amongst minor services which Jan Casper Hartsinck continued to render to the Orange dynasty, we learn of his procuring a sample of a "couple of pounds of green tea at three or four Prussian crowns the pound" for the Hereditary Prince. In 1798 Hartsinck pleads earnestly for a fellow-countryman in London sentenced to be hanged for forgery, ending his letter with the quotation: *Non ignara mali miseris succurrere disco.* And in 1818 we find him informing Mrs. Fry, the Quakeress, as to the nature of the punishment usually meted out to forgers in the Netherlands. The ordinary cases were dealt with by means of "flogging, branding with hot irons between the shoulders, and imprisonment; the capital sentence being reserved for cases in which the Government itself was injured, or the public exposed to great dangers."

However, the two women in whom Mrs. Fry was interested were both executed. Hartsinck's "evangelical" piety comes out in the concluding sentence of this letter: "May the Lord be pleased, Madam, to sanction your charitable exertions for the souls of the poor unfortunate objects of your love, and make you the honoured instrument to bring them to the knowledge of the blessed Jesus, the Friend of Sinners."

Jan Casper Hartsinck died on the twenty-third of October, 1835, at Forefield House, Lyncombe, Bath, and was buried in the Lady Huntingdon Burial Ground. A correspondent says that "His Excellency was always famed as a decent man": the truth can lie not far from this mild ascription of praise.

His youngest sister, Cecilia, married as her first husband Charles, Baron de Haren, and as her second Jacob Alexander, Baron de Spaen, Lord of Ringenburg. Baron de Haren died when his only child, Charles Frederick Sigismund de Haren, was a few months old. The latter at twenty-two was aide-de-camp to his uncle, General Willem de Bylandt, and behaved admirably under his baptism of fire, two days before his death, at Quatre Bras. A cannon-ball closed his promising career at Waterloo, on the day of the great victory. It was of him that the Princess Dowager of Orange said: "Perhaps he was too good for this world. God must have wished to take him to Himself." Had he survived the battle he was to have been decorated with the Military Order of William. The Chancellor of that Order assures Madame de Haren of this, and adds "that her boy is mourned by an adored Prince and a gallant

army." He was mourned still more, in proud sorrow, by every member of his own family, whether nearly or distantly related.

Enough of the Hartsincks in general. They were men, and women, of action, who in several cases showed also that they knew how to bear up bravely in adversity.

CHAPTER III

My Father's Parents

John, eldest son and second child of Thomas Day IV., of Englesbatch and Mary Alice Fleming, was born in 1779. In his tenth year he was entered at Sedgley Park School near Wolverhampton : at that date the great, if not the only, Catholic School. In Captain Day's last diary, under date December 1, 1838, there is the following entry : " This day fifty years my kind father took me to Sedgley Park School " (*o*) A presentation prayer-book, in which the inscription is dated 1791, reveals the fact that at the opening of the Wardour Castle chapel in that year he filled the office of mitre-bearer to the Bishop. He was twenty-eight when by the death of his father he inherited Englesbatch. He dearly loved it and all its associations, and has left many affectionately detailed memoranda concerning it, including the date and circumstance of the planting of many of its noblest trees.

> " The tree in Sydland Mead planted by Aunt Martha, raised from an acorn. The wall-nut in the Hayside near the rick yard planted by my mother . . . and the one in Phelps' orchard near the garden by my sister Fanny, over the spot where the old horse was buried a few years before . . . the same

was one of the two my father and self rode from Sedley Park School in 1789, I being only nine years old. I rode him four years as my troop horse in the Bath Volunteer Cavalry. He was a favourite of my father's. . . . The three Chesnut trees in the land were planted about 1815 or 1816 by my brother Sam and sisters Martha and Susan, the centre one by Sam ; the trees in the Pump near the Furlong by my sister Susan the day she became of age. . . . The oak tree near the hedge about half-way down Sydland Mead, and nearly opposite the old gateway into Durnet's, was planted an acorn by my grand-aunt Martha, first in their garden. . . ."

The old germs of a military vocation, dormant on both sides of the family for some time, developed notably at this stage of its story. John Day V. joined while young the Bath Volunteer Cavalry, and remained in it for several years. William Day, his brother, who died aged twenty, was an Ensign in the Bath Volunteer Regiment. In 1803 John became an Ensign in the 49th (or Hertfordshire) Regiment of Foot, in which, two years later, he was promoted to be Lieutenant, and in 1813, Captain. He tells us that at the time of his death of his brother William, November, 1806, and of his father, January, 1807, he was with his regiment in Canada ; but of this first visit to Canada I find no further record. This would have been a year or two after he became Lieutenant. In July, 1811, he took command of the 49th Regimental Dépôt at Hertford. A year later we find him marching from Dublin in command

of forty-four volunteers, two sergeants, and two corporals, to escort them to the Isle of Wight. After the landing at Liverpool they took the following route: Coventry, Shrewsbury, Worcester, Gloucester, Marlborough, Southampton, Cowes, Newport: two hundred and thirty-two miles in all. The allowance to the officer for marching this detachment amounted, at sixpence a mile, to £5 16s. The passage-money, going and returning, was £3 8s. 3d. One man died on the journey; and the sale of his jacket and breeches covered the payment of a loan of four shillings to the corporal, with a shilling to spare.

In June, 1802, war was declared by the United States against Great Britain. In March, 1814, Captain Day was ordered to Canada, where he was to spend a not very eventful year, embarking at Portsmouth on the transport "Phoenix." Out of a party of seventeen officers on board, nine were of his own regiment. "Off Cork saw an immense fleet come from the cove like bees from a hive. Sent a letter to my mother by the pilot." There were several gales, in one of which the sails were shivered, the jib-boom carried away, and men blown from the yards. There are some touches of natural history: e.g., a fortnight after leaving Cork "a woodcock hovered round the ship, but did not alight." It was forty days before they sighted Newfoundland: "a cold, inhospitable sight of snow and ice." Captain Day joined his own regiment, the 49th, at Isle au Noir near La Colle, which General Wilkinson had just failed to capture, and from which he retreated to Plattsburg. The 49th were known among the

Americans as the Green Tigers,—a tribute by the victors to their courage. Shortly after their landing, we find indications, in the entries for June and the following month, of slight engagements at Odeltown, in which some Indian and Canadian Voltigeurs (Light Infantry) lost their lives ; but the Yankee losses outnumbered them. An allusion is made to the mistaken tactics of the Governor, Sir George Prevost. A note is made by the diarist on "the pretty effect of the choir of bugles sounding," and it is recorded much later how he goes skating, and sees "a great number of porpoises, as white as snow" ; and how one man in November was frozen to death, Captain Day himself a little later having his face and right hand frost-bitten, on the eve of "the coldest day I have ever felt : thirty-one degrees below zero, January 31st, 1815." The diary proves him to have been most dutiful in writing to his mother. Impaired in health, he departs from Quebec late in May on the transport "Sea-horse." On June 25th he is informed by the Commodore that England is at war with France ; and two days later he discovers that Bonaparte has gone to the Army in Flanders. It is not till the evening of July 5th that he hears of "a general action and of the arrest of Bonaparte." Next day they learn from the "Perseus," a ship-of-war, further particulars of the great battle, for which he had arrived just too late. He must have felt that his soldiering had been rather luckless, though by no fault of his own. On July 9th the laconic entry is "Sent for Port Wine." A month after Waterloo has been fought and won, the "Sea-horse" passes the Needles with a beautiful

breeze. In October Captain Day leaves his regiment at Weymouth, and proceeds via London, Colchester, Flushing, Antwerp, straight to the historic battlefield, which by his marriage nine years later was to be invested with a fresh interest of a more personal character. In 1819 Captain John Day retired on half-pay, aged forty.

Where did he first meet her who was to be his all-beloved wife? Was it in the Bath Pump Room, or the Assembly Room, or comin' thro' the rye, or coming out of church? No document at my disposal enables me to answer these fascinating questions. But this seems to be the place in which to give some account of Emilie Hartsinck.

The first official act recorded of my grandmother, after her birth in Holland in 1790, is that after three years' residence in Hamburg with her father and mother and her good nurse, Anne Silk (then aged twenty-four), who was to discharge the same office for her children, she signed in big handwriting, in the year 1797, the passport entitling the party to repair to England. Twenty years later she goes to Holland on a long visit to her Dutch relations, and amuses them by her endeavours to speak the language of the country. They give her great hopes that she will succeed, without serious difficulty, in mastering the mysteries of her native tongue! She was probably not more than fifteen when her mother and herself decided to embrace the Catholic religion. As the Abbé Valgalier set it down in his "Wishes" in 1836, that he was Mrs. Hartsinck's chaplain thirty years before the date of writing (and the context would imply that he was then newly exiled from

France) this makes it certain that Mrs. Hartsinck and Emilie must have become Catholics not later than 1805-6. We possess a *Garden of the Soul* which belonged to the latter, with her name on the fly-leaf : " Emilie Hartsinck : Given me by my dear mother," and the date " 20th July, 1805." Evidently Emilie, like her father, took religion seriously. Abroad, she finds herself out of sympathy with several of her kinsfolk, not only on account of the difference in belief, but also, and more so (and this unfortunately applied to some of her less closely-related Catholic cousins), on account of their worldliness, and inability to dwell at all on the solemn issues of life. " I like them all ; but this I must say : there is more unison in M. van den Velden's ideas on the most important of all subjects ; and this is a link even stronger than gratitude." After deploring in a letter to her " dearest dear Father " the low ebb of religion in the neighbourhood recently devastated by the Rhine in flood and threatened with a further deluge, she passes on parenthetically to give a commission for the buying of ribbons to match gowns brought with her from England ; but farther along she does not hesitate to tell her ultra-Protestant parent that " she creeps out early of a morning to hear Mass, and has the happiness of practising her religion as comfortably as in England." This last extract is from Utrecht. Perhaps her father may have scolded her for spending money too freely. At any rate she writes : " I thank you for speaking candidly to me on this subject, for I had rather at any time be told of my faults than think that my Father did not love me enough to tell me of them. If

I am to be presented at Court, this will again very considerably augment my expenses." It was decided that she should be presented, and the Princess Mother and the Duchess of Brunswick amiably remarked that it was evident that she was no impostor, as "I was so like you, and at the same time recalled my Mother to their mind."

On January 1st, 1818, Emilie writes from the Hague that she is "immersed in Fashionable Life, but not, I can safely say, in gaiety, for the heart is but ill at ease in the midst of such dissipation; and though I am not wiser or better than my fellows, I have tasted another sort of pleasure; and all these, I assure you, only make me feel delighted that I am not by situation doomed thus to spend all my life." It peeps out between the lines that the conduct of some of the royalties is not very edifying; but "pour l'honneur de la patrie" this is not to be repeated. By the end of January she had a bad cold which "unhinged her stomach for some time." Her aunt's doctor, a believer in alcohol, orders her some generous burgundy, and the obedient girl submits gracefully to the treatment. Even though it is Lent (this item of news is from a letter dated March, 1818), she is obliged to go to a ball in honour of Prince Frederick's coming of age. When she returns to the Hague after a short absence, some of her relations seem distinctly less cordial. After recording the fact, she adds what will to English readers be a grateful admission: "After all, I begin to think that John Bull is still the best. However, nothing can exceed the kindness of my *near* relations, and I may truly say 'Je les

aime de tout mon coeur.'" In a letter later in the month she writes: "Last week I remained quite alone at home, and spent it much to my taste, and this week, too, is to be passed in retreat, as it is Communion in all the churches": a touch of Jansenism indeed, but not altogether unpleasing. Shortly after, her aunt Cecilia, wife of Baron de Spaen, "sets forth, by her physician's orders, for a tour of five months. I trust it will be of essential service to her poor nerves." So it would seem that "nerves" are not of such recent introduction as some would suppose; and we may fairly safely surmise that this is the same large-hearted medical man who prescribed the burgundy. She asks to be remembered "to her good Sussex friends." She would write to Mary from the Brink, "but I have little chance of sending letters free from there, and I do not think mine worth her paying so much for." In Holland, according to her experience, "neither are the bedsteads so comfortable nor do they make beds half so well as they do in England." Nor has she much praise for the Gelderland roads. "We have shocking roads here, *Sandy Seas*; so there is no driving out. We were nearly eleven hours coming forty miles, the other day!" An uncle and cousin are to escort her home in July, and she hopes to profit by Miss Hankey's hospitality on arriving. After the loss of her mother, she has often little company but that of the good Abbé Valgalier, who regards her as his adopted daughter; and yet she tells her father at Chichester, she apparently writing from Bath, that she does not find time at all heavy. And fortunately she has inherited her mother's love of a garden.

But soon her solitude is to be invaded. Captain Day is about to appear upon the scene. Certainly, as their letters show, religion soon began to be a strong bond between them. And I can do no better than to allow a few extracts from these early letters to tell of their wooing and their wedding.

In Dutch fashion she usually addresses him by his surname: "Dearest Day." Here is a specimen.

> "Feeling so perfectly happy and contented without you. . . . Now I will leave quizzing aside, for, believe me, I am too seriously anxious that we should make the best possible preparation for the great undertaking we have in view. I have half a mind to tell what the Abbé in his wickedness purposes to inform you of. Why! I was such a fool, I sobbed for an hour or more, so as to relieve my heart a little, on Tuesday evening, from the heaviness that oppressed it. I hope you felt some of the gloom we experienced, for though the Abbé rallied me, he ended by crying too, when he saw how foolish I was."

Then she tells how she is trying to arrange for a few days at Spetisbury Convent with her future sisters, of whom mention has been made in Chapter I. She has also a plan for being driven by Mr. Hutton to "Con." (Confession) next week, spending Sunday *en retraite* and returning to Weymouth on Monday. "What does my lord say of this scheme? I hope he approves of it." She envies his superior happiness in "going" (i.e., to Communion) this week.

And then, in sudden contrast natural to her quick character, she speaks of more mundane matters. Her Aunt Angerstein is well disposed towards the marriage, in spite of the fact that John Day is untitled and far from rich ; but the second Mrs. Hartsinck does not appear to have been quite so amenable. At any rate she recommends delay. This gives Emilie the opportunity of reminding stepmamma that she did not follow that counsel of perfection, if it be one, in her own case. " I tell her, too, that we are neither of us impassioned enough now, before marriage, to dread the sad effects which she so feelingly deplores of honeymoons : in short, I have given her a good rub, as well as an exact account of your family, even of every member of it, that they may not say I keep back any one circumstance."

The next letter, September 25, 1824, begins as follows :

> " What shall I say to my Friend, to my beloved John, that he has done all that I wished and even more than I could have hoped ? God grant you, my dearest Friend, the full reward. . . . What will my dear Day say when he hears that his Emily has been doing all to break her neck ? This is, however, the case ; for my favourite being out, I persuaded Hutton to let me mount the fine chesnut mare you once rode ; and off I galloped to Portland and back again. . . . I send this in a basket to Daddy with a huge envoy of lobsters and prawns, to try and soften him down, thus making him the cats-paw to draw chesnuts out of the fire."

She wishes him to make known their engagement to Miss Huddleston, the de Sommerys, Englishes and other Bath friends, " to spare me the blushes of presenting you as a lover." This time, apparently, he is making a short retreat, referred to by the matter-of-fact designation of " your little job that must not be disturbed." A few days later, she postpones the pleasure of reading a letter from him till she had finished her Sunday morning duties. " The Abbé and I are quite of opinion that if you care to come back and be a good boy, we shall be quite delighted to see you next Tuesday." She is sure he will approve of an enclosed letter from Uncle Boucherett, who will be the man after his own heart. " You will eat your goose with us on Wednesday, which will be the height of luck. I and the Abbé are not quite well ; so come and and nurse us both."

In six weeks' time, on the 8th of November, 1824, the two were duly wedded at the Catholic Chapel, and subsequently at St. James' Church, Bath, Emilie's father and stepmother being among those present. They were not in their first youth, John Day being forty-five and Emilie Hartsinck thirty-four. Twelve concordant and most happy years began for them on that day. They were bound together by their love for each other and for the three surviving boys with whom their union was blessed. Although amiable and gentle on one side of her character, Emilie could be masterful ; and, according to one witness, would at times wax somewhat impatient with her husband, owing to his calmer disposition. There are certainly traces in her very graceful portrait of an imperious will.

Her first child, John Charles, was born in 1826, at the Hague ; in 1828, at Bath, his brother next in age, William Henry ; in 1831, Edward Augustus, who lived only five months ; and in 1833, Edward Cecilius Hartsinck, youngest child of John and Emilie Day. The last named kept up a faithful and animated correspondence with her numerous Dutch connections. An amusing anecdote figures in a letter received from Holland in October, 1830, the writer bearing the melodious name of de Tuyll van Serooskerken. (*p*) It seems that Baron Jean of that tribe had a second wife, who, like so many Dutch ladies, was a keen lover of porcelain. When at a tea-party one of her best cups was broken, she fell into a paroxysm of grief, which to the male mind seemed scarcely justified by the occasion. Her husband at length exclaimed, in the tenderest tones : " My love, I cannot bear to see you miserable : this must not happen again," therewith emptying the tray, with all its lovely china, into the street below !

In March, 1831, a month before the birth of her short-lived third son, Emilie, " feeling it not at all unlikely that it may please Almighty God to call me soon out of this world," writes a long testamentary letter to " my very dearest Day." She suggests as guardians for little John Charles and William Henry, Captain Day's two unmarried brothers and Mr. John English of Bath, " with an earnest request they will more especially attend to their religious and moral education." She leaves bequests of some little remembrances to her sisters-in-law, Mary and Fanny Day, to her aunts, and Boucheretts, Newdegates, de Spaens, van den Veldens, and

others. "To my dear good Silk" nice gowns that can be useful, and £10, "recommending my poor dear children to her maternal care, and I trust *her* to your friendship and care." Bequests for Masses follow, and legacies to friends and dependents; then: "Accept now, my dearest Day, the fervent thanks of your dying wife for the tender affection, support and patience you have ever shown me. . . . . I most humbly implore you to pardon my many faults and sins in your regard. . . ." But she who wrote thus touchingly to her husband was to survive for five more years.

We have in this same letter the following affectionate reference to Emilie's father and stepmother, Matilda Hartsinck, née Hankey.

> "With respect to my most beloved father, I leave it to your kind heart to offer him and dear Matty anything they could wish to have [of mine], and all the affectionate attentions you have ever shown them and always urged me to show. Teach our children to love and honour them and to pray for their conversion. Tell my father it was my very first and last prayer that the Almighty may grant him this blessing."

On December 5th, 1835, she writes her last letter from Great Malvern "to her beloved Day" at 3, Henry Street, Bath. She recounts the progress of the illness which had caused her to go away without him to Malvern. Mr. Lewis the doctor, hopes that in a month she may be able to be in her much-loved garden again. She praises some physic recommended by her

Bath doctor, Mr. Hay. The old Abbé Valgalier is looking ill (*q*) but she thinks it is mainly owing to anxiety about her health. "Cecilius" (her youngest child, not yet three, called here by his second name) "is a perfect love, not at all troublesome or noisy. The two other boys have written to say their holidays begin on the 21st, and hope you will come and fetch them home. Our garden is quite beautiful." On the last day of the year she became dangerously ill. Her husband came; and on New Year's Day, 1836, arrived the Rev. Mr. Rigby, S.J., who slept under that roof the following night, and gave my grandmother Holy Communion and Extreme Unction. In his old age this good priest told me of his visit to Malvern. He looked then even younger than he was, and the patient hesitated about making her confession to a mere boy: but she soon overcame this difficulty, and according to Fr. Rigby's account, "died like an angel." Her husband's memorandum tells us that "she passed away on January 12th, having been perfectly resigned to the Holy Will of God, and in a very happy state, for the last twelve days." With her ended the direct line of the Hartsinck family. Her will left detailed instructions as to how poor men and women were to take part in her obsequies, and to be duly rewarded for this last service to her who had always been so charitable to them. Her brother-in-law, Samuel Day, in a letter to his sister Fanny mentions a few particulars as to the funeral. The three priests who took part in the ceremony were Rev. Messrs. Rigby, Winter, and Berington, the interment taking place at Little Malvern where is the

Berington estate. Mrs. Day and Mrs. Berington were attached to each other, but the latter had never known the former's maiden name. On the morning of Emilie's death, Mrs. Berington is credibly said to have heard a voice whispering the words : " Pray for the soul of Emilie Hartsinck." Soon after, she heard of the passing of her friend and neighbour, and obtained the clue to the mystery. His uncle says that " John bears up much better than I had expected. The boys are delighted at the idea of going to Batch in the summer, which their father has almost promised them shall be the case if they behave well." Henceforth Captain Day has to do his best to be father and mother to his boys, for which his painstaking, firm, and kindly nature seems to have qualified him better than the generality of men.

CHAPTER IV.

His Early Years

From the Hague, on June 20th, 1826, Captain Day wrote to the Abbé Valgalier the following bilingual letter which, had it been submitted to a schoolmaster, would have been decorated with several red or blue pencil-marks :

> "Je suis bien heureux de pouvoir vous annoncer que ma chère Emilie est heureusement accouché ce matin, sur le onze heur, d'un Fils (Son) et, thanks to the Almighty, sont tous les deux likely to do well. . . The child was born about eleven this morning, June 20, 1826. I have no experience in children before they are some months old ; but they tell me he is a fine healthy boy, with every appearance of doing well. The father and mother are highly delighted with it."

"It" is the subject of this memoir.

A longer letter begun by Captain Day on the morning of my father's birth and concluded in the evening, gives some further particulars about that event. "The Boy seems delighted to have an opportunity of stretching his arms and legs. They say he is a fine large strong child and perfectly formed, and I must confess I am well inclined to believe every word they say on the subject." The portion added to the letter later in the day informs the grandfather

Hartsinck, addressed as "my dear Daddy," that all is going well. "The young Hero is already baptised. There is no deficiency of names, I trust. Your amiable sister gave all the names of her late son, viz : Charles Frederick Sigismund, and I stuck up for yours and mine being added to the Party." The extreme promptitude with which the child was christened was certainly in sympathy with what he would have wished himself in later life, and prophetic of his own attitude of mind in such matters.

My father once recounted to me an absurd infantile adventure of his which consisted of visiting an ale-house kept by a Mrs. Popinjay, in the neighbourhood of Englesbatch. Bringing a tiny brother to witness and admire the fun, John Charles entered, saluted the hostess, and made the following speech : "Good-day, Mrs. Popinjay ; and how is your tap to-day ?" No doubt a hasty retreat terminated the performance !

Captain Day's children lost their mother in the early days of 1836, when they were respectively ten, eight, and three. In October their heart-broken but steadfastly unselfish father made his will, and there are reasons to suppose his health had begun to fail, though he does not set down "first symptoms of consumption" in his diary until the spring of 1838.

Oscott, near Birmingham, was my father's first School. We have a letter from his father addressed to him there when he was eleven. The writer intends it to be shared between his two elder boys, John and William (he calls them always by their second names, Charles and Henry), and instructs the recipient at Oscott to

forward the letter to his little brother at Mrs. Richmond's School, Walsall.

> "I wrote to Walsall only a few days since, and doubt not, my Charles, but you have ere this had the perusal of that letter. I now write to inform you of the death of your grand-aunt Boucherett. . . Both you and my Henry will not fail to think in your prayers of one who was a kind and sincere friend of your poor dear Mama. You may both wear black clothes for six weeks. . . Edward is in high favour with Lady Newburgh [godmother to William Henry, his elder brother] who may call on you at Oscott. . . I am not decided where to winter. . . Edward sends love to both his brothers, as does also Miss Silk [the nurse] and the Abbé 'ses amitiés.'"

The country-folk around rejoiced when "the boys" were at Englesbatch for their holidays, and recognised in John Charles the leading spirit. Such is the testimony of an old labourer who in those days was starting life as a "bird-scarer."

In Captain Day's next letter, written from Torquay a year later, there are more definite indications of failing health.

> "I hope that you and my little Henry will think of your father in your prayers. I shall probably direct the next account of my health to him, and he must transmit it to you. Your little brother is as gay and lively as

ever. . . I hope, my dear children, you will pay particular attention to your religious duties, and never omit any part of your morning or evening prayers. For, after fifty years' experience, I can assure you, the most certain way to obtain happiness *even* in this world, is by serving Almighty God faithfully. . . . P.S.—My little boy begs his kind love to his two dear brothers."

In a letter written a fortnight later to his brothers Tom and Sam he speaks reproachfully of himself for not having given them the good example that he should.

"If twelve months ago anyone had recommended my reading and studying the Catechism, I doubt not but I should have felt offended, and thought the proposal an indignity. Having undertaken to teach it to my little boy, I am pleased at its utility as regards myself, and would especially recommend the chapter on 'The Christian's Daily Exercise.'"

My father has told me that when he was a boy in Bath his father was summoned to Bristol in his military capacity to quell some disturbance there; it is likely that this was a Chartist riot.

A few items relating to my father's boyhood may be culled from Captain Day's last diary, 1838. John Charles was then twelve; his good and dear mother had been dead for two years. Captain Day, having obtained a prolonged leave of absence from the Secretary for War, took his two elder boys abroad with him.

July 22. Embarked with C. and E. on *Batavia* for Rotterdam, etc., to take waters at Kissingen.

Aug. 4. Mynheer Kaufman came to give the children lessons in German.

Sept. 3. Buy a pair of bay geldings (carriage previously bought). To Munich, Inssbruck, cross Brenner, to Botzen, Verona, Modena, Bologna, Florence, Sienna, Rome. (*r*)

Oct. 22. Signor Pucitta began to give lessons in Italian.

Nov. 5. Took my son J. C. to the Bandinelli College, twelve boys: eight Tuscan, four English.

Dec. 26. Fetched Charles (that is, J. C.) to dine with us. Was well pleased with my two sons.

1839:

Feb. 5. Drove in the Corso and then saw the horses run. The Bandinelli boys saw from the Palazzo Ruspili, then occupied by the Queen of Sardinia.

May 1. Examination at B. College. Charles acquits himself very well: turned the Latin into Italian as fluently as anyone.

May 14. Bring C. from B., visiting Tivoli, Florence, Bologna, Modena, Parma, Lodi, Domodosola, and crossing Simplon to Vevay and Fribourg. The Rector of Fribourg Jesuit College consents to take C. at his junior establishment at Estavayer on Lake Neuchâtel.

June 8. Took my son C. to Junior College of Estavayer. Six leagues.

Sept. 11. Had the pleasure to see my son C. at Estavayer, looking well and comfortable.

Sept. 16. Took leave of my son. Go to Nice, etc.

1840 :

Apr. 28. Got to Estavayer and had the happiness to find my son well and contented.

June 23. Got to Bath at 5, Englesbatch at 7.

Sept. 22. Estavayer. Find C. well.

,, 29. Edward much distressed at parting with his brother.

1841 :

May 19. Estavayer. Saw my two oldest boys : both well.

May 21 Start at 8 with my three sons on a trip.

June 16. Charles 73 lbs. Henry 69 lbs. Edward 39 lbs.

July 22. Englesbatch again.

1842 :

July 14. Englesbatch. Happiness to find my children well.

1843 :

Apr. 17. Charles the first in the College at Downside.

