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with the affectionate regards of
the compiler.

Agnes Fry.

1931.

Memoir
OF
THE RIGHT HONOURABLE
SIR EDWARD FRY, G.C.B.

PRINTED IN ENGLAND
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Edw: Fry

A
Memoir
OF
THE RIGHT HONOURABLE
SIR EDWARD FRY, G.C.B.
LORD JUSTICE OF THE COURT OF APPEAL
AMBASSADOR EXTRAORDINARY AND FIRST BRITISH PLENIPOTENTIARY
TO THE SECOND HAGUE CONFERENCE

1827—1918

BY HIS DAUGHTER
Agnes Fry

COMPILED LARGELY
FROM
AN AUTOBIOGRAPHY
WRITTEN FOR HIS FAMILY

HUMPHREY MILFORD
OXFORD UNIVERSITY PRESS
1921

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TO M. F.

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PREFACE

It should surely be a maxim of Biography that the written Life should be, so far as possible, of the same quality as the life lived. Following this canon, I have not desired to produce a biography of my Father which should lay bare minute details of domestic life, or personal trifles, and I have no doubt that the volume I offer will be counted dull by many readers of biography. I have desired to produce a record not discordant with a life at once austere and tender.

After my Father's retirement from the Bench a firm of publishers suggested that he should write an autobiography for them to publish. Such an idea was not congenial to his mind, but when it was suggested to him that he should write an autobiography for his family he agreed to consider the matter, and before long began to put the earlier materials together; and as the later episodes of his life followed, a little prompting induced him to keep the manuscript pretty well up to date. The latest entries were made about three years before his death. The pages were certainly not written for publication, but for perusal by his children after his death, but the manuscript having been left to me and to my discretion I have felt at liberty to draw upon it largely in preparing this Memoir,—which could not have been produced without this foundation. I have occasionally altered or omitted a few words without notice: I have also made use of his words in many passages without special indication that they are his. In the great length of his life my Father left most of his contemporaries behind, and his biographer has been greatly handicapped by the want of assistance from those who knew him intimately in middle life, and especially on the Bench. This has been made good, so far as is now possible, by the kindness of Sir Alfred Hopkinson, K.C., who has contributed a *résumé* of Sir Edward Fry's legal and judicial career, for which I tender him my most sincere thanks. These are due also to Mr. Justice Eve, and to Lord Haldane and the Rt. Hon. Henry Hobhouse, as well as to the friends whose names appear in the book as helpful contributors; and to unnamed members of my family.

For suggestions and hints I wish to thank Prof. G. H. Leonard of Bristol University, and for much valuable advice, his cousin Mr. R. M. Leonard.

A. F.

FAILAND,
Jan. 1921.

NOTE.—Sir Edward Fry's own words, whether taken from his autobiography or elsewhere, are distinguishable from those of the biographer by appearing in spaced type.

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This is not an ideal world, and life always has its drawbacks and limitations. State it at its best, and living is only a getting along as best we may, overcoming and succeeding where we can, and making the best of the situation where we cannot. Even the triumph and the success often leave something more still to be desired. It is wisdom to reckon with life after that fashion, but it makes a great deal of difference as to the spirit in which we reckon with it. We may accept the pessimist's philosophy which says that in a world like ours there can be nothing much which is really worth while, or we may stand firmly and heroically by our faith that even in this present somewhat topsy-turvy situation to make the best of things is a splendid achievement and worthy of our finest struggle and endeavour. The one attitude will cut the nerve of all high planning and noble endeavour, while the other will keep us working away hopefully and earnestly and cheerfully at the task of making the best of things and putting into life all the good that is possible.

E. F.

CHAPTER I

ANCESTRY AND PARENTS

The name Fry, which is far from uncommon in the south-western counties of England, may well have belonged to several independent families. For it doubtless was bestowed on, or eagerly adopted by, those tillers of the soil who were not serfs *adscripti glebae* but free to offer their services to different lords of the manor. How anxious those Saxon husbandmen, who had been free, were 'to preserve themselves from a doubtful or suspected position such names as Walter le Free will fully show' (Bardsley on *English Surnames*). The name appears frequently in early records of Wilts., Somerset, Dorset, and Devon, and so early as the end of the twelfth century we find a certain William le Frye styled 'of Corston', whose son William le Frye or le Vrie (a mixture of French and Wessex tongues) was a benefactor to the neighbouring abbey of Malmesbury.[1] The family appears to have maintained itself at Corston until the times of the Civil War, when it seems that they lost their property and migrated a few miles to the village of Sutton Benger, where one of the family—by name Zephaniah—became a follower of George Fox, and in 1684 'was taken at a meeting of the Quakers' and 'was tendered the oath of allegiance, and for refusing to swear was imprisoned for three months'.[2] In 1717 this Zephaniah writes to his son John Fry, then probably an apprentice in London, warning him against looking out too much at 'the vain Fashions and foolish Discourse and ways', and urging him 'not to lose one Meeting by going to walk with any of thy neighbours, with their enticings'. A postscript from a brother of the young man tells him 'we have sent some worsted for thee for thy hose yarn, being in weight 10 oz., and some blew for thy aunt Margaret in heft 7 oz., and some yarn for our uncle Jeff's in heft near 12 ounces. Desire our aunt Margaret to knit thy hosen, and to have her blew for it. Uncle's yarn a gift . . . It is all scowered and clean.' The grandfather of these young men was styled a cloth-worker in his will, and this gift of yarn suggests that the business remained in the family.

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[1] Additional MSS. Brit. Mus. 15667, Carta No. 26.

[2] Besse's *Sufferings of The Quakers*, published 1753.

John Fry did not fall into evil ways, as his anxious father's letter seemed almost to anticipate, but became a quiet simple Friend, and marrying Mary, the daughter of Joseph Storrs of Chesterfield—herself of a Quaker and Puritan stock—introduced to the family the two initials which—along with the idea of cocoa—have become familiar appendages to the name Fry.

John's son Joseph was the first of the family to settle in Bristol. Born, probably, at Sutton Benger in Wiltshire, where his father lived, he was prepared for the medical profession under Dr. Portsmouth, of Basingstoke, whose daughter Anna he married: he came to Bristol and set up a practice as an apothecary, or, as we should say now, as a general practitioner, but abandoned his practice because he disapproved of the manner in which such practitioners were then paid, namely, by the medicines supplied. He took to business occupations and established, or took part in establishing, five considerable businesses, which probably proved far more remunerative than the profession which he had renounced for conscience' sake. One of these concerns was a type-foundry established in Bristol and afterwards removed to London, where it was carried on by his son Edmund Fry, who, though educated for the medical profession, and an M.D. of Edinburgh, left medicine for type-founding and philological studies and published the *Pantographia*. He was, says Reed, probably the most learned letter-founder of his day.[1]

A still better known and more successful enterprise of the former apothecary was the establishment of the chocolate factory which is continued to this day under the name of his son, J. S. Fry, the grandfather of the subject of this memoir. With this grandfather my Father's own recollections begin, and his house and family at Redland played a large part in the early lives of my Father and his elder brother and sister.

> 'He was, I think', wrote his grandson, 'a man of some intellectual activity: he was greatly interested in questions of conveyance: had written a book on wheeled carriages—had been at the opening of the Liverpool and Manchester railway when Huskisson was killed: and had received in 1818 a medal from the Board of Agriculture for an essay on the employment of the poor.'

A new and larger factory was built in Union Street in 1795, and on the death of Joseph Storrs Fry in 1837 his three sons,

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[1] See *Dict. of Nat. Biog.*, s. n., and Reed's *History of Old English Letter Foundries.*

Joseph (1795–1879), Francis (1803–1886), and Richard (1807–1878), became partners in the firm, the control being mainly in the hands of Francis Fry, who was in every way of remarkable character. The development of the business to its modern enormous proportions was chiefly his work 'and that of his nephew, the second Joseph Storrs Fry. Francis Fry, moreover, took a principal part in the introduction of railways to the west of England. He was an ardent bibliographer, taking a special interest in early English Bibles, of which he made in the course of a long life a large and striking collection.'[1] The elder son Joseph, father of Edward Fry, was of a less strenuous nature, as will appear in his son's description. Edward Fry was seventh in direct descent from Zephaniah, the first Fry Quaker, and his ancestry in other directions would show a good line of Quaker forbears. To some readers this may seem a worthy record, to others it will carry little meaning, but it would not be possible to put my Father's life in its proper setting without allusion to it. More than most Englishmen, the generations of Friends are 'bound each to each in natural piety', and among the elder families of the sect the habit of keeping a genealogical table of the family is frequent, as the late Sir Francis Galton—himself of Quaker origin—gratefully acknowledged when he concluded his examination of personal details of different generations furnished to him by many English families as material for his study of heredity.

The pursuits, the travels, the trades and suffering of Friend ancestors and of members of the Society as a whole form a background of quasi-domestic history in the minds of Friends in a way which it may be difficult for members of larger religious organizations to realize. 'Our Society' was to many Quakers of an older generation, and is to some still, an inner republic claiming their constant interest and allegiance; and even on those who, like Edward Fry, took but little part in its organizations, and were quite willing to be critical and in some ways aloof, its effects in moulding and developing character have been very potent. 'Once a Quaker, always a Quaker,' was the epigram of a Member of Parliament who nevertheless had himself severed his connexion with the body; and those who have been cradled in Quakerism know that, for good or ill, its spell will be on them to the end.

It would be outside the scope of this memoir to give any picture of Quakerism in the first half of the last century—that must be sought in many memoirs and letters of members of the Society: some hint of its character will appear in the early pages of this book. It was doubtless, judged by the standards of to-day, very narrow in outlook and bounded in interest: very bourgeois as to its members, who were mostly small shopkeepers or farmers, or in a small way in business. Music and dancing and the theatre were all forbidden pleasures; a few pictures were permitted, and drawing and water-colour painting were tolerated or encouraged. There was no worldly ambition, but a good deal of steady money-making went on in quiet businesses. The Quaker of that day both dressed and spoke in his own fashion; he was a marked man anywhere. For all this there was in those homes a simplicity, a dignity, an interest in science and education, a fear of God and a love of man, a sense of the worth and dignity of human life which made them fit nurseries of many noble souls, and gave a weight to the Society beyond what was due to its numbers; while the tranquil lives of its members gave them a longevity which was marked enough to affect their life insurances.

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[1] See *Encycl. Brit.*, 11th ed., s. n.

Of such forbears[1] and into such an atmosphere Edward Fry was born. Of his father, Joseph Fry, he writes:

> 'During the later years of his life he had been entirely out of business, and had been somewhat inactive, being entirely satisfied with his newspaper, his Bible, his book of travels or biography, and his armchair. In my earlier recollections he was a much more active man, taking his part in the local philanthropic and political institutions; but very frequent bronchial attacks gradually, I believe, lessened his strength and activity. In politics he was a very strong Liberal, and had been, I believe, all his life a Free Trader, holding, as I recollect, to its doctrines when they appeared likely to affect his business interests.
>
> He was all through his life, so far as I knew it, a great reader: but he was not a student: he never, except in letters, wrote anything about what he had read, and he never worked down any given subject. He had a good deal of acuteness of intellect, with a bias towards scepticism (in its true sense) rather than towards credulity. He was a very affectionate husband and father. His mind and spirit were singularly pure and unselfish: he was, I believe, absolutely free from

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[1] In his earlier life Edward Fry often wearied of the question, 'What relation are you to Elizabeth Fry?' The answer was 'None'. She was a Gurney by birth and married his father's cousin.

all personal ambition or self-seeking: he was perfectly content with, and thankful for, his position in life, and died as he lived, in peace with all men, on the 16th February, 1879.'

And his mother, *née* Mary Ann Swaine,[1] he thus described to his children:

'My mother was a woman of very strong character—very able, and almost self-confident in the ordinary affairs of her family and of life; a great stay and help to many around her, and of a very cheerful disposition and stout heart. Her intellect was quick and receptive, and though she had never received in youth such an education as you have had, and had never had much time or leisure for study, she had a very quick intelligence and was very good company. She was not always patient or just, and had a thorough woman's contempt for the slow processes of proof and reason: she had very strong religious feelings, and strong religious prejudices too, which, however, were I think much lessened in the later years of her life. She was very remarkable for the buoyancy of her nature: sorrow never seemed so really to seize her as to deprive her of happiness; and she always took the hopeful view of things. She lived as if she felt that joy is more real than sadness. And is not this the truest, highest wisdom?'