These short extracts will show that a varied schooling was provided, supplemented by travel, under circumstances calculated to impart to it real educational value. My father always prized this element of catholicity in his early training, and in later life always sought to maintain and

increase it in himself and in his children. When introducing us to foreign countries and peoples, he made a point of dwelling on their good and interesting features. The insular attitude of despising Continentals found no sympathy with him. A true Englishman from childhood to old age, he claimed for England no monopoly of good qualities, and was ever eager to learn from the foreigner. Yet he several times told me that the dietary at Estavayer was not altogether congenial to his stomach. A form of potato soup which he spoke of as "skilly" was too prominent on the daily *menu*. This, or other causes, resulted in an illness, in 1841, of a serious nature. When leaving after a short convalescence and walking by the side of the road one evening, not far behind the diligence, he had the disturbing impression of being accompanied by an uncanny black dog. This is the only "spookical" experience ever alluded to by him. In other respects his memories of this Swiss *alma mater* were all bright and pleasant, and he kept up a friendship with one of his masters for many years after.

In September, 1841, Père Chappuis, the Superior, writes nicely to "My dear Friend." He hopes the two younger ones will study well and play well. He says nothing of John's future, being convinced that his correspondent "will always hold the first rank." If he is always as he was when with them, God will heap blessings on him. An enclosed certificate testifies that he worked with first-class diligence, and that his progress was such that great hopes were formed of him; and that he was equally distinguished among his schoolfellows for his

morals, his piety towards God, and his reverence towards his superiors. Another enclosure certifies that he was a fervent member of the Sodality of the Blessed Virgin Mary, and that he was found worthy by his fellow-Sodalists to be elected the First Assistant of the Sodality. In this document he is styled "John Baptist Day." This is of course an error. Although in sympathy with the uncompromising character of the Baptist, the Evangelist was always his special patron.

The last three or four years of John Day's schooling, which were passed at the Benedictine College of St. Gregory, Downside, Stratton-on-the-Fosse, near Bath, introduced him pleasantly to monastic life. The only disagreeable feature associated with that period seems to have arisen from some collision between the English and the Irish boys. Perhaps neither side was to blame, perhaps both were ; but if in later years my father had any anti-Irish prejudices (and it would be untrue to deny the accusation altogether) they may be partly ascribable to the memory of this juvenile episode, of which no particulars survive. It was at Downside that he prepared for his B.A., as the Universities of Oxford and Cambridge, to his great regret, were at that time inaccessible to Catholics. He was a keen student (one of his contemporaries mistakenly predicting that he was "cut out for a life of studious leisure") and was privileged to continue his studies by candle-light in his cubicle, to the accompaniment of his comrades' snores. He always retained an affectionate memory of Downside, and delighted to revisit this lovely monastic home. His name may be

seen on the framed list of Christmas Kings, figuring as John I.

The following is a letter from Edward addressed to John Charles Day, Esq., Downside College, near Bath, intended for him and his brother William, the writer being nine years old :

> " My dear Johne and Bille,
>
> " I hope you are quite well. I arrived Monday evening quite safe. Papa is much pleased with you—so am I. I saw at Glo'ster cousin Sam, priest. Edward King did not come home with me from Walsall this time. I shall go to Downside to see you act. Dated 24, Queen Square, 21st Dec : 1842."

It is not naturally so free from mis-spellings as the printed page might suggest. The " Johne " and " Bille " are retained for their quaintness.

The allusion to acting provides me with an opportunity for saying that it is the tradition that John Day was, as a boy, a promising actor, excelling in comic parts. Nor will those who have heard, and seen, his comic efforts as a barrister or after-dinner speaker, question for a moment the authenticity of this tradition. In May, 1843, his brother Edward writes : " I am very sorry John cannot come for Whitsuntide, though I had much rather see him go up to London in glory than fail in obtaining the object of his desire." This doubtless refers to the London Matriculation, as it ends : " We can excuse John writing, as he is studying so hard for the University." The following certificate fixes the date when he took his B.A. " John C. F. S. Day obtained the degree of

Bachelor of Arts at the University of London, and was placed in the First Division at the Pass Examination," 13 November, 1845, he being then eighteen years and five months old. This was a glory the "Bachelor" never boasted of, being keenly alive to the inferiority in many respects of the London University to the old residential Universities. Indeed, I have heard him speak very modestly, if not unfilially, of "Stinkomalee." All his life he retained a love for the classics, of which he could quote long passages by heart. In the days of his prosperity he founded a prize at Downside for the "best Grecian." Lucretius was one of his favourite authors.

The last letter from which a quotation has been taken abounds in natural history items, in which Edward Cecilius took a very special interest all his life, and this was evidently shared to some extent by his eldest brother. In a letter written about this time, his Dutch uncle, J. van den Velden, assures "his dear Charles (or John as he prefers) that he is his very affectionate uncle." Another letter, addressed by Captain Day from Pisa in Tuscany, 5th March, 1842, exhorts Henry, now fourteen years old, to make a good and diligent preparation for his First Communion. The writer hopes that in about six weeks the weather may be mild enough for him to commence his journey for Germany, where he intends to spend six weeks at Kissingen. It will then be time for him to return for their holidays. "Have still my horses and the same domestique." In the autumn of the same year he warns Charles against cramping his feet with shoes not large

enough. He has found Henry's drawing-portfolios and pencil-case. "As the drawing amounts for the two of you to £16 a year, I hope you will apply yourself closely to it, so that so much money may not be spent in vain. The same remark applies also to your dancing." He also reports that the Superior of the Downside masters, "Mr. Wilson," had come over and dined at Englesbatch. A day later he writes concerning a hamper of fruit which is being despatched to the two brothers. They are to be sure to thank their uncle for the fruit. "It would be well received, most likely, if you offered a few apples to your Reverend Superior. . . it might also be well to think of your Masters. You must take care of the basket, as it may serve for another occasion. Such apples as may be bruised in carriage, eat first; also such as may be begun by the blackbirds, which are generally the ripest or best-flavoured." He expresses himself well-pleased with the great improvement in Charles' writing. He is staying in Queen's Square, Bath, and while congratulating Henry also on writing well, he blames him for mis-spelling the address: "You did not pay particular attention in writing the direction, nor do you seem to have read it afterwards: as you have written 'Queen Quarge,' which shows a want of thought; and in a direction you ought always to be clear." A month later: "Your account, my dear Charles, of your examination was not only highly satisfactory but extremely pleasing to me. I should like to have known the names of the first and third candidates, as you represent them as pretty close upon each other. If

either of you should be in want of cash to make any little purchases before Christmas or to settle any little account, let me know, and I will send you." In the next letter he tells the boys of the death of the widow of Major General Robert Craufurd, "whose mother was a sister of your grandfather Crokatt." He approves very much of Charles' reasons for accepting a secondary office in the Court elected for the Christmas festivities. Next year John Charles was elected King; but the father who took such keen interest in his welfare, temporal and spiritual, had, on Sept. 3rd, 1843, passed away, a victim to a disease the seeds of which, it would seem, had been sown in the exposures of the Canadian campaign. He was buried at Englescombe with his ancestors. He was a tall man, over six foot; and his portrait conveys the impression that he was physically a good combination of the son of the soil and the soldier. Truly, he was loving and careful towards his own. Those who knew my father's private life at all intimately will not fail to recognise that he inherited several of his father's best qualities.

The Holidays at "Batch" went on, for the parentless boys of seventeen, fifteen and ten. They were in a sympathetic atmosphere, and plenty of riding and out-door life provided an excellent apprenticeship in manly sports. Uncle Sam was able to give lessons in the art of carpentering and other useful accomplishments, while Uncle Tom, the senior partner, was a most competent professor of agriculture. Along with this, they were both deeply religious on sound, old-fashioned lines. Alban Butler's *Lives*

of the Saints were studied daily, and the readings were so arranged that if a long Life, or homily on a Feast, was foreseen looming on the horizon, several shorter ones would be read on one day, so that the reading for the greater Feast might be duly performed on the eve, or on the day itself.

Such were John Charles Day's guardians after the irreplaceable loss of a good father.

CHAPTER V

Marriage and Professional Beginnings.

In 1845 John Day was admitted as a student to the Middle Temple. He "read" with Mr. Tatham and afterwards with Mr. Malcolm. He had no serious intention of practising his profession, nor, after being called to the Bar in 1849, did he, having inherited a sufficient patrimony, practise it for several years. It may be of interest to record a circumstance which disposed my father's thoughts towards the law. As a boy he was present once at the Bath Quarter Sessions, and witnessed the acquittal of a prisoner solely on the ground that his name was misspelt in the indictment. In some mysterious way this stirred up a sort of latent enthusiasm in his breast for a profession which could proceed on such strict technical lines. Such is the story frequently told by himself of his vocation to a legal career. Heredity, through his maternal forefathers on both sides, will also have played its part.

While still an infant in the eyes of the law —aged twenty—his thoughts turned towards love. Worldly considerations did not enter into his selection : and perhaps for this reason he did not venture to ask the approval of his two confirmed-bachelor uncles. Miss Rose Henrietta Mary Brown was a year older than himself, the daughter of a Bank manager who

later was to have a Bank of his own in Rome. She had, as a girl of seven, lost her mother, a very amiable lady of French-Swiss origin. Her mother's sister was Superioress of a convent in Switzerland, which Rose, after leaving school, visited with the idea, on the part of someone, that she might like to stay ; but she did not. The marriage took place on October 4th, 1846, at the Catholic Church, St. John's Wood, London. The anniversary of this most happy event was celebrated with joy by all concerned for close on fifty years. My father's instinct had led him to choose for his own one who would always be absolutely true and loving to him, and to his children an ideal mother. In spite of delicate health, she reared a family of thirteen, eight boys and five girls, (s) devoting herself body and soul to their welfare, and lavishing on them constant proofs of her affection and self-sacrifice. The home was her queenly domain, and she superintended every department of it, attending personally to each detail that could minister to the comfort of her family, radiating a sweet influence of mingled gentleness and firmness, the former ever predominating, which kept us all united.

A few letters which must have been most precious to my father throw some pleasant rays of light on the early years of their married life. In one, dated June 11, 1847, it appears that he had gone for a short change to Boulogne, with a view to throwing off a cold. As for years he was a victim to severe hay fever, it may be shrewdly suspected that it was this enemy, not yet perhaps diagnosed. This letter contains also a cryptic allusion to New Zealand, which

suggests that the thought of visiting that colony had occurred to my father's active mind; but his wife's home-loving instincts opposed the scheme. She does not hesitate to stigmatise New Zealand, most undeservedly, as a "detestable place"! In the autumn of 1849 she forwards to him at Galway, *The Times*, knowing that he values his paper almost more than anything in the world. A few days later: "Have you had occasion to use your waterproof clothing? I was going to say I hope so, for I know with what pleasure my poor dear husband would walk through the pelting rain so well protected." This conjures up to those who knew him one of his outdoor characteristics, to which the genius of Lockwood would have done full justice in a thumb-nail sketch. In August, 1850, the wife writes from Boulogne, dissuading her John from bringing across the Channel a horse that would be sure to give trouble. In this note she facetiously styles him "His Excellency." Their relations, though most tender, always allow scope for some good-natured teasing. "You ask me why I do not prepay my letters. I also wish to know the cause of your not doing so. I have scarcely done anything else since you left but pay postage from early in the morning till late at night." The next letter in the same year may be quoted textually:

"My dearest Husband,

"Although the agreement between us was, I believe, to write to each other every other day, and I am in a great hurry to go with the children to bathe, I cannot do

without first scribbling a few lines to my own dear good-for-nothing husband. What day may I expect you? I long for your return. I am going to take you into training: I am succeeding so well with John [their second child] that I intend trying the experiment on you! First, then, I shall forbid any holloaing, shouting, or any disturbance of any kind. Quiet shall be the order of the day. What do you say to that? You would be surprised to find how much more comfortably things would go on with less fuss and confusion. I like to lecture you a little bit in a letter, because at least I am sure of being heard. Adieu, my dearest husband. Your *excellent* wife, Rose."

This reveals what those know well who enjoyed his friendship forty or fifty years ago: that he was endowed with an abundant supply of animal spirits. And we can quite read between the lines, and readily believe, that he would not easily have realised that weaker nerves needed more rest and quiet. The next letter, two days later, has a postscript which shows that the children loved their father: "Baby has been calling 'Pa' all the morning; it is so pretty to see her peep her little head into the back room, in expectation of finding you." Indeed, the united testimony of the first half of the family is that he was wholly devoted to them and most companionable with them. And the second batch would need to modify this statement only slightly, because he was a little older as the last half-dozen came along, and much more absorbed in the increasing demands of his profession.

After the first few years of unclouded skies, a period of anxiety and financial shortage had to be traversed. Towards the end of 1850, allusions in the letters show that he was busying himself with some hope of a fortune, in connection with Welsh mines. His letters to my mother were unfortunately all destroyed, along with other papers, after her death. But her letters throw out hints of what was in the air, and give evidence of her superior prudence in this matter of speculation. "Why on earth are you advertising for an agent? before the thing is even commenced! You completely puzzle me." Several letters are addressed to Victoria Hotel, Llanberis, Carnarvon. There is question as to the value of a quarry, and whether or not it should be taken. But the business is not so absorbing as to prevent a visit to Ireland for wild-duck shooting, on which he had set his heart. "I do not look at the pistol-case with the same feelings of security as I did when you, my own dear husband, were by my side." She asks now for daily letters. These were presumably the days of the garotters, of which souvenirs and legends persisted into our later family history, when such dangers had completely disappeared. The result of the Welsh mine or quarry seems to have led to the loss of the bulk of the fortune which John Day had inherited. He was now thrown on his wits. No doubt this, at the time, must have appeared to be a disaster and a catastrophe; but the more long-sighted would have foreseen that it would prove a blessing.

The precise duration of the period of struggling and striving cannot be fixed. There is no

letter at or after the crisis which throws any light on the subject. The first entry in the fee-book is for 1855 :—£200. With an increasing family and decreasing credit, this was scanty provision. In another five years it is £360, and by the time that the youngest child is born, 1866, it is about £2,000. If we assign ten years to the period of scarcity, we shall be approximately correct. And it was towards the end of this trying decade (1859) that he was laid up with a severe attack of typhoid. I remember my father telling me that it was to Dr. Quain, under God, that he owed his recovery. Troubles proved him to be possessed of two powerful assets : grit and capacity. He now started on the active pursuit of professional success. While briefs were only trickling in, his spare time was vigorously devoted to editing the Common Law Procedure Acts of 1852 and the following years. This book went through five editions ; and until the Judicature Acts of 1875 caused a revolution in legal procedure, it was the *vade mecum* of every barrister and solicitor practising at common law. When the late Judge Willis entered as a pupil in the Chambers of Mr. Thomas Chilty, he was urged to acquire at once a copy of that excellent work. Day, also, with the help of his pupil, Mr. Maurice Powell, edited Roscoe's *Nisi Prius*. This work is, I believe, still in daily use. Willis, as a young barrister, longed to see Day on account of the service which the book had rendered him.

"I shall not forget the first time I saw him. He was standing on the landing between the Court of Exchequer Chamber and

> the great Court of Exchequer : a tall, powerful-looking man, with his stuff gown hanging nearly to his heels and needing considerable repair. He stood on that occasion in the sunshine, whilst the two persons to whom he was speaking, apparently solicitor and client, were in the shade. The sight was impressive and striking. . . I heard that he had passed through a life of struggle and great endurance. He had made many solicitors his clients, by what they saw of his ability in court when engaged against themselves."

Sir R. B. Finlay has told me that he thinks no Junior ever had more leading briefs when he was in stuff than my father ; and that his conduct of them was a true presage of his success in silk.

While a Junior, he had always a well-filled pupil room, at No. 1, Elm Court, which had the honour of turning out, amongst others, Mr. Justice Gratham, Sir Robert Finlay (his lifelong and intimate friend), Sir Francis Gore, William Henry Clay, for some years Recorder of Hanley, Maurice Powell, member of S. E. Circuit (*obiit* 1914), Edward Pollock, Official Referee of the High Court, Sir Burford Hancock, Judge Lumley Smith, and Dr. Lancelot Shadwell, lately Provost of Oriel. One of these, W. H. Clay, tells me in a private letter that " it was a busy and happy pupil-room," where the moving spirit " seemed to like sitting among us and giving us the best of his wisdom and experience, illuminated by the brilliant humour of which it is needless to speak." The writer continues : " Your father was a dear and kind

friend to me, as well as a revered and inspiring master. I can never forget this unfailing and delightful hospitality, or the charm of his companionship; or the almost motherly sympathy of your dear mother, and her cordiality towards his pupils and friends. . . But all the charm of these recollections and of his numerous sallies at the Bar and on the Bench may evaporate in print, and I am afraid that any Memoir would seem flat and lifeless to those who best remember his extraordinary energy and vitality."

Sir Francis Gore has kindly put at my disposal a most welcome and instructive appreciation of the one who was the centre of this group of promising young barristers. I append it:

"It was in 1869 that I entered the pupil-room of the late Mr. Justice Day. He was then a leading Junior. Most fortunately for his pupils, his business was of a multifarious kind. He had clients in the City whose cases lay in the region of charter-parties, bills of lading and such like; he had the Admiralty business, divorce business, and, in addition, a large number of small clients with cases to correspond, such as actions against railway companies, libels, slanders, trespasses, assaults. Consequently, we his pupils had the advantage of studying the working of the Common Law in all its branches. Those were the days of technical pleading, which few lawyers now remember, when the fate of an action often depended upon the pen of the pleader, and a blunder made by him was apt to prove fatal.

But we were even more fortunate in the

personality of our master. A Junior in large practice would not, one would imagine, have much time to waste in discussing cases in Chambers. His days were spent in Court, for the sittings were then at Westminster and the Guildhall, so that an advocate could not, as now, remain at work at Chambers until his case was called on. But strange to say, Day never seemed in a hurry. He was prepared to discuss his cases with us at almost any length, and found time in addition for extraneous discussion upon general points of law, and even upon general topics. At the time I am speaking of, a former pupil, Sir Robert Finlay, then on the first rung of the ladder he has long since mounted, was his devil, and attended pretty regularly at his Chambers. There were others who have since risen to more or less distinction : Edward Pollock, now an Official Referee ; the late Maurice Powell, the author of the best known book on Evidence, a man who delighted in the technicalities of pleading the case law ; Clay of the Oxford Circuit. We all took part in the discussions so far as our lights enabled us, and Day was most willing to listen to us all. He had an extraordinary faculty for absorbing the ideas of others and putting them in their best light, and adopting them if they had any merit. There may have been better pleadings than those that left his Chambers, but assuredly none which were the result of more animated discussion. But the thing which made his Chambers so delightful was the indescribable kindliness of his nature, combined with the humour and originality of his talk. The poignant sarcasm which was so effective in Court

was never directed against us; he was always grateful for our help, and, when there was anything in our suggestions, ready to adopt them. The acquaintance begun in Chambers nearly always ripened into friendship: we were invited to his house, we took long walks with him. (He greatly delighted in long tramps.) All these things contributed to make my time in his Chambers among the pleasantest I passed at the Bar. When, as barristers, our chance presented itself he was ready with help and encouragement. When the period of my pupilage ended, he generously continued to give me the run of his Chambers, so that I saw nearly as much of him as I did before.

He was late in taking silk. When he did so, I do not think that it was generally supposed that he would at once rise to the first rank of advocates. He had a great reputation as a sound lawyer; he was the author of the standard work upon the procedure of 1852 which swept away much technicality, substituting, however, as a later generation thought, other unnecessary technicality in its place. In those days, I think, a Junior's opportunities for distinguishing himself as an advocate were less frequent than they are at present. It was the general rule that a leader should be briefed in all jury cases, and in the Common Law Courts there were practically no others. It was, therefore, rather a surprise to everyone when on taking silk, he at once disputed the leadership of the old Home Circuit with such men as Hawkins, Parry, Denman, and Ballantine, and took a leading position in London and West-

minster practice. I remember that on the occasion of his first circuit in a silk gown, two of the Home Circuit leaders were absent. (I think they were engaged upon the trial of the Claimant). (*t*) This fortunate circumstance was Day's opportunity, and by his ability, combined no doubt with good luck, he managed to secure an extraordinary number of verdicts throughout the Circuit. From thenceforward he was installed as one of the favourite leaders, and enjoyed one of the largest, if not actually the largest practice there. For various reasons, the number of cases then tried at the Home Circuit towns was much greater than at present, and this was the case especially in Surrey, where a large number of those entered were reallyLondon causes, in which London solicitors were engaged. Day's great reputation as an advocate quickly spread to London, and he had a large practice there which never left him.

No one would deny that he was a great advocate ; indeed, I doubt if any man of his time was a more successful verdict-getter. I find it difficult to specify in what his special excellence consisted. He was undoubtedly a most effective speaker, and had at his entire command a fund of original humour which never failed him. As a rule (at least such is my experience), forensic jocularity, however suited to its purpose, is a somewhat dreary article, especially when one has heard much of it. It runs too much in a single groove. But this Day's never did. It was always original, and often moved not only the audience, but also the Judge, to irrepressible laughter. There is probably no one left but myself who can remember a speech

he made in narrating to a jury the plot of Eugène Sue's *Juif Errant*, a dramatic version of which the defendant was supposed to have stolen from the plaintiff. I can see now Chief Justice Coleridge convulsed with laughter upon the Bench, while the only grave person among the audience was Day himself. But he never went out of his way to bring in a joke, and never lost sight of the real points of a case. He shone most, I think, in cases in which it was necessary to unravel a fraud, or to expose a claim for excessive damages. Such cases were a positive delight to him as well as to his audience of barristers, and often the case was practically won by the time that his cross-examination of the party had come to a conclusion. His cross-examinations, however, were not of the ordinary cut-and-thrust description. As a rule, there was no confronting the witness with documents and supposed inconsistencies of statement, no threatening, no severity of manner, no 'on-your-solemn-oath-do-you-venture-to-swear.' They were conducted in the suavest and most genial manner, and the witness often, I believe, had no idea of the effect of the admissions which he was making.

But probably in his case, as indeed in the case of all great advocates, his success more often depended upon his skill in the general conduct of his cases, than on either his speeches or his cross-examination. This is the undefinable quality without which no advocate can be really first-rate, and which is inborn in some advocates, rather than acquired. It consists in the art of making the case run smoothly, or surmounting difficulties before they are observed,

of conveying the impression that the case is a winning one. It is exemplified by the story of Scarlett, probably the most successful verdict-getter of any time, of whom a juryman who had been sitting on cases in which he was engaged, remarked that he did not think much of his ability, but he always had the luck to be on the winning side. The art of conveying this impression Day possessed in a very high degree.

I do not myself think that he was equally successful in arguing legal points before the Judges *en banc*, and it is curious that it should have been so, for his general knowledge of law was very great, much greater than that of most Judges; and his power of expression was unequalled. I used to think he gave the tribunal too much credit for appreciating the point at first sight without sufficient persistence or argument; he was certainly averse to citing many cases. But very likely I am mistaken in this.

Of his merits as a Judge I am not competent to speak. By the time he became one I had some business of my own and saw comparatively little of any individual Judge on the Bench, although Day's friendship, I am proud to say, remained the same as ever. Upon the Bench he had the great and rare merit of silence. It is recorded of him that during the long enquiry of the Parnell Commission he never opened his mouth. It is, however, I think, upon his merits as an advocate rather than as a Judge that his considerable professional reputation will rest. But preferably to either of these, I shall always think of him as an agreeable companion, and the kindest, truest, and most loyal friend that I ever had."

CHAPTER VI

At the Bar

Any attempt at presenting a detailed account of a barrister's career, were it ever so sensational at the time, is almost certain, unless done in a masterly manner, to prove tedious to all except a few keen specialists. In the present case, as the subject of this sketch never made the least effort to preserve any record of his doings, it would be a gigantic task which could be faced only by an expert endowed with leisure and determination. To give some idea of the progress in business during the first years of my father's professional activity, we have already made two or three excerpts from the fee-book. The next three or four years show rapid increase of practice: in 1865, the fees amounted to £1,780; in 1866, to £2,000; in 1868, to £4,000; in 1872, to £5,600. The figures are round numbers. Judge Willis gives us in one phrase an insight into the habit of mind and tactics which won him success. "I heard Day once say, looking at a case as a commander looks at his forces and the surrounding territory: 'If I gain that position, I shall shell my opponents out of every other.'" He had a genius for detecting the vital point on which the whole issue hung, and used every device to gain the jury's sympathy on this cardinal feature of the case. After that it was mere child's play to

carry them on. "Perceiving what inference of fact could be drawn from other facts of which proof had been given, he won his causes with less direct evidence than anyone I have ever known."

No reference to my father as an advocate has ever been made without allusion to his extraordinary powers of wit, humour, and facial expression, all combined. He was no clown or harlequin, but had a keen appreciation of the humorous side of life, and knew the power that it exercises over human nature. He was gifted with a face and general bearing which could maintain the appearance of solemnity while all beneath the outward mask was convulsed with almost volcanic mirthfulness. Outwardly unmoved himself, he could hold the court in a state of uproarious merriment. Nor was the matter subjected to this mirth-provoking treatment altogether alien to the subject: indeed, it was usually bound up with the real inwardness of the matter in hand. A shrewd and wide knowledge of human nature helped him much in winning verdicts. One case hinged on whether the bread provided by a certain baker was or was not unpleasant. The cross-examination as to the quality of the bread proved worth while to all lovers of the whimsical in word and facial accompaniment. The answers of the defendant's witnesses failed to tally, and so the jury, after having enjoyed a good comic turn, were delighted to find for the plaintiff. A Jew claimed damages from a poor man who, having had a drop too much, accidentally inflicted some slight injury on the rich man's toe. This "speculator in damages,"

as Day called him, claimed to have suffered heavy loss owing to having been prevented from keeping an appointment in Amsterdam. The humorous openings suffered by the injured member were not lost sight of, but the case was triumphantly gained by means of the point-blank question "whether if £100 had been offered him for doing so, he would not gladly have undertaken the journey to Holland?" Day's grim face and stern deep voice seemed to the Hebrew adventurer an anticipation of the Day of Doom: he owned abjectly that he would have done so, and was awarded £50 instead of £1,500. In the earlier stages of the examination he had been asked whether his toe had ever been more precious to him; whether he did not hear with pleasure the doctor declaring it unfit for travel, and whether he did not bear the great suffering easily because of the compensation he expected? A barrister friend who is a reliable witness assures me that it was quite usual, in my father's palmy days as a cross-examiner, for a crowd of young barristers to flock into the court to enjoy the intellectual treat which he provided.

When fortune was well on the turn, John Day was offered the Chief Justiceship of Queensland. Lord Bramwell dissuaded him from accepting it: "Are you mad, to think of leaving your friends and burying yourself in a Colony? Stay in England, and there is nothing to prevent you from rising to the highest rank in your profession." A similar high office was offered him a year or two before he became a Judge: after a week's reflection he declined.

In 1872 he "took silk," adding to his name

the letters Q.C. Russell, Herschell and Benjamin received the same distinction at the same time. The following reply to congratulations from one of his sons, then a pupil at Beaumont College, shows that the honour was not accepted without misgivings:

"My dearest S.,

"I ought to have written before this to give you my very best thanks for your kind congratulations upon my getting my silk gown. I wore it for the first time on Thursday, having been sworn in the morning. I have so far daily work in the front row, and hope it will continue, but everybody says it is like beginning over again, and the risk therefore is great. Please God all will, however, turn out, if not well in one sense, still certainly for the best.

"I have been obliged to sell 'Patsee,' as he got worse and worse on his forelegs, and I felt it necessary to protect my neck by getting rid of him. I think I shall now wait before buying another horse, just to see how the silk wears."