After her death a daughter-in-law wrote of her: 'When I first knew her she had passed middle life, but seemed still quite in her prime, a stately and beautiful woman in the quaint Quaker costume that so well became her. Her health was good, and so long as her strength lasted she spent it in helpfulness for others, never wearying or complaining of the demands thus made upon her. I remember the quality which struck me first was her power of talking. It may seem an ungracious remark to make, but I believe the same thing struck many people, and it was so very characteristic a feature that it cannot be omitted. And the pendant to this first observation is one that does her honour. Few persons, I think, said fewer things that they would wish unsaid: there was no malice or unkindness in her lively comments upon others, though she told many an amusing story of friends and acquaintances, and loved to describe minutely the doings and sayings of those she had known.

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[1] She was a daughter of Edward Swaine, of Henley-on-Thames, who travelled, probably as a partner in Corbyns, the great chemists, and sold their drugs to medical men, who were then the only customers with whom they would deal.

‘She would often administer a little wholesome advice, more freely than many would have ventured to do, but the recipient could not be offended at the hints which were given with so genial a manner, and he must always have been struck by the good judgement and shrewd observation which dictated them.

‘In practical matters her judgement was admirable, and her relatives and friends found out and availed themselves of this quality as was natural. . . . To her children she was ever a tower of strength, a most helpful counsellor; and even in her latest days, when her powers had begun to fail, it was difficult for us to refrain from the long-loved habit of bringing our individual or domestic worries to have them smoothed away by her wise help and ever-ready sympathy. She had, perhaps by inheritance, quite a talent for prescribing, and was very fond of recommending remedies to all her friends, many of which were often very efficacious, though her belief that *all* medicines were good led sometimes to what would now be considered “ heroic ” dispensing.

‘Her education had been narrow in its limits, but sound so far as it went, and she took so much interest in the many books which her husband’s literary taste led him to bring continually under her notice, that she may be said in some degree to have been a cultivated woman, for she took in ideas very rapidly, though she always insisted on making them crystallize in her mind according to her own will.

‘She was very fond of poetry, of which she had read a good deal in her younger days, and her children have lively recollections of her repeating long pieces to them round the fire in winter twilight. . . . Her disposition was affectionate, and her temper exceedingly sweet and even, so that though her opinions were decided, and her views strongly expressed, she never wrangled. . . . You might feel she was unconvinced, but never that she was annoyed or vexed by opposition. She was exceedingly hopeful, so that she led others to take the same bright and trustful views which she held; and this made her a delightful companion in daily life.

‘This hopefulness, which I think was in some measure due to her own excellent physique, led to another trait—an absence of vain and morbid regrets for past events, even for past mistakes. . . . I remember a very characteristic conversation, years ago, in which she told me, half-jokingly, of two instances in which, as she said, she might be accused of the death of a fellow creature. One was an old woman who steadfastly refused some needful provision of cleanliness, and who died on its being administered by her orders; and the other a new-born infant (whose mother she was kindly visiting) which she thought too near death to be brought round, but which the doctor thought might have lived; but in both these cases, as she had done what seemed best to her at the time, she felt no condemnation. This was perfectly right and healthy, but many weaker natures would have wearied themselves with morbid remorse.

'Her nature was practical, not contemplative, and therefore, though a very pious woman, she was not at all given to discourse about religion. You rather felt that she was under its influence, than heard much of her experiences in it. But now and then she would express warmly her thankfulness and trust, and sometimes she would pointedly remark upon conduct which she thought inconsistent with a Christian profession, without allowing herself to be influenced by any fear of giving offence.

'She was much attached to the body to which she belonged, and held strongly her Quaker views.'

Mary Ann Fry's house in Charlotte Street, Bristol, was small; her husband's income was narrow, and at times precarious, while her family was large; but these ill-correlated facts did not prevent her abounding energy and kindness overflowing the natural limits of her household.

An aged aunt, infirm in bodily health and with declining mental power, was introduced into the little home and tenderly cared for during her remaining days, and my grandmother assumed a yet heavier burden in taking charge of the four children of Mr. Charles Fabien, a merchant and planter of Trinidad, who had business connexions with the Fry family—probably supplying sugar for the chocolate factory. These children were sent to England to be under her care: she sent them to school, kept them in her own house during the holidays, and looked after them for years, and all this at a time when her own family was growing up and needing the most watchful care and attention; and she shouldered all these cares and anxieties with a light-heartedness which her less sanguine son remembered with admiration, almost with envy. In connexion with these children a curious case of second sight occurred. One of the little girls was so ailing in England that it was decided to send her home to her parents in Trinidad. After her departure the other sister became seriously ill, and, in spite of all Mrs. Fry's tender care, died. When very ill the child said that she had seen her sister lying in a white box and with a little white thing on her chest. This was reported to the parents, from whom it was afterwards learned that the other daughter had died after her arrival at home, and, as a post-mortem examination had taken place, a piece of white plaster had been placed over the wound.

In plant life Mendel has shown not only the ratio in which inheritance may be expected in different generations, but also the more fundamental fact that qualities are inherited as units,—one may be taken and the other left,—the character of the plant being thus shown to be composed of discrete qualities. In Edward Fry's inheritance from his mother this is very noticeable: he possessed her vigorous physique—she died at the age of eighty-nine without having a real illness in all her recollection—and his own days of real illness were remarkably few in his still longer life: he possessed also her vigour of mind and resolute common sense, and love of poetry; but in other of her characteristics he was lacking,—her talkative disposition, her lively interest in the small matters of other lives, and also unhappily her buoyant hopefulness—a quality in which he recognized his deficiency even in early life.

CHAPTER II

EARLY YEARS AT BRISTOL

1827—1848

Of his early days and memories, Edward Fry wrote:

'I was born in Union Street, Bristol, on the 4th of November, 1827. As already mentioned, my father was Joseph Fry and my mother was Mary Ann *née* Swaine. A letter written by my father to his aunt Sarah Fry, and dated Bristol, 11 Mo. 4. 1827, announces my birth to her, and adds, "The Doctor says the boy is larger than one in fifty; he calls him an elephant: he has dark hair, and more of it than Joe had. His name is Edward." The house where I was born in Union Street, Bristol, was connected with the cocoa and chocolate manufactory then, and now, carried on there. But in my early days the concern was a comparatively small one. There was a small back-yard, and beyond, a small steam-engine and grinding mills, and at the side of our house a counting-house and a packing-house, or shop, with windows half-way up blocked by boards to prevent passers-by looking in. We used to go out through this room, and in it an old man, Richard Drake, seemed to be always packing a large box, which I believe was sent from time to time to London by canal; and a woman, whose name I forget, was always sitting and pasting on labels; and an old clerk, Chas. Gurney, was in and out of a raised desk just by the door. So far as I recollect no change ever occurred in this routine of peaceful business. I have some dim recollections of domestic events occurring in this my first home, especially of the riots of 1831. On this occasion I recollect going up the stairs at the back of the house at night, and looking out and seeing the flames of the burning buildings rising, as it seemed to me, as high as the church towers: I recollect too some of my father's friends (Francis Tuckett amongst these) being in our house, and showing me the brass batons which they carried as special constables. Beyond this my own memory of the riots does not go: though as a child I often heard of them—of how the rioters knocked at the back-door of the manufactory and threatened that this would be the next place to be visited—of how the warehouse near the river which belonged to my father's firm was destroyed by fire with its contents, and of various terrible scenes in the streets during the few days of anarchy which prevailed in this city. But it is around my grandfather's at Redland[1] even more than around our house at Union Street that my infantile recollections cling. We, i. e. the three eldest of us, were constantly staying at Redland, and greatly did we enjoy our visits there. Our aunts made much of us, taught us, read to us, played with us, walked with us; and the more spacious rooms, the garden with its great fig-tree on the house, and the field beyond the garden—the stables with the horses and carriage-dog (a great source of interest), and the coachman James Hunt, who taught us to fly kites—our walks on the Downs, our haymaking at the Carrots (I think the name is right), and above all our drives on Sunday to the meeting-house at Lawrence Weston, especially when we could persuade our uncle to drive through the water at Henbury,—all these things are strongly impressed on my mind. My grandfather lives in my recollection as a man with a long and grave face: smoking his pipe in the garden in the afternoon, and sometimes chiding his daughters for their lateness at breakfast.

To my brother and myself he was kind. I recollect his criticizing a drawing by me of a vessel with two flags, one flying in one direction and the other in the opposite. He encouraged us in carpentry work, and gave us a hone to sharpen our tools on: he had a carpenter's bench made for us from a thick piece of oak which somehow was lying in his stables; and he caused a rocking-boat to be constructed for us out of a large wicker basket mounted on runners, and we were allowed to use this at Redland as a means of locomotion in the place of the inverted stool from the pantry which we had previously forced into our service.

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[1] Now Redland Hill House, the residence of Miss Vaughan.

I distinctly recollect that during the solitary walks in my grandfather's garden, I, from time to time, was conscious of a sense of awe—a sense perhaps of the possibility of the unknown and infinite—I cannot tell from what, but I had this sense of awe which I have never forgotten.

Very early in our lives we were a good deal patronized by the Warings—a family consisting of four maiden sisters and one bachelor brother, George Waring, a large tall man, greatly devoted to the quiet contemplation of Nature. When we were quite young they used to take us out walks—sometimes with a large party, sometimes George Waring alone went with us. He was fond of Entomology, and one sister was given to Botany, and so these walks were very delightful and did much to stimulate Joseph and myself to carry on our collections of plants, and to give me a taste which I never quite lost for wild plants. Our father, too, was a great walker, and we often went long walks with him into the country, and these also I recollect as very delightful and very instructive, for he used to talk to us about the birds and the flowers. In our holiday visits to Weston, Clevedon, and Portishead these walks with our father fill a great space in my recollections. He was not unversed in Geology, and taught us to distinguish the various rocks which we met with; and my earliest notions both of geology and physical geography are derived from these rambles in the north-west corner of Somerset, which perhaps have had something to do with my final settlement in that quarter of the county. I recollect how much my father was interested in the discovery of the bones of two hitherto unknown forms of Saurians in the Dolomitic Conglomerate of Durdham Down, and how he took me almost at once to the museum of the Bristol Institution (then at the bottom of Park Street) to see them. I went with the expectation of seeing something like the entire skeleton of a crocodile, and felt greatly disappointed at the boxes of stones, in which my inexperienced eye could scarcely detect the almost latent bones. These were remains of the Thecodontosaurus and Palaeosaurus.[1] To these walks and talks with the Warings and my father I feel that I owe much of the tendency to observe natural objects, whether scenery, or animals, or more especially plants, which has been a great source of enjoyment to me all through life, and which has, I hope, prevented my growing into the mere lawyer.

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[1] See Lyell's *Student's Elements of Geology*, p. 362.

I am not pretending to make these notes strictly chronological, and I must go back to an earlier date than that with which the last memories are conversant. In the year (I believe) 1833 my father and mother moved from their first home in Union Street to the house which was to be their final residence on earth—No. 2, Charlotte Street, Park Street. At that time, and for many long years afterwards, there were no buildings on the opposite side of that part of the street, and the house from its high position had a wide view of the country round, including towards the east the high ground near Bath and Pensford, and westward to Barrow Gurney and the Mendips. At that time, too, the regular line of buildings had hardly advanced beyond Berkeley Square—Tyndall's Park was at the top of Park Street, and we very soon got from our new house into field-paths and lanes, between our house and Durdham Down. Clifton, of course, was between us and Clifton Down; but Brandon Hill was at hand, and not nearly so closely surrounded by buildings as it now is.

In Charlotte Street my regular education, so far as I recollect, began—first with my mother, then with a governess or two, and then with masters. I am afraid that we gave poor little Caroline Heath, our first governess, rather a bad time, at least occasionally. With one John Faulder, a small Friend teacher, I began Latin, and the usual other school subjects, and did not get on with him with any particular satisfaction to myself. French we learned from a M. Chaillu, a funny old Frenchman, who had very little idea of teaching, and used to amuse us with all sorts of stories; and German from a Dr. Mönck, a really clever man, but with a vile temper and inveterate proclivity towards lying. I did not, I think, distinguish myself as a scholar at home. I was thought, at least that was the impression left on my mind, rather stupid, decidedly slow, and of a very marked inferiority to my elder brother Joseph. A saying of John Faulder whom I have mentioned, in some struggle between him and me, was long remembered against me. "Edward," he said, "thou art hypercritical." Perhaps I got the better of him in the matter of the criticism in question.'