However, the stream of work flowed steadily, and he coped with it lustily. The fee-book for the years 1873, 1875, and 1880, recording £7,700, £9,000, and £11,000, shows that there was no looking back. His Inn was the Middle Temple, of which he became Treasurer in 1896. A most retentive memory and unfailing commonsense, along with a strongly developed logical faculty and considerable dialectical skill, made work easy. He got quickly at the contents of

his briefs, instructed his juniors on the lines to be followed, and supervened light-heartedly at the critical moment, usually carrying the defences before him. On one occasion his junior called a succession of witnesses who received an almost contemptuous treatment on the part of Judge and jury. Their separate statements were indeed of little value, but together were likely to destroy the chief allegations of the plaintiff's case. The leading counsel appeared in the nick of time, seized the situation, compelled the Judge to admit that the witnesses were essential and their combined evidence most destructive. Willis concludes: "I question whether there was any other man at the Bar who could have delivered that address, and with such result." For the delightfully mischievous story of the Judge who, on the plea of health, occasionally sipped whiskey-and-water on the Bench, until Day, with the help of a medical witness, convinced him of the dangers of "nipping," I refer the curious reader to the *Recollections*, p. 11. It is said that his earliest triumphs as a leader arose out of the creation of that now well-known entity, the limited company. He was able to extract much material for fun from the pompous and flowery periods of a prospectus, and his mournful tones as he commented on the hopeful prophecies of promoters and the completeness of their non-fulfilment, were listened to with intense delight. At Croydon and at Kingston, on the Home Circuit, he always reaped a rich harvest. It was said of him by some who had the opportunity of observing his methods, that he was rather helped

than hampered by want of preparation. These are the days when he was the rival or successor of Ballantine and Parry. Almost the first time he went circuit as a leader, a number of briefs were returned to the solicitors' hands at Maidstone Assizes, owing to the illness of Mr. Sergeant Parry. All these fell to the lot of the new Q.C., who succeeded in getting a verdict in each case. As a child I remember the Sergeant visiting our home as a kindly genial friend, and his memory is strangely linked in my mind with a song commencing: "All life's a bubble full of woe." I have recently talked with an old gentleman who was, as a solicitor, between the years 1870-78, in a position to put a good many briefs in my father's way. He spoke modestly of himself, not considering that he had been much of a success. "What struck me most was that Mr. Day, evidently a very able man, at once put himself on an absolute equality with me." (He then mentioned the names of a few well-known barristers who always showed a sense of superiority when dealing with the members of the lower branch of the profession). "He never betrayed any sign of irritability. I regarded him as a great man, and, in the best sense of the word, a humble man. I was privileged to see something of him in society. He was full of fun, and, when we met at parties, was the centre of all the life and merriment, taking part in the dances, and throwing himself into it all, heart and soul."

For many years Day was standing counsel to the London General Omnibus Company, first as Junior and afterwards as leader. He was for years the fashionable counsel in breach-

of-promise cases, and for a considerable period of time enjoyed almost a monopoly in the matter of election petitions. Sir Dixon Hartland always valued most highly the good services which had saved him his seat. There were one or two instances where the sympathisers with the unseated party sought to visit their displeasure on the successful advocate, and I remember hearing how in a certain fishing-town, it had been necessary for Day, in order to avoid a mauling, to take his departure from his hostelry by the back door. As he was all his life a stranger to fear, such experiences only added zest to life. The memory of his eloquent defence of the West of England Bank directors, somewhere about 1875, will still be vividly recalled by many Bath and Bristol men. "Amongst the really solemn and serious proceedings," Judge Willis commemorates the address on behalf of Sir John Hay, one of the defendants in the Canadian Oil Case. "Day presented a view which the Chief Justice had scarcely perceived, and which procured from that honest and able Judge a presentation of the case with a result favourable to all the defendants." My father once told me some instances in which members of the Bar, not perhaps too well-disposed to their rival, attempted, by means of little practical jokes made in the midst of some important speech, to ruffle his serenity. The infinitesimal, if any, success of these efforts gave them no encouragement to repeat the experiment. It was like a small dinghy attempting to stop a man-of-war under full steam.

His pupils composed some verses on J. C. F. S.

Day, Q.C., at the Kingston Spring Assizes, 1874. The original document is on blue law-paper, in the form of a brief. It contains many pleasantries connected with a pun-provoking name, some in Latin, some in English. Obviousness and halting literary form apart, these *vers d'occasion* throw a true light on his character, touching as they do with evident sincerity on his real worth, spirit of comradeship, pride in his pupils (especially Sir Robert Finlay), willingness to remain in the background, and, along with the forcefulness which none could deny, refinement of feeling and genuine modesty.

CHAPTER VII

Home and Out-of-Doors

When a man is worthy of a home, he stamps every stone of it with the seal of personality. This was true from first to last of John C. F. S. Day. In spite of possessing a distinct faculty for migration, and also what one may term a monastic side, his domestic instincts were strong and well-developed. Bayswater knew him for a time in the early years of family life; and Cardinal Manning, then stationed as an Oblate at St. Mary-of-the-Angels, would occasionally look in of an evening and have a good long talk with the promising young barrister. The thirteenth and youngest child was born on the slopes of Primrose Hill, and very shortly after was transferred with all the bags and baggage to what was to be for twenty years "The Home": Green Bank, Hampstead, an easy ten minutes' walk from that glorious playground, the Heath; with "the Fields," as they were then, and their buffalo-like cattle to inspire mild fear and the love of adventure, within easier distance still. The family was almost a small school, and a very happy one, too. It is an education for so many brothers and sisters to rub shoulders together under the direction of good and wise parents. Father would often speak of it as being "Liberty Hall": but although he never punished (there is no record

of a single castigation), his own high standard of conduct set a tone which prevented liberty from degenerating into licence. The disciplinary code for the maintenance of peace and comfort at home was faithfully observed by the head. Example and precept went together, the former being the senior partner.

When we had to be corrected by our father and expected something very severe, the incident invariably ended in his just showing that he was displeased, in a few kind words explaining why, all in the most conciliatory manner possible. And yet the mere thought of being at school under one of the sons of "the flogging Judge" made a nice little boy, who is now distinguishing himself in the King's Navy, shed bitter tears. He soon discovered that there was no cause for alarm! Still, I remember this same son, who for several years acted as schoolmaster, telling father of one instance in which he had punished severely in a case which seemed to call for it. Father's view was that kindness might well have gained the victory; and that it was only in extreme cases that bodily punishment should ever be inflicted on boys.

Our written laws exacted scrupulous personal cleanliness, of which he was always a shining example, and tidiness and orderliness, in the matter very especially of books, and in a lesser degree of all household properties. The mere thought of leaving to anyone else any dirty work which should be done by oneself was particularly abhorrent to him. Considerateness to servants, and acknowledgement for services rendered, were ever instilled. His own frequent

and sincere use of the words "Thank you," in the old-fashioned form "Thank ye," is one of my childhood's memories: in this he persevered to the end, always grateful for the smallest service or attention. But nothing of the nature of over-civilisation in person, dress, or manners received any encouragement. His own acted-on but unavowed motto of "living dangerously" was also infectious, and must have provided the nervous mother of delicate children with many hours of anxiety. And yet is not the system a sound one? The back garden was the scene of all manner of sports, tilting matches on tall stilts being a favourite pastime, the front shrubbery, with the help of lively imaginations, supplying the element of jungle life. The two youngest boys, instead of repairing after their midday meal to the "Academy" (so my father styled it) conducted by Mrs. Keogh, went off one day, aged nine and eight, for a long pilgrimage on foot to Great Barnet. They returned footsore and weary, towards bedtime, to find father cheering up mother with graphic accounts of the high-class funeral which would be provided when the remains of the young truants should be recovered. Needless to say, it was not really heartless—nor did it serve its purpose! In his heart of hearts he was proud of us, and scarcely concealed it, betraying keen interest in the route we had followed.

Long walks (as friends have already told us) were always a favourite form of exercise, and Day was often the leader of the party. All his life the use of compass, charts and an aneroid for calculating heights, was a delight to him;

and for years he carried two watches, that he might know the time more accurately. The expedition would be mapped out over night, and the patient care he would always take in folding the maps according to the proper creases impressed my young imagination. One of his most typical lesser characteristics was his constant habit of always untying, never cutting, knots. These things went along with his reverence for books, and his patience in all the minor, and major, entanglements of life. Several of his children still follow in his footsteps in such little observances as in many others.

The horse-bus, with Adams, its dear old ex-clown conductor, which so often conveyed him and us on the knife-board, without overcoats, from Chalk Farm to Oxford Street or the Strand, was, along with all other local oddities, animate or inanimate, closely linked with our family life. In those pre-motor days, one got more deeply impregnated by one's immediate environment than can be the case in days of rapid transit. When my father's old uncles died, one in 1871, the other three years later, their house, with its lovely gardens, orchard and paddocks, in Greenway Lane, Bath, was left to him; these provided fresh openings for our expeditions. Here, riding was added to the other delights of country life, and with father as guide we were chiefly on bridle-paths unknown to the general public. And when we went for drives, it was a point of honour always to walk up hills, which in that district of steep gradients entailed continual jumping in and out; and his nimble example encouraged us to do this without stopping the carriage.

It got into print in later years that he was not "an ornamental horseman," implying some remarkable degree of clumsiness; and Sir Frank Lockwood, who claimed to have frequently rescued him from the maelstrom of Hyde Park Corner, conspired to bear this out. Yet John Day from his earliest boyhood was used to riding, and several who frequently rode with him failed to detect the least awkwardness. He certainly would not have aimed at all self-consciously at any finished equestrianism: holding on comfortably and getting over the ground would have been his dominant ideas. His short-sightedness was probably responsible for his not sitting sufficiently erect in the saddle. His hands, unusually delicate and well-shaped, were specially fitted for handling a horse's mouth. He was always most kind and considerate towards his mount.

Two riding accidents recur to me. In the first a horse fell under him, and had he not been wearing a hard hat he would almost certainly have been killed. The second was near Bath, about 1878. He was riding through a gateway in a field when the gate, swinging to, caused the horse to shy, with the result that the pointed iron catch to the gate pierced my father's leg and unhorsed him. It was a high gate, and he hung impaled and in great pain until my brother, who is now a Master of the High Court, released him. My mother told me, as a child, that he returned one evening with his garments singed, having taken an active part in rescuing lives from fire.

Perhaps our keenest delight in old days was when the holidays took the form of a

yachting cruise. The prospect was almost intoxicating. All were agog to go. The two youngest, who, when the sea was at all rough, almost invariably fell victims to sea-sickness, were occasionally left behind, but only after the failure of many entreaties addressed to their mother, who was reluctant to be robbed of all her sons. The yacht "Fairy," of about twenty-eight tons, belonged to the Royal Harwich Yacht Club, and was a converted Revenue Cutter. Her antecedents were a guarantee of sea-worthiness, but shut off all chance of success as a racer. She was just the boat for our purpose, and we submitted cheerfully to the chaff that sometimes greeted us when vessels, easily outstripping us, reminded us facetiously of the former history of our craft. Our skipper was an excellent sailor from Brightlingsea. His name, Partridge, has made all of that name interesting ever since. The good ship would plod her way in all weathers from the mouth of the Thames to the Land's End, sometimes visiting the Channel Islands and some of the harbours of France, Belgium and Holland. Father entered into every detail of the navigation; and was always ready in the early morning, or at other times, by his example in plunging in for a swim, to encourage us to acquire or to practise that useful art. At Dartmouth the memory of four or five of us hearing Mass one Sunday in the little Church up the steps, and listening to a sermon in somewhat broken English, is still quite vivid. We waited for a few minutes after Mass, and were introduced to the good French priest then and for a good many years in charge of that Mission.

As we wished him goodbye, my father did not fail to leave an offering for Masses. Fowey was another very favourite port. When we picked up a lobster-pot at sea, and had the good luck to find a lobster in it, he would always put in a half-crown to take its place. The navigation of tidal rivers such as the Dart and the Fal and the Hel was attended with some most enjoyable adventures. And who among us will forget the eating of his first gâteau-au-rhûm at Dieppe or Boulogne? It was from Cherbourg that we made our first delightful pilgrimage to Rouen. The clambering up into towers and steeples was always part of the "seeing" of any great church; and we were trained from childhood to school our nerves in the matter of looking over lofty parapets or cliffs. The day at Rouen ended with a typically French dinner, washed down with the help of the best French wines. We were a happy, merry party when we reached our moorings that night.

It was on a hired yacht of larger tonnage and swifter lines that father met with a serious accident. We were off Fort Querqueville in half a gale of wind. He was knocking about on deck trying to sight the harbour lights when he tripped, and, falling into the fo'c's'l hatchway, broke some ribs. He was in great pain all night (it was August 14th) and in the morning a doctor came off to give his assistance. The sufferer did his utmost to prevent his accident from overclouding the Feast of the Assumption, August 15th, which was also the birthday of one of the party. But the gladdest times of all were when mother, accompanied by two or

three of our sisters, came to spend a few days by the sea, enabling us for a short spell to be a united family once again.

But a large family, especially when the children, though extremely energetic, are for the most part deemed delicate by the doctor, provides sorrows as well as joys. In a letter dated October 2nd, 1872, from Fr. Bertrand Wilberforce, O.P., to his sister, that good and charming Dominican, then stationed at Haverstock Hill, writes as follows: "I went today to call on Mr. Day. He is a Queen's Counsel, a flourishing barrister living in a large comfortable house standing back in the Hampstead Road. He has a large family of about twelve children, all good Catholics. He himself is an excellent one: by the bye, he says he knew Papa. Poor man, he has his trials." He goes on to relate that Fr. Buckler, O.P., attended a year ago one daughter, Henrietta Day, in the illness of which she died, and that now Thomas, aged twenty, is home from the Jesuit College in the Tyrol, Feldkirch, where he brought on hemorrhage by mountain climbing; and that for their health's sake another son had gone, and another daughter was going, to an uncle in Queensland.

It was during this gloomy period that our good neighbour-friend and eventually kinsman, Mr. Parker (later Sir Henry Parker) ventured, while on one of his customary Sunday afternoon walks on the Heath, to condole with my father. His answer was strongly characteristic, but could scarcely be reported without serious risk of conveying a false impression that the speaker was unduly stoical.

The daughter who died, Henrietta, was specially dear to her father, and during her last illness he was much with her. Her pet name was "Trotsy"; and the other girls were always liable to be called by it in the years to come. Happily the dark days did not prove so dark as was feared.

My father's professional work was never allowed to invade the home unnecessarily. His evenings were for the most part pleasantly studious; but reading was never an obsession; it was a favourite pastime which he would gladly suspend for any good reason. He would now and then read portions aloud to the rest of us. To some witty story from a French memoir full justice would be done. At other times he would devote a portion of the evening to playing chess with one of the older ones: a thoughtful, concentrated game. Christmas, so far as I can remember, was the only time when cards were approved. He would then join in a round game, vingt-et-un, and provide the moderate stakes tolerated only at festive seasons. As in reading he set us a fine example of clear enunciation and intelligent emphasis, so was he a stickler for the correct use of our mother tongue, having been a diligent student of "The Queen's English" and "The Dean's English" when they first appeared. He stood for the dignity of language and for the consistency of adjectives. He could never tolerate "awfully nice," reminding us that "awful" should be reserved for things great and terrific, such as thunderstorms. "Surrounding circumstances" and "mutual friend" were amongst his pet aversions. "Different to"

would seldom escape correction. Once I asked whether a sentence passed by Mr. Justice X. had not been revoked on appeal. "*Reversed*, my boy!" came like a flash. One felt as if one had committed a crime, or was at least an incorrigible dunce. Discussions, too, often on points where law and ethics overlap, played their part in family life. Once he asked the opinion of two of the boys as to whether, if a man had committed a murder and someone else, who was innocent of it, were sentenced to death, the guilty party could be morally bound to declare himself. The law of trespass once provided matter for much argument in which one of his most eminent pupils took the other side. Having trespassed over a considerable portion of enclosed land, could one be legally forced to retrace one's steps, or might one insist on leaving the property by the shortest way compatible with one's destination? If my memory can be relied on, my father was on the side of liberty.

I remember his thoroughness displaying itself in an odd way, to the dismay of our fellow-passengers, when we were on a coach drive in North Wales in 1884. A halt was made by a roadside spring, which, as the driver explained, possessed powerful chalybeate properties of a specific kind, the thought of which imposed great moderation on most of us. Father tossed off cup after cup, and experienced no subsequent inconvenience. He expected others to be able to do the things that he could do; but when he succeeded in realising that they could not, he was kindness itself, and ever so repentant for having overtaxed a weaker brother or sister.

When he set his heart on anything, nothing could stop him. One of his household was forbidden for a few weeks to climb the stairs, and the lift had not yet been installed; every evening he insisted, in spite of his sixty years, on being one of the two bearers of the invalid chair.

A writer who knows the Russians well says that "they are tolerant of the complexities of life." In this respect he was a Russian. Although he could be grumpy and at times indulge in righteous indignation, he always seemed to me to face the difficulties of life with a resolute smile. No one in the family remembers ever to have heard him use any of the expressions of impatience into which most of us are betrayed. His "Good Heavens!" with its varied intonations and grotesque accompaniments, met all the emergencies that arose. He expected life to be an "obstacle race," and enjoyed it as such. His method of "breaking the back of hills" by increasing the pace in proportion to their steepness was characteristic of his temperament.

There is, to the best of my knowledge, no record of his going to the theatre, except to see Shakespearean plays or the German Reed entertainments. The legend runs that he had received a warning from his grandmother, *née* Fleming, against the dangers of play-going, of which she had had some experience. It was unless I am mistaken, Mrs. German Reed in her earlier days whom he admired in the part of a dashing young prince. He would reproduce with animation the following couplet:

> "Go dance your dogs to the fiddle-de-dee;
> I'll teach you to speak to a prince like me!"

Another Reed catchword which he would at times declaim with unction ran as follows:

> "If possible, it will be done;
> If impossible, it shall be done:"—

a sentiment which chimed in with his own views on the right treatment of difficulties.

There was in his make-up some puritanical streak which made him to the end look askance on race-meetings, being perhaps too keenly alive to the disreputable side of such proceedings. He had a fixed conviction that these things were not good for him; he took his pleasures, which he most thoroughly enjoyed, in other forms. However, the family annals supply one instance in which John Day was party to a betting transaction. It was the outcome of a discussion with his old friend Augustus Gallwey, a brother of the well-known Jesuit. It was at the close of the Franco-Prussian War. Day maintained that France would take her "revanche" within ten years. The money (£5?) was duly handed over in 1880.

Here is a travelling reminiscence of one of my elder brothers. He was in the Hague with his father on the morning of the 20th of June, 1888. There was a salute of artillery, and my brother asked for an explanation. It was my father's sixty-second birthday, a circumstance accidentally overlooked; so he replied drily: "I suppose, my son, because it's my birthday." Reparation was soon made! It was at Rozendaal on the same trip, on a Friday morning after the crossing from England, that my brother, knowing that father enjoyed a Dutch "vleesch brood" (a roughly made meat-sandwich), cap-

tured one at the station, and brought it in triumph to the railway carriage. The occupant, who was expected to break his fast, looked at it askance, and would have none of it. Joe, disappointed, remarked that he had counted on a "vleesch brood" being always welcomed. "Yes, my son; but *not* on Fridays." This testifies not alone to his constant regard for the laws of the Church, but to a faculty for remembering them.

Although my father had an intense horror of pretentious vulgarity, he always showed sympathy with what perhaps may be described as homely vulgarity. The following practices illustrate this phase of mind: drinking his tea, if hot, from the saucer; cutting off the tops of eggs with a flourish; preferring his eggs at most half-boiled, and drinking them from the shell. (In defence of this custom he would relate that a hard-boiled egg had once, when he was mountain climbing in Scotland, caused him acute pains). I remember using in my mother's hearing, as a boy of seven or eight, a vulgar synonym for a handkerchief. She rightly rebuked this lack of refinement. My father, in one of his whimsical moods, defended the expression on the ground of its being good Saxon; I have since discovered that the second element of this compound word is British! Besides, he would explain, pocket-handkerchief is etymologically a misnomer, meaning literally "something to be used by the hand to cover the head to be kept in the pocket!"

Some of these reminiscences are indeed trivial; but as they serve to reproduce the atmosphere of those bygone days, I will not apologise for

adding one more trivial still. (Was it not the *trivium* as well as the *quadrivium* which completed a liberal education in the olden times?) Those who knew Bath years ago will probably remember one of its worthies : Guinea-pig Jack the Italian. He was a friend of our childhood ; and we could never spend a few days in that city without purchasing some of his live stock. Now father apparently regarded such animals as in some sense, Scriptural or otherwise, "unclean." One Sunday afternoon we sat, a party of five or six, in one of the summer-houses beautifully constructed by Uncle Sam. Emboldened by the depth of the paternal slumber, we ventured to introduce the pets we had recently acquired. The sleeper suddenly awakes, and there is a scuttling and a scampering which betray the fact that some mischief has been perpetrated. It would have been wiser to have braved the situation, and to have insisted on interest being taken in our bunnies and white mice. It was half in fun and half in awe that we adopted the more childish course. This is symbolic of more serious ways in which some of us failed at times to meet father half-way, or a little more, when we might easily have given him the opportunity he sought, for making further revelations of the depth of his loving nature. We were all a little reserved and reticent, and no doubt we had inherited the defect in part from him ; though probably those who knew him only as a public character or a social success never suspected him of being a shy man. I remember him once, with a tenderness that was touching in the extreme, and yet manly, appealing to one of his girls to give

him a larger measure of affection. He did not grudge mother the bigger share, so he said most lovingly, but he did so much want a little more for himself. Who could resist such an appeal? Perhaps in so far as there may have been any undemonstrativeness on our side, it was owing to the fact that we were at times inspired with a sense of filial awe. Though he did so little to impose it, it was undeniably there. One felt instinctively that one was dealing with a great, strong, and unselfish man. There was something of the mountain crag about John Day: something in his bigness which might sometimes make one uncomfortably conscious of one's lesser dimensions. And one could sometimes see the shadows passing over the peak. Yet on his side there was no self-consciousness; no hint of any suspicion that he was in any way greater than his fellows; nothing, except our instinctive recognition of the fact, to tell us that we were living with a celebrity. This remark reminds me of a passage in Miss Morris' *Life* of her father, William Morris. "Many is the time that his family have regretted not playing Boswell to him." The *Times* literary critic adds: "But you can hardly play Boswell to your own father, if he was a father, and not merely an eminent person domesticated. And we would rather have what his daughter has given us, the memory of a life that he made so happy and vivid that no one, while it was passing, could think that it would ever need to be remembered."

At home, the children came down to dessert every evening. Father was a firm believer in the medicinal value of red wines; and enjoying his port after dinner himself, prescribed it in

small doses even for the youngest. In all things he loved to share his enjoyment with the rest. Except at meal-times, he refrained from all alcohol, and very rarely made use of spirits. Once a Sheriff who had provided a banquet for the Judges was anxious to know whether Mr. Justice Day had approved of the different vintages of port that had been served. The person consulted answered somewhat as follows : " You may be sure that so good a judge tried them in a painstaking and impartial manner ; and I may add that being disposed to severe methods, he punished them all ! " My father was never a smoker himself, and would at times rail against " the weed " in language which might have been borrowed from the *Counterblast* of the royal anti-tobacconist. But wine, like salt and oil, had the blessing of Scripture on it, and that made all the difference ! It was his friend and distinguished rival, Lord Russell, who after a good dinner once exclaimed to some one who would receive the witticism in a kindly spirit : " What a queer mixture Day is of port and piety ! " No doubt he was a " queer mixture," made up of many apparent contradictions ; but they blended into a very pleasant and proportioned whole.

CHAPTER VIII

On The Bench

A High Court Judgeship is a glorious post for anyone to capture and hold who honestly feels himself fit for it, especially if he has the comfort of knowing that he has attained to the position by hard fighting, according to the rules of the game honourably interpreted. John Day got it in June, 1882, at the age of fifty-six. He got it by the sheer force of undeniably deserving it. Holker had died, and Bowen had in consequence been promoted to the Court of Appeal. It is said that Lord Coleridge, a staunch believer in Day's ability, recommended him to the Chancellor, Lord Selborne, for the vacancy. Neither political considerations, nor influence of any kind except that of merit, played a part in the proceeding. Knighthood, unless regarded in a sentimental light, is not an honour which adds much lustre to the ermine. The tradition of the English Bench is to prefer the title "Mr. Justice" to the "Sir." (It is somewhat different for the wives.) Sir John "arose" without any sense of being transformed or glorified. In such matters he was always pleasantly conscious of a spice of the ludicrous. But he had in his heart a very strong and steadfast determination to do his duty without fear or favour. From this he never flinched. The papers hailed him with acclamation, and

Punch, who had once indulged in a joke not meant to be complimentary, about the "Dey of Algiers," blossomed out into a fancy portrait (June 17th) and greeted the new Judge with good-natured pleasantry, of which the following may serve as a specimen: "The next step will be to turn Day into Knight, and may it be very long before the break of Day!" My father was at the zenith of his physical and mental prowess, and all the omens gave good augury. His youngest children were nearing the end of their schooling. Though such a promotion as his usually entails a pecuniary sacrifice for a few years, it is almost always an immense boon, carrying with it a sense of security, and setting the seal of approval on the recipient's career. To my mother it was a real joy, and the commencement of a period of lessened labours and anxieties. We all had the best possible grounds for honourable pride, and a vista of fine possibilities of usefulness and distinction stretched out into the future. Nor was the fair promise destined to be belied. Perhaps he might not attain to any further promotion (a Lord Justiceship he never desired, as it carries with it no increase of salary and entails the sacrifice of circuit), but all who knew John Day felt certain that, if his life were spared, he would be no lay-figure or dignified dummy, but a judicial character of the best type, one who would heighten the public esteem for that high and responsible office.

One of my brothers who read, folded and sealed the letters in which my father acknowledged the congratulations of his numerous

friends and admirers, assured me that such was his versatility as a letter-writer that no two letters were substantially the same. The first day, June 8th, on which he should have done judicial work, it so happened that all the Judges were engaged in part-heard cases, with the result that he started his Judgeship with an enforced holiday. *Punch* suggested in verse some ways in which the new Judge might have amused himself at home: "trying the cook" figuring conspicuously amongst these pastimes. The very cordial and enthusiastic reception which was accorded him as he walked in the procession at the opening of the new Law Courts testified to his popularity with the Bar and with the public.

It must have been early in his judicial career that Mr. Justice Day decided that he woud do most good by devoting his main energies to enforcing the moral law, and to deterring criminals from further offences against God and society by means of severe sentences including, when possible, the use of the lash. His own instinct and strong independent judgment told him that this was the right treatment: he had a profound distrust for theories of penology built upon Lombroso and criminal anthropology. To him murder, robbery with violence, and indecent assault were breaches of the law of nature, to be loathed and detested by all right-minded human beings. He could not bear that pseudo-scientific sentimentalism which would excuse all sin on the score of insanity. His pity, strong and operative, went forth to the victim, and only increased his indignation against the ruffian who had inflicted the wrong. Once

when someone with humane motives interceded for a malefactor, the Judge said slowly and deliberately : " When your wife or child is the victim, it will be time then for me to consider your appeal. Now it is my duty to avenge the weak and the innocent." A careful study of the criminal's *dossier* preceded the sentence, and not unfrequently such a one would be visited by the Judge in his cell. Day regarded it as an important part of his Assize duty to inspect the chief gaols, to take a friendly interest in the prisoners, and to keep in touch with practical schemes for prison reform. Often, too, the sentence passed in court was considerably softened before it was finally fixed by the signing of the Calendar. Many blamed this method of procedure on the ground of inconsistency. He defended it on the score that the severe sentence, afterwards reduced, acted *in terrorem*, and justified itself in practice.