The family made happy summer outings to places on the Bristol Channel. Edward Fry's memory reached back to very early days of his life, and he recalled picking up pebbles at Blue Anchor, near Minehead, before he was three years old.

As a child of ten years old he kept a careful journal of a holiday at Weston-super-Mare, in which he narrated how on July 21, 1838, he watched the steamship *The Great Western* go forth on her first voyage to America: he described also an excursion to the caves at Banwell, and the bones of wild animals there found by William Beard, and the conceit of the discoverer who

'said that he never showed mercy, nor will, to those who contradicted him respecting the bones, and he spoke very exultingly of many very celebrated and I doubt not more clever persons than he, such as Cuvier, who he said was intending to come over and see his collection but was prevented by death. . . . William Beard, if I may judge by his conversation, appears to be an uneducated person, but to have acquired knowledge by his own enthusiasm.

'In a journal of 1839 I mention reading the Chancellor of the Exchequer's speech on the Penny Postage, and in the following year I wrote, "About dinner time to my great pleasure Lewis ran into the garden and exclaimed 'Papa has brought home some stamps'. Sure enough there they were, the adhesive and the envelope stamps, the last a most beautiful design. Papa gave me three of the former which had the queen's portrait on a black ground."

About the Christmas vacation of 1840 I learned that my brother Joseph and I were to go to the Bristol College—a school established on the principle since so much followed in institutions like the colleges at Cheltenham, Clifton, and elsewhere. I learned the news with some dismay. I thought I was behindhand in learning and that I should not get on. I knew too that, notwithstanding several requests on my part, I had not hitherto been allowed to begin Greek. With a view to this change in our education I got a little coaching in the grammar of the Greek language, and we went, introduced by our father, to the head master, Dr. James Booth. It was rather a plunge—we were Quaker boys, with Quaker dress and Quaker language, and it required some courage to hold to these things against a lot of schoolboys, and a good dose of teasing for some weeks was the result. But on the whole the change was a very good one. I breathed a freer air than in the schoolroom at home—I had masters superior to John Faulder; before the Christmas vacation came I had carried off two medals—one for having held the head of my class for five weeks, and one for a poem on the removal from St. Helena to Paris of the body of the Emperor Napoleon: and at Christmas I was moved into the senior division of the school, and I believe that I did not come out badly in the midsummer examinations. Dr. Booth[1] was a graduate of Trinity College, Dublin—a most Irish Irishman, a good mathematician, with a considerable knowledge too of classics and philosophy. He was afterwards Secretary to the Royal Astronomical Society, and died, I believe, the holder of a living in the gift of that Society. Dr. W. B. Carpenter,[2] who afterwards migrated to London, and was well known as a physiologist, used also to lecture to us once or twice a week.

Unfortunately this Bristol College was not flourishing: a rival school called the Bishop's College had been started by the Church people to give more definite Church teaching, and Dr. Booth, with a good deal of talent, was a bad organizer: the number of boys had fallen to, I think, some seventy or eighty; and so after midsummer 1841 the doors were closed, and I went to a small school which Dr. Booth opened in his house near the top of St. Michael's Hill. Here I learned a good deal in a rather irregular fashion. Dr. Booth was not, I think, very certain in his times and seasons, but he was to me a somewhat inspiriting teacher. Above all I recollect one Saturday morning, when we ought I believe to have been having a history lesson; we got on to the subject of Bishop Berkeley's philosophy, and the Doctor allowed the whole class to open upon him like a pack of hounds, in support of the existence of matter, and we continued the fight until the school hour was over. I believe that I had been one of the foremost in the attack, but I was vastly impressed with the strength of Berkeley's position, and when after school Dr. Booth offered to lend me a copy of Berkeley's *Human Vision,* I greedily accepted the offer, and greedily studied the volume; and matter has never been the same to me since as it was before. Another gain that I derived from my year with Dr. Booth was this—that Walter Bagehot,[1] with whom I had been at school at the Bristol College, but whom I had scarcely known there (he was some two years my senior), was residing with Dr. Booth and reading with him for the London University matriculation; and I was permitted to join in much of his work. In this way we read together with the Doctor the second book of Herodotus, which made an indelible impression on my mind, and we wrote some essays on subjects of Greek history. Especially I recollect that we wrote essays on the character of Dionysius of Syracuse, and considered Mitford's defence of his government. Bagehot had as a boy something of the sparkle and genius which he afterwards displayed in his writings, and this intercourse with him was very important to me in its immediate and its more distant results.

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[1] James Booth, 1806-1878; mathematician; Principal of Bristol College, 1840-1843: Vice-Principal of Liverpool Collegiate Institution; F.R.S., F.R.A.S.; published works on mathematics and education. See *D. N. B.*, s. n.

[2] William Benjamin Carpenter, 1813-1885; naturalist. Studied medicine in London and Edinburgh; lectured at Bristol Medical School; published papers on Physiology; Professor of Forensic Medicine, University College, London; an unwearied investigator in zoology, &c. See *D. N. B.*, s. n.

At the end of 1842 Dr. Booth left Bristol and went, I think, to the Collegiate Institution at Liverpool; and my schooling came to an end. If he had continued I believe that I should have gone on with him, but my parents did not think it needful that I should be placed in some fresh school, and I thus at the age of fifteen came to the end of my school instructions, though not, I hope, of my education.

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[1] Walter Bagehot, 1826–1877, economist and journalist; called to the Bar, entered his father's shipowning and banking business: editor of *The Economist*; published *The English Constitution, Physics and Politics, Literary Studies.* See *D. N. B.*, s. n. Some of his correspondence with Edward Fry will be found in his *Life* published by Longmans and Co.

From the beginning of 1843 to the autumn of 1848 I lived at home, acquiring some knowledge of business. For more than a year I was with a firm of accountants (Robert Fletcher & Co.) as a learner of their art ; and here I wrote out accounts of rents, and outgoings of landed property, and accounts of deceased people's property, and that kind of thing. Then after some interval I was put as a junior clerk with a firm (Beloe & Co.) of sugar-brokers and commission merchants, who also acted as ship-brokers. At the time I went to this office my father's firm was rather largely engaged in the sugar trade with Trinidad, and I expect that my father had some notion of an opening for me in that direction, but the correspondents in the island failed and nothing came of it for me. Whilst with the firm I saw something of the actual working of a merchant's business, the unloading of cargoes, the payment of customs, the making out of accounts and sales, the settlement of ship's expenses, and the payment of the crews. On several occasions I went down to a ship with bags of coin and the account of the sailors' wages—took my seat in the cabin, and paid the men off.

At neither of the places of business where I was were the hours long, except I think occasionally at the latter place, and I often got away between four and five in the afternoon—a matter of great moment to my mode of life, as it gave me many hours for myself and my own pursuits. Furthermore, there were intervals of some months each, I think, between my different steps in my business career and before my final settling down to a profession, and these gave me times of leisure.

I had thus been drifting about for some years with no very certain prospects before me ; but I had not been entirely idle as to thinking over the matter of what I should do in life.

My experience of commercial life had not made me like it : the people I came across did not interest me much, with one or two partial exceptions, and I shrank from the notion of a life devoted to trade ; but yet I could not see my way plainly to any other pursuit.'

In spite of this uncertainty, often numbing to any real effort or study, Fry's days were full of strenuous work. The following extracts show what possibilities were open to an eager student eighty years ago:

'In the interval between my leaving school at the end of 1842 and my going to London in October 1848 I did a great deal of reading and writing; but the work which I thus did was to a large extent not well done. Through many of the books which I read I must have raced: I was, even in the reading of literature, almost entirely occupied with the substance, and regardless of the form; and I spread my studies over too wide a range to do anything very thoroughly. At the same time, I must admit that of a great many of the books which I read I made abstracts and notes or extracts, and that I kept a sort of commonplace book or ledger of subjects and the places where they were discussed. I read a good deal of the classics, especially Greek—Aeschylus I read through, except the Fragments; some of Sophocles, and Euripides. I read some Herodotus, and I think all Thucydides; and in Latin I read a good deal of Cicero and Seneca. I suspect that no part of my reading was worse done than my classical. Then I read a good deal of history and general literature—my reading in science I will subsequently mention. The reading of Arnold's *Life* soon after it appeared produced a profound impression on my mind. I delighted in the earnestness of his character, and my admiration for his moral nature led me far towards accepting his conclusions on the relation of Church and State. For many years I should have professed that his identification of the two things appeared to me to be the ideal, though I was fain to admit that in the present state of the world it is an unattainable ideal.

From his *Life* I went on to read his history and his lectures, and they, together with his sermons, have always remained favourites with me.

Another and even greater favourite of this period of my life was Coleridge: first the *Ancient Mariner* fascinated me as if I had been a wedding guest; then the rest of his poems, and then *The Friend* and his other prose works. These, with

Plato's *Phaedo,* with Locke and Berkeley, went to help the structure of my mind in my earlier days.

In history I read a good deal of varied countries and times: but for some reason I cannot now recall I got specially interested in the subject of Election as applied to monarchy, and in the year 1846 I wrote a "Treatise of the Elective Monarchies of Europe". A good deal of physical power was expended in this work, especially on the chapter which dealt with France: for in order to seek the original sources on the subject I carried up from the City Library to Charlotte Street, volume by volume, many of the great folios of Père Bouquet's *Collection of the Documents of French History,* and I still recollect that the carrying of these weighty tomes demanded all my strength. This City Library was an old institution in Bristol which had its home in a very handsome old mansion near Queen's Square, and had somehow passed into the hands of a Library Society, of which my father was a member and for many years a committee man: and he used to allow me to have in succession any one book I liked from the library. It is difficult to estimate how much I gained from this library, thus in a sense laid open to me.

From a very early date I began what I may call for want of a simpler name my studies in Zoology: as early as 1838 I seem to have been in the habit of writing descriptions of animals; and in or about the year 1841 Dr. W. B. Carpenter delivered a course of lectures on Zoology at the Bristol Institution which I attended, and I have no doubt that it was as a result of these lectures that in the year 1841 I wrote a little book entitled *Classification of the Mammalia*: an early indication of that need which I still often feel, of getting some classification of the subjects of my study. Thus from a very early date I followed Zoology in some imperfect way until I went to London in 1848, when I almost perforce abandoned the study; but it may be some evidence that I had not quite studied in vain, that in 1849, a year after I had been in London, at the London University Matriculation I obtained the prize in Zoology, and that over such a competitor as Flower, who afterwards presided over the Natural History Museum at South Kensington.

For many years my brother Albert and I were engaged in forming an osteological collection: we got specimens from our friends in the country, and, what was still more important, we got specimens from the Zoological Gardens in Clifton. These gardens were an almost daily place of resort for us, and, especially during the life of the Agile Gibbon, we were constant visitors. The better dead bodies went to the Bristol Museum, but those which were not wanted there fell to a keeper, from whom we used to buy the precious remains—by a considerable expenditure of our pocket-money. The specimens were then dissected in a room downstairs and their skeletons put together, after a process of maceration which was not always acceptable to the home authorities. I sometimes think that it must have been a trial of patience to our mother, who rather bore with, than rejoiced in, these pursuits.

On the 24th of February, 1846, the Zoological Society of London had read before them a paper which I had sent to their secretary (not without some fear and trembling) on the Osteology of the Hylobates agilis—the remarkable monkey which had lived in the Clifton Zoological Gardens, and had been a great source of interest to me both in its life and in its death. The paper was accompanied by a large drawing of the skeleton. The reception of my paper was, of course, very gratifying to me, and I was still more pleased when I found that it had been published in the *Proceedings* and not in the *Transactions* of the Society only by reason of a prior published paper on a kindred species.

Later in the same year 1846 (September) I communicated to the Society another paper "On the relations of the Edentata to the Reptiles, especially of the Armadilloes to the Tortoises", and this also was published by the Society. More than once, many years after, Professor Flower has talked to me of this paper and spoken of it with high appreciation; but then he was kindly in his judgements.

Meanwhile I worked at books also: Cuvier's *Lectures* on *Comparative Anatomy*, but still more his great work *Les Ossements fossils,* occupied me and produced in my mind a great reverence for the illustrious Frenchman. I felt that it was a very great book, and dealt with the subject in a most masterly manner. Each group of fossil bones was approached by a preliminary study of the existing congeners of the extinct species, and in that way Cuvier always seemed to me to have anticipated the system of Lyell in geology—I mean the explanation of the past by a study of the present. I feel still as though I had learned much in my mental habits from Cuvier. I studied too to some extent Cuvier's great rival Geoffroi St.-Hilaire, especially his paper *Sur les Déformations du Crâne*, with a view to see how monstrosities throw light on the morphology of the vertebrate skeleton.

Before I abandoned zoology, Owen had adopted more or less completely the doctrine of Oken that the skull of all vertebrate animals is a modified group of vertebrae, corresponding in number with the contained nervous centres; and I entered zealously into this line of thought, and into the morphological doctrines of which this was one. In this pursuit I applied myself specially to the osteology of the skull and the structure of the brain. We put up several skulls in a manner to show each constituent bone: I spent what was for me a large sum of money in procuring from London a similarly mounted skull of a cod—I dissected fishes' brains to a considerable extent (chiefly before breakfast, at the house of Mr. Coe, a surgeon living near us), and got possession of a human brain. All this subject of homology has undergone since these days a great discussion: Darwin has taught us that general homology is the result of descent, and the embryologists have shown strong reasons for disbelieving the doctrine of the serial homology of the skull with the vertebrae. But all that was in the future, and the doctrine as taught by Owen deeply interested me. The notion to which I clung, as I stated it to myself, was of the kind that each given specific form is the resultant of two forces—the archetypal idea and the final cause or the adaptation to the environment.

The publication in 1847 by the Ray Society of a translation of Oken's *Physiophilosophie* and the writings of Owen on the doctrine of homology had awakened a great interest in my mind in the so-called transcendental anatomy, of which the doctrine of the vertebrate character of the skull was a prominent feature. The history of the doctrine was curious. In 1806 Oken, walking somewhere in the Hartz forest, found a more or less distintegrated skull of an animal, I think of a deer, and it flashed on his mind that it was a series of modified vertebrae. In 1807 he published this teaching to the world, and in 1808 Dumeril, ignorant I believe of Oken's work, read to the French Institute a paper, in which, amongst other matters, he discussed "de la tête considérée comme une vertèbre". But the gibe whispered round the benches, that man was but "une vertèbre pensante", effectually suppressed the suggestion. It was killed by a joke. I worked hard at the theory, and in 1848 wrote a paper on the subject, and I gave a discourse upon it to the little society at the Bristol Institution. Even now I cannot look back without a certain interest upon the way in which I strove to account to myself for the unity in form which runs through organisms.

This paper on the morphology of the vertebrate skeleton was to be my last of the kind, and it was perhaps with a forecast of the change which was to come over my studies, that I adopted as my motto for it the passage from the *Phaedo* in which Socrates describes his early studies in natural history—destined to be exchanged for his social and philosophic work: "For I being a young man fell marvellously in love with that kind of knowledge which they call natural history: for it seemed to me a glorious thing to know the causes of each thing, through what it comes into being and through what it is destroyed and through what it exists."

There were three things which gave a kindly impetus to our bone studies. The one was this: early in 1843 Dr. Gawen Ball,[1] who must have heard of what we were doing, told us, i. e. Albert, Lewis, and me, that if we would come to him at St. James's Square he would give us a human skeleton, which he had had when a student at Edinburgh. It is needless to say with what zeal we trooped down to his rendezvous, and how joyously we brought back on a cab the box and the skeleton it contained. He took us up into a loft over a disused stable at the end of the garden at the back of a house, and there showed to us and gave to us the precious treasure. We had it properly suspended over a stand, surrounded by a removable curtain, and kept it downstairs in the room in which we worked. Dr. Ball at the same time gave us his copy of Cheselden's *Plates of the Human Bones,* which I still possess.

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[1] This friend was an elderly M.D. living with Sarah Allen Fry, the writer's aunt, in St. James's Square, Bristol, a quaint unconventional arrangement which sprang from their common relation to Richard Reynolds, the philanthropist, who had lived in this house with his two younger relatives, and they saw no reason to keep house apart after his death. Dr. Ball was a charming old man, and a great friend and benefactor of the Fry brothers.

Another favouring circumstance to which I refer was the early opportunities I had of seeing fossil bones. In June 1838, whilst we were staying at Weston-super-Mare, we went an expedition with our parents and our governess, Caroline Heath, to the bone caves at Banwell, and saw the collection of bones belonging to a quaint old man named Beard—a collection which is now, in whole or in part, in the museum at Taunton. This visit left a lively impression on my mind, and its effect was seconded by the discovery some few years later of a cleft or cavern in one of the limestone quarries on Durdham Down containing bones of many of the animals found in the Mendip caves. The best specimens from this quarry were rightly secured by the Bristol Museum, but there were crumbs left, some of which fell into our hands in the course of our visits to the cave and interviews with the quarrymen. These I carefully studied by the aid of Cuvier's *Ossements fossils,* and they were then arranged in one or two drawers of our anatomical cabinet, which still remains on deposit in the Bristol Museum.

During this pre-collegiate period of my life I had several friendships, which I cannot entirely omit from my narrative of my life. Of the men interested in natural science at that time in Bristol I came to know several, partly through my acting as local secretary for the Ray Society, and more in connexion with a small scientific society which used to meet once a fortnight or so through the winter at the Philosophical Institution, and to which I was admitted, notwithstanding my youth, and where I read several papers. William Sanders,[1] the geologist, who spent twenty years or more in mapping out the strata of this part of England—a work which formed the basis of the Ordnance Geological Map—was a most excellent simple-minded man, very thoughtful and industrious, giving all his time to these pursuits, and was always very kind to me. Coe was a young surgeon who was in practice in Park Street, and with him I did a good deal of dissecting, generally before breakfast, and especially in reference to the nervous system. A man of far greater talent than any of these was Dr. William Budd,[1] who was a neighbour of ours, living in Park Street in those days: he was a man of ability and considerable peculiarities of manner. He became well known by his writings on Cholera, and helped in a marked degree to lay the foundations of the zymotic theory of disease. He had a somewhat of genius about him: he gave me sometimes to understand that—to use a common phrase—he believed in me, and this, coupled with the enthusiasm with which he often talked, was very stimulating to me. When I first made his acquaintance he was much excited at the results of Dr. Marshall Hall's investigations into the reflex action of the nervous centres and with the effects of strychnine on the nervous system. "Think", he said, "of a drug doing all that upon the mind. Edward Fry, we are on the verge of discovering the connexion between mind and body." With such a stimulus it was no wonder that I took a good deal to work on the brain and cord. He was kind to me, and once or twice came to see some of my dissections. Once in the case of a small crocodile I thought I had discovered a nexus of arteries under the armpits and was prepared to find in it a point of likeness to the sloths. Dr. Budd looked at my demonstrations and burst into a loud laugh as he told me I had mistaken nerve for arteries.

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[1] William Sanders, 1799-1875, geologist; corn-merchant in Bristol; F.G.S., F.R.S.; made careful survey of geology of Bristol district. See *D. N. B.*, s. n.

In 1847 the Ray Society, of which I was local secretary, published a translation of Oken's *Physiophilosophie*, a strange half-mad book by a half-genius. It made a stir, of which the following note from Dr. Budd, dated 17th September, 1847, may survive as an echo:

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[1] William Budd, 1811–1880; physician; studied medicine at London, Edinburgh, Paris, practised in Bristol; made important researches into the conditions of zymotic diseases. See *D. N. B.*, s. n.

"Will you be good enough to accept my resignation as Member of the Ray Society? This last volume by Oken is too great a joke, I think, to palm off upon us Englishmen. 'The Eternal is the Zero of Mathematics' may be very intelligible to the German mind, but to me it seems very sad stuff indeed...."

Another man who befriended me was of a very different type and of very different pursuits. John Pearce was the librarian of the City Library to which I have referred. He was, I believe, a devout Churchman who had written in praise of Cathedral services: he was certainly the editor of some of Sir Thomas Browne's works, and had been a friend of Wordsworth and seen him from time to time, as one may learn from the life and letters of the poet edited by Bp. Christopher Wordsworth. He sat in the great oaken chamber of the library, filled with books, immediately under the splendid Gibbons mantlepiece which was the glory of the old mansion: he was somewhat strict in his requirements, and at first inspired me with awe: he never raised his voice above a whisper, more, it seemed, from a sense of reverence for the great dead whose works were around him than for fear of disturbing the living. Gradually he relaxed towards me—would talk to me about poetry—assured me, I recollect, that Keble was less original than I thought him; and above all would talk to me of his friend Wordsworth, describing, I recollect, the heartiness of his laughter.'

Even business and study did not entirely engross Edward Fry's time. He had interest in public affairs as well. 'I do not know whether you are much of a free trader or not,' writes Walter Bagehot to him in 1846; 'I am enthusiastic about it, and am a worshipper of Richard Cobden.' And he replies:

'I am decidedly a Free Trader, although I have never and do not now anticipate such results from the abolition of the Corn Laws as some have done: I fear that social evils will still exist to a great extent in this country: nor is my radicalism so great as I believe that of most or many of the leading Free Traders is. This is, however, properly an accident to the theory, which I believe sound in practice as well as principle.'

These are weighty and well-weighed words for a youth of eighteen, and in the same serious and careful tone he had written not long before to a Bristol paper on the subject of education. The letter was signed 'Nestor', and its language and spirit are worthy of the assumed name. It was written at a time when the first serious efforts were taken by Government to care for the education of the working classes. Previous to this time the matter had been left to voluntary effort, and the interference of Government was viewed with extreme jealousy by many people, more especially by Liberals and Dissenters. In the consideration of this matter, as in every question to the end of his life, Edward Fry took his own line and considered it on its merits: the ties of party and sect were green withes to his independent judgement. In this letter he urged that the Church of England, which had now ceased to look coldly on popular instruction, should concede something to the scruples of Dissenters, and that the latter should support a Government scheme: he urged too that a Government which provided bread for the pauper was under a still stronger obligation to provide instruction for the helpless child.

These full days of business and study were broken by occasional outings, chiefly in the west of England, to Salisbury, the landslip near Lyme Regis, &c., and on one occasion he went as far as Darlington, returning by sea from Hull to London, and so getting his first sight of London from the Thames. He remembered travelling by rail in days when third-class carriages had neither seats nor coverings, but resembled the open cattle-trucks of to-day.

'But a much more important journey was that which I took in the summer of 1848 to Belgium, Germany, and Switzerland, in company with my older brother Joseph—a journey which, being our first foreign expedition, involved a much greater amount of preparation and inquiry than is common nowadays on such a summer jaunt. This first visit to the Continent was naturally to me a time of the greatest interest and delight. I had never before seen real mountains, and I have never forgotten the first view of Mt. Blanc. I had read some Swiss history, Planta I think, and I had given some attention to the discussion which had been going on as to the movement of the glaciers, and so I was in some degree prepared for the journey. We did a great deal of the mountain work on foot, carrying our knapsacks. We visited Brussels, Cologne, the Rhine, Geneva, Chamonix, Martigny, and the St. Bernard, the Furca, Andermatt,

&c. Just fifty years later my brother accompanied us to Switzerland—I believe we had never travelled together in the interval.

The time of this visit to the Continent was one of the greatest interest in the political world: for Europe had just awaked with a violent start from the despotic rule imposed on her by Metternich and his fellows, after the downfall of Napoleon. In the early part of the year Paris had risen on Louis-Philippe, and he escaped in a fishing-boat to our shores: Berlin had followed suit: Vienna was in like case; and the whole of Germany had risen on its petty tyrants; and England was the envy of the other nations of Europe because the great Chartist demonstration, which was looked forward to as the beginning of the revolution here, had turned out a miserable fiasco. I had watched these events abroad with great interest and no little sympathy: and for that and many other reasons I was delighted to find myself free for a journey on the Continent.'

As a result of this journey Edward Fry published in the *London University Magazine* for May 1849 an article entitled 'Germany in 1848', describing the German Assembly at Frankfort, the sessions of which he attended more than once.