It was in 1883 at Armley Gaol, Leeds, that with characteristic honesty my father made trial of the tread-wheel. Mr. E. Woodhouse, an ex-Lord Mayor of that city, has left a record of the fact. The Judge, for a wonder, was wearing his inverness, and found the complete round of that instrument of torture more than he had bargained for. But for all that he emerged smiling, and remarked to the warder : " If it is your custom to carry your duty so far as this, I shall have to reduce my sentences." *Punch's* next number showed in a woodcut the Judge, in wig and gown, doing time on the treadmill. This episode naturally leads one on to another, which also illustrates the Haroun al Raschid side of John Day's character. This

is two or three years later, Liverpool being the scene of the escapade. At the time, many crimes of violence were being perpetrated in that city by hooligans belonging to what were known as the High Rip and the Logwood Gangs. The stipendiary magistrate (Mr. Hopwood) was notoriously lenient in his handling of these roughs. With the help of Chief Inspector Robertson, of whom the Judge held the highest opinion, it was determined that a strong attempt should be made to stamp out this social pest. My father decided to study their night-habits in their native environment. His son Frank Day was his Marshal for that Assize. A well-assorted trio, they sallied out in the late evening to visit the chief haunts of crime. According to a cutting from *The Sporting Times* (a suitable organ for recording such an exploit) they "included in their nocturnal itinerary the ill-famed Loose Box and the Long Jigger." To Liverpool men these names may have a known connotation ; but on their own merits they make an appeal even to the least imaginative. At first the mistake was made of inflicting a short term of imprisonment with the maximum allowance of the "cat :" then in one or two cases the doctor intervened, and declared the culprit medically unfit for so many lashes : the result was that thenceforth the medical examination preceded the final adjustment of the sentence. Thus there was no escape from the severity of the law.

If I give an example here of Day's mode of passing sentence on such malefactors, let it be well understood, that though many who did not know my father believed he took

pleasure in the process, any deliberate touch of cruelty was altogether foreign to his nature. This, however, may also be said: that being master of his own motive and mood, both pure, he was not always quick to detect that he was giving pain; he was not gifted, Newman-like, with a true apprehension of the feelings of others. Day would begin in his *sotto-voce* guttural tone: "I shall not sentence you to a long perod of imprisonment." The wretch would grin at the prospect of lenient treatment. "I consider yours a case in which the rate-payers' money would be expended to no good purpose; and so I shall not send you to penal servitude." Were the prisoner ignorant of this Judge's methods, he would by now be jubilant. "But I shall sentence you to twelve months' hard labour, with twenty-five strokes of the cat when you go in, and another twenty-five when you come out." At this the criminal would collapse; and the Judge would add: "Show your back to your dissolute friends when you come out." In another case where the prisoner fell on his knees in entreaty, he addressed him this: "Get up, you cowardly rascal, and take your punishment like a man." Some bad characters faced imprisonment with composure, but would often howl at the prospect of being flogged. The humanitarian who claimed that flogging would brutalise them had no real acquaintance with the type. Day's conviction was that the only appeal to their reason was through their epidermis. Statisticians calculated that in fourteen years he inflicted 3,766 lashes on 137 criminals; and one pen computed that to the reclaimable he would give four months

with forty lashes, and to those beyond redemption seven years, calculating from these data that in his table one lash was equal to two months. All Liverpool people who have ever talked to me about it admit gratefully that John Day did much toward stamping out crime; but members of philanthropical societies, and some others, denounced "the flogging Judge" as a well-meaning brute, and regarded his method of dealing with criminals as mediæval and mistaken. According to them, such severity is useless as a deterrent, and effects only further demoralisation in the poor wretch submitted to it. *The Daily News* strongly advocated this view. If we are to believe these writers, the best means for preventing crime is to increase the efficiency of the police and of the detective department. No doubt Mr. Justice Day would have concurred with this opinion, without admitting that it is a full substitute for severity. Others, including well-disposed critics, considered that his tone in addressing prisoners savoured too much of personal resentment; and that in the case of those accused of sexual offences his very special abhorrence of this type of immorality led him to be more readily satisfied that they were guilty than would have been the case were the charge of a different character. It is enough to record these strictures without further comment. Certainly in cases where severe temptations to dishonesty were yielded to, the Judge would often show much leniency. He did not hold property nearly so sacred as the human person. *The Yorkshire Daily Post* (Lancashire and Yorkshire always appreciated him) recounts that on

one occasion when he was compelled to pass a heavy sentence on a young offender, the Judge would not dine till he had visited the youth in prison, talked to him quietly, and exhorted him to amendment. A priest who gave a retreat some years ago at one of the Good Shepherd convents told me of an interview with a penitent, at the time leading a holy life, who ascribed her rescue from vice to the kindly interest my father had taken in her after her arrest.

On becoming a Judge, Sir John must have taken a firm resolution to keep the humorous side of his nature under strict control. Although he had acquired a great reputation as a jester at the Bar, he did little to maintain it on the Bench. He felt that the seriousness of the issues at stake in criminal trials made any form of facetiousness unseemly. But in civil cases a little ripple of fun would from time to time relieve the boredom of the proceedings. These utterances were not jokes borrowed from jest-books, nor suited to shine in such collections; but they were original, whimsical, and often luminous. Nor did he seem to care whether or not they were appreciated. There was an inner circle that thoroughly relished them.

A few examples of his judicial humour may interest the reader. One day a tedious barrister fell into a disquisition on the various kinds of bags. The subject of bags was indeed involved in the case, but did not require the exhaustive treatment given it. "Then, m'Lud," said Counsel in his long speech, "comes the question of the bags. They might have been full bags, or half-full bags, or again, m'Lud, they might have been empty bags." Mr. Justice Day (with a meaning

look, and an effect on the Court that was truly magical) : " Or wind-bags ! " Another time a popular actress conducted her own case. After having engaged in several spirited encounters with members of the Bar, she at last took the Bench to task for a monosyllabic utterance in which it had indulged. The Bench defended itself in these words : " Madame, I decline to be cross-examined." My father keenly enjoyed, as I remember well, the humour of the Irishman to whom he mentioned that in a certain Welsh Assize town, he had, owing to their being no criminal work, received the white gloves : " Sure, they're a mane-spirited lot, your Lordship ! " The following is told of the Victoria Courts, Birmingham. A young barrister was representing a prisoner who stood in the dock on some charge or other, and, waxing eloquent upon the many virtues and lamb-like innocence of his client, ventured to remind the jury that it was an insult to their intelligence to tender a defence. " In fact," said Counsel, with a grandiloquent flourish, " it is ridiculous to have retained me to submit his case. Had he stood unrepresented by me, I feel sure he would have walked out of the dock a free man." Mr. Justice Day, with a quaint smile, added : " I quite agree with you, Mr. So-and-so." The Court laughed, the young lawyer collapsed, and the man got six months.

It was remarked by the foreman of the jury in a forgery case that it was incredible that any forger should show so little cunning. The jury itself was a particularly stupid one. The Judge, fully conscious of their intellectual shortcomings, made the following profound comment : " If the

prisoner was content only to deceive the person whom he wished to defraud, you have no reason to complain that he did not put forth sufficient skill to deceive intelligent men like yourselves." It was once written of Day by a provincial paper that he was possessed of an "annihilitical" mind : perhaps this was an example of it.

His note to Judge Willis, with regard to the funeral services of Baron Huddlestone, though not altogether relevant, may be slipped in here.

"My Dear Willis,

"I had intended to go with my brother Huddlestone to the grave ; but since he has decided to go off in flame, I cannot accompany him."

"J.C.D." (*u*

I have said that articulate utterance was, to my father's mind, a matter of the highest importance ; and mumbling an unpardonable offence. His objection to barristers wearing moustaches was partly because he considered this appendage opposed to the best traditions of the profession, but mainly because it tended to smother speech. On one occasion he addressed an indistinct and moustachioed counsel as follows : "How can you expect to make yourself heard and understood when you cover your mouth over with a haystack ?" Generally speaking, he was kind and courteous to young barristers, so long as they seemed to have prepared their brief and were not bumptious.

The few hours that Sir John Day slept on the Bench may be forgiven him. While a Napoleonic gift of sleeping at will lengthened his life, it certainly stopped far short of a wicked formed habit,

and did not appreciably damage his efficiency. Once, however, during a long trial on the relative merits of cloth, in which there was sure to be an appeal, he deliberately composed himself to slumber, and continued in a condition at least semi-unconscious for three or four hours. Lockwood was busy with his pencil that afternoon. The ventilation of many of our Courts was mainly responsible for the somnolence. When alone, Day always had the maximum of air admitted; but when other Judges, not addicted to fresh air, sat with him, this was not always possible.

He was extraordinarily quick in dealing with cases, and would dispose of twelve "short causes" in a day, where four would be the average. His notes sent up to the Court of Appeal were usually exceedingly brief, and only intended to be of practical utility. In this and in all other matters, self-advertisement was abhorrent both to his self-respect and to his genuine modesty in his own regard. One such short note was distinctly humorous. It was his only comment on a long tedious "nuisance" case, in which a gentleman with a prominent nose was the defendant. "He says he did not smell it—with such a nose!" Their Lordships of Appeal must have enjoyed a good laugh, and felt grateful to their "Brother Day" for it.

It was on the 11th December, 1885, that my father delivered a lecture on "Beauty" to the Bath Literary and Philosophical Society. It was composed after he had come under the influence of Ruskin's magic wand. At the same time, it is not the work of a servile disciple or imitator of that great master. He probably

understood better than Ruskin the philosophical basis of art. He brought out his lecture in book form ; and it was while engaged on this task that perhaps for the only time in his life (the only time known to me) he departed from his strict rule of early bed, anything much after ten being regarded as late. In the Appendix may be found several extracts from this *opusculum*.

In 1886 Sir John came prominently before the public as President of the Belfast Riots Commission. As usual, he went to work determined to do the strong thing. The opportunity soon arose. He ruled that counsel were only to be heard as *amici curiæ*, and were not to be allowed to cross-examine. The representatives of the Irish Bar opposed this ruling tooth and nail. They left the Court in high dudgeon, the chairman continuing the Enquiry unmoved. When they returned with a written protest, he calmly said to the policeman who was giving evidence : " Please continue your story." Far from interrupting the proceedings, he would not even allow an adjournment in which the grievance might be discussed. The Chief Secretary, Sir Michael Hicks Beach, was referred to, and in a friendly way did what he could to smooth the troubled waters. On the fifth day the Bar returned, in practical submission to the ruling ; and it has been followed as a wise precedent, though not without protests, on similar Enquiries. Threatening letters and such-like tactics were absolutely disregarded. The Commission lasted nineteen days, and is generally admitted to have achieved its object successfully. Several useful reforms resulted from

it ; for years after there was no serious recrudescence of the riots. My father's fellow-Commissioners at Belfast were General Sir E. Bulwer, Mr. F. Le Poer Trench, Mr. R. Adams and Commander Wallace McHardy. The latter issued a separate report. A Belfast priest admitted that although no man at the time was better cursed than Mr. Justice Day, yet, in the years following the Commission, no man was more cordially blessed. One of the local papers remarked on his keen searching look, which gave everyone the impression that he took in everything that was said, and that he scrutinised the deportment of witnesses. His allusion to " Orangemen beating tom-toms like Chinese barbarians " was not intended to please that faction ; but all impartial critics admitted that he held the scales of justice in a firm and even hand, and that political clergy would receive scant sympathy from their co-religionist. Once, a passage of a particularly un-Christian character was read from a composition by a minister of the Orange party. " What is that from ? " " From a sermon by Dr. Hanna." " What ! " (with deep-drawn indignation) " from a discourse delivered in some house of God ? "

It would be out of place for me to dwell at any length on the Parnell Commission, which belongs to general history. It shall only be touched on as an incident in the life-story with which we are concerned. Hannen, L. J., Day, J., and A. L. Smith, J., (to use the abbreviated form of the Cause Lists) were appointed to conduct a commission to enquire into the methods of the Nationalist party in Ireland, and of its leader, Charles Stewart Parnell. Day felt

strongly that it was not the proper function of Her Majesty's Judges to pass sentence on a chapter of history. He had, as we have seen, made enemies at Belfast. They now had an opportunity for protesting against his appointment to this new Irish Commission. They represented that he was anti-Irish in his sentiments, and in his general outlook on life a Spanish Inquisitor. John Morley, in the House of Commons, read an extract from a letter written to him by one of Day's Belfast colleagues, portraying Mr. Justice Day as "a man of the seventeenth century in his views, a Catholic as strong as Torquemada, a Tory of the old high-flier and Non-Juror type." Quite a storm raged round the nomination. Before things were decided, several prepaid telegrams from the press were received by Sir John, asking whether or not he was appointed. He calmly destroyed them. Such conduct did not endear him to the newspaper world. In spite of Gladstone's adverse vote he was appointed Commissioner No. 2. He naturally entered on the job, which was to last one hundred and thirteen days, somewhat grimly. Once, as a result of the strain of these tedious proceedings, he was betrayed into a fit of Homeric laughter which proved infectious. William the Silent gained his surname much more easily than John Day. Throughout the long fruitless proceedings, relieved only by the eloquence of Charles Russell, my father, with one single exception, went on saying nothing. The solitary remark he made may have slipped out by accident. Lockwood, who was a diligent student of his physiognomy, seized the occasion and immortalised it with a cartoon

entitled "'Day unto Day uttereth speech.'" Sir James Hannen had said: "I cannot see how this remark is relevant," Day supporting him by adding: "Neither can I." Sir A. L. Smith was also sparing in his speech; and one of the papers took the opportunity of reviving thus the tale of the three silent monks, as a parallel to the taciturn Judges. "The quiet of these Judges recalls the mediæval Gaelic story of the three monks who retired from the babble of the world. At the end of a year of silence, one looked up and said: 'This is a good life.' After a deep pause of twelve months, the second replied: 'It is so.' The third monk flushed angrily, and after a further year exclaimed: 'Unless ye give me more peace and quietness, I'll return to the world.'"

The notes which Day handed in to the President at the end of the long trial were scribbled on one half-sheet of note-paper. Nevertheless, it was he who in the early stages of the trial directed attention to at least one point which proved of crucial importance. The *Dictionary of National Biography* records that "although Mr. Justice Day throughout the Parnell Commission wore an expression of profound boredom, yet it was gossip in the Temple that it was his insistence on early proof being tendered of the authenticity of the letters attributed to Parnell which forced Pigott into the box, and led to the collapse of that part of the case." My father had not attempted to improve the occasion or to play to the gallery; but in days when chatterboxes may be found even on the Bench, he held his tongue. And "no one knows how much energy it requires in a Judge to hold

his tongue," says Sir William Alexander. The impression of my mind is that he never spoke unless he had something worth saying : and he usually had plenty ! Indeed, on social occasions he relieved the rest of the family from the need of making conversation.

One word further as to the painful controversy with regard to my father's fitness to sit on the Parnell Commission. On one point in connection with it, I was at the time behind the scenes, and can endorse fully what was hinted at by one or two journalists as to his magnanimity in dealing with his chief critic. Whatever faults John Day had, he was never small.

It was during this Commission that he met with an accident. He was walking to Court along the Embankment. When crossing the road near Charing Cross in his usual style (choosing a propitious moment and then, without looking to right or left, shooting across in a bee-line), a cab knocked him down, and one wheel passed over his chest. The man in the cab, with prompt decision, had jumped out to lessen the weight. The mishap occurred in the afternoon. That evening the Judge and his wife were to dine out, —I think at Lord Coleridge's. The shock to my mother kept her at home, but my father, accompanied by Miss Day, presented himself duly at the tryst. "Here is the one that met with the accident," he explained : "the one who suffers from it is at home." Certainly his pedestrianism, as one description of it says, "smacked of the primeval and the heroic. Yet even his enemies do not contend that he often broke bones, or walked otherwise than politely over a wayfarer who in the shock had lost his

balance." There must have been more method in his onrush than was commonly supposed, as no case ever came under my notice in which he impinged on any fellow foot-passenger. Once in the drawing-room at Collingham Gardens, when Judge Bagshawe remarked that Sir John must have an especially efficient angel guardian, my mother qualified the remark by adding that she would rather have one who might prevent him from going into danger than one who would pluck him out from it. His physical vigour was always great. One of the sons who was teaching at St. John's Preparatory School, Beaumont, Old Windsor, being laid up in the course of 1892, Sir John, accompanied by Mr. S. Day, came to see him. They walked the three or four miles across the Forest. On nearing a ditch, the Judge could not resist the temptation of a broad water-jump. The bank was slippery ; the attempt ended in soused feet and muddied garments. He made light of his discomfiture. On the arrival at St. John's, Fr. Lynch, S. J., quickly diagnosed the trouble, and the athlete was soon rigged out in full clerical attire, while his own clothes were sent to be dried and brushed. He was then aged sixty-six !

He was never sympathetic with golf-players, uncivilly alluding to them as " lunatics," and crediting them with homicidal mania. When he would meet some congenial friend at a sea-side hotel, say at Seaford, Eastbourne, or Sidmouth, he would express his delight at having someone to talk to, " without that eternal golf."

A picturesque old-fashioned feature about his " circuiting " as a Judge was that wherever it was at all possible, he travelled on horseback.

Probably he was the last English Judge to do so. The Marshal and my sister, Miss Day, would usually be of the party. It was partly with a view to making time for the ride from town to town that he often sat late in Court. On one occasion when the dinner-hour passed, and the Judge showed no sign of bringing his labours to a close, a member of the Bar wrote these lines, which quickly found their way to the Bench :

> " Try men by night ? My Lord, forbear ;
> Think what the wicked world will say.
> Methinks I hear the rogues declare
> That justice was not done by Day ! "

Although unassuming in all personal matters, John Day was, in moderation, a stickler for the due observance of official decorum. A Judge on circuit, as the special representative of the Sovereign, is entitled to marks of respect not paid to him at other times. I remember being told by my father that once, as Judge of Assize, he deliberately declined the honour of meeting a member of the Royal Family, to avoid any embarrassment to which the question of precedence might give rise.

An English Judge of Assize is provided with an official whose principal function is to swear in the Grand Jury. The Judge selects for this pleasant sinecure some young friend who is likely to prove companionable, and who will be glad to pocket the fee attached to the office. Perhaps it is traceable to the ecclesiastical tradition in favour of a *socius*. The scriptural warning, *Væ soli*, has been quoted in support of the practice. But if the Judge

and the Marshal are not congenial, it is likely to be a case of *Væ marescalco!* It must regretfully be admitted that this touches upon one of the blots on Mr. Justice Day's escutcheon. There are several men now middle-aged, who in their youth went as Marshal with him, whom I would hesitate to ask for a character of the Judge which could be published in these pages! He showed then, alas, for some reason to me unfathomable, too much of his dour and grumpy side. One of these unfortunates drove out with him to visit the High Sheriff. A delightful afternoon was spent, and Sir John was sociability personified. But when the two were again in the carriage (Sir John alone on the back seat, according to circuit etiquette), the reaction set in: and to quote the Marshal's happy phrase: "His jaws shot to like a rat-trap, not to open again."

As a set-off to this sombre picture, I am pleased to be able to add the following testimony from the Hon. F. Russell, K.C., who in 1891 or 1892 accompanied the Judge as Marshal on the Oxford Circuit.

> "We rode from town to town the whole circuit, and great fun we had. I remember being greatly struck by two things: first, the Judge's fervid piety, and second, his almost boyish joviality when jokes were afoot. He used to make me rattle off any songs I knew, and even joined in the choruses when he knew them well enough. I often wondered what people outside would think if they could look in on the scene of the Judge and his Marshal spending the evening together!"

Another Marshal, whose six weeks had not been gladdened with judicial sunshine, writes generously as follows ;

> "I should like you to believe, however, that I have no dark memories of the Judge, nor ever had any. Something in my blood has endowed me with a good deal of imagination, and I was well able to put myself in your father's place. He looked upon his Marshals as parasites ; and so we were. His only shortcoming was that he himself did not use his imagination to the extent of realising that, though we were parasites, we could not help it. And, in the silence that he often made me observe, I would contemplate and marvel at his wonderful courtesy to others."

It was the spring of 1893 on the Midland Assize. Lady Day, although feeling unwell, decided to accompany Sir John, as his health at that time needed a little watching. My father, for years used to her delicate constitution, attached too little significance to symptoms of decreasing vitality. The Marshal happened to be a medical man, who also regarded my mother's weakness as simply the result of a bad cold. She knew better, and returned from Derby to London with the conviction that the end was approaching. My unmarried sister, whom she loved tenderly, lavished on her the rich stores of her affectionate nature. A specialist (Sir Richard Quain, who had attended my father in 1859) too late detected a disease which gravely complicated her condition. After receiving all the helps which the Church offers to its dying

children, she became unconscious. On awaking she made the enquiry so characteristic of her whole life: "Have I done everything?" It was lovingly recalled to her memory that all Sacramental preparations for eternity had been made. The final stage of the illness was so rapid that several members of the family were unavoidably absent. Her husband, two daughters and a son witnessed my mother's happy passage from this world to the next. She was seated in a chair under the arch between her bedroom and her boudoir, which were separated only by a curtain. Her daughter Mary supported her, while my father held her hand. All who knew her loved her, and were plunged in grief. It was Palm Sunday, March 26th, for her indeed "the Sabbath-day which is reserved for the people of God." She, born March 21st, 1825, had just entered on her seventieth year. She was buried on Maundy Thursday. By a like coincidence, my father's birth and death both came to him in June.

On March 3rd, my mother had written to me (her youngest child), then in Cape Colony, a long letter, giving me all the news. She had joined the circuit at Bedford, and had already visited Northampton, Leicester, Lincoln and Nottingham. The letter in which my father breaks to me the news of our terrible bereavement is in the Appendix, and testifies eloquently to his great love for the wife of his youth. Six years later, writing to me on Lady Day, 1899, he says: "To-morrow is the very actual anniversary of your dear mother's death. R.I.P." Palm Sunday had recurred on March 26th.

It was in January, 1896, at Haverfordwest, that my father's right hand became for a short time almost useless for writing. By one mail I received a postcard, dictated to his clerk, Mr. Field, telling me of this attack, supposed to be of a gouty nature, and by the following mail a letter written with difficulty by himself, announcing slight improvement. It was probably a symptom of threatening paralysis. His letter ends: "Excuse execrable writing. I wish I could write more." Unfortunately, his letters to my mother were destroyed after her death. She had kept nearly all her letters carefully arranged in packets. But one who looked through many of them assures me that they were beautiful letters, full of affection. Indeed, all the members of his family are able to give similar testimony about letters received from him. He was a most faithful correspondent. During my four years in Cape Colony, almost every mail brought me a postcard from my father. When I was a boy at school, and he was travelling on the Continent, a postcard would come every day or two reporting his movements.

In August, 1898, some festive celebration was held at the Benedictine Monastery of Fort Augustus, while Sir John Day was spending the inside of a week with the hospitable monks, who were loth to let him go. A secular priest, Fr. Brabazon of Caverswall, who was one of the party, tells the following tale. It was a wet day, and some of the younger guests hit on the idea of a mock trial as a plan for passing the time. The prisoner was a young cleric who had brought on himself these legal proceedings, by playing

practical jokes on the others. The Judge, entering into the spirit of the diversion, played his part with entire gravity, and eventually pronounced that the reverend gentleman, the accused, left the court without any blemish on his character.

In February, 1899, he was honoured with an enthusiastic public reception organised by the Catholics of Wigan.

In 1900, a year before his retirement, Sir John Day married Miss Edith Westby, whom he had met at a house-party at Sir Donald McFarlane's in the Whitsuntide of 1899. They were married at the Oratory in the following spring, seven years having elapsed since my mother's death. The chapter on his later years will show that this second union served most successfully to brighten and gladden the period of enforced rest. The second Lady Day is the daughter of Edmund Westby, of whose family Burke makes the following mention : " The family of Westby is one of the ancient Catholic houses still numerous in Lancashire. The Westbys were originally from Yorkshire, but had a settlement in Lancashire prior to the Conquest."

CHAPTER IX

His Interior Spirit

With many men religion is only an accessory to life: their biography might be honestly written with only a slight allusion to the subject. But with John Day there is no doubt that it belonged to the substance of existence. To omit it would be to leave out the most prominent motive power in his career. He inherited this faculty for taking religion seriously from his parents and their parents; he held to it with tenacity, and desired greatly to hand it on. For a short time, as a young man (a matter of months at most), he had come under the influence of rationalistic doubts; but with the exception of that brief partial eclipse, religion, practised in the definite form in which he had received it, was the sun that lit and warmed and sustained him during the seventy-five years in which he led a fully conscious life. In the marriage ceremony there is mention of "having and holding": he "had" it and "held" it. The writer in the *Dictionary of National Biography* speaks of his Catholicism as having been of "the Continental type." I cannot endorse this view. One obvious criticism is that the term "Continental," when applied to Catholicism, is, if not a contradiction in terms, at least vague and unsatisfactory. John Day started life with the simple, old-

fashioned, severe Catholicism prevalent at that time in England. Although his year in Rome and subsequent schooling abroad helped to remove prejudices against frequent Holy Communion and to destroy other remnants of Jansenism, it made no substantial change; and in his old age he maintained the same childlike and manly faith, in every way typical of the English Catholics of his generation. Although prepared to accept anything when endorsed by infallible authority, he was by no means credulous. To the end he was a firm believer in the sterner side of the divine attributes. He refrained from all devotions which he considered fanciful or far-fetched, but always loved the solid adjuncts to religion. He never liked English prayers being tacked on at the end of Mass: he likened this to sending off pop-guns after the discharge of heavy artillery. He objected strongly to a lazy popular habit at Mass: that is, to kneeling without rising again at the *Verbum caro factum est* of the Last Gospel. Apparently this abuse was creeping in in his boyhood. He has told me of an old gentleman at Bath (Mr. Connelly, I think) who said to him once that the next thing would be that people would take to lying down in Church! (In mediæval days they seem never to have even sat, save for the sermon). My father would say his rosary-beads in a railway compartment with little, if any, attempt at concealment; and the movement of the lips, without which he could not pray, gave evidence of the nature of his occupation. And often his praying in Church was far from noiseless. His friends regarded this sometimes annoying pecularity

as part of his incurable thoroughness. Once when staying in a country house where there was a private oratory, he was found quite unexpectedly by one of the other guests, also piously inclined, praying all alone in his most vehement manner. A lady once said of him that at times, when thus engaged, he appeared to be threatening the Almighty! This appearance must have been caused by his wrestling with distractions or other disturbing thoughts. His favourite form of prayer was praise and thanksgiving. Once when returning from St. Mary's, Holly Place, Hampstead, the little Church presided over by "Mr. Purcell" (as my father in his old-fashioned moods would style him), he called my attention, as a child, to that splendidly unselfish prayer in the Gloria: *Gratias agimus tibi propter magnam gloriam tuam,* in a way which I never forgot.

It was always my father's practice to raise his hat when passing a Catholic Church. One of his brother-Commissioners at Belfast noticed this, and by way of a joke (a poor and unworthy one) would nudge him as they passed other places of worship, with the result that in several cases Day saluted them, until he discovered that he was not being treated with good faith. His instinct for reverence and religious loyalty was deeply rooted.

I have heard him defend for argument's sake the thesis that pride is more pardonable than vanity. Though this view is theologically untenable, the fact of his saying all that could be said for it throws a side-light on his character. He certainly was not vain. And when once in all simplicity he asked a religious supposed to be

versed in such matters to teach him to pray, as although he said a good many prayers every day he never felt that he did it properly, one might be pretty sure that there was not much pride of the wrong sort in John Day's composition.