'When I considered the novelty of public business to the Germans, and how exciting are periods of great changes, and the revolutionary origin of this assembly, its comparative order seemed to me as highly creditable to the nation's moral character as the political eloquence which has sprung into being with freedom is to their intellectual vigour and activity.'

Reviewing his youth from the vantage-ground of age, my Father wrote:

'If in retrospect I ask myself whether the first twenty-one years of my life were happy years, I find the reply must be that, like so much of life, they were woven of the web and woof of joy and sorrow. I had many blessings to be thankful for, loving parents and brothers and sisters and aunts, an adequate supply of my bodily needs, and many sources of intellectual pleasure. I still retain a very vivid remembrance of the intense interest of life as it opened upon me—the thirst for knowledge, the intense joy when the thirst could be to some extent satisfied, the vast problems of nature and of self, the first impact of great thoughts and the thrill—sometimes amounting to physical feeling—when something that was sublime in nature or in morals or in human life took possession of my mind. In youth these things came home to me—as they have done to so many thousands—with all the sharpness of novelty, and I almost fancied that to no one had they ever come home as they came home to me. But at one time the terrible verses of the New Testament as to blasphemy filled me with horror lest I should have fallen under an everlasting curse: doubts and difficulties about God and the other world: aspirations often vague and purposeless, that were perforce unsatisfied: fears for the future—of things both spiritual and bodily: the mystery of the world: a sense that ordinary life was full of triviality: a repulsion from the character and habits of many people: regrets for things said and done amiss, and especially for the outbursts of a temper which was always somewhat masterful—all these and manifold other things often gave me sad and painful hours. Youth, even more than childhood or manhood, is a time of internal struggle; and I often thought that in no human being had the two contending elements of our nature—the baser and the better—ever existed in stronger antithesis, or ever fought more fiercely for the victory. The two laws of St. Paul seemed indeed in perpetual conflict within me. It would be neither possible nor useful to recall all the sorrows and perplexities which often made life seem dark and sad. The time of youth is full of the working of the crude elements of our nature: "the thoughts of youth are long, long thoughts." '

Before leaving Edward Fry's early home a few words must be said of its other inmates. His father and mother were related as second cousins, a degree of consanguinity which completely justified itself in their large and vigorous family. Of ten children two died as infants, one is still living at 88½ years, and the remaining seven all attained the age of 70; two lived into the late 80's,—one, the subject of this memoir, to 90, their average age being over 80 years. Of the brothers, Joseph Storrs, Edward, Albert, Lewis, and David, each made his mark in his own line.[1] The eldest, Joseph Storrs, combined the characters of a successful man of business and a leading member of the Society of Friends. As a young man

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[1] The Rt. Honourable Lewis Fry, of Goldney House, Clifton, Bristol,

> 'he was introduced to the family business of cocoa and chocolate. . . . When he joined it as a partner in 1855 it was a comparatively small affair. At the time of his death it gave employment to over 5,000 workpeople, and there can be no doubt that the growth of the concern, the welfare of the workpeople, and the influence which he exerted as a leading partner in a great business, were sources of continued and keen interest and pleasure to him throughout life. Indeed, the interest, almost affection, which he seemed to feel for the concern was a source of something like surprise to his friends. He regarded the business not only as a source of profit but as entailing a great responsibility, which throughout his life he earnestly and successfully strove to discharge. He took a deep and personal interest in many of the employees, and won their affection by his simple and sincere interest in their welfare. He frequently visited them in sickness; innumerable acts of kindness tended to knit them together, and at the end probably nearly every workman and workwoman felt his death as a personal loss.'

His great personal interest in the philanthropic institutions of Bristol, and his large donations as well as his position as a great employer of labour, made him a well-known man in his native city, and the extreme simplicity of his life, contrasted with the great riches that his success in business had brought him, gave a certain piquancy to the affection with which his fellow townsmen regarded him.

now the only surviving child of Joseph and Mary Ann Fry, represented Bristol North in Parliament for nearly twenty years, and on his retirement in 1900 was sworn of the Privy Council. The sisters were Susan Ann, wife of Thomas Pease, of Cote Bank, Westbury-on-Trym; Sarah Allen, who never married; and Henrietta Jane, wife of William Whitwell, of Stockton.

CHAPTER III

LIFE IN LONDON TILL MARRIAGE

1848—1859

'From what I have said it will be seen that for several years I was in a state of suspense as to what I should do in life. I disliked the drudgery of business, and was naturally attracted towards the medical profession by my studies in anatomy. On the last day of 1844 I tried to help myself in the decision by preparing a paper stating the reasons for and against my adoption of this profession—a way of trying to settle the question which I believe I had adopted on the precedent of some of Elizabeth's ministers with regard to State difficulties. The paper set forth five reasons for, and eight against, the profession—the first for is "It is a profession tending to the benefit of man's estate and the lessening of his miseries"; the first against is "Physicians should have good manners and a good address—neither of which I have". I doubt whether this elaborate weighing of arguments helped me much, and the matter drifted down the stream of life.'

Four years later the question was more acute, and he notes in his journal:

'20 : 4 : 1848. In looking on the future, it is no wonder I dread a life of business (that is, as conventionally used, Trade); but both the history of literary men and the consideration of the proper nature of things have made me regard all attempts to live by literature as likely to bind down one's spirit by the fetters of an immediate utilitarianism, to break in by the calls of necessity on those prolonged meditations by which alone anything really great can be written; and to induce one to write what will sell, a necessity in the present state of literature and morals most melancholy. Hence simple and inexpensive habits, persevering study, attention to business, and above all things prayer, seem to me the paths that are open to me in life.'

He used to say in later life that he would rather break stones than be a hack writer—and this in spite of the fact that actual writing was always congenial to him, and was, in fact, one of his recreations. His hands were not well trained, but he wrote easily and his penmanship was good ; he was critical of scripts, and used to say that if his handwriting resembled some that he saw he would be unable to use it, so greatly did they offend his taste. But as for breaking stones, the expression was not a strong one in his mouth ; he fancied, I believe, that every old stone-breaker was as much interested in stones as he was, and shared his sense of something akin to awe in cracking open a stone, and thinking of the ages that had rolled since its constituent parts came together.

'The decision came about at last in a way and was of a kind which I had little anticipated. In the spring or early summer of 1848 John Hodgkin[1] had come to Bristol, on a religious visit to the meeting, I believe ; certain it is that one day on returning from a long walk in the country I found that he had unexpectedly arrived at our house and that he rather wished to see some of us—(I fancy that something must have been said about us by somebody with whom he had talked which made him feel some interest in us)—and I then for the first time made his acquaintance. He was very bright, and willing to enter upon talk on various matters, including the reading of the classics, and when he had acquiesced in the propriety of reading Sophocles or Aeschylus, I recollect that we tried, but in vain, to get an equal tolerance for Shakespeare. However, the visit was a very pleasant one and left me, at least, with more knowledge of the mind and character of the visitor than so short an interview usually does. After this I went abroad with my brother Joseph, and on my return again came up the question of my career. "Why not be a lawyer like John Hodgkin ?" said my mother. I had my scruples (possibly due to Dr. Arnold's views as to lawyers), but I thought it worth while to write to him—as I felt I might venture to do—and ask his help, which he most kindly gave me.

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[1] John Hodgkin, 1800-1875 ; barrister, and well-known Quaker minister ; advocated register of titles ; assisted in preparation of Encumbered Estates Act, 1849 ; visited Quakers in Ireland, France, and America. See *D.N.B.*, s. u.

In the end I made up my mind, with my parents' full consent, to assume the Bar as my profession, and to go to University College, London, for a year at least, to improve my general education. This last part of the plan was what really made me like the whole thing. For, for years, I had set longing eyes on a University education, and as Oxford and Cambridge were practically closed to me,[1] I gladly accepted the prospect of London. I took the law because it gave me a justification for asking for college; for indeed for the study of the law I entertained no predilection. I had some years before, at my father's suggestion, read through four volumes of Blackstone, which stood on his shelves; but they had attracted me less, I think, than most books. I had no acquaintance with lawyers, and felt no attraction for the career of an advocate—that of a judge never entered my dreams.

In October 1848 I left home, and took up my abode in a house on the Hampstead Road—No. 3, Ridgemount Place. I had the rooms on the second floor, with a pretty wide airy outlook; and here began my life as a solitary which lasted (of course, not without many breaks) for more than ten years. I had chosen this life, and I never repented that I had so done; but often and often I felt keenly its loneliness, and longed for the warmth and noise of the home circle in Charlotte Street. I was plunged into an entirely new circle: of students at University College I knew none at first; I was somewhat older than most of the entering students, and at first I felt very sad and lonely. Again, the first effect of the attendance at the classes was somewhat disheartening. The precision and exactitude of scholars like Malden and Newman, the Greek and Latin professors at the College, made me feel how crude and careless and unscholarly my readings at home had been, and produced a very discouraging feeling in my mind. But the shock was very beneficial, and I gradually got into work with great pleasure and interest, my studies being principally Greek, Latin, History, and Mathematics, with the various other subjects, including Logic, necessary for the Matriculation at the University of London: this I passed in, I think, July 1849, and took the prize in zoology, as I have elsewhere mentioned. The next year, 1849–50, I continued my classical studies, and went into the classes in Mental Philosophy and the History of Mental Philosophy under Professor Hoppus,[1] a man of considerable learning and sound sense rather than great brilliance, and under him I read with great interest and pleasure Kant's *Kritik der reinen Vernunft*—a book the impression of which has never abated in my mind. The following and last year at College, 1850–1, was marked especially by my reading Aristotle with Clough,[2] who had joined the College as Professor of English and was residing in a Hall—University College Hall, I think it was called—very near to the College in Gordon Square. Four of us (Hodgkin[3] being one) formed a small class and read the greater part of the *Nicomachaean Ethics* with him, and perhaps no class was ever more enjoyed by me or added more to my store of thought and to the cultivation of the habits of my mind. I used from time to time to breakfast with Clough and meet there some of his Oxford friends—some of the figures to be found under other names in the *Bothie of Tober-na-Vuolich*—such as George Osborne Morgan and Edward Poste, and it is needless to say that Clough, with all his strange reticences and hesitations (if I may so speak), was very interesting to me. We devoured his poems, and Bagehot would talk to me about him much as he afterwards wrote about him in one of his essays.

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[1] As a Nonconformist.

At the end of my first year of College I was first in the Senior Latin class, second in the same Greek, first in History, and third in the Experimental Class in Philosophy; and in my second year I was first in the Extra Greek class, first in the classes of Philosophy of the Mind and the History of Philosophy. These successes were not without their value to me, for they gave me hope and some assurance—of both of which, unless I greatly mistake myself, I have stood in a certain need through life.

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[1] John Hoppus, 1789–1875; first Professor of Philosophy and Logic, University College, London. See *D. N. B.*, s. n.

[2] Arthur Hugh Clough, 1819–1861; poet; Fellow of Oriel and Tutor; Principal of University Hall, London. See *D. N. B.*, s. n.

[3] Thomas Hodgkin, 1831–1913; later his brother-in-law; author of *Italy and her Invaders*, *Life of George Fox*, *Theodoric the Goth*, &c. See *Life of Thomas Hodgkin*, by Mrs. Creighton.

If I had had a greater confidence in my powers than I have possessed I should probably have done more in my life and been more happy. This I believe to be perfectly true, though I fancy there are those amongst my friends who would say that I am characterized by a considerable confidence in my own opinion, a quality not inconsistent with a want of confidence in my powers, and a certain rather despairing way of looking at the future.

In October or November 1851 I took the B.A. degree at the University of London, and then went in for honours in Classics and Animal Physiology. In Classics I was greatly disappointed to come out the last of the list of successful men, and for a time felt the failure keenly, but many of my friends were wiser than myself and assured me that I need not be downhearted. In Physiology I came out third out of six, which, considering that I had attended no class on the subject, and, except reading parts of one book, went in on my own knowledge, was pretty well.

Some of the professors under whom I studied at University College were men of real ability and mark—for genius I should single out Professor De Morgan[1] and Professor Newman. De Morgan was a very impressive person; a great domed forehead ruled over very decided and handsome features, and everything he did was marked by a sort of precision and distinction. He was very witty, and his exposition of the simple concepts of arithmetic and geometry were highly enlightening. His works, such as his *Formal Logic*, his *Paradoxes*, and his books on Mathematics, attained very considerable reputation, and I know of few books which contained brighter reading than some parts of his *Formal Logic*. A pleasant memoir of him by his wife is to be found on my shelves. He was certainly one of the most brilliant intellects that I have come across.

In a different way Francis William Newman,[2] our Latin

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[1] Augustus De Morgan, 1806–1871; mathematician; fourth Wrangler, 1827; Professor of Mathematics, University College, London; resigned his professorship, regarding the refusal of the Council of University College to elect James Martineau to the Chair of Mental Philosophy and Logic as a piece of religious intolerance: author of *Essay on Probabilities*, *Budget of Paradoxes*. See *D. N. B.*, s. n.

[2] Francis William Newman, 1805–1897; scholar and man of letters;

Professor, was also, I think I must say, a man of genius. After an Oxford course of exceptional brilliance, he had gone out to the East as a missionary and had returned: had renounced Christianity, and had adopted a devout Theism. He had, I think, always a tendency to adopt unpopular views because they were such, and I remember that in his elucidations of the period of the early Roman Emperors he was inclined to defend those who were usually condemned by the voice of history. But his lectures were very arousing, and his views on the connexion of Latin and the Celtic languages were then, I think, less common than they are now. He was not very popular, and was perhaps somewhat irritable. Mr. Jowett, I think, said of Francis Newman that his book on *The Soul* contained more religion than the writings of his Cardinal brother, and I entirely agree with that impression. It is a most spiritual book, and contains passages of great and lofty beauty—far nobler than anything which I have ever found in the sermons or writings of the Cardinal, which have, I think, been greatly over-estimated by some of my friends, such as Hutton and Lord Coleridge.[1]

Professor Malden[2] was a most refined man and delicate scholar, of a placid and very attractive manner, and he was much admired and loved by his students. He seemed rather exclusively the scholar—would dwell at great length and with great elaboration on points of grammar and derivation, and illustrated rather the writings than the thoughts of his author. His lectures on the sixth book of Thucydides and the siege of Syracuse were all one could desire; but when we read the *Phaedo* with him in the Extra Session Greek class I felt rather painfully

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took keen interest in political questions bearing on social problems. See *D. N. B.*, s. n.

[1] But some of J. H. Newman's verses were much loved by my Father, and many a summer day did he quote:

'The freshness of May and the sweetness of June
And the fire of July in its passionate noon,
Munificent August, September serene
Are together no match for our glorious Queen.'

From *Verses on Various Occasions*. (Burns and Oates.)

[2] Henry Malden, 1800–75; Professor of Greek at University College, London; Joint Head Master of University College School. See *D. N. B.* s. n.

that he could deal with μέν and δέ, when Plato was dealing with the Immortality of the Soul.

My years at University College were, I rejoice to say, fertile in friendships. On coming to London I renewed my acquaintance with Bagehot, and in the autumn of 1849 moved to 6 Great Coram Street, where he then, and for some time afterwards, also lodged, and in that way we were thrown together—he reading in chambers for the Bar whilst I was at College. I retained my rooms in his house until, in the year 1854, I went to reside in Lincoln's Inn. Bagehot was very epigrammatic and witty, and had in conversation much of the brilliance which his writings often display. He was fond of studying the character of men, as his biographical writings show, and he often talked to me of some of our common acquaintance, and some people whom he knew and I did not. He used to like to talk of the career of Henry Crabb Robinson, who then lived in Russell Square—the friend of Southey and Wordsworth—and how he succeeded at the Bar by the force of his chin, and Bagehot used to say that he hoped he should do the same by staring at the jury with his own big eyes.

Steere was an acquisition of these years: he had left College before I came thither, and was destined for the Bar, to which he was called, but his tastes were essentially ecclesiastical, and I think he gave more time to theology than to law. We became close friends and read each other's essays, and he subsequently honoured some sermons of mine by preaching them from his pulpit in Lincolnshire; for after a while he left London, was ordained, lived first in Warwickshire, then in Devon, and then in Lincolnshire, and afterwards went out to Africa to become a missionary bishop there.[1]

Another friendship of the College days is one which has had a greater influence on my life than any other—that with Thomas Hodgkin. He had gone to College when young and was a good deal my junior, but we soon contracted a friendship which never ceased till his death. He used to come constantly to my rooms: for long spaces of time got his midday meal with me, and I often visited at his father's house at Tottenham, where I naturally made the acquaintance of his sisters. He retained into mature age much of the liveliness of youth.

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[1] For a fuller account by my Father of this friendship and of Bishop Steere's character see pp. 5–9, *Memoir of Edward Steere, D.D., LL.D.* (Published by Geo. Bell & Sons, 1890.)

It was also on my coming to London that I first made the acquaintance of Bevan Braithwaite. He was then, as he continued for many years, the principal figure as a minister in the Westminster Meeting of Friends: he was a bachelor barrister living in his chambers in New Square, Lincoln's Inn.

When I had taken my degree in 1851 I began to read the law in Bevan Braithwaite's chambers, he being a conveyancer with some practice, and there I remained for a year and a half. I found the work very uphill at first, and began to feel sure that I had mistaken my calling in life and that I could never make a lawyer. Such a feeling is very natural to a novice in the law under favourable circumstances, but mine were specially depressing in this, that Braithwaite was a very dry lawyer, who loved the intricacies of real property law, and even the ghost of dead questions, with a warm affection; and instead of giving me easy or important questions of Victorian law to consider at first, he tried to plunge me at once into Elizabethan law and its dead controversies. However, by a marvel, I survived, and gradually began to get hold of the work and to feel a little interest in it. But I do not think I began my legal studies in the best way. From Lincoln's Inn I transferred myself to the chambers of Edward Bullen, an eminent special pleader in Essex Court, Temple, and there I passed six months, finding the work more lively and more to my taste. The late Lord Peel was one of my fellow pupils there.

From the Temple I returned again to Lincoln's Inn, but this time to the chambers of Charles Hall (afterwards the Vice-Chancellor Sir Charles Hall), where for a year I worked away at the mysteries of Equity draughtsmanship, to fit me for practice at the Chancery Bar, where I had determined to try my fortune. It was whilst still reading in his chambers, on the 9th of June, 1854, that I was called to the Bar at Lincoln's Inn. I recollect returning to my rooms after it was over with much sinking of heart: I had spent years in preparation for this event: it had come, and I did not see the slightest reason why I should ever get any business. I did not know of any one whom I thought likely to befriend me as a barrister, and so things looked flat and unprofitable. But I went on; and in the summer of 1854 I took rooms at the top of No. 5 New Square of Lincoln's Inn where I could live, got them cleaned and papered, and, with the gift of old things from Charlotte Street, got them furnished. Here I painted up my name on a door which gave access to a whole rabbit warren of barristers' rooms. I stayed in them until the beginning of the Long Vacation, having held one brief, for which I had nothing to do, which came to me through my chief, Charles Hall.

Another circumstance which increased my anxiety in these years was the fact that when I was at home in the autumn of 1852 I learned that my father's pecuniary affairs were in a condition to cause us great trouble. The Union Street business had fallen somewhat low, and had at least for one year produced no profit; and my father and one of my uncles had engaged in a coal-mining operation at Pucklechurch in Gloucestershire, and they had spent large sums of money in sinking and had not struck the coal. We had family councils on the subject, and I was willing to give up my prospects at the Bar and try to earn some money at once; but it was determined that it was best to make no sudden change in the family economy and that I should continue my studies. This decision proved wise: the business soon improved: after a time coal was found and the pits leased upon, I believe, good terms; and my father and mother passed their old age without increasing care for this world's goods.

The vacation of 1854 was made delightful by a Continental tour, for which I was indebted to the generosity of my uncle Richard. The tour was a great success, and was, I believe, heartily enjoyed by every member of the party: for myself it was most delightful, and I for the first time felt the indescribable spell of Italy—that spell which once felt makes Italy different for ever afterwards from all other lands. My eyes had long turned longingly towards Italy and now I had seen it. Not Rome, nor Naples, but Venice and Florence: and Italy visited was more to me than Italy unvisited ever had been or could be. In those days Austria held the whole of Lombardy and Venetia, and the Grand Duke reigned at Florence; and we saw the market-place of Verona crowded with Austrian soldiers, and the Austrian officers drinking their coffee or their wine on one side of the Piazza di San Marco whilst the Italians kept to the other side. Men spoke of the old days as "nel tempo della Libertà".

I hastened from Paris to London to be in time for the opening of the Courts. I crossed alone—in a thick fog, and found London very dismal; and as for business I might safely have been in Paris or in Rome. But now there was nothing for it but waiting, and so I sat day by day in my rooms, seeing the current of briefs flow in the Square below me, and sometimes surge to my nearer neighbours; but I stood high and dry above it all. I waited thus more or less for years, for business came very slowly, and when by some good fortune a piece of work reached me, and I thought the stream was beginning to flow, it would dry up again, and weeks, and perhaps months, go by without anything fresh. Sometimes I did a little devilling for my old master Vice-Chancellor Hall, and sometimes for a neighbouring barrister; one piece of conveyancing for the family came to me—one brief before a Parliamentary Committee, and so forth. The thing which really gave me a start was that Alfred Waterhouse[1] contracted to buy an estate, somewhere I think in Sussex, and requested his solicitor to send the papers to me to advise on the title: I took an objection to the title. The Solicitor-General, Sir Hugh Cairns, was consulted on the matter, and I met him in consultation. He thought the objection not good, yet sufficiently open to doubt to advise that the title should not be accepted unless the Court held it good. Accordingly the vendors sued Mr. Waterhouse to make him take the title: he refused: the case came on in Court, and I appeared in it and we won, the Court agreeing with me that the title was not such as a purchaser could be required to take. From that time to the end of my career at the Bar the solicitor who had instructed me in that matter, or his successors, remained steady clients of mine.

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[1] Father of Alfred Waterhouse, R.A., who later was connected with Edward Fry by marriage.

These years of waiting for business were solitary ones: I had no longer the society of fellow students in the class-room or the pupil-room: there were not many houses in London whose doors were open to me: Hodgkin and Steere had both left, not only Lincoln's Inn but London. Bagehot had gone away too, and I often longed for more society and love. Now, of course, I stayed up in London till the Long Vacation began in August, and I yearned to spend longer days in the country, though for rooms in the heart of London I was not badly off. My rooms were in the middle of the south end of New Square, and I looked over the gardens and the Hall, and in fine weather could, I think, see the higher ground to the north of London, and certainly sometimes smell the hay.

But these years were not entirely idle: I worked at a series of *Essays on the Accordance of Christianity with the Nature of Men,* which I published under that title in 1857 through Messrs. Constable of Edinburgh. They were the result of a good many years of thought on such subjects, and were my first book. They did not set the Thames on fire, but some very favourable notices of them appeared, and I was much gratified by hearing through one of his daughters that the Chevalier Bunsen much approved of them, and said that he had not thought that there was any one in England who would write such a book—so German a book I suppose he meant. I first submitted the manuscript to Macmillans. They returned it with complimentary observations, but said, "Your book could not meet with many readers. Its very merits of calmness and fairness might be against it"; and they were no doubt right.

The argument of these essays has from very early manhood abided with me as the strongest evidence of Christianity, far stronger than any outward evidence of historic accuracy or any tradition of the Church. I then felt, and still feel, that the doctrines of Christianity are in a marvellous way adapted to the structure and nature of the human mind, adapted, that is, not in such a way as to pander to our lower natures, but to fortify and elevate our better part. This is one of the lines of thought and belief which was early drawn in my mind, and which has continuously influenced me down to the present hour.[1]

It was in these early years after my call that I also wrote my book on the *Specific Performance of Contracts*, which appeared in the year 1858. Though it had no immediate effect on my professional success it has, I doubt not, conduced to promote it, if by nothing else, at least by compelling me to a systematic study of one branch of the law. It has gone through five editions, and at least one or two American writers have paid me the compliment of embodying my work in theirs, including my mistakes, without any other than the acknowledgement of an occasional reference to my book.'