He was a great reader of all thoughtful ascetical and theological literature; Longmans, Burns and Oates, and some other publishers must have loved him well. Like Nicoll of Auchindoir, he acted as if it were "never safe to have only one copy of a book"; and he was constantly giving away volumes of favourite authors. Every evening, in the drawing-room at home, seated in the armchair with the revolving-bookcase close at hand, he went through his literature, sacred or profane, lovingly and methodically. This always included a chapter from the New Testament in Greek. One of his favourite sayings was that "reading fattens the soul." A lifelong lover of the Psalmist, he, too, was determined to stave off the *sterilitas animæ meæ*. Works on art, folk-lore, books on the English language and on etymology in general, provided his favourite mental nourishment. The Latin hymns of the Middle Ages were especially dear to him. To pass to the other pole, Planché's extravaganzas enjoyed a period of favour, and Marbot's *Memoirs* were consumed with avidity. The only novels which he ever read were the classic ones, and those rarely. He was inclined to regard all other works of fiction as "trash," and to condemn them untried.

It was always a delight to him to visit religious houses at home and abroad. His fear of over-

sleeping in the morning would often result in his being the first to get up ; and likely enough he would wish to make his confession before the first Mass, with a view to receiving Holy Communion. Although he never showed any symptom of scrupulosity strictly so-called, he was, if one may express it so, on the ultra-conscientious side. Always and everywhere, he was an early riser. *A solis ortu* is the motto on Sir John Day's armorial bearings, which are to be seen in the Middle Temple Dining-hall. He loved the sun in its rising and in its setting, nor would he shut out its rays even in the noonday heats. I have heard of him as visiting the Notre Dame Convent at Mount Pleasant, Liverpool, New Hall, Chelmsford, and of course Abbotsleigh, Newton Abbot. And he took particular pleasure in visiting St. Beuno's Theological College, St. Asaph, during the years when his two Jesuit sons were there. Both here and at the seminaries of Oscott and Ushaw, he would always intercede with the President to obtain a holiday for the students.

He took an intelligent interest in everything that concerned the working of the ecclesiastical machinery. If he did not often take an active part in Catholic life, it must have been that the fear of being, or appearing, fussy or officious restrained him. In the days of Dr. Danell, Bishop of Southwark, whom he regarded as "a man after God's own heart," he delighted to take us on pilgrimage to that Cathedral in order to hear the Masses of Haydn and of Mozart rendered with full orchestration. Pius X had not yet issued the *Motu Proprio* on ecclesiastical music, and John Day, in the simplicity

of his heart, considered these flamboyant Masses as the lineal descendants of the Temple-worship of the old Jerusalem, and a foretaste of the New!

A priest devoted to his work was sure to find in him a zealous friend: he, could also be like Sir Thomas More, with whom he had several features in common, a severe critic of clerical shortcomings. When prelates approached him for advice, as they sometimes did, his best wisdom was put at their disposal. He was strongly in favour of the centralization of seminaries; and when one Bishop took him over his own little local institution, consisting of two or three lodging-houses tacked together, his face, during the ordeal of inspecting the premises, must have been a spectacle for men and angels. A reliable witness tells me that in one case a letter written by him as a Judge from the Law Courts to Rome helped greatly to prevent a certain Catholic lawsuit which would have caused much scandal, from coming before the public.

When he was the guest of the Fisher Society at Cambridge (perhaps about 1890), he declared to the young Catholic undergraduates in an amusing after-dinner speech, that now-a-days he scarcely knew that he was that thing apart, a Catholic. When he was a boy there was no mistake about it; but now there was no sort of persecution to remind one of the fact, and the Anglicans were busy adopting most of our practices. He went on to draw a wicked sketch of some modern ritualistic Bishop trying on a variety of Romish vestments in his bedroom, with his wife as a critic of the fit and style.

The love of liturgy was strong in him. He revelled in Vespers and Compline, and could take part in the chant without the help of a book. On March 11th, 1908, three months before his death, one of his priest sons went to see him. He was laid up in bed, and owing to an acute heart-attack his mind was weak and wandering. His son sat close to him, saying his Office. When he came to the first Vespers of the Feast of St. Gregory, he said them aloud, knowing that it would be pleasant for his father to listen to the sweet cadence of the Latin Psalms. When he reached the anthem *Ideo jurejurando* his memory failed him ; for to say prayers to oneself is one thing, to say them aloud quite different. Sir John, in a strongly articulate voice, supplied the missing portion : *fecit illum Dominus crescere in plebem suam.*

He would not resign until close on the end his privilege of serving Mass when celebrated in his oratory, and insisted on doing it, as he had done it as a boy, with the utmost thoroughness, and without the well-merited alleviation of a prie-dieu. Helping to carry the canopy in the Corpus Christi procession was another public exercise of religion which he always prized, and which he practised on the Corpus Christi Feast before his death, although the strain was considered dangerous.

Judge Willis has a lovely passage on Sir John Day's cleanness of heart and mind, and exemplifies it by the way in which, when visiting Continental picture-galleries, he would pass rapidly over any picture of too sensuous a character. Certainly I never heard him touch on any subject that could be called

questionable, nor give the least encouragement to conversation on such topics. At the same time he had no prudishness, and a dirty (not indecent) story that was really humorous might, under fitting circumstances, be well received. His mind was liberal, and in many ways tolerant. He took strong views, and would denounce abuses vigorously. Neither Government was exempt from stern criticism. He would even recommend capital punishment for negligent cooks. But for all that, he was a strict non-interferer and anti-fusser, even to a pathetic degree. Here is a small illustration. It was at the burial of his eldest son, who had died in the Isle of Wight. Some of the little boys in surplices who stood by the grave were seen to be carrying on a joke of their own, in a manner sufficiently incongruous. One of the mourners, when the ceremony was completed, represented this to my father ; but he would not take any notice of it, nor allow the frivolity of youth to forfeit for them the recognition of their services.

When he was first appointed Judge, the questions arose as to what should be done when on circuit alone on a Sunday. Could he attend the Anglican Church in state ? A precedent to that effect was quoted to him. He did not take long to decide this point ; but for confirmation of his view he looked in one evening on his old friend, Judge Bagshawe, a staunch character who had made a considerable sacrifice to become a Catholic. They both cordially agreed that a Catholic official should not assist at a non-Catholic service. When my father was an old man, a Catholic Mayor wrote to ask me

whether it was true that Mr. Justice Day had sometimes been present officially at Protestant functions. My father enabled me to reply to this question by return of post in an unqualified and emphatic negative. As often as possible, he would attend daily Mass both at home and on circuit. At the Old Swan Church, Liverpool, he was specially welcomed by his old friends the Benedictines, with whom he was quite at home. One Palm Sunday, at High Mass, it was arranged that he should be given one of the great palm-branches not usually distributed save to the clergy and the chief servers; an offer was made to have it sent to the Judge's lodgings. But the Judge would not hear of this, and walked off gaily through the streets with his trophy, saying: "*Palmam qui meruit ferat!*" In many cases he would be received with special honours, and provided with a prie-dieu in the sanctuary.

Although he would denounce abuses and abominations with a vigour that would satisfy the most exacting, it was always on a large scale. There was no pettiness, and his talk about individuals was charitable. To say that anyone was "no conjuror" was as far as he would usually go in declaring him incompetent. Nor did he bear grudges. He was, morally, cast in a big mould. One of the family had a real grievance against somebody (let us adopt his phraseology and call her Mrs. Twoshoes) in a matter which was, although annoying, of small moment. After half an hour's silence on the subject, a severe allusion was again made to Mrs. T.'s delinquency. In a low voice he said: "I thought we had forgotten all about it. I

would not trouble about it any more." After that we felt bound to take his larger view. One who had the opportunity of watching him passing through a certain very trying period assures me that he bore up admirably, expected no commiseration, and never spoke harshly of those who were to blame.

When on a yachting cruise with Sir D. McFarlane, one of the party, a son of his old friend, Judge Bagshawe, met with a bad accident, necessitating a night of severe pain. Sir John was by his bedside until morning, saying prayers from time to time, and doing all in his power to lessen the young man's discomfort. His almost mother-like attentions and his piety made a deep and lasting impression on the sufferer.

When my father went abroad he would buy some fine specimens of ivory crucifixes and make presents of them to members of the family. It was a well-chosen form of gift which came appropriately from the donor, one who believed firmly in Calvary and in all for which the Emblem of Salvation stands. But it would be encroaching on the "secrets of the King" to say more on this subject.

CHAPTER X

Retirement

During my mother's life, father always said he would retire on the day that his fifteen years' service expired, and she always maintained the contrary. He continued for four years after that date, and would no doubt have gone on longer had not a sharp attack of *angina pectoris* pulled him up suddenly in the midst of a long "right-of-way" case at the Oxford Assizes. The prospect of retiring while we are in full health and vigour is pleasant enough ; but when the time comes, the outlook of a long holiday with nothing between it and the grave is often much less alluring. When at last, in 1901, Sir John reluctantly sent in his resignation, he explained his action with a characteristic touch of philosophic common-sense by saying : "Why should I, at my age, go on working for £1,500 a year ?" This sum represents the difference between full pay, £5,000, and the retiring pension, £3,500. He always maintained the right of a Judge to practise at the Bar, if for any reason he chose to do so on retiring from the Bench. His direct ancestor, Sir Thomas Jenner, a Protestant in sympathy with King James II., was committed to the Tower on the absurd charge of subverting the Protestant religion, and was by William III. expelled from the Bench : but he resumed practice at the Bar, and defended a prisoner as late as 1702.

I append here two of the letters which my father received at this time, both of which gave him intense pleasure.

"Winterfold, Cranleigh,
"Surrey, 22 October, 1901.

"Dear Day:

"It is with regret that I learn the news conveyed by your letter of yesterday. We shall miss you very much. To me, to whom from the early days of my professional life, thirty-three years ago, you have ever shown the greatest kindness and friendship, it is the breaking of another cord which links me to my work. From the days when I at times took notes for you, you have been consistently and without a cloud or shadow my friend, and it has been a great honour to me to have been, if only for a short time, your chief.

"Your name and memory will ever be respected and beloved by all who have known you; and may you for many years enjoy a well-earned rest. I shall hope to see you soon. Believe me, now and always,

"Your grateful and affectionate friend,
"ALVERSTONE (V)."

The Hon. Mr. Justice Day.

"5, Tilney Street,
"Park Lane, W.
"October 23, 1901.

"'And there was darkness in the Courts,
For the Day was gone.'

"My dear Day:

"This morning's papers tell me that

your resignation is in the hands of the Lord Chancellor ; and I hasten to wish you in your retirement that rest and repose which you have so well earned, with good health to enjoy it for many years. Had I still remained a member of the High Court, I should have felt regret at your departure, and sorry to realise the fact that after half a century during which we fought in early days many a fight together, and during our latter years sat together in peaceful dignity, in sometimes *too much ventilated Courts*, upon the Bench,—we were at last severing the ties which bound us, to drift apart in different streams. But as I have been on half-pay for nearly three years, I am spared that pain and that severance, although I have never lost sight of you, my dear old friend, nor of your interests. And thus it is that on your retirement you must permit me to enrol myself as one of your old colleagues who often thinks of you and of the happy days both of our early and late struggles ; and who now wishes to you and yours everything that can conduce to your happiness and comfort to the end of life, and every enjoyment of the days which are to come.

" Believe me always
" Most sincerely yours,
" BRAMPTON."

The Times commented :

" One or two familiar faces will be missed when the Courts meet next week. One of the Judges who will be absent has well earned his right to repose. It is many years ago

since Mr. Justice Day made his mark in the *Nisi Prius* Court. Two or three generations, as practising lawyers count them, have come and gone since his edition of the Common Law Procedure Acts was the text-book accepted by the profession. They who could recollect his skill as a cross-examiner, his victories won from juries by his keen humour, and his sagacity when he was the rival or successor of Ballantine and Parry, have passed away or have grown old. Perhaps, as a Judge, especially of late, he did not fulfil the high expectations of his friends. Perhaps he grew too confident in his remarkable nimbleness of intellect and retentive memory, to be always diligent and careful. Still, if he did not take notes of evidence, he could, when he chose, sum up with a lucidity which more laborious Judges envied. If he was content to get his law from counsel coming before him, he had a larger store in reserve than he cared to own."

And *The Morning Leader* broke into a charming epigram :

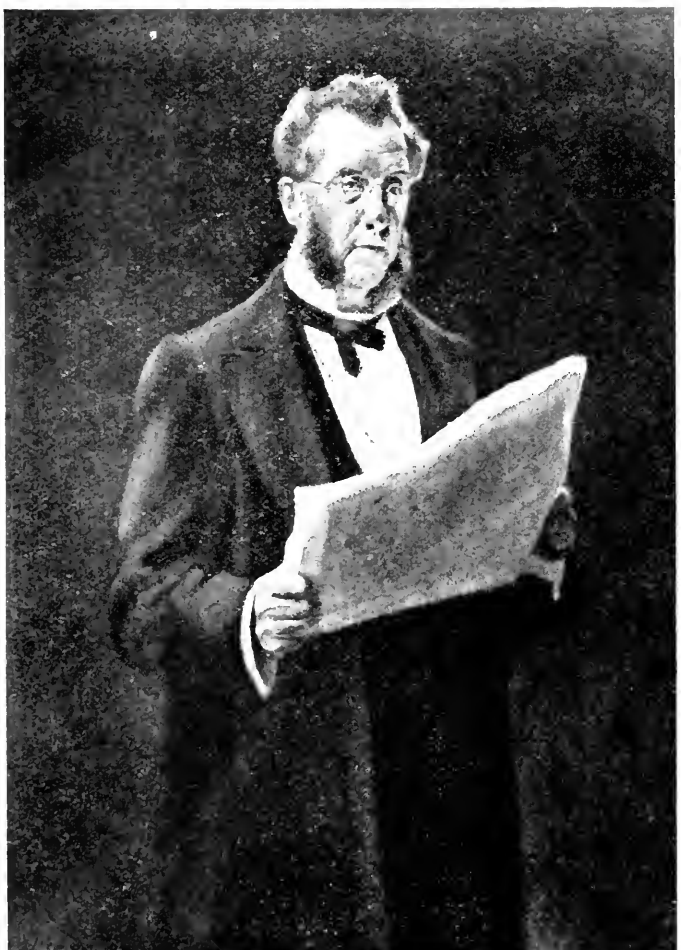
To Mr. Justice Day
(on his retirement).

" Your judgments, my Lord, we could often admire,
Tho' they woke in the wicked dislike and dismay ;
But your very worst enemies, now you retire,
Will be ready to echo : ' Good Day ! ' "

My father's second marriage, by which he proved his practical wisdom, made retirement much easier ; and the deeply-rooted love of nature and country life stood him in good stead.

Although he had become a true Londoner by adoption, his birthright was the country. He loved it in every mood and at every season. He never tired of watching the lights and the shades; and the observing of the evidences of growth and development in animal and vegetable life was an abiding joy. On the walks on Hampstead Heath forty years ago, when for his small boys it was no easy task to keep pace with his strong forward tendency, one remembers vividly his intense delight in watching the glow of a setting sun reflected in flaming red on the boles of Scotch pines. And how earnest he was in his desire to instil into us a love of the glories of God's creation! His love of art was the result of his love of nature. As Corot in the woods of Fontainebleau drank in the exquisite tenderness of the early summer, returned home to dream of the fresh fragrant landscape, and then, to quote his words, painted the dream; so his great admirer stored up the deep impressions he imbibed, and tested the truth of art by comparing it with these invisible mental pictures. No painting could remain long on his walls unless it were in sympathy with this æsthetic code.

Sir John Day's great collection of Dutch and Barbizon artists must have had its beginnings early in the seventies. When as a boy of fourteen, I visited Holland with my father in 1880, a good many of the pictures we saw in exhibitions were marked in the art catalogue as having been bought by M. D.—; and I remember visiting at least one artist's studio. His London house (25, Collingham Gardens, W.), was from the hall to the top bedroom storey a



glorious display of landscape. Several times friends urged the collector to buy on more varied lines, suggesting that there was a monotony of beauty; but he never wavered. He understood and loved this school of landscape painting, and would not risk the perils of mixing. He wished to reap a daily harvest of enjoyment from his great investment, and was never better pleased than when his friends would share in his delight. As it was written by a personal friend, in *The Tablet* for May 29, 1909:

"Bought gradually through many years, when Barbizon was little known except as a village in the Fontainebleau Forest, and the painters barely recognised in this country, these pictures represent the poetic side of a man renowned for the strenuous fulfilment of his profession, and often, upon the judicial Bench, for his rigidity and severity. But anyone who knew the great collector in his unofficial hours was aware how deep was his feeling for the spirit of tenderness and sympathy with all forms of life, as well as for the sense of beauty, which pervades the works of the Barbizon painters. 'A man must be touched himself in order to touch others,' said Millet. It is the heart of the matter: and those who were fortunate enough to receive the 'freedom' of the pictures, knew the effect upon them of his quiet but intense enthusiasm. . .

"One day came the summons, and upon an easel, surrounded by the Millets and the Corots, and other works of this great brother-

hood, stood The Harvest Moon in its glory and mystery ; and these fortunate ones knew it was henceforth their picture, for thus did the owner make them share in the joy, and thus did this collection become an uplifting. ' The utmost for the highest ' : as with Watts, so with those painters. Turning their backs upon earthly honour, and choosing poverty, they stand forth as other great ones have stood forth through the ages ; and this spirit it was which moved in the heart of the collector as much as appreciation of outward beauty ; and so, in spite of circumstances, he remained always one with them at heart, understanding and caring most of all for Nature in her simple loveliness. And always true to this spirit, riding over his favourite Sussex Downs, or from place to place when upon circuit, it was scenes such as stirred these great painters which appealed to him : a Harpignies tree, tender and human ; the gleam of sunlight upon sheep, as with Jacques ; a little cottage that might be Millet's ; or the figure of a labourer guiding the plough to its work. And ever and anon there came a touch of that delightful humour combined with abysmal gravity for which he was famous. ' The Academy has surpassed itself this year : it has refused Harpignies,' was his only comment upon that occasion, but in his voice was a tone which could not have been surpassed by his most damning judgment. ' How many thousands did they say ? ' broke in a voice upon one of these occasions from a group in front of the most famous of the Barbizons. The great collector turned and looked : and

the question was not repeated. Still, the value of these pictures, increasing yearly by leaps and bounds, was to him, in a sense, a gratification. It was a sign of appreciation. 'Millet starved, Rousseau nearly broke his heart,' he would remark, when a dealer mentioned so banal a thing as a price; but yet, for them, he was gratified. It was a sign of their immortality."

Though my father loved his treasures so dearly, it was not till after a good many years, and repeated representations from his family, that he consented to insure them. Did this neglect indicate a streak of fatalism, or undue confidence in Providence? It is one of the puzzles we must leave unsolved.

A fire did actually take place; but it was confined to the top of the house. Although he had been ill shortly before, the shock stimulated him, and, already a septuagenarian, he took the opportunity for completely re-decorating the interior, entering into the matter with extraordinary zest. Thanks to a line on a post-card fortunately preserved, it is possible to fix the date of this event: "The men are busy restoring my roof after the fire. 29th May, 1896." One visitor, on returning from seeing the pictures at Collingham Gardens, reported to a friend that not only was every inch of wall-space covered with masterpieces by Corot, Diaz, Daubigny, Millet, Harpignies, Israels, Maris, Bosboom, etc., but that many of the chairs were devoted to the task of supporting these precious burdens. Sunday after-

noons were often given up to displaying the valuable collection of etchings stored up in portfolios. No pains were too great, if only the friends were appreciative.

Sir Robert Finlay has well said that all the pictures my father admired were good, though there were many good pictures that he did not admire. Judge Willis has recorded the homage paid by his travelling companion to the Italian Old Masters, and among these, chiefly, to Perugino, Raphael, Andrea del Sarto. Perhaps he had a yet deeper feeling for the Flemish School. The late Sir John Rhys, a few days before his sudden death (December, 1915) related that as one of a small English party in Bruges and Ghent, my father would stand long before the great Memlings and Van Eycks, his eyes suffused with tears. But his whole heart came to be given in the end to the group of modern geniuses of whom he was one of the earliest appreciators.

After his good services as chairman of the Belfast Commission, Sir John Day has been told that when the right moment came, his claims for fitting recognition would be remembered. His retirement was the natural opportunity for the fulfilment of this assurance. However, it was forgotten; and he was the last man to remind anyone of such a promise. Eventually he was sworn in as a member of the Privy Council. A life peerage would have been the suitable acknowledgment. Had this come about, "Englesbatch" would no doubt have provided the title. But perhaps it was more typical of the man to end his days as plain Sir John Day, P.C. At one dinner-party the precedence given by

these two letters was overlooked. When his attention was called to the fact by a sympathiser, he smiled a radiant smile : such matters could not disturb his peace of soul.

It has been said that successful lawyers in their old age make to themselves country houses. But with John Day it was more of the nature of reversion to type than is the case with the average retired Judge or barrister. The commencement of the process took the form of hiring a country house for the summer months. The first of these which I visited was at Corsham, where I remember my father, a true soldier in the fundamentals, hobnobbing pleasantly with Lord Methuen, who had returned wounded from the Boer War. Then there was a delightful house on a bright cheery Berkshire common, where all the silver pebbles glinted in the sun, and the gorse blazed in its golden glory : Adderbury Holt, a few miles out of Newbury. Prior's Court, a statelier but gloomy mansion, came next. Meanwhile, Sir John and Lady Day were looking about for a home. At last (1906) a house and garden such as a well-to-do tradesman would delight in, close to the spot where Lord Falkland fell in the battle of Newbury, a short two miles out of the town, was selected. House and garden would have to be transformed to meet the requirements and to satisfy the æsthetic standards of the new occupants. This task provided them with a keen interest for his remaining two years. A picture-gallery was added in which the chief art-treasures were displayed to the best advantage ; a Royal Academician superintended an artistic rearrangement of the garden. Sir John handed

it all over as a present to his wife, lavishing the utmost care on the improvement of the property until the end came. There were several friendly neighbours who helped to make the Newbury neighbourhood a happy home for Sir John's declining years. A chapel was installed in the house, and leave kindly accorded by the late Bishop of Portsmouth for Mass to be celebrated on week-days. The parish priest, Canon Scannell, was also a special source of consolation. Like my father, he might be regarded by some as a "queer mixture." He was a specialist in the battle of Waterloo, the details of which he would dilate on to all comers ; a worshipper of the memory of Gladstone, whose bust adorned the presbytery ; an enthusiast to the tips of his fingers. Along with all this were deep piety, intense zeal, and warm-hearted charity. His amiable eccentricities amused the old Judge, while his sterling worth won his admiration and affection. He rejoiced to have the good Canon as his spiritual adviser and bosom friend. They were each a support to the other : counteracting, as is the function of friendship, each other's shortcomings.

In the Missal which my father owned during the last eight years, he set his own name, "John C. Day," and that of his wife, "Edith Day," saying to her as he wrote the two names : "Some day you will like to use my Missal."

Chivalrousness to women was one of my father's lifelong characteristics. Quite irrespective of their social status, he showed them all marked respect. He had been seen more than once, as a Judge of the High Court, directing some poor woman, in the streets of Liverpool,

with as much deference as would usually be shown to a duchess. If when out walking at Newbury, he met the kitchen-maid, he would salute her ; and all the little children who curtseyed to him in the lanes were sure of kindly notice. He had always liked dearly the French custom of raising the hat when going into or coming out of a shop where women assisted, and often practised it in England. Within the limits of strict propriety he was a ladies' man, and showed them, as Browning has it somewhere, the brightest side of his soul.

To anyone who knew him, young in the long afterglow of youth, spending his holidays taking protracted walks and rides alternately, morning and afternoon, it was a puzzle to know how he could ever settle down to old age. And yet he did it fairly gracefully, half-amused, it would seem, at finding himself at last an old man. Occasionally circumstances made it desirable for him to take a short turn in a Bath chair : then it was evident that he found the situation ludicrous. Although always a very moderate and wholesome eater, he objected to dishes which were expressly intended to be good for his health : he would style these "sanitary messes," and would say with emphasis, in homely phrase, that his bowels must take what he gave them. Even while old age mellowed him, his masterfulness remained, suffused with "that central radiance which is the final measurement of men." (w) John Day was the central figure of his home : all about him loved to be of service to him, and he was interested in them all.

For the latter portion of his life at least, he was an ardent advocate and daily "practitioner"

of the hot instead of the cold tub. Doing nothing by halves, he took an honest pride in beating others in the temperature at which he took his morning bath. He would always maintain that it fortified him against the cold. Shortly after taking it, he would go forth into the chill morning air, generally without his inverness, and with the characteristic wide-open waistcoat. He certainly kept fairly free from colds, and singularly exempt from rheumatism or gout. Had the hot-springs of his beloved Bath suggested this practice to him? Being a believer in the virtues of cold water, and fearing that baths of 110 Fahrenheit were weakening his heart, I appealed to my father, expressing wonder that so religious a man could indulge in anything which seemed luxurious and enervating. His defence was short and sharp: "It is no question, my son, of luxury" (he used the word in its technical Latin sense) "or asceticism: it is a matter of cleanliness and health." He would sometimes shock the fastidious by his crude way of talking about the horrors attendant on neglect of washing and shampooing. There was in him more than a touch of Dr. Johnson's love of plain speech.

Perhaps my father was never prejudiced against motors. But to me, who was, it came as a shock, on paying one of my flying visits from Oxford, to find that a hooter had been attached, by Lady Day's orders, to the carriage and pair. This surely was intended to prepare the way! And the motor (appropriately enough, for one who would at times jokingly claim to be a typical Hollander, a Dutch one) followed in due course; my father becoming charac-

teristically keen about his new pastime. A page-boy who had outgrown his buttons, was in the course of time converted into a chauffeur. One anecdote connected with the car survives in my memory. Judge Willis was on a visit. As an active administrator of the law, he considered the speed excessive, and desired that the regulation pace should be observed. His host, with a twinkle in his eye, gave strict instructions, rightly understood by the boy-chauffeur and rigorously carried out. Willis was soon betrayed into complaining of the miserable snail's pace at which they were travelling. There were no more conscientious scruples that afternoon. Another memory : an adventure that was at the time a veritable nightmare. We (Lady Day, Sir John, aged eighty, a brother of his only a year or two younger, and myself) drove out some miles, and stopped at the foot of a small, steep "mountain," known locally as the Beacon. A mischievous look in my father's eye showed that he was determined to make the ascent, and that no threat nor persuasion would stop him. My uncle was lame, owing to a "buggy" accident years before in Australia, whilst my father's heart was in a most critical condition, which was supposed to make all climbing dangerous. He was the only one who enjoyed that hour's mountaineering! The descent was complicated by the sound of firing from some rifle-range which we could not locate.

He never tired of pottering about in the garden, taking a very special interest in his shrubs, and, regardless of time, watching any work that was going on. As had been the case

with him all his life, he was eager to understand as much as he could of other people's trades. (They never seemed to resent it in the least: they understood the spirit in which it was done). One day the big dog and the little one were playing together. Although a distinctly non-doggy man, he watched them closely, and was convinced, as the result of his observations, that the big one was teaching the little one to negotiate a barrier that was intended to be insurmountable. This touch of nature amused him greatly. When told anything that was really humorous, he relished it deep down, and as it were, chewed the cud for some time after. A glass or two of white wine was all that he took to drink at lunch or dinner, and he was so slow over it that we used to speak of it as the "hour-glass."

Then there were expeditions to the book-shop in Newbury, as there used to be to several similar but greater establishments in London. When other topics failed, books would always provide matter for conversation. Two or three years before my father's death, I found that he had lost his taste for Fr. Tyrrell's books, at that time still in good standing among Catholics. On my remarking at random that he must have smelled heresy in them, he replied modestly that he was not competent to decide on their orthodoxy; what distressed him was that he could no longer understand them. "Either I am losing my intelligence, or he is losing his lucidity." It was, I believe, the latter.

My father had often visited at congenial houses, for long making it a point to pass a few days in the autumn of each year with Sir Robert

Finlay at Newton, Nairn, N.B. It was from Falkland Lodge that he went for the last time to stay at a friend's house. Sir Walter Smythe was an old Downside class-mate, and it was at Acton Burnell, his home, in the time of Sir Edward Smythe (1795) that the Benedictines had opened the temporary school which was a stepping-stone to Downside, whither they moved in 1814. My father's uncle, Tom Day, had been there as a boy. Before retiring to rest, Sir John, according to the custom of old-fashioned country houses, was hospitably provided with a candlestick. When in the spacious room together, Lady Day asked him whether he did not intend to make his usual short reading; he replied pathetically: "It is impossible to read in this Stygian darkness!" (There were doubtless any number of other candles). Electric light had spoilt him, ever a *filius lucis*, for feebler illuminants.

Shortly before leaving London, it was necessary for him to have some teeth extracted. The state of his heart made this operation somewhat risky. An anæsthetic was given, at home, and his own doctor was present. When the stumps were successfully removed, and the patient recovered consciousness, he got at once on his legs and made for the front door. The doctor, who could scarcely believe his eyes, so surprised was he at the quick recovery and display of energy, asked what was the matter? "Nothing. I am only going out to call your carriage."

I spent his last, the eighty-first, birthday with him, June 20, 1907. In the afternoon we drove down to the school, where the children

were having a treat in his honour. He was feeble and tottery, but full of good-nature. At times one could see that there had to be a big fight to keep the emotional side of his nature, which was strong, from overflowing. Canon Scannell had arranged that we should be photographed, himself being one of the quartette.

In the first days of June, 1908, I had the pleasure of finding my father very well, considering his age and recent illness. He was bright and cheerful, and made me promise that I would spend the approaching birthday wth him. This was not to be. On the morning of the 12th, as he was standing at the head of the breakfast-table, in the act of saying grace, "the hand of the Lord touched him." The seizure was of an apoplectic nature, and it was clear that there was no hope of recovery. As the prayers for the dying were being repeated by his son that night, in the presence of the household before they retired to rest, it was evident how deeply they felt the blow that had fallen on the master of the house. Early in the morning of the 13th June, his good strong soul passed from us into eternity ; and we all realised, amidst sobs and tears, how big a gap was left in many hearts that had learned to love him. His retirement was now complete ; and we prayed with confidence that the only promotion that he had ever fully set his heart on might soon be his.

CHAPTER XI

His Character: a Bird's-Eye View

All human lives possess some measure of consistency; all would be interesting if we could understand them completely. By this it is not meant that we should know them minutely: the microscope and the telescope have each its proper function, and each is needed to supplement the other in the study of a human personality.

The main landmarks in John C. F. S. Day's long life have been pointed out, and a cluster made of his chief characteristics. It remains to ascend in our aeroplane to make a final reconnaissance of his career of eighty-two summers and eighty-two winters, spread out beneath us.

Looking at his opening years, we see goodness, earnestness and gaiety: the child was fit to be the father of the man. While still a boy, he is deprived of the affection, active and passive, of an admirable mother, with the loss of a loving father to follow before manhood was achieved. No one can suffer such early losses without retaining traces. Had his parents lived longer, there would probably have been less real or apparent hardness in my father's composition. His overpowering sense of duty might have been toned down without detriment to its essential strength. But if he was hard to others at the bidding of what he deemed to be duty,

he was at any rate harder to himself when the same voice called. The influence of his uncle-guardians, the family traditions on both sides, favoured a full play of discipline in the scheme of life. A Celtic grandmother gifted him with greater imaginative endowments than would otherwise have fallen to his lot. These Irish and French elements were not for nothing: Flemings and Rolands must have had a hand in equipping him with a quickness of intelligence which would seem at times in excess of his general calibre. England blessed him with ballast and solidity, and Holland with that remarkable consistency which presided over every period of his career. *Sibi constare* is no mean attribute. And has not Tully observed in his treatise *De Officiis*: "*id maxime quemque deat quod est cujusque maxime suum?*" Heredity endowed him also with a kind of caution, much prudence, and a patient diligence in the little things of life. If there was a "van Tromp" mood in him, in which he seemed ruthless for the sentimentalities of other natures, it was a defect or excess of his qualities which old age kindly softened. To call him a Torquemada was unfair. He was intensely religious, but never bigoted. The wide diversity in the religious types of his friends testifies to this. Again: if he were severe on certain Irish faults of character, or on what he regarded as mistaken policies, he loved to travel in Ireland, felt at home with its people, and counted several Irishmen and Irishwomen amongst his nearest friends.

The Tablet, shortly after Sir John's death, said of him that "he looked with a scowl on

uniformity." It was a fine saying; but of course it does not imply that he had any sympathy with religious "nonconformity." Along with a deep-seated love for authority, and respect for it wherever he found it, there went an instinctive intolerance for the undue extension of its limits. With Burke, he was firmly convinced that the government of human beings could never be conducted on lines of scientific symmetry. The complexities of life were part of the plan. No panacea could be found to cure the ills of mankind. This constitutional outlook on life made him too mistrustful of the methods of reform. In the early days of trades-unionism, he showed his horror at the thought that workmen should be forced into Unions, or that their output of work should be restricted. The only legislation that he could admire was that which, confining itself to the practicable, went to work in a virile and straightforward manner, and pursued its course unflinchingly. Flabbiness in every form was hateful to him. The policy of "thorough" ever elicited a loyal response from the utmost depths of his being.

As for his beneficence, there will, I feel sure, be some who will buy this book because they were often indebted to him for generous assistance administered secretly and cheerfully. And yet, as the descendant of one line of ancestry, on his father's side, which wrested its living from the soil, he knew the value of money, and disbelieved in any reckless extravagance. He would have given his children any number of books; but had they wanted money for sweets or cigarettes, they would not have fared so well. Once, years ago, several of us were discussing

aspects of our father's character. Even in our early life we realised that it was distinctly out of the common, and difficult to analyse. It would be idle to attempt to outline the course of this little family debate. It culminated in this good and faithful saying, which was adopted as final by those present : " Well, however all that may be, one thing is certain : if any of us ever get into a hole, father may grumble a bit, but he will come along and dig us out, and that not once or twice, but as often as may be necessary." It was a picturesque utterance, recalling the Scriptural warrant for extricating oxen and asses even on the Sabbath ; and by its force and truthfulness made a lasting lodgment in my mind.

John Day was rather over five feet ten inches in height, sparely built and very wiry. His hair (including the old-fashioned side whiskers) was dark-brown, and his eyes small, brown, and piercing. His nose was a good solid one, which did not come to a point. His chin was strongly moulded, his hands and feet particularly well modelled. He wore his hair short, and during the earlier portion of his manhood it was disinclined, though always well-groomed, to lie flat. In spite of having to wear a wig professionally, it was not until the very last years that any symptoms of hair-weakness appeared. My father nearly always came out well when photographed. His face was capable of a very wide range of expression. If it had not been for his humour and his honest enjoyment of life, it might have turned into a heavy face. But like a piece of nature (he was singularly exempt from all artificiality) the lights and

shades which never left it long at rest, made it animated and interesting. At times the clouds would gather round him, in his old age, and like Saul in the great poem of that name, he would fain retire to his tent. But in his case a David possessed of any skill could readily charm him back to life. His second wife, heart and soul devoted to him, was well fitted for the task. It was a real treat to watch the mists withdraw, and to see the tract of sunshine visibly increasing till it completely triumphed over the enemy, lighting up every feature with its gladsome rays. That face, a splendid reflector, was a field on which were performed some magical feats of chiaroscuro. The journalists who described it as a "nocturne in black," had never witnessed these wondrous transformations. An examination of conscience would sometimes enable one to discover why one had been treated to a sudden view of the dark side of his really bright and loving nature.

The portrait of him by the Russian artist, Prince Troubetskoy, is a fine interpretation of the man. He stands erect, firmly grasping in his hands a copy of *The Times*. He has been reading it with interest, but as a critic; and he will approve or disapprove accordingly as the opinions expressed agree or disagree with his own principles, or knowledge of life. He is an active, not a passive, reader. He is a man with a practical philosophy of life, who would be prompt to action, undismayed by emergencies. He is not aggressive or truculent; but there is something which says that had he not practised self-discipline, and worshipped his Creator, he might have been so. This portrait perpetuates two

minor peculiarities of dress: the widely open shirt-front worn in all weathers, and the black bow-tie, distinctly non-central.

In 1888 a cartoon of Mr. Justice Day by "Spy" appeared in *Vanity Fair*. In the *Recollections* of Lord Alverstone there is a reproduced caricature of Sir John Day out walking, with his inverness on and an umbrella in his hand, which Lockwood struck off on a menu card at at a public dinner. Although it took form so suddenly, the artist regarded it as his most successful attempt to immortalise Sir John as a pedestrian. It is distinctly a caricature. It magnifies the peculiarities which for the most part are suppressed in the Troubetskoy portrait. If one did not know who the subject of it was, one's first guess might be that it was some original Oxford don, a character in his College, and a man of weight in University deliberations. And yet it is a most truthful and inspired record of one aspect of the man; and as such demands commemoration in this volume.

When we pass under review the judicial period of my father's life, we are conscious that he might have made it, in a worldly sense of that epithet, more successful. He looked chiefly to the doing of his duty, not to the gaining of "kudos." One who knows tells me that his morning prayers as a Judge always included a petition that "he might do his duty in his family, in his household, in his office." It is also to be admitted that he did not love labour for its own sake. He knew, good practical theologian that he was, that, though convertible into a blessing, it was the penalty for sin. His interests were too wide to allow of his becoming

a legal specialist. He never curried favour with the public, the press, or the powers that be. He never, to my knowledge, showed any fear of danger or of opposition. He was himself : and they must take him as they found him. For this independent attitude, newspaper reporters would sometimes, in revenge, record his having done things which he specially abominated. Thus he has been reported as having sent his carriage to a funeral, and as never being happier than when smoking a long cigar.

Day's profession had not made any deep scars in his nature. But at times he was dogmatic, and occasionally, when " off his beat," less willing to be taught by those who were bound to know better their own special subjects. I suspect that he was sometimes too severe on doctors in the witness-box. He must have told a good many medical men who were, as he thought, unduly technical and obscure as to the causes of death, that he presumed their meaning was that the person in question had " died of want of breath." But against this I remember the personal pleasure with which the doctor was always received at Falkland Lodge, and how his visits were enjoyed and encouraged. Yet had it not been for the conscientiousness of that practitioner, the visits would have passed off without any mention of health ! The family lawyer might have made visits too on the same easy terms : refraining from all business.

I have wondered sometimes whether my father would have made a successful soldier. With the showy specimen of the military profession he had no sympathy : of him he would speak sarcastically as a " warrior," in the same

tone in which he would style the M.P. a "legislator." But to the hard-working, courageous and scientific soldier, his whole heart went out. He revealed at times a more intimate acquaintance with army technicalities than one would have suspected, and I remember hearing him, at the age of eighty-one, discourse on a chapter of military history in a way which greatly impressed me. I have always felt quite sure that, had his period been the Middle Ages, he might have been a great Abbot or Bishop in the good old style. Or, had a later date been allowed him, yet not so late as his own, his character might have gained him admission among Lord Nelson's "Band of Brothers." In childhood, he used to visit his sailor-kinsfolk on their wooden battleships: this memory, which would mean something to any spirited boy, meant very much to him.

While cheerfully foregoing the good things of life when duty suggested or circumstances imposed the sacrifice thereof, John Day was no Manichæan. He humbly endorsed the verdict of the Creator that the world was good, and received its tribute of gratifications with joy and gratitude. When they were available, he welcomed all the reasonable comforts and conveniences of life. He knew, in his measure, how to abound and how to be in want. Landor's stanza, to fit him closely, would need modifying; but as it stands it is not altogether inappropriate:

"I strove with none, for none was worth my strife;
Nature I loved, and next to Nature, art.
I warmed both hands before the fire of life:
It sinks, and I am ready to depart."

The memory to me perhaps most sacred takes me back to boyhood. The spot, a bridge over an Amsterdam canal; the season, early autumn. It was an evening which gave to the sluggish waterways of Holland a distinct dash of the subtle charm of Venice. The trio who stood contemplating the scene in pensive mood was made up of my father, my brother a year older than myself (we always went in harness together), and the writer. My father broke the golden silence with golden speech: "Of course I should like you both to get on well with your studies, and in after-life, if possible; but what I really want is that you should be good boys now, and good men in the years to come." The sincerity and feeling with which these simple words were said made them sink into our souls: they were accompanied by the suggestion of a reserved caress, the hint of an affection that was deep and strong, "without o'erflowing, full." As boy and man, the thought of what he expected of me, and of what he hoped and prayed for me, was a powerful incentive to progress in all that would gain his approval. The standard of goodness, honesty, and honour which he set in his own conduct, was a high ideal for anyone to aim at. The loss of this spur to better things and the lack of his stimulating companionship were, even to one in middle age, a very real privation; and the writing of these pages, seven years after our last farewell, has been a solace to my soul.

Had I to choose an epitaph for him it would be: *Lex Dei ejus in corde ipsius.* He delighted in the law of God written in the heart, and painted in the glories of the visible creation,

earth, sky, and sea. There is an apparent conflict between law and love : but the two are reconciled in worlds whither his spirit has gone, and where, in the words of the great modern poet-prophet : " All's love, yet all's law."

NOTES

NOTES

PREFACE.

(1) Judge Willis' *Recollections*. P. 9.
The title of this book, published by Bartlett & Co., Salisbury Square, Fleet Street, London, E.C., is: *Recollections of Sir John Charles Frederick Day, for Nineteen Years Judge of the High Court.* By William Willis, K.C., LL.D.

(2) Preface: "So little doth nobility serve," etc. P. 11.
William Habington, of Hindlip, the poet: from a prose passage in *Castara*, 1640.

(*a*) ENGLESBATCH AND ENGLESCOMBE. P. 25.
Brabner's *Gazetteer* gives "Inglescombe" and Collinson's *Somerset* "Inglishcombe." The *Victoria County History* and the Ordnance Maps and finger-posts have more recently adopted the forms "English Combe" and "Englishcombe," a long way from the "Ink Combe" of Domesday. How prosy is this contemporary tendency to phonetic "spreading," due to the triumphs of elementary education! I use "Englesbatch" throughout (pronounced, of course, "Ingelsbatch"), as the only form of the name of manor and hamlet familiar to my father, and, through him, to us.

(*b*) DE HAIE. P. 25.
Days who claim Anglo-Saxon descent derive their name from the word "day," which appears in "dairy" (the "day-ery" or place presided over by the "day," milkman or woman). Ernest Weekley, in his admirable *Romance of Names* (John Murray, 1913) seems to link it on with "day-labour" in general and with the root of "dienen," to serve. "Faraday," according to this author, is a "day" who "fares" about. Skeat derives the "day" from the root in "dike" and "dough": with him, "kneading" is the underlying idea. This is the "dy" of "lady," the loaf-kneader.

(*c*) COOMBES. P. 27.
The Coombes family were of Meadgate, Camerton.

The Rev. William Coombes was a bright ornament of Douai, and for long Grand Vicar of the Western District. He passed much of his time with his mother and sisters at Meadgate, and would come over to christen new members of the Englesbatch family. He died in Bath in 1822, aged seventy-nine. His nephew, William Henry Coombes, D.D., a great Grecian, was also educated at Douai, but retired to Downside, and there died in 1850.

(*d*) RIBBLESDALE. P.28.

Thomas Lister, Baron Ribblesdale of Gisburne Park, Yorkshire = Rebecca, d. of Joseph Feilding, Esq.

Thomas Lister, second Lord Ribblesdale = Adelaide, his cousin, d. of Thomas Lister, Esq., of Armitage Park, Staffs.	Hon. Catherine Lister = (first husband) Samuel Skurray Day. She died 1873, having survived him fifty-seven years.	Hon. Rebecca Adelaide Lister.

Thomas Lister, third Baron Ribblesdale.	Hon. Adelaide Lister. She died 1911, aged 83. =	Maurice Drummond, Esq.

Lister Drummond.	Two daughters.

Adelaide, Lady Ribblesdale, had for second husband Lord John Russell, who from his small stature, was spoken of as The Widow's Mite. Mr. Lister Drummond is a well-known London magistrate and a friend of our family,who has done yeoman's work for the Catholic cause. His mother is the subject of that pleasant book *The Honourable Adelaide Drummond: Retrospect and Memoir.* Edited by Basil Champneys, 1915. P.S.—Lister Drummond died, to the lasting regret of all who knew him, Feb. 28th, 1915.

(*e*) THOMAS DAY'S ACCIDENT. P. 29.

On this occasion Charles Francis, the "Barber-Surgeon" of Wellow, was called in to bleed him. The future Captain Day, only three years old at the time of this accident to his father (which he perfectly remembered) became afterwards, for a time, the pupil of the said Charles Francis.

(*f*) THE FLEMINGS. P. 29.

I cannot establish the exact relationship. The Flemings are a many-branched family, whose remoter ramifications seem to puzzle the genealogists. Francis Fleming, son of Michael, (who passed his later years with him in Bath) bore a name unfamiliar to the Slane line. It does occur, however, in other extinct groups of Flemings, Scotch by origin and Irish by residence, who went a-soldiering in the mid-eighteenth century. Francis Fleming was for many years in Bath the constant associate of William Fleming, called by courtesy (as heir to his attainted Jacobite uncle) Lord Slane, a pensioner of the Crown, whose decease is recorded in *The Gentlemen's Magazine* of February, 1747. Several of this family are commemorated in *The Dictionary of National Biography*, and *The Catholic Encyclopedia*. Of Francis Fleming's wife still less is known. She seems to have been a Parisian, and not to have had connection with Thizy, where the husband of the famous Madame Roland (Manon-Jeanne Phlipon), was born.

(*g*) GINNADRAKE. P. 29.

The full title is: *The Life and Extraordinary Adventures, the Perils and Critical Escapes of Timothy Ginnadrake, the Child of Checquer'd Fortune.* This facetious production, now rare, (warranted by the author not to offend "the Chastest Eye nor the Nicest Ear") was published in three volumes at Bath, without date, but the date could be approximately fixed as "Capt. Wade, Master of Ceremonies," figures among the subscribers. Names of national interest on this list include Fox, Camden, Garrick; and the great local names of Ralph Allen and John Wood are not lacking. The rest are mostly Somerset gentry, supplemented, one notes, by two Misses Fleming of Sibdon Castle, Shropshire, and Mr. Christopher Fleming. Francis Fleming's portrait, the original of which is preserved

in our family, appears as the frontispiece, engraved by Hibbart, where it is anonymous, with a Horatian line beneath. One Henry Jones seems to have been Fleming's scribe and literary "devil," and an ungrateful being he was, if we are to judge by the Apology to the Reader.

(*h*) HARTSINCKS. P. 36.

Their arms were: in chief on a field gules, a crescent couchant or; second, on a field argent, three waves azure. The crest is: on a barred helmet, a demi-lion rampant gules, holding a ragged staff and regardant sinister. The Hartsinck arms were quartered by Sir John Day.

(*i*) HASSELAAR. P. 37.

"Kenau Hasselaar was a widow of distinguished family and unblemished reputation, about forty-seven years of age, who at the head of her Amazons participated in many of the most fiercely contested actions of the siege, both within and without the walls." Motley. *Rise and Fall of the Dutch Republic.* III.: 8.

I wrote down this anecdote about Pieter Hasselaar in perfect good faith, being familiar with the story; but now at the last moment I seek in vain for its confirmation. I must have read of it in Tollens' poems, years ago, and felt confident of finding it in Motley. Possibly it was not a Hasselaar? I scarcely feel justified in deleting the anecdote on account of my new misgivings.

(*j*) WILLIAM I.'S. MORGANATIC MARRIAGE. P. 38.

Ministerial responsibility, and lessened royal control over national finances had only just been established when the impending marriage was announced. As the Comtesse was a Catholic and a Belgian, the King's choice was ill-timed and distinctly unpopular. His abrupt abdication followed on Oct. 7, 1840, and the marriage took place in Berlin, Feb. 16, 1841, the fourth year of his widowerhood, and nearly three years before his death.

(*k*) CRAUFURDS AND CROKATTS. * P. 40.

* The spelling of the name in old documents is always Crokatt or Crockatt. The *Dictionary of National Biography* gives 'Crockett.'

James Crockatt, Esq., = a daughter of Kinloch of Kinloch.
James Crockatt, Esq., of Luxborough, Essex = Hester Gailland.

- Jane Crokatt = Sir Alexander Craufurd, Bart. of Kilburne, Stirlingshire, + 1797.
- Daniel Crokatt, Esq.
- Charles Crokatt, Esq., = Anne Muilman. [Great-grandparents of Sir John Day.]

- Sir James Craufurd, Bart., + 1839 (afterwards Gregan-Craufurd) = Maria Teresa, sister of Henry, 3rd Viscount Gage.
  - Thomas Gage Craufurd, of the Guards, killed at Hougoumont, June 18, 1815.
- Lieut. Gen. Sir Charles Gregan-Craufurd + 1821 = Lady Anna Maria, daughter of the 2nd Earl of Harrington, and widow of Thomas, 3rd Duke of Newcastle.
  - Lieut. Col. Alexander Craufurd, + 1838.
- Major Gen. Robert Craufurd, fatally wounded at Ciudad Rodrigo† + 1812, = Mary Frances, d. of Henry Holland, Esq., of Hans Place, Chelsea.
  - Sir George William Craufurd of Burgh Hall, Lincs., + 1881, aet. eighty-four.
    - Sir Charles William Craufurd, Lieut. R.N., = Isolda Caroline, d. of Viscount Gort.

† He lingered for a few days, and was buried in the breach. The Duke of Wellington and every officer in the neighbourhood followed him to the grave. There is a monument in St. Paul's Cathedral to Robert Craufurd's memory.

(*l*) THE JENNER DESCENT. P. 40.

Thomas Jenner, Esq., of the family seated at Mayfield, Sussex = Dorothy, d. of Jeffrey Glyde, Esq., of Dallington.

Sir Thomas Jenner, Baron of the Exchequer + 1707 = Anne Poe, d. of James Poe* of Swinden Hall, Yorks.

Margaret Jenner + 1741, = Sir John Darnall, Kt., Sergeant-at-Law, Judge of the Marshalsea, + 1731.

Anne Darnall = Henry Muilman, Esq., † of Dagnam Park, Dagenham, Essex, + 1772.

Mary Darnall = Lord Chief Baron Ord of Scotland.

(1) Charles Crokatt, Esq., of Weatcomby, Somerset, + 1769. = Anne Muilman = (2) John Julius Angerstein + 1823.

Anna Peterella Crokatt + 1819 = Jan Casper Hartsinck, Sheriff of Amsterdam + 1835.

Emilia Crokatt = Ayscoghe Boucherett, M.P., of Willingham and Stallingborough, Lincs. + 1815.

John Angerstein, M.P. = Amelia Lock.

Emilie Hartsinck + 1836 = Capt. John Day of Englesbatch + 1843.

John Charles F. S. Day, Judge of the High Court + 1908.

* This James Poe was a son of the Poe who was physician to Queen Elizabeth in her old age, and to James I. and Charles I.

† Henry Muilman had married, when young (1723), the notorious Mrs. Teresia Constantia Phillips.

A descendant, born ninety years after Jenner's death (1778-1852) added the surname "Fust" to his own. (Sir Thomas Jenner's wife's mother was a Fust.) Jenner Fust as official Principal of the Arches and Judge of the Prerogative Court of Canterbury, adjudicated in the famous Gorham v. Bishop of Exeter case which excited so much interest in the years 1847-50.

(*m*) JOHN JULIUS ANGERSTEIN. P. 40.
After the death of the widow Crokatt, his first wife, he married a lady whose name does not appear. It is this second Mrs. Angerstein whom Lawrence depicts "as a beautiful female wandering over a desolate unfrequented island without hat or shawl!" She also was a widow-bride.
Charles Crokatt and Anne Muilman had two sons, as well as two daughters who married respectively Jan Casper Hartsinck and Ayscoghe Boucherett. A Miss Julia Crokatt, a very few years ago, bequeathed to the National Gallery portraits by Hoppner of Miss Louisa Ann Van Diest (Mrs. Crokatt) and Master Van Diest. The latter grew up to spend his life in the Government service, and to be gazetted in 1833 as a Gentleman of the Privy Chamber.

(*n*) ANNA PETERELLA (CROKATT) HARTSINCK: her conversion. P. 44.
She has left this inscription in her *Book of Common Prayer*, published in 1779.

> "To this book, and to this book alone I owe the perfect conviction of the contradictions contained in the Liturgy as used by the Church of England. By reading the four Evangelists bound up with this Liturgy, I was induced to seek some form of worship which coincided in all points with their doctrines. Thanks to the especial grace of my Heavenly Father I have found this in the Mother Church, and in the religion which my forefathers (who living before the innovations made either by Luther, Calvin or Henry VIII.) were blessed by following, agreeable in all points to the Apostolic Faith. In this Church I hope to live and die; and I merely keep this book, though full of the grossest errors, in gratitude for the good which arose to me out of evil: for which I have the permission of those whom I shall ever consider it my duty to obey.
>
> A. P. H."

(*o*) SEDGELEY PARK SCHOOL. P. 50.
According to Husenbeth, this School was opened in 1763. Milner went there as a small boy in 1765, and always retained a special affection for his first Alma Mater.

The French Revolution, which broke up Douai and other foundations abroad of the English sixteenth-century refugees, brought our first large post-Reformation schools into existence at home. Hence Old Hall (St. Edmund's, Ware); Crook Hall, Durham, precursor of Ushaw); Oscott (Birmingham); Stonyhurst (Blackburn):—all date from 1793 or 1794. St. Edmund's had a predecessor founded at Standon Lordship, 1749: this School moved to Old Hall in 1769. It belonged to the Vicars Apostolic.

(*p*) SEROOSKERKEN. P. 61.

Jan, Baron de Tuyll van Serooskerken.

|

Remira,=
Capt. J. A. Bentinck, R.N.

|

Admiral William Bentinck.	A daughter,= Sir R. Shore Milnes.

Romney painted Remira, the Admiral, Sir R. Shore Milnes and his wife.

(*q*) ABBE VALGALIER. P. 63.

This good old priest wrote out his "Testamentary Wishes" on March 18th, 1836, two months after Emilie's death, and endorsed them "for Captain Day." He speaks of himself as "possessing nothing in this world since the fatal Revolution of France, wandering for forty-seven years on the face of the globe, and since thirty years existing in the house and upon the kindness of Madame Hartsinck, of her daughter, and of the good Captain Day." He bequeathes to Captain Day's eldest boy (my father) a silver watch which had belonged to the latter's grandmother, Anna Peterella (Crokatt) Hartsinck. The document ends: "I shall preserve for my good friend Captain Day and his family the greatest friendship, a lively gratitude, and a precious remembrance of all his goodnesses, which will endure to the centuries of eternity in never ceasing to pray for him and his children."

(*r*) ROME. P. 69.

It was at this time, 1838, that my father, then a small boy, first saw the future Cardinal Wiseman at the

Collegio Inglese. He spoke of him in a letter nearly fifty years later as "a most thorough Catholic," and added with what immense interest he was reading Mr. Ward's *Life* of Wiseman.