This work rapidly became a legal classic, and 'if the subject of specific performance does not occupy much space in the reports of judicial decisions published during the last two years' (wrote a reviewer of a new edition of the work in 1892), 'we cannot help thinking that this is partly due to the excellent expositions of the law contained in the former editions of this standard work'. For the non-legal reader the quotation from Carlyle prefixed to the third edition may give some hint of its scope: 'Not what thou and I have promised to each other, but what the balance of our forces can make us perform to each other, that, in so sinful a world as ours, is the thing to be counted on'.[2] In the *Law Quarterly Review* (vol. v, p. 233) will be found a later contribution to the subject by the same writer, entitled 'Specific Performance and *Laesio fidei*', in which he suggested an ecclesiastical origin of this peculiar jurisdiction of the courts of Equity, and called attention to Pliny's account of the early Christians as throwing light on the judicature of the courts or disciplinary proceedings of the early Christian congregations.

In view of his subsequent success it may seem strange that the study and practice of the law was no predilection on my Father's part, but rather a *pis-aller*, and one against which he at first entertained serious scruples. That these scruples were not merely brushed aside as inconvenient, but faced and resolved to his permanent satisfaction, the following passage written after his retirement will show:

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[1] But in view of the immense change which has come over the whole religious outlook since the fifties, a reader of these essays—should there be any—is warned not to suppose that to the end of his life he held all the views just as expressed in this early production.

[2] Even this glimmering of its contents can hardly have been vouchsafed to the office boy whose master sent him to a neighbour to borrow *Fry on Specific Performance*. The boy returned empty-handed, having applied for 'Fly on the Pacific Ocean'.

'Looking back upon the decision which I made to adopt the law as my profession, I cannot regret it. It has been the means of bringing me into contact with many whom I reckon as dear friends; but quite apart from such personal results, I feel that the Bar is a fine profession. There is, considering the close competition which exists among its members, a great absence of jealousy; there is a kindly and often warm recognition of one another's merits; and the Bar and the Bench are between them engaged in one of the noblest of human callings—the promotion of justice and honesty amongst mankind.

The existence of law in social communities is a subject that I have often thought over, and never without a certain sense of the testimony which it bears to the inherent nobility of man. Whence comes it but from the existence of the conscience that the selfish emotions of the individual yield to the sense of justice? I know the kind of answer which is often made to observations of this kind, and I am not here about to enter upon the debate; but the sense that the law, as part of the machinery of social life, makes definitely for righteousness has abided with me all through my career at the Bar and on the Bench.

I know that to many good people the maintenance of so small a part of the law of righteousness as is compassed by the law of the State appears to be a poor and niggardly thing: they expatiate into wider fields of philanthropy, demand that every one shall sit on committees to advocate every species of reform, and shall engage in every kind and form of heated philanthropic work. It has often seemed to me that the army of those who work for righteousness is divided into two corps: those who strive to maintain and to protect the precious results of the past life of the race—the spoils of the ages; and those who skirmish in front and help to lead on to new victories; and I think that neither body should think lightly of the other, though too often in fact they are apt to despise one another. The functions of the law, of the Established Church, of Universities, are all, if they be rightly discharged, primarily of the conservative kind: it is for them to protect and to hand on the inheritance of the ages: it is their duty to improve and to add to this treasure if they can: but if they preserve it and no more, they yet do something. This primary duty of preserving and not losing what has been won imposes upon them an obligation to care and caution, lest they should by one false action imperil that of which they are the custodians, an obligation which exists in a much lesser degree on those who seek to make an advance, and who, if they fail in one direction, can yet try in another. The one are to guard the stuff, the others are free to skirmish.

One of the objections to the Bar which is most often urged is that it is the duty of the advocate to make the worse appear the better part: the objection is specious, and was one of those which originally made me hesitate in adopting the Bar as my profession; but looking back over many years of life in Court I hold firmly that though the objection does lie to certain forms of advocacy, it does not lie against advocacy as rightly pursued. The object of the Courts is the discovery of truth in the cases which come before it, truth in two matters: truth as regards the facts in question, truth as regards the law to be applied to those facts; and in this quest three persons at least are concerned—the advocate for the plaintiff or prosecutor, the advocate for the defendant, and the judge; and if each advocate sets before the judge the case which he represents so that the strength of that case can be best apprehended by the judge, if he scrupulously abstains from misstating or overstating a fact, he performs a most useful office in this search after truth; and that is all that the duty of the advocate requires of him.[1] If sometimes the ability of the counsel on the one side wins a case which has been lost by the stupidity of the counsel on the other side (an event which, I think, is not very common, though no doubt it does occur), this is only a result of the diversity of the human intelligence, and is not more a reason for putting a stop to the discussion in the Courts than to the discussion of political questions where the like result is, I believe, infinitely more common, or to a debate in a scientific meeting where the same result may well and no doubt does occur. When an advocate has adopted the rule never to state his opinions or belief on any matter in controversy in the Court, and as a judge has adopted the rule always to check any such expression on the part of counsel, a great step is gained towards honesty of discussion.

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[1] My Father remembered with gratification the following incident which occurred when he was practising in the court of Lord Justice James. The Lord Justice asked him whether a matter stood in one way, to which he replied affirmatively, and the Lord Justice resumed, 'Well, you never overstate your case'.

It is sometimes said that counsel ought never to accept a brief on what appears to him to be the wrong side ; but even the wrong side is entitled to be heard, and in cases which depend on evidence there is practically no means for judging which is the right side until the case has been heard. My own experience would show the danger of prejudgement. I have gone into Court believing my side to be wrong, and after the hearing I have come out sure that it was right.'[1]

It was in accordance with this high view of the English law court as a means of arriving at truth that in later years he used to wish that men of science could be induced to state and argue the matters in dispute between them with all due forms and production of evidence as in a court of law.

In addressing Law students at Liverpool a few months after his retirement from the Bench, Sir Edward Fry told them that

'they would find the profession a noble or a base one according to the spirit in which they exercised it; if they chose the path of virtue they must not repine if they did not reap the reward of iniquity. Now and then moral questions of some difficulty would arise in their practice, but with an honest desire to do right they would generally find a way to their solution. He appreciated the duty which every lawyer owed to his client. But he had never been able to accept it in the unqualified terms in which it had been stated by some great lawyers. This duty could never justify deceit or fraud. It could never set them free from the obligation which they owed to truth; it should never allow them to forget all that was bound up in the idea of an English gentleman. The law was good if a man used it lawfully. The law was good, that is, if in the exercise of it their conduct was good by the higher and inner law of conscience.'

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[1] I may compare Sir Matthew Hale's experience with Sir Edward Fry's : 'If he saw a cause was unjust he, for a great while, would not meddle further in it, but to give advice that it was so. If the parties after that would go on, they were to seek another counsellor, for he would assist none in acts of injustice. If he found the cause doubtful, or weak in point of law, he always advised his clients to agree their business. Yet afterwards he abated much of the scrupulosity he had about causes that appeared at first view unjust, upon this occasion : There were two causes brought to him, which by the ignorance of the party, or their attorney, were so ill-represented to him, that they seemed to be very bad ; but he inquiring more narrowly into them, found they were really very good and just ; so after this he slackened much of his former strictness of refusing to meddle in causes upon the ill-circumstances that appeared in them at first' See Burnet's *Life of Sir Matthew Hale*, Oxford, 1856, p. 73.

'It was in these days that I entirely shook off the external peculiarities of Quakerism. I had, of course, been brought up in them, and dressed with a Quaker coat, and used what was called by the members of our body the plain language. But to those of us who did not believe that they were really connected with religious life they became an increasingly grievous burden. They created a false and artificial morality, and when compliance with them was regarded—as in fact it was—as essential to holding any office in the body, it is evident that they were capable of doing great mischief. Under the influence of these views I and most of my brothers and younger Quaker friends gradually abandoned these external peculiarities, and in 1859 I published a letter to members of the Society of Friends on their peculiarities of dress and language under the title of *Nehushtan*—a title, of course, intended to suggest that an object, however remarkable or sacred its origin, ought to be destroyed if it become the object of idolatrous worship or regard, and that such was the case with these prized peculiarities. I think that my letter came out a little too late, for the change which has since almost entirely shaken from Quakerism the burthen of these, as I think, harmful things, had already set in, and many of the best even amongst the middle-aged Quakers were setting themselves free.'

This little pamphlet of thirty-two pages—limited as was its scope—was an admirable piece of work, written with a terseness and force, a power of irony and appeal, which would have given it weight in a larger controversy. In its small domain it was no unworthy successor of the great pamphlets of English literature and history.

It is difficult, even for the Friends of the present day, with whom the old usages sometimes survive as an endearing familiarity, to realize what a crippling bondage they were threatening to become at this time. Many members of Edward Fry's own family adhered to them, as did members of the family into which he was about to marry, and courage and clear moral insight were needed to expose the rot which their continued practice threatened to introduce to the yet sound timbers of the ancient fabric. Friends of to-day may well ask themselves what would have happened to their Society had the old shibboleths prevailed.

The pamphlet opens by asking what the facts of the case are.

> 'They are these: that in the matter of dress those who are considered consistent Quakers are distinguished from others, as regards the men, by the absence or otherwise of a collar to a dress-coat or waistcoat (for to overcoats and the like this peculiarity is now but rarely applied) and by the greater width of brim and less crown to the hat'—

and so forth—the details of Quaker usage in dress and language being set forth with a naked simplicity which showed them for the trivial things they were in themselves. The writer, however, confessed his inability to describe exactly what were the requirements of the orthodox Quakeress costume. It was not against these matters in themselves that he protested: it was against the spirit that made them a test of full membership in the Quaker body: he dwelt on the danger of this exclusiveness and the great danger of insincerity.

> 'Hypocrisy and Pharisaism do not start into life as such: pure lies do not walk abroad in their own right: but they lurk under the shadow of withered beliefs, and lie in the hollows of dead practices.'

Christians, he admitted, must be willing to be peculiar,

> 'but these peculiarities are living, growing; they spring from the inward love of the heart to Christ, they are not traditional, fixed, imposed from without.'

In spite of his many interests, and of his friends and visits home and elsewhere, the years of Edward Fry's life in London from October 1848 to April 1859 were solitary and lonely, and he felt this keenly. His spirits were never buoyant, and a life so solitary made greater demands on his spirits than he could easily meet, so that he suffered much at this time from sadness and depression, which finds frequent expression in his journal and the poems he wrote at the time to relieve his feelings. Though he could make lasting friendships with kindred minds, and enjoy discussion and argument, he had little interest in the common run of humanity, and a shyness which probably passed for pride must often have held him aloof. Even as a young man he can hardly have been hail-fellow-well-met ; and the austerity of his tastes and his aversion from anything that lessened the dignity of humanity must have kept him from the more boisterous gatherings of students. He was never buoyed up with the hope of success, for all his earlier life was haunted by fear of failure.

But these years of loneliness came to a most happy ending in April 1859, when he married Mariabella, elder daughter of John and Elizabeth Hodgkin, to whom he had been engaged for over two years. His wife was a grand-daughter of Luke Howard,[1] F.R.S., whose early meteorological records are still valued for their care and accuracy. His classification of clouds (as cumulus, nimbus, &c.) has become the basis for all later work, and won the admiration of Goethe, who corresponded with him and addressed to him congratulatory verses on his success in seizing and naming these intangible and indeterminate forms, and who introduced his classification into Germany, where Howard's name is consequently probably better known than in England.

Of Edward Fry's married life not many words need be said. 'I was only in love once,' he told an Irish lady who was probing for his experiences ; and he remembered with amusement her retort, 'How dull of ye!' But as that *once* lasted well over sixty years perhaps after all he did his share of being in love. Though there was nothing unusual in the incidents which led to his first knowing my Mother, he believed his marriage to be guided by Divine Providence, and he cherished this belief to the end of his life. 'A new source of happiness opened upon me for which I can never enough thank God,' he wrote in his autobiography, and when the nearly sixty years of married happiness—a happiness at times overshadowed by much anxiety in middle life about his wife's health—were closed by his death, a lady who for many years had been a next-door neighbour wrote to one of his daughters, 'I simply can't think of your mother apart from him; they always seemed to me like real lovers all their married days'.

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[1] Luke Howard, 1772–1861 ; pioneer in meteorology ; chemist in London in partnership with William Allen. See *D. N. B.*, s. n.