(*s*) SIR JOHN'S CHILDREN. P. 79.
These were: Rose Henrietta Mary, married Thomas Dixon Rust, and died 1915, aged sixty-eight; John William, died unmarried 1892, aged forty-four; Emily Mary, married Dr. Louis King; Henrietta Mary, died unmarried 1871, aged twenty; Thomas Samuel Henry, died unmarried 1872, aged twenty; Samuel Henry, Master of the Supreme Court, married Edith Higham; Joseph, married Margaret Anne Parfitt; William Aloysius, married Mary Louisa O'Leary; Edward Francis, married Adela Watson Parker, and died 1913, aged fifty-three; Mary Winefride; Susan Mary, Sister of Charity, died 1885, aged twenty-two; Henry Cyril, S. J.; Arthur Francis, S. J., the last two acting now (April, 1916) as Chaplains to His Majesty's Forces. There are nineteen living grandchildren of Sir John Day.

(*t*) THE CLAIMANT. P. 88.
A later generation may need to be reminded that this was the defendant in the famous Tichborne case. Arthur Orton, a man who coveted recognition as the lost Roger Charles Tichborne, came before a special jury in the Court of Common Pleas, which, under Sir John Coleridge, began a session of one hundred days on May 11, 1871. Orton was then arraigned for perjury, and the trial, before Chief Justice Cockburn, dragged on for another hundred and eighty-eight days of the year 1873, at the end of which the amazing "Claimant" received a sentence of fourteen years' penal servitude. He died in 1898.

(*u*) HUDDLESTONE. P. 124.
Sir John Walter Huddlestone was cremated at Woking in 1890. Of this incident Judge Willis says: "Day believed burial to be lawful, and the reduction of the body to dust by the action of time and nature to be in harmony with the best and truest feelings of man. He intended to be present at the burial of Mr. Baron Huddlestone, but on finding that he was to be what is called cremated, Day decided not to attend."

(*v*) ALVERSTONE. P.149.
Lord Alverstone died while these pages were in press, December 15, 1915.

(*w*) "CENTRAL RADIANCE." P. 159.
The quotation is from Basil de Sélincourt's *Walt Whitman.* "That indescribable, undifferentiated power of beneficence and initiative, that central radiance which is the final measurement of men."

APPENDIX.

[EXCERPTS FROM]

THOUGHTS ON BEAUTY.

A Paper read at a Meeting of the Bath Literary and Philosophical Association, 11th December, 1885. By Mr. Justice Day.

My theme is Beauty ; and the thesis which I this evening propose to maintain is that Beauty is essentially founded upon Truth ; that it is essentially an incident of Truth ; that it is " the Splendour of the True ;" so that it may well be said that the greater the Truth the greater the Beauty.

When the True is manifested or displayed, its Splendour or shining forth is perceived : the perception causes pleasure : and this pleasure is no other than the pleasure we derive from the perception of that which is popularly known as Beauty. When the Truth is not manifested or displayed to us ; when we do not see and appreciate it ; its Splendour or shining forth is not perceived by us. We therefore derive no pleasure from its perception ; we have no perception of the, to us, latent Beauty.

.... I proceed to establish my thesis by considering Beauty in some of its varied manifestations, and pointing out how, in each one, Beauty is dependent upon the Truth of that to which it is incident.

I undertake to show that while whatever is True produces a sense of Beauty, nothing that is not True produces such sense : and I shall then invite you to infer that Beauty is an incident of Truth : Truth being in the relation of things, and Beauty being in the appreciation of such relation.

It is unfortunately with Beauty as with all else. We only notice it in things that are more or less strange and uncommon ; *omne ignotum pro magnifico* : whatever we are unfamiliar with is by us deemed worthy of admiration ! We rarely notice Beauty in the common things around us ; although it certainly exists in them just as it exists in others. We therefore have acquired the habit of applying the word

"Beautiful" to those things only which arouse us from our sluggish inattention; and thence the very idea of Beauty has become misappropriated, and misleading. Beauty, happily for us, is not restricted to the strange or the unfamiliar, although the careless seldom see it elsewhere; and, too often, not even there.

Beauty may assuredly be found everywhere in Nature: it is found in the heavens above and in the earth below, and in the waters under the earth; in the animal, the vegetable, and the mineral kingdoms. It is found in combinations as in a landscape; it is found in sound, as in the crashing of the thunder, in the murmur of the summer brook, and in the roar of the mighty wave; it is found in colour; it is found upon the bosom of the pellucid ocean, in the forest glade, and upon the sunny Alpine slope. Nature is the work of God: it is, therefore, necessarily True; and where not marred by man, it remains True; and it is Beautiful in every feature and in every detail.

Beauty is found in Art applied to matter, as in painting, sculpture, architecture, ornament, etc.; in Art applied otherwise than to matter, as in poetry, oratory, music; in the moral character of man, and in his intellect; in the natural, and above all, in the supernatural order.

. . . . Upon the subject of Ornament I will first say a word or two. It will doubtless be conceded that ornament cannot be tolerated unless as incidental to, or in fair development of the object to which it is to be applied. Ornament which is independent of, or inconsistent with the object to which it is applied is a sham, and a thing to be utterly condemned. This rule is universal, and admits of no exception. I have no time left me now wherein to follow it in its varied applications: but I will shortly explain my meaning by a few very simple illustrations selected from the familiar subject of dress.

I begin by reminding you that the legitimate objects of dress are two-fold; they are decency, and protection from the weather. So far as dress secures these objects, it is True, and may be Beautiful; but if in shape or material it fails to secure them, it fails in Truth, and consequently it cannot be Beautiful, whatever its colour, or even its cost. No ornamentation can supply defect in Truth; although it constantly does emphasise and develope untruth. Ornament, indeed, can only be tolerated where strictly incidental

and subordinate to the true objects of the thing ornamented.

As a golden rule, the less ornament the better : simplicity and neatness go far to promote elegance, and to charm. Horace addressing Pyrrha, asks her : *Cui flavam religas comam, simplex munditiis ?*

As to the distinction between that which is ornament, and that which is called, but is not ornament, I will offer two or three illustrations ; and begin by inviting comparison between a foreign woman of what are called the lower orders, and an Englishwoman of corresponding rank. I will not go into detail ; but merely observe that the foreign woman, whether French, Spanish, Italian or other nationality, dresses herself in substantial clothing, which in material, in shape and in colour, is in accordance with the customs of her people, and is suitable to her position and occupation. She does not ape the habits of others ; she does not wear decayed and cast-off finery. She dresses plainly, becomingly, neatly, tastefully, and Truthfully. The Englishwoman too often dresses after another style altogether. The former is always pleasing, and is very often picturesque; the latter, with rare exceptions, is neither the one nor the other.

The cowl of the monk, the mantilla of the Spaniard, and its survival among us in the shawl thrown, as required, over the head of the north countrywoman, or the Irish peasant, are truthful and picturesque head-coverings.

A plain straw bonnet, trimmed with ribbon, and ornamented with bows, is in Truth ; because the material is substantial and serviceable, and the ribbon is needed to secure the bonnet on the head, while the bows are the appropriate fastenings. But a bonnet made up of odds and ends, even of the most costly frippery, answers no useful end, suggests no honest service ; and even with the addition of sham flowers, mock fruits, imitation insects, and creeping things, can never be in Truth, or approach any notion of Beauty. A hat is useful, and is an excellent thing for a woman to wear ; it may readily be arranged in perfect Truth. But where a hat is made use of as a place of deposit for dead birds and beasts, it necessarily becomes repulsive to whosoever has any, even the slightest, appreciation of Beauty.

The honest naked feet of the Irish girl upon her native hills, the damp-proof sabots of the Netherlandish or the

French labourer, are Truthful and picturesque ; but this cannot surely be said of the poor, silly, thin, down-trodden boots which disfigure the feet of so many of our English working-women, beneath their mean and dirt-bedraggled gowns.

A brooch is a legitmate ornament, considered as a fastener ; but if presented as a horseshoe on any breast except that of a shoeing smith (where it may be permitted as a trade advertisement), or if presented as a beetle, or a snake, or a crawling thing, upon the breast of a woman, it deserves unmitigated condemnation.

Strewing dress with glass or other spangles can only be accounted for by reference to the taste of barbaric ancestors ; and this is indeed still found to survive not only here, but also among the fashionable inhabitants of Middle Africa, where assorted beads are probably even now, notwithstanding the progress of civilisation among them, as much valued as among English dressmakers and fashionable dress-wearers.

Necklaces, bracelets and earrings are legitimate ornaments, and are clearly admissible, if only upon the ground of historical truth, and as emblematic of subordination and subjection, recalling as they do the formerly servile condition of women, and the chains and fetters and rings wherewith they were restrained and controlled in the good days of old ! It may be urged that among us the only men who wear chains made of gold and collars of gold, wear them for mere ornament or distinction, and are dignitaries, such as Mayors, high functionaries of State, and Knights of distinguished Orders ; and that such ornaments are certainly marks of the distinction of the wearers. I admit that they are so now ; and so far as the chains and collars are of precious metal, they long have been so : but, nevertheless, they are merely the substitution of gold for bronze or iron instruments, and are only later marks of inferiority to the power which bestowed them, and conferred the right to wear them : they, too, are relics of pristine servitude. They still indicate relation to a superior, and hence duty. Where honour was to be conferred by prince upon subject, as in the case of Pharaoh and Joseph, a chain of gold was given ; but it was given by superior to inferior, by master to servant. A chain is worn by the Mayor as chief citizen on behalf of his fellow, and fellow-*subject,* citizens. Finger-

rings are probably traceable rather to signet,—signing,—rings, than to traces of captivity or subjection.

The love of jewellery, as indeed of all mere finery, seems almost distinctive of female nature. At all times and in all climes has woman devoted herself to jewellery, and jewellery to herself. She has ever covered herself with it in life, and she has had it buried with her in death: yet diamonds cannot enhance the splendour of the bust, nor metal enrich the beauty of the arm.

Prudent suitors for her favour propitiate at once female vanity and female covetousness; and therefore Valentine in the *Two Gentlemen of Verona* advised the Duke to

> "Win her with gifts, if she respect not words:
> Dumb jewels often, in their silent kind,
> More than quick words, do move a woman's mind."

Jewellery, which has artistic merit derived from the skill of the handicraftsman, may well be worn as a legitimate ornament, provided it be worn in moderation and modesty. Jewellery valuable only by reason of its cost or rarity, or jewellery worn in profusion, so far from constituting ornament, displays nothing but the coarseness of the taste of the wearer.

.... It may well be asked, in what sense is my theory of Truth applicable to Paintings? Paintings are essentially unreal: they purport only to represent solids and distances upon plane surfaces. The answer, and it is very important ever to bear it in mind, is that the representation in a painting, to be Beautiful, must be True *according to its kind*.

Now, Truth in painting is not in simulation of the real, in mere imitation; if the painter affects to simulate reality he is guilty of a sham, and sins against Truth. Truth in painting consists in the truthful rendering to the mind of the spectator of the impression existing in that of the artist. Thus, in the instance of landscape painting, an artist who affects to represent grass, or trees, or cattle, as they really are, instead of as they seemed to him at the time and place when painted, would fail in truth. The genuine artist cares little for merely accurate rendering of details; he seeks above all to convey, by means of the painted canvas, the idea inspired by the object, when, and as seen by him, or conceived in his mind; and to the extent to which he succeeds in this, he is Truthful, and so far achieves Beauty.

Simulation in detail has no doubt great charms for many minds; and it is distressing when passing through any gallery of paintings to witness the eager admiration and hear the voluble praise, with which an insect upon a flower, the texture of satin, the hairs upon a cow's back, are welcomed. No doubt they often are, so skilful is mechanical manipulation, as it were actually reproduced in detail, instead of being suggested merely as incidental, and in due and very subordinate relation to the subject; and for that very reason they are utterly untrue, because they are mere imitations, or rather attempts at imitation, of the solid. They fail in Truth, and they assuredly have no Beauty, although they unfortunately command so generally the approval of the public.

To make more clear what I mean, I would mention only a very few artists who have aspired to Truth and Beauty, and have successfully attained them. I select the names of Turner, the Magnificent, from among English artists; from the French school, Rousseau, Millet, Daubigny, Corot and Jules Breton; from the splendid modern school of Holland, James and William Maris, Mauve, Josef Israels, Mesdag, Bosboom, Blommers, Du Chattel, and their fellows.

In connection with painting, I now wish to refer to the picturesque; by which term is to be understood whatever is fit subject for a picture, as distinguished from a mere painting.

Everything may be painted; but not everything will make a picture; and to discover or create the picturesque is a gift assuredly not bestowed upon all painters. A fatted pig may well be painted; but a fatted pig, even in the daintiest of sties, will never constitute the picturesque. A horse in highest training may be painted; but not even the addition of an individual in a coat of many colours upon its back will make it picturesque. A ruined cottage may be picturesque, but a new cotton-mill is not. A lady splendidly arrayed in her finest clothes for a ball is a subject often painted, but never picturesque.

On the other hand, an old woman gathering by the wood-side sticks of an evening for her scanty fire; a horse, such as that which is so magnificently painted in the book of Job; the boar in the forest; may all afford, and all have afforded, most picturesque subjects.

The former are rarely painted except to order, and for

the sake of individual regard or vanity ; the latter represent a class of favourite subjects with genuine artists ; because the true artist possesses a cultivated sense of the Beautiful and of the picturesque. He knows and feels the distinction between a painting and a picture ; although many persons seem to think, if indeed they think at all about it, anything a picture that can be got inside a gilt frame. The chubby face of an expressionless infant, if only nicely washed and tidily dressed, unpicturesque as it is, will indeed attract crowds of enthusiastic admirers, while the finest works of Turner, Corot, Constable or Claude will be noticed by the few alone.

Wherein then is the essence of the picturesque ? In one sense the fatted pig, the race horse, and the highly-caparisoned lady are all True : that is, they are, or rather represent, very real and substantial things ; and in that sense the pig and the horse are just as True as, and much more plentiful and marketable than the wild boar of the Hercynian forest, or the war-horse of Job. But in the sense in which I use the term they are not True, they are artificial ; they do not represent the true nature and object of their being according to their respective kinds, if works of Nature ; or of man's true end and nature, if works of his art. Now Truth, which is essential to all Beauty, must be essential to picturesque Beauty. The picturesque must therefore be True.

But it must have also other qualities : it must present idea : and the idea must be poetic, and must be one.

A picture must present an idea. The mere presentation of facts, apart from any idea suggested by them, cannot constitute a picture. Some thought must be suggested, some idea ; and the idea, which must be True, must also be poetic ; the idea must be such as to appeal to our passions, to stir or soothe the emotions of our breasts, to supply food to the imagination, or to illumine the intellect even as the lightning flash illumines the darksome earth.

Grandeur is certainly not of the essence of the picturesque ; indeed, lowly subjects most readily yield themselves to picturesque treatment ; just as Holland, which presents no grand scenery, is perhaps the most picturesque country in Europe.

.... Again, the idea suggested should be one. Unity is essential to ideal Beauty. . . The subject painted may well be complex in detail ; but in a good picture one idea

must be clearly predominant, so that it should at once present itself ; and the more the picture is studied, the more should the idea become developed : the mind must not be worried in the pursuit of divergent ideas : all incidents should converge naturally and at once upon the main feature.

Of portraits I may at once say that they are subject to the same rules ; and that they are picturesque only when suggestive of some graceful, or noble, or stirring idea ; the mere reproduction of bodily lineaments alone is not even True, for it fails to reproduce the man. Man's true characteristic is to be sought in his soul ; and this can only be suggested by successful reproduction or rather suggestion of the expression upon the features, as distinguished from the mere features themselves.

Many portraits, which are popularly commended for their Truth, are truly untrue ; because at best they represent only the animal, or lower part of the nature of the man.

The truthful painter of portraits can never rest until he has thoroughly ascertained the character of his sitter, and has secured that expression which best conveys it. This course does not, however, always secure the approval of sitters, who sometimes wisely prefer that their true characters should not be unnecessarily disclosed.

Moreover, as I said above, Truth alone will not make a picture ; and a portrait cannot be deemed a picture unless it be not only True, but also ideal, in the sense of poetic. A portrait or picture, to be poetical, should suggest some idea of heroism, or of might, or of vastness, or of misfortune, or of struggle, or of dignity, or of virtue, or of refinement, or of happiness, or of living energy, or endurance ;—certainly some idea calculated to draw forth our admiration or our sympathy.

Upon colour, which may most conveniently be noticed in connection with painting, I need say but little. As you know, colour has no real existence : it is not inherent in matter, it is its merest accident. It can therefore have no Beauty in itself. One colour seen on a palette is neither more nor less Beautiful than any other. The effect of colour when applied to material objects may indeed be Beautiful ; and it will be found here again that the effect is Beautiful according to the Truth, that is, to the fitness of the association.

In nature, all colours produce Beautiful effects ; because they are found in nature only where naturally, and therefore Truly, incident to the objects coloured. The blue of the gentian, and the green of its leaf and of the herbs around, and the yellows and the reds of the neighbouring flowers, suggest no discords to the eye ; but in artistic arrangements, unless the utmost care is taken, discords arise which are distressing to all who have an uncorrupted colour-sense. These discords arise from untruth ; as from using colours not found in Nature ; using colours in a way in which they are not perceived in Nature ; so applying colour as to divert attention from the object to which it is incident, and to which it should be strictly subordinate, and to allow the colour insolently to draw off attention to itself ; from using colours inconsistent with the circumstances, and with the idea or object to which applied ; and generally from all untruthfulness.

Of Sculpture it is unnecessary to speak, as the observations already made about Painting apply to Sculpture, subject only to the correction that Sculpture represents in the solid, while Painting represents only on the plane.

.... Truth in Architecture, as in all things, implies the honest adaptation of means to end.

Truth may be found in every style.

The Egyptian may have, or rather has had, Beauty ; the Grecian has had, and yet has, Beauty ; the Gothic is almost necessarily a thing of Beauty.

The first, representing matter, weight, oppression and hopelessness, seems indeed utterly unadaptable to any modern idea or use.

The second, representing the equilibrium of matter and mind, of resistance and force, may yet possibly be fit for some uses in our northern climate, and not improbably for more in the sunnier south.

The Gothic (I use the term in a wide sense), representing the triumph of mind over matter, of force over resistance, of the soul over the flesh, seems ever to present all that is noblest and best for all those purposes for which man builds here below.

A Gothic building (take for illustration a Gothic Cathedral) represents space, which, unfettered by rigid requirements of rectangular symmetry, may from time to time, as need arises, be developed without disturbance

of the true harmony of its construction. It does not obtrude even its temporary limits upon our notice, while it at once impresses with a sense of its grandeur, and of its solemn fitness for its holy use : it only gradually discloses its glories and its beauties ; and it ever provides fresh and yet fresher rewards for loving search.

In such a building man becomes oblivious of his own handiwork, while every arch points upwards, and the whole structure seems to spring towards Heaven, drawing with it our hearts and the aspirations of our souls. One exclaims with the Patriarch Jacob : " How dreadful is this place ! This is none other than the house of God, and this is the gate of Heaven." It is True : and it is Beautiful !

Who then can be surprised that when in some grand Cathedral thousands of creatures are worshipping their God, and music, and stately pomp, and the no longer dumb riches of the earth lend their loud aid,

> " Where through the long-drawn aisle and fretted vault
> The pealing anthem swells the note of praise,"

man should have visions of Glory, Beauty, and Happiness, not otherwise, nor elsewhere, vouchsafed to him here upon earth ?

THE SALE OF SIR JOHN DAY'S PICTURES.

From *The Times* of May 14, et seq., 1909:

"Messrs. Christie, Manson and Woods began yesterday and will continue to-day the sale of the important collection of modern pictures and water-colour drawings, chiefly of the Continental schools, of the late Sir John Charles Day. A notice of the collection appeared in *The Times* of Tuesday last, and since then the sale rooms have been filled daily with English and foreign visitors. The large sale room yesterday was inconveniently crowded, and probably one half of those present were foreigners, among them being Mr. A. Neuhuys, one of the most distinguished of modern Dutch artists.

"Various estimates have been made during the last few days as to the total amount likely to be realized, but £80,000 seems to have been the maximum prophesied for the two days' sale. But the most optimistic predictions fell far short of the result, for yesterday's sale of one hundred and twenty-three pictures produced no less than £75,110 14s., the prices being in several cases the highest on record. Messrs. Obach, of Bond Street, through whom many of the pictures were purchased, inform us that the portion sold yesterday cost the late Sir John Day £37,500, or rather less than half the amount realised; and that eleven examples of Harpignies cost £2,265, as compared with the £6,070 which they now realized. . . The total reached yesterday is the highest for a single day's picture sale since the Vaile dispersal of five years ago; and the sale of the catalogues at sixpence each has contributed £27 to the funds of the Artists' General Benevolent Institution.

"Messrs. Christie continued on Monday and yesterday the sale of the late Sir John Day's collection, when the etchings and engravings came under the hammer. The amount realized was £8,600, making, with the proceeds

of the sale of pictures and drawings last week, a total sum of over £103,546.

"Messrs. Christie concluded yesterday the dispersal of the late Sir John Charles Day's important collection of modern pictures and water-colour drawings, chiefly of the Continental school, and high prices were again realized, one hundred and sixty-five drawings producing a total of £19,835 11s., as compared with the estimated cost of £6,350, or rather more than three times the original outlay. The two days' sale of two-hundred and eighty-nine lots realized £94,946 5s., and constitutes quite the most remarkable event of its kind which has ever occurred in this country. . . ."

Readers who wish for a more detailed description of the chief beauties of Sir John Day's collection, are referred to *The Times* of May 10th, 1909, and to the illustrated catalogue, published by Messrs. Christie, Manson and Woods. The notices in *The Times* from which my excerpts have been taken give something of the history of each of the more notable pictures, with the price paid for them by Sir John Day, the latter information having been supplied by Mr. Buck and Messrs Obach.

The following little list is regrettably incomplete, but I have recorded the title of the picture (as given in Christie's catalogue, whether in French or in English); the price paid at the sale; and the name of the buyer. This much will be of interest to all who care for art. The number of those of his pictures which figured in the sale is placed in parenthesis after each artist's name; I give all the titles, but am unable to trace the ownership of any except those specified.

PAINTINGS.

	guineas	
J. F. Millet (3)		
The Goose-Maiden	5,000	Mr. Blaker, Holbourne Museum, Bath.
The Village of Greville	330	Wallis.
Les Nageurs	600	,,
J. B. C. Corot (12)		
The Ferry	2,800	Boussod Valladon.

The Woodcutters	1,450	Scott, Fowler & Co. (American)
Entrée au Village de Coubron	1,800	Scott, Fowler & Co.
Souvenir d'Italie	950	,, ,, ,,
La Chaumière des Dunes	1,350	Boussod Valladon.
Saintry	850	Wallis.
A River Scene	820	Arnold & Tripp (Paris.)

[The other Corots: Un Coup de Vent; La Petite Chaville; The Fisherman's Hut; Le Petit Pont; Maison à Ville d'Avray.]

C. F. Daubigny (11)

Les Bords de l'Oise	1,800	Scott, Fowler & Co.
The Harvest Moon	1,000	Obach
Le Petit Port	550	Wallis.
Seaweed Harvest	360	,,
Bords de Rivière	850	Boussod Valladon.
View on the Seine	430	Tooth.

[The other Daubignys: A Landscape (peasant driving four cows); Sunset at Sea; The Outskirts of a Village; Moonrise; A Road-Scene near Auvers.]

N. Diaz (5)

Evening	850	Boussod Valladon.
Autumn in the Woods	460	Scott, Fowler & Co.
A Herd of Cattle	360	Reid (Glasgow).

[The other Diaz: A Landscape (with cattle at a pool); A Woody Landscape (with a peasant-woman on a road.)]

J. Dupre (5)

A Woody Lansdcape	520	Wallis.
A River Scene	520	Arnold & Tripp.

[The other Duprés: A Sea Piece (fishing-boat in a squall); A View at Berck-sur-Mer; A Landscape (river in foreground.)]

H. Harpignies (11)

Solitude	1,800	Knoedler.
Bords de la Cance aux Loups	900	,,
Vielle Route de Fargiau à St. Privé	620	,,
Coucher de Soleil	550	Arnold & Tripp.
Returning Home	520	Cremetti.
The Ruins of a Castle	600	Obach.

[The other Harpignies: Moonrise; Autumn, St. Privé; La Rigole à St. Privé; La Lune, Bords de l'Aumance; Moonrise at Meudon.]

C. Jacques (3)

The Shepherdess	1,680	Tooth.

[The other Jacques: Sheep Grazing; Chickens.]

T. Rousseau (5)

A River Scene	520	Obach.

[The other Rousseaus: A Village among Trees, Sunset; An Italian Pass; A View over a Valley; The Setting Sun.]

C. Troyon (1)

The Return of the Flock	420	Boussod Valladon.

F. Ziem (1)

The Port of Marseilles	420	Bernheim.

M. Maris (2)

The Four Mills	3,300	Reid
Feeding Chickens	3,000	,,

J. Maris (15)

Near Dordrecht	1,600	Obach.
Ploughing	950	,,
Old Delft	1,100	Boussod Valladon
Washerwoman by a Stream	900	,, ,,
Dordrecht	1,270	Preyer (The Hague).
Amsterdam from the River	740	,,

The Return of the Fishing Boats	600	,,
A Stormy Day	820	Buffa.
Chemin de Halage	580	Lefèvre
Amsterdam	850	Reid.
A Canal at Amsterdam	600	Wallis.
At the Well	630	,,
Brouettiers de Sable	720	,,

[The other J. Maris: A Stormy Sea; The Mill on the Canal.]

W. Maris (6)

Milking-Time	460	Lefèvre

(The other W. Maris: Springtime (landscape with farmstead); L'Heure de Traite; A Woody Stream with Ducks; Cattle in a Pasture; A Grey Day on the Common. All these were purchased by Lefèvre.]

A. Mauve (8)

Troupeau de Moutons sous Bois	2,700	Reinhart (Chicago.)
Lisière de Bois	2,020	Boussod Valladon.
Marshlands	650	Drucker.
The Wood-Cart	600	Obach.
A Shepherd and his Flock	720	Knoedler.

[The other Mauves: End of Autumn; The Towing Path; A Young Bull Lying Down.]

J. Israels (6)

Bonheur Maternel	1,080	Boussod Valladon.

[The other Israels: The Knitter; The Seamstress; A Young Woman Sewing by a Window; A Mother and Child; The Anxious Wife.]

E. van Marcke (1)

Cattle Resting	700	Boussod Valladon.

Only about a dozen names occur in the Catalogue which are omitted from the above list.

DRAWINGS.

	guineas	
J. MARIS		
Dordrecht Cathedral	1,350	Obach.
The Old Mill	420	Gibson
Delft	340	Lefèvre.
A Town on a River	440	,,
Ploughing	370	Buffa.
The Plough	560	Agnew.
A Rainy Day	400	,,
On the Towing-Path	370	Wallis.

[Other water-colour drawings by J. Maris: A Bridge over a Dyke; Devotion; A Windmill on a Canal; A Fishing-Boat Preparing to Start; A Dutch Town on a Canal.]

W. MARIS		
Springtime (a meadow with cattle and ducks)	300	Lefèvre.
Milking-Time	260	,,

A. MAUVE		
Returning to the Fold	1,350	Preyer.
The Return of the Flock	900	Buffa.
Opening the Gate	740	Gooden and Fox.
Leaving the Fold	610	Wallis.

[Others by A. Mauve: Crossing the Heath; The Edge of a Wood; Hay-Barns. These three in chalk.]

J. ISRAELS		
The Angler	500	Drucker.
Mending the Nets	420	Agnew.
The Young Fishwife	285	Scott, Fowler and Co.

[Others by J. Israels: Sailing the Toy Boat; The Seamstress; A Young Fisher-Girl on the Beach; Reading the Letter; A Mother and Child (pencil.)]

A. NEUHUYS		
Hide and Seek	360	Boussod Valladon.
Minding Baby	270	Gooden and Fox.

[Others by A. Neuhuys: Reading the Bible; The Quiet Hour; A River Scene; A Windmill.]

J. Weissenbruch

Haarlem	240	Preyer.

[Others by J. Weissenbruch: A Rainy Day; A Canal with a Windmill; At Sea.]

H. Harpignies

Le Loing débordé près St. Privé, Yonne	210	Agnew.
Une Route de Village, Oisème	150	Hahn.
Olive Trees, Beaulieu	100	Obach.

[Others by Harpignies: Route de St. Privé; Meudon; A French Farmstead; Saulaie au Bas Meudon; Le Bois de la Tremellerie; Beaulieu; L'Etang de la Fabrique, à Briare; A Forest Scene; Les Sentiers des Loups à Bonny; Cannet (winter); Eyziés, Dordogne; St. Cenery; Hotel des Invalides, Paris; Briare (dans les Gares); Les Trois Arbres; St. Cenery (an old road); The Setting Sun.]

J. Bosboom

The Interior of a Church	460	Reid.
Interior of a Church (another drawing)	370	Preyer.

[Others by J. Bosboom: The Interior of a Stable; The Interior of a Shed; The Nave of a Church (arched vault.)]

B. J. Blommers

Two Drawings	450

[The Blommers sold totalled three: The Return of the Fishing Boats; Anxious Moments; The Fisherman's Wife and Child.]

D. A. C. Artz

The Sewing School The Happy Family Resting by the Way A Shepherdess Knitting	£341 5s.

The list of Drawings as given in the Catalogue extends to about twenty-one pages, of which I have reproduced about eight. Some are of the English School.

ETCHINGS AND ENGRAVINGS.

	guineas	
REMBRANDT		
The Three Trees	360	Colnaghi.
The Three Cottages (third state)	300	Obach.
A Landscape with a Flock of Sheep (second state)	80	,,
A View of Omval (second state)	85	,,
Rembrandt's Mill	88	,,
A Landscape with Cottage and Hay-Barn	125	Strolin.
A Landscape with a Square Tower (third state)	90	Daniell.
A View of Amsterdam	70	Mader.
SIR. F. SEYMOUR HADEN		
A River in Ireland (first state, signed)	100	Dunthorne.
C. MERYON		
La Morgue (second state)	80	Obach.
Tour de l'Horloge (first state, on green paper)	80	,,
St. Etienne du Mont	72	,,
Le Pont Neuf (trial proof, green paper)	80	,,
Le Pont au Change (first state)	120	,,
A. DURER		
Adam and Eve (first state)	180	Strolin.
St. Hubert	245	,,
The Virgin and Child	150	Colnaghi.
The Knight and Death	160	,,

St. Jerome	100	Dunthorne.
Melancholia	70	,,
The Great Fortune	78	Gutekunst.
D. Y. Cameron		
The Palace, Stirling Castle, Rosslyn Castle	48	Gutekunst.
A Venetian Palace	38	Dunthorne.
St. Laumer, Blois	38	Connell.
A. H. Haig		
Mont St. Michel	42	Kraushaar.
Interior of Burgos Cathedral	54	Gutekunst.
Another impression of the same	54	Kraushaar.
S. Cousins		
Master Lambton, after Lawrence (proof before any letters)	102	Baird Carter.
D. Lucas		
English Lansdcape: a series of twenty-three engravings after Constable (proofs before letters)	125	Ellis & Smith.
Turners' Liber Studiorum (the published plates wanting the River Wye, of which twenty-four are in the first state)	90	Walker.

SPECIMENS OF HIS LETTERS.

[To Emily Day]

London—All Souls,
1861.

My *dearest* Emmy,

I am so sorry that I am not to be with you tomorrow. However, I know that you will excuse me when you think of your poor Mother's state, which is such that I dare not leave her even for the day. I am so sorry, but I cannot indeed help it, my own dearest child. We shall keep your birthday on Sunday next when we are all happy together. Your poor Mother continues still in her suffering state. I am very busy. Thank dearest Rose for her *very welcome* and good letter of this morning. I have not time to say more now, my own dearest Emmy. Your Mother and I join in very best love and kisses to you all.

Goodbye, my own dearest child.
Your own most loving father,
JOHN C. F. S. DAY.

[To Mary W. Day]

Green Bank, Hampstead,
25 June, 1878.

My dearest Mary,

I received your dear letter with very great pleasure last night. I had not, my dear child, for a moment supposed that you had forgotten either me or my birthday; but if you had forgotten my birthday, I should not have been much surprised, as I so often forget those of others: me I knew you neither would nor could forget, as you have always been so good, affectionate and dutiful a child.

Last Friday Frank and I were at St. George's, where Haydn's Imperial Mass No. 3 was grandly performed with orchestra, and after Mass there was a fine procession..... Captain Andoe, who has just got his post-rank, dined with me in the evening, and gave me a most interesting account of doings in the Sea of Marmora, whence he has just

returned. He was commander of [name omitted] at Gallipoli.

[Letter announcing to me my Mother's death]

25 Collingham Gardens,
London.
March 31, 1893.

My dearest Arthur,

I sent you a p.c. (on Friday, March 23) by last mail, telling you that your dear Mother was ill ; but how ill I did not know ! Sir R. Quain had been that day in consultation for the second time, and he had left me with lively hope of her recovery. On Saturday morning she became worse, and thence rapidly failed until on Sunday evening at 9. 40 she peacefully, painlessly, and most *happily* passed away. She was so fortunate as to receive all the Sacraments and all the blessings for the dying ; and her end was most pious and consoling, as became her long life of self-sacrifice and devotion... She only left me on circuit about ten days before she died. I followed home on the Monday after the Wednesday on which she had left ; I then found her ill and under the doctor, although she had rallied for a day or so, and had gone out after getting back home. Emmy came up on the Saturday before death, and she and Mary and Sam were present when she breathed her last. Mary was supporting her head and holding one hand while I held the other, yet neither felt by movement the smallest indication of the actual end, so calm was the termination of her good life..... Mary never left her day or night.

You who knew your Mother well want no assurance as to the happiness of her lot : but even you can little know the life that she has led during the nearly forty-seven years of our marriage. I have never once had even the slightest ground of any complaint, however trifling. She has slaved for her family ; her prudence, her firmness, her loving kindness, have sustained me during many long years of struggle and anxiety and of prosperity ; and these and all her other virtues,—her unselfishness and devotion to duty, her innocence and her charity,—will have secured her a very great reward. She has, too, received the benefit of very many Masses which good kind friends have said and provided for her ; and terrible as the loss is to me, and deso-

late as I feel, I cannot but rejoice that she has set us not only in life but also in death so noble an example, and I pray that my last end may, by God's grace, be like to hers. To all her children, too, her loss will be humanly irreparable, but her memory will be most dear, and be kept for ever in grateful and pious mind.

Ever your truly loving father,
JOHN C. DAY.

[Postcard]

Worthing,
Apr. 7, 1893.

I wrote you terribly sad news by last mail. "Prions toujours." R.I.P..... On Tuesday S. and I came away, too, for a little rest and, if possible, relief by change of scene. We have been riding about together in quiet parts of Surrey and Sussex. We are here for the night. Sunday I spend at W. Grinstead to see the Chartreuse at Parkminster near there. Last Monday I got your most welcome, most interesting, but under the circumstances most painful letter. I will answer it by a later mail. Very best love from both.

Ever your most loving father,
J. C. D.

[Postcard]

London,
May 20, 1893.

My dear Arthur,

I was indeed delighted to find by your most welcome letter of April 24 that you had with Christian heroism borne the terrible blow which has given us all so awful a shock. I will say no more about it. We will pray and pray; and in silence, otherways, expect the mercy of our good God.....

[To Mary W. Day]

From Judge's Lodgings,
Winchester,
4th July, 1893.

I intend to ride hence to Salisbury on Saturday morning. The distance is, I believe, somewhere about twenty-five

miles, and the road over the hills is said to be very interesting..... If it continues so hot, I shall start very early in the morning for the sake of the air.....

[To M. W. D.]

Salisbury,
12th July, 1893.

I am leaving this tomorrow to ride to Dorchester, where I should be until Tuesday next, when I go to Wells. . . . I rode today to Blandford,—twenty-two miles,—and came back by train. I return tomorrow by train to Blandford, and there remount Countess to ride on, sixteen miles, into Dorchester.....

[To M. W. D.]

Wells,
18th July, 1893.

I reached this place at 7. 30 p.m. from Sherborne, where I spent the night, having ridden there from Dorchester in the afternoon. Although yesterday morning was wet, and this afternoon is very wet, yet I have had for my two rides the most perfect weather, and have vastly enjoyed them both. The country is very fine, and Sherborne as near perfection as possible.

[To M. W. D.]

Bodmin,
24th July, 1893.

Very many thanks for your most prompt attention in the matter of the hat, which arrived quite safe and well on Saturday evening; my older hat having got ruined through exposure to very heavy and continuous rain on the Mendip Hills during Friday afternoon. On Saturday morning it was found utterly unwearable...

.... Motley, I presume, reached home in good time, and with Countess in her usual good condition, on Saturday afternoon.

[Postcard to M. W. D. at Florence.]

The Crown, Lyndhurst,
1 October, 1894.

.... I started this morning, sending Countess on by an early train, mounted at Eastleigh (*olim* Bishopstoke) and

rode over here, about fourteen miles. I have fallen quite in love with the Forest, which is indeed *exquisitely beautiful.* I had a charming ride, and after it, in the afternoon and evening, a lovely walk—such lights!

[Postcard to M. W. D. at Florence.]

Cove Inn,
W. Lulworth,
7th October, 1894.

[He writes about an introduction that he was trying to get from " my friend, C. Kent "]....

Since writing to you, I have been to Milford-on-Sea, Bournemouth, Swanage; and got here yesterday (Sat.) Tomorrow (Monday) I go to Abbotsbury, then to W. Bay; then Charmouth and Lyme. Then homewards. Countess keeps very well. She too has been photographed in the New Forest. Kindest regards to each and all of your party.

[Postcard to M. W. D. at Florence.]

Lyme Regis,
9 October, 1894.

.... I am delighted with all the pleasure you are having. I came on yesterday by Weymouth to Abbotsbury, and today got here by Bridport, Chideock and Charmouth. I hope tomorrow to get on to Sidmouth by Seaton and Bere; thence homewards rapidly so as to be there by the 18th instant. My rides have been through splendid country, and I have enjoyed myself greatly amongst the wondrous and most varied beauties of our happy Isle..... E. has not yet heard of a servant, but has had a letter from Mrs.? saying B. is willing to return: I demur, without some further information as to intermediate history.

Athenæum,
3rd November, 1894.

My dearest Emmy,

I feel somehow that your birthday occurs somewhere hereabout, and yet I cannot make out on what day. I write therefore at once in order to wish you—or rather to give expression to my constant and ever present wish and prayer that you may live in perfect happiness for very many long years, and be yet more happy thereafter in the

"ewigkeit." God ever bless you, my dearest child, and reward you.

[To M. W. D. at Rome.]

25 Collingham Gardens,
8th December, 1894.

We were all vastly interested in and delighted with your admirable letter of the 4th. inst., and in and with the glad tidings it conveys. I am most glad that Miss N. N. is surrendering to the grace of God, which will not henceforth be made void in her. No doubt she will be proved by many and, most likely, grievous trials, as is usual with God's favourites, who thus eventually attain that greater glory and reward for which He destines them... You must excuse me for writing like this to you, but I am overflowing with delight at your having effected a *real* conversion. Don't, whatever happens, yourself budge from Rome. Let Miss X. rage out her impotent annoyance as she will. You have done no one any *wrong*.....

[To M. W. D. at Rome.]

Collingham Gardens,
24 December, 1894.

.. Your letters are all (as soon as each is read) circulated around the family still left in this country. [They were typewritten and sent to me in Cape Colony.] They give delight, or will (as all your others have) to all of us... I envy your being in Italy and above all in Rome at present. I am sure you will be delighted with Rome at and after the Epiphany, when you will find grand religious festivities in all languages, "as it were at Pentecost," in the great head city of the Christian Church. I hope you went to Santa Cecilia upon her feast, but I have no doubt from your happy use of Italian expressions in your letter that you are already more Italian in every best sense than myself. I strongly recommend Dante's Paradiso, Purgatorio and Inferno for your reading (next to guide-books), and far superior to anything you can get from Mudie. Cultivate Italian while you may! I trust that you will keep in close relation with Mgr. Campbell, whom I believe to be a sterling man.

[To M. W. D. at Rome.]

24th December, 1894.

.. I am indeed delighted to learn that Miss N. N. is progressing so favourably, and most sincerely tender to her my very heartiest congratulations on this most happy event and crisis in her life. I have been up to Burns and Oates and have sent off a Missal to her. I have also sent to you a copy of Dr. Hedley's *Meditations*... If, after looking at it, you should care to give it away, do so, and you will find another copy awaiting you, on your return. I have also got Fr. Galwey's new book, *The Watches of the Passion*. I consider it a most excellent book, full of sanctity and most intimate knowledge of Scripture. I *hear* him whenever I take it... I am amused at the great Roman Scandal, and am annoyed but not in the least surprised at the culprit enjoying the sympathy and encouragement of *The Times*. I have very long entertained the lowest opinion of this " good-for-nothing."

.. Miss N. N. [the sister of the convert] must take care not to be left to be the last *genuine* Protestant in the country : if she has that bad luck, she will be ticketed and put away in a Museum of Curios, instead of getting a good place elsewhere with her sister... I shall remember you both tomorrow morning...

[To M. W. D.]

London,
25 December, 1894.
10 p.m.

.. My cold still holds on, but I managed, without bad effects, to go to Midnight Mass at the Sodality Chapel, Farm Street, when and where I very naturally thought of you and Miss N. N. similarly and most happily and providentially engaged in the " Great City." God bless us all !

I went for 11 a.m. to the Oratory, where I saw Feilding and his sister, Lady Clare. I told them what you told me about his brother. The music was *very fine*, assisted by violins, and boy's voices singing celestially clear; and the sermon by Fr. Crewse (a dogmatic and philosophical one upon the union of the two natures in the one Divine Person, and its moral consequences) excellently good and greatly after my heart... [He again refers to Fr. Gallwey's book.] His is a grand *soul*, and this book is full of the very marrow

of holiness. He is certainly the nearest approach to a "Saint" that I have ever known, and I have had the honour and advantage of knowing him *well* for over forty years. Would that my end could be like his!

[To M. W. D.]

Derby,
1 December, 1895.

.. I have been quite harried this circuit by travelling about on jail deliveries and having to do at least two counties a week. Tomorrow I have to go to Nottingham, and on Saturday to begin at Warwick. Birmingham is my last town. The glowing descriptions of atmosphere and of atmospheric effects, of artistic objects and of glorious visions of beauty in landscape and scenery, which you give in your charming letter, have made me tingle with uneasiness in my melancholy position and under a constantly gloomy and most depressing sky, and have quite worried me with envy. Would that I could feast my eyes and my fancy with such transcendently beautiful sights!

Since commencing this letter, I have had my luncheon, and after it E. came with me for a walk. We did about 6—7 miles in the direction of Belper and Matlock, and we enjoyed it vastly. Owing to bad weather, I had had no exercise for several days. This evening we had a very fine late sunset and afterglow, and this amid and together with the leafless trees caused some fine effects. So you see that even in this climate we sometimes get something to see.

[To M. W. D. at Rome.]

Esplanade Hotel,
Seaford,
6th January, 1896.

Here I am again! And Willis and one of his sons are with me. I have got my mare down, having ridden her over from Lewes (in a dense fog from the other side of Firle Beacon) and I spend all my time upon the turfy downs in long walks or good rides, inhaling life at every breath.

[The writer mentions having visited the French Jesuits at Hastings, and speaks very highly of Père Terrasse and of Père Rosette. My brother Henry had been staying with them after his ordination to the priesthood.]

[To E. K.]

Judge's Lodgings,
Exeter,
June 20, 1896.

My dearest Emmy,

Very many and most earnest thanks for your extremely kind and most welcome letter of congratulation received by me this morning; and let me express in small return the earnest hope that you too may come in due course to receive as warm and hearty good wishes upon a similar occasion: your attaining the seventies of your age!

Believe me, my dearest child, ever your most loving father,

JOHN C. DAY.

[Of a certain ecclesiastic he writes, about 1896:]

I am afraid that ———'s reputation will not be improved by time. The subject to me is painful in many aspects. Orthodoxy in the sense of knowledge of theology did not, I suppose, characterise———, and his orthodoxy was, I should think, much a matter of chance. His self-will was I used to think, his misfortune. I often said he was on too familiar terms with the Holy Ghost. I trust you will not misunderstand this.

[To M. W. D.]

Exeter,
21st June, 1897.

.. I feel for you, with the number you will have to convoy tomorrow. I pity all concerned. Very early starting and untiring energy seem the only resource left, besides a good knowledge of the nearest by-streets and available ways.

I should nowadays be little able to help, even if in London, as I have not much power of walking left. The brougham will pack well if people are willing to help one another on such an occasion as a "Diamond Jubilee!" Beware of all sorts of rogues. London is just now chockfull of them, and of every description; and no effective police are left to look after them, but all of them are employed to protect the silly mob from the natural consequences of its own folly. Heaven keep you all safe!

Take care of house day and night. I am very glad Willie's boy is coming up.

[To A. F. D.]

14 August, 1897.

My dearest Arthur,

I cannot today refrain from writing myself to you just a line of congratulation on the Feast which we all keep tomorrow. I do not hereby so much mean to refer to the Feast of Our Blessed Lady which we all, whether members of our family, or merely members of our Church, religiously, more or less, keep; but I refer to another feast, which synchronises with the Assumption B.V.M., your birthday, —days henceforth linked inseparably together as long at any rate as Time shall last !..

[Extract from a letter to me in reply to one in which I had asked to have one or two of Pfarrer Kneipp's books on his "Water-cure" sent to me in Africa. A German friend there had made me enthusiastic about Pfarrer Kneipp and his system.]

The Athenæum,
October 28, 1897.

I send this hurried line to let you know that I duly dispatched Kneipp's good-for-nothing book to you yesterday. I wish you had given me the occasion of sending you some book less noxious and more interesting and instructive.... I trust that you may still have sense enough to take a *little* care of yourself...

OBITUARY NOTICES

From *The Times* of June 18th, 1908:

"The funeral of Sir John Day took place yesterday at St. Mary's Cemetery, Kensal Green. The body was removed on Tuesday night from the late Sir John Day's residence at Newbury to the Church of the Immaculate Conception, Farm Street, Berkeley Square, where it rested during the night upon a catafalque covered with a purple pall. Yesterday morning a Requiem Mass was sung at the Church in the presence of a large congregation. During the seating of the congregation, the organist played Chopin's Funeral March. The Roman Catholic Bishop of Portsmouth officiated, assisted by Canon Scannell. Father Gavin, S.J., and two sons of the late Judge: Father Henry Day, S.J., who acted as deacon, and Father Arthur Day, S.J., who was the sub-deacon. There was a full choir, and the Mass was sung to the Gregorian Chant.

"The principal mourners were: Lady Day (widow); Mr. S. H. Day, Mr. Joseph Day, Dr. W. A. Day (sons); Mrs. Rust, Mrs. L. King, Miss Day (daughters); Mr. F. Day (grandson); Miss Mary Day (grand-daughter); Mrs. W. Green (niece); Captain and Mrs. Westby, Mr. C. E. Thomas, Mr. A. M. King (executors); and Mr. F. E. Field (the late Judge's clerk). The congregation also included Mr. Justice Channell, Judge Bacon, Lady Mathew, Sir A. Wills, Sir Robert Finlay, K.C., Mr. and Mrs. Finlay, Sir Francis and Lady Fleming, Lady Macfarlane, Sir Thomas Snagge, Sir F. Dixon-Hartland, M.P., Sir Walter Smythe, Lady Milford, the Hon. F. Russell, K.C., Mr. Roskill, K.C., Mrs. Keogh, Mr. Robert Noble, Mr. J. Liddell, Mr. Steiner, Mr. and Mrs. Green, Mr. A. Teixeira de Mattos, Miss Baggallay, Mr. and Mrs. T. Rawling Bridgwater, Mr. A. M. Colgan, Mr. Lister Drummond, Mr. Dobson, Miss Davies, Mr. F. W. Sherwold, Mr. C. G. Walmersley, Mr. Clay, Mr. T. R. Langton, Mr. H. Velton, Miss Robertson, Mr. C. Obach, Mr. Marchant, Mrs. Henry F. Dickens, Mr. M. Powell, Mr. and Mrs. E. Baker, Mrs. G. Smith, and Mrs. W. Le Poer Trench.

"Father Gavin, in the course of a brief address, said that Sir John Day was first and foremost a deeply religious man. The law of God was in his heart, and it was visible in his simple, child-like faith. True religion influenced him in the discharge of his duties upon the Bench. England was at the present moment the best-governed country under the sun, and that was due in great measure to the Bench, where even-handed justice was administered. Deliberate and conscious injustice was never found, at least nowadays, in those who administered the law. But a deeply-religious man did not part with his conscientious convictions because he wore the ermine of a Judge. To him an offence against the law was often an offence against God, entailing the gravest consequence here and hereafter. *The Times* had said that the depth of Mr. Justice Day's religious convictions led to stern sentences, especially on crimes against women and children. Was their severity a reproach? Were the English Judges to bow before the maudlin sentimentality of the hour, which was rich in excuse for the evil-doer, and showed scant mercy to his victim? Had women and children no claim for protection in the strong arm of the law? There were thousands in the land who lived and died without God, whose lives are sunk in crime, whose surroundings were debauchery. For such the only hope of cure was severity: punishment swift and sure was true kindness to the offenders, and secured safety to the law-abiding citizen. But the Judge, who could be severe from sheer sense of duty, was, as had been admitted in the Press, a most tender-hearted man. Children, relatives, friends, servants, found a place in his affections. He was a generous father, a faithful friend, and a servant in his eyes was not a stranger, a lodger, a name, but a member of the family in whom the master took a deep personal interest.

"After the service the body was conveyed in a closed hearse drawn by four horses, to Kensal Green, and was interred in the family vault. Canon Scannell officiated at the graveside. A large number of those who attended the service were present at the interment."

The Catholic Weekly, of June 19th, 1908, tells how Sir John Day was commemorated at his own parish church at Newbury:

"At the 11 o'clock Mass on Sunday, Canon Scannell, Rector of the Newbury Mission, made touchingly eloquent reference to his late distinguished parishioner. None of us, he said, who saw our dear Sir John kneeling in tears at these altar-rails last Sunday to receive the Body of the Lord, had any misgiving that when we met again today, his place would be vacant, and that we should be weeping sore, sorrowing that we should see his face no more. We were looking forward to next Saturday, his eighty-second birthday; and further forward (as he also was, counting the days) to his bearing again the canopy in our Procession of the Blessed Sacrament on the Sunday within the octave of Corpus Christi. But God, who ordains all things sweetly, had decreed that on the day that we were singing the last songs of the Paschal season, the final Alleluias should be sung by him in Heaven. . . Early last Friday morning he was out watching the opening flowers and listening to the music of the birds in his lovely garden at Falkland Lodge; but, as he was saying grace before the morning repast, a seizure stayed his hand and his voice, and he was laid upon his couch to receive the last Sacraments of the dying. It was my sad happiness to administer the Absolution, to anoint him with the Holy Oil, and to utter the words of the Liturgy which we all hope to hear when it shall be our turn to depart: 'Go forth, Christian soul, from this world, in the name of God the Almighty Father who created thee, in the name of Jesus Christ the Son of the Living God, who suffered for thee, in the name of the Holy Ghost who was sent down for thee. May thy place be in peace, and thy dwelling in the holy courts of Sion.'

"Of his successes at the Bar (continued the Canon), of his commanding presence on the Bench of the High Courts of Justice, of his wisdom as a Councillor of the King, the world will be speaking tomorrow. But it will not speak, for it is not its business to speak, of Sir John's daily attendance at Holy Mass, whatever might be his work or the weather; of his weekly Confession and Communion, of the time that he gave to private prayer, of that interior life in which he looked through everything to God.

"Nor was the outside world a witness of the gentle flowing courtesy he exhibited in his own home, a courtesy shown, not only to the great who were his guests, but also to every member of his household. For all, gentle and

simple alike, he had but one manner : that air of deference, that sweet expression of gratitude for any kind help he received, that word in season which was said in such a way that it sank into the heart, never afterwards to be forgotten. I, whom (unworthy as you and I know that I was) he said that he chose as his Parish Priest for the evening of his life, so often had the pleasure, the instruction, and what I may describe as the ennobling influence of his company. For he had that way with him that everyone in his society was stimulated to be at his best. Although he was one who remembered accurately all that he had ever heard or read, and could bring with ease the full weight of his enormous knowledge on any given point, he appeared to be learning something of interest from everyone who spoke, and the conversation so often sparkling with his quiet, kindly wit, was ever kept on the high plane of that grand old school which but for such as he might now go out of fashion.

" There are many lessons which we can learn from our dear fellow-Catholic, the great man who is now gone to his reward. We may not all be able to carry off the prizes at College, to write works of legal erudition, to shine in forensic eloquence, to rise to supreme eminence in a learned profession ; but we can all be what Sir John loved best, and which now assuredly he values highest, in his meritorious life of eighty-two years. We can all, with God's grace, lead like him a holy and therefore a most happy life. We can, in our own calling, whatever it may be, imitate the indomitable courage and the strenuous energy of those years in which every effort seemed fruitless ; and we can all cultivate in our hearts, and then in our speech and in our manner, that charity which is kind, which flows forth in loving consideration for the feelings of others, and in that invariable urbanity which is the distinguishing characteristic of a perfect Christian gentleman."

[A few extracts from letters of condolence, June, 1908.]

" Your father understood that in preventing crime a Judge is directly promoting God's glory."

M.S.

" I remember very well and very gratefully the extreme kindness with which your father received me at his house, and the favours which he so willingly did for me when I first came over from Ireland to be called to the English Bar."

W. B. C.

" Your own dear father was the only person who reminded me, in some ways (and in character far more than by age) of the Patriarchs, and I have the kind of reverence for him which I have for them who were so dear both in themselves and in their children to the Lord of Hosts."

L. I. G.

" We have lost a great figure, but you have lost more than that."

R. Hugh Benson (Mgr.)

" During the short time I was privileged to attend your father during an illness at the Judge's Lodgings, Oxford, I was able to judge what a really great and good man he was."

F. G. Proudfoot (M.D.)

" He was an honour to the Church and to England, and we are all the poorer for his loss."

Fr. Reginald Buckler, O.P.

" What a pleasant time I enjoyed with you in Switzerland twenty-one years ago! England is poorer without your father."

H. P. B.

[An Anglican clergyman with whom we made friends whilst travelling together. He was High Church, and glad to share in our Friday dinner.]

" He has certainly fought the good fight, and he has laid down his knightly arms to receive the reward of his long and laborious life."

Wilfrid Wilberforce.

" He was a strong man in many ways, and not the least in his faith: in that be your consolation."

J P. O'D.

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(An Index of personal names, referring only to the body of the book, or the first 172 pages and to the Notes, exclusive of tabled pedigrees. Some attempt has been made, in the case of *van* and *de* names, to discriminate between the Continental use and the Anglicised use.)

*The D.N.B. gives "Renira."

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