The marriage took place on a cloudless spring day in the little Friends' Meeting House at Lewes, near which John Hodgkin had gone to live, and after a short honeymoon in the south of England, he brought his wife

> 'home to our little house on the West Hill, Highgate, where my sister Sarah was waiting to welcome us. Then we settled into our quiet life in the little house which looked over Miss Burdett-Coutts's garden of Holly Lodge beyond to the roofs of London, and yet further still in clear weather, and especially on Sunday afternoons, to the hills of Surrey; a little garden, with a copper beech in one corner, sloped down from the house to the trees of our great neighbour, and was very dear to us in those early days. It was a little plot
>
> "Not wholly in the busy world nor quite
> Beyond it."
>
> And murmurs from the great city below us often stole up the hill and reminded us of how near we were to the great heart of things.'

From that day forward it was his good fortune, even when in London, never to live in a house without a garden.

CHAPTER IV

FROM MARRIAGE TILL APPOINTMENT TO THE BENCH

1859—1877

'From the time of my marriage in 1859 till my going on to the Bench in 1877 my life was a busy professional one: not, indeed, that at first my business was large, but it gradually increased, and I acquired a considerable business as a junior at the Chancery Bar. There were times when the pressure of work told heavily upon me, especially in the way of violent headaches and sleepless nights. But I bore up. I think I was able to do this partly by reason of having on the whole a good constitution, partly because I generally took good holidays in the Long Vacation, and partly because I never allowed the pressure of work or the temptations of society to invade my Sunday rest. I do not profess that I consider the Christian day of rest to be a matter of divine command, but I think it an institution of almost divine expediency.

My practice was not always in Courts: at one time I did a good deal of conveyancing and drafting, especially in relation to companies; and at one time I was a good deal engaged before Parliamentary Committees, when I made such rapid way that I was half inclined to turn to the Parliamentary Bar as an easier way of making an income. But I felt its great inferiority in character to the Equity Bar, and I stuck to my Lincoln's Inn practice as my sheet anchor.

In 1869, in consequence of an application made some months before, I, in common with several other members of the Bar, received from the Lord Chancellor, Lord Hatherley, a patent as one of H.M. Counsel, and thenceforth wrote myself Q.C.

In the Chancery Court the practice prevailed with nearly all the silk gowns of choosing a particular Court of the first instance from which they did not wander into other like Courts, except when lured away by a special fee. The object of this arrangement was to give the suitor the highest available security that the counsel who was briefed would appear in the case. It had some disadvantages, but, in my opinion, none to countervail this great advantage. Following this custom I took my seat in the Court of the Vice-Chancellor James, a strong and excellent Judge, and so put myself into competition with the Bar already settled there, which comprised Amphlett and Kay, both of whom were subsequently Lords Justices. It was not very long before I began to make my way in the Court; one case which occurred soon after my taking silk gave me, I believe, a considerable lift. A company whose business included the granting of annuities had made its business over to a second company: the second company could not pay the annuities and an annuitant proceeded against the first company, to which their company replied, "You knew of our transferring our business to the second company and you took payment from them. Look to that company and not to us." I was for the annuitant, and was met by a great array of counsel for various persons who had been shareholders in the first company, including amongst others Lord Westbury—a late Lord Chancellor. Sir Roundell Palmer led the array against me. I opened the case shortly, and then a battery on the other side went off, and the Court adjourned for the day. The point in question was one of some interest, viz. whether the original contract between the annuitant and the first company had been extinguished by a new contract between the annuitant and the second company, and there was but little recent authority on the subject; but it happened that years before I had made a study of the point, and had a full note on it and references to the authorities on it. This helped me to a reply for my client which was successful, and which was very flatteringly received: many of the Bar who were against me came round me when the Court rose and warmly congratulated me on the argument. This is one instance amongst many of the good feeling which prevails at the Bar, and is one of its best features.

After a while my judge was taken from my head, the Vice-

Chancellor James became a Lord Justice, and Bacon, the last of the Vice-Chancellors, sat in his place. Bacon was a man of great ability and a very pleasant wit, but he was a slow and silent judge who gave you no inkling of what he was thinking about, and I felt the change a good deal. But a way of escape opened; a leading counsel in the Rolls Court (Mr. Swanston) wished to leave that Court for another, and proposed to me that he should migrate to Bacon's Court if I would pass over to the Rolls. I had a little scruple about the plan, and consulted two or three senior leaders (including Sir Roundell Palmer) about it. But they all advised me that there was no objection, as indeed there was not, and I passed over into the Rolls Court, then presided over by Lord Romilly, where I soon got a very good practice, and was one of the first two or three leaders of the Court. After a while Lord Romilly, whose powers were failing, retired, and the business of the Court was taken over by Lord Selbourne, the Lord Chancellor (formerly Sir Roundell Palmer), and for a year or so I had the good fortune to practise chiefly before that admirable judge. Then Jessel was appointed Master of the Rolls, and the business went back to the Rolls Court in Chancery Lane, and I practised before the great Jew judge.

But in time I found that I was getting a good deal of business in the House of Lords and the Privy Council, but especially the former, and was hardly doing as much justice as I wished to my business in the Rolls, so I took the bold and then very unusual step of "going out special", i. e. I did not go to any Court of the first instance without a special fee of fifty guineas. This, at first, very much lessened my business, but it was again much on the increase, when a change took place in my career and I left the Bar for the Bench.'

During these years of growing professional work the home life was increasing no less rapidly in demands on his love and interest. The additions to the family made change of house necessary, first to No. 6 The Grove, then to No. 5. Both these houses are of the quiet, well-built, Queen Anne style, very unpretentious, but comfortable and homelike. They stand somewhat back from the broad path that separates them from the road, with its double row of fine lime-trees, where—in those days, at any rate—fly-catchers might be seen in the summer.

The walled gardens behind, where cuckoos made themselves heard, are not large in acreage, but their spaciousness is much increased by the fall of the land below them and the wonderful prospect they offer over Ken Wood, Lord Mansfield's park, and away to the heights of Hampstead. It would be hard to find another view so surprisingly rural within an equal number of miles of the Law Courts, and the refreshment and interest of the garden, the fresher air and the more quiet nights, above all the satisfaction that his wife and children were not immured in London, compensated my Father for the length of the daily journey, often on foot and by bus, and the ascent of West Hill on his return home. The garden in No. 5 contained four small greenhouses, and here he was able to cultivate a few orchids, a pursuit which gave him great satisfaction. A request from one of his neighbours that he would allow a young Scotch naturalist about to start for the East Indies to see his stove-house was of course welcomed, and the trifling courtesy was more than repaid by his acquaintance with Dr. H. O. Forbes and the correspondence which ensued, bringing him accounts of the wonders of New Guinea and of Dr. Forbes's adventures and discoveries there.

It was at Highgate that his children [1] were born, and here that he passed through one of the sharpest sorrows of his life in the death at the age of four of his third daughter, Alice. She was a child of unusual vigour and force, and to his loving eyes of great promise, and the winter that followed her death was one of the darkest times of his life: to his last days her memory was a tender and precious sorrow.

The education and upbringing of his children was always one of his great concerns; in their earlier days he was often their romping playmate, and there were games and high jinks which could never be thought of without him, but I think that in their wildest excitements with him his children always realized that there were bounds not to be overpassed. 'To Sir Edward's little playfellow' runs the inscription of a book sent at Christmas to one of his younger children by a neighbour, an old invalid lady who did not know his children personally, but looking out of the window saw the happy comradeship of these two. At all ages he was his children's teacher, devoting regular hours to their instruction both on Sundays and week-days, preparing some of his daughters for subjects in examinations, or reading geology with them before he set out for the Law Courts in the morning, and always interesting himself in their studies under other teachers. He was not by any means a pedagogue—indeed, one could hardly say that he was a good teacher; he was too much interested in the subject itself, and too much of a fellow student, to recognize the art needful for implanting knowledge. Speaking of his children in his autobiography he says:

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[1] Edward Portsmouth: Mariabella: Joan Mary: Elizabeth Alice (died young): Roger Eliot: Isabel: Agnes: Sara Margery: Anna Ruth.

> 'And here I may confess that the chief sorrows of my life are associated with my children. A father pities his children and earnestly desires for each one every happiness and exemption from all illness and all sorrows. But God is wiser and sends them sorrows too, and the father's pity is constantly aroused.'

It was not wrong-doing on his children's part, though childish passions and shortcomings were very real troubles to him, but his heart was burdened by their sorrows and troubles, and the almost life-long illness of his eldest son was a grief which at times only hard work enabled him to forget. One who only knew him in his later years described his attitude as a revelation of all that fatherhood can be.

Highgate continued to be his home till 1887, but in 1874 (he and his wife having grown somewhat tired of looking about year after year for autumn housing for the family) he purchased Failand House, in the parish of Wraxall, about four miles from the Clifton Suspension Bridge, and in 1875 the family gathered there for a holiday, which was so successful that henceforth Failand—after some alteration—was looked on as the holiday home, until many years later it became his only residence. Its nearness to Bristol, where his parents and most of his brothers and sisters still lived, greatly increased its attraction for him.

In all those busy years EdwardFry kept in touch with matters of interest outside his profession. In his early married life he wrote reviews for the *National Review*, a quarterly of Liberal tendencies then published by Chapman and Hall. These reviews ranged over matters as widely different as the 'Natural History of the Ancients'—not a rehearsal of tales of fabulous monsters, but a consideration of the remarkable insight of early Greek thought; a review of Emerson Tennant's book on Ceylon, and another on Whately's then new edition of Paley's *Moral Philosophy*, in which he expressed himself in favour of that transcendental view of morality to which he adhered through life.

He published also a short book on *The Doctrine of Election*, combating those Calvinistic views which at that time were a distress to many thoughtful minds: but as he wrote later, 'nowadays the smoke and stir of conflict have passed away to other parts of the battle-field of thought'. When the author of the above book became known as a judge there were contradictory accounts of this little work. Was it a theological work, or was it political? Copies of the book were sold under both expectations. The *Saturday Review*, anxious with cocksure omniscience to correct better-informed people, declared that it was a mistake to present the 'Doctrine of Elections' as theology. 'Election in the singular may be theological, but in the plural it is anthropological exceedingly.' 'I am told', wrote another journalist, 'that in the catalogue of the British Museum the work for many years was entered under the name of a divine, the Reverend Edward Fry, until some one who was acquainted with the patristic accomplishments of the learned Lord Justice called the attention of the authorities to the error.'

As has been shown in a previous chapter, Fry's early studies in science had been accompanied by much speculative interest in the true nature of species: and therefore when *The Origin of Species* came into his hands in 1861 he read it with critical apprehension no less than eager delight, and a lecture that he gave to some of his fellow members of the Society of Friends might still be taken as an exposition of the main lines of Darwinism, and as a succinct statement of the points on which, then, further evidence was required.

'The publication of Darwin's *Origin of Species* had produced a profound impression; it had, as all new discoveries of nature have done, caused great uneasiness in the minds of many good people, who felt Darwin's teaching, and still more the suggestions which arose from his teaching, to be inconsistent with the teachings of the Bible and their hopes of immortality for the human race. I gave a good deal of attention, as every one did, to those new views, and my old studies in Homology, which I have already mentioned, made me especially interested in the doctrine of Evolution; but I did not, like so many good people, feel distressed at the influence of the Darwinian theory upon my religious beliefs. But for years this feeling of distress smouldered on, and people feared they did not exactly know what, and in the Autumn of 1872 I was minded to try to help some of those who were troubled by these new things, and I accordingly wrote to the *Spectator* three letters on *Darwinism and Theology*. These were republished towards the end of the year under that name: they attracted some considerable attention, and I hope did some good. They also excited some amusement, especially some paragraphs in which I dealt with the question of the immortality of the lower animals. The scope of the letters was this—to assume the truth of Darwin's views, and on that assumption to inquire whether they introduced any new difficulty in the way of the theocratic conception of the universe. Of course, the relations of Evolution to the moral and religious feelings of men have undergone great changes since I wrote those letters nearly forty years ago;[1] and probably if you were now to turn to them you would scarcely appreciate the state of mind to which they were addressed. I concluded the pamphlet with sentences which I could still adopt. "I have no fear whatever", I said, "of further investigations into nature; I have no fear of true science, though I have much of false science, and of false theology too. I have no fear even of the tendencies of modern science. I may read it wrongly (as I know that I read it little and ignorantly), but to me its tendencies seem towards a sublime spirituality—towards the belief that all matter is but force and all force is but mind."

At a later date I returned to subjects which were stirred in my mind by the Darwinian doctrines; and in the *Contemporary Review* of December 1879 I wrote a paper on "The Utility to Flowers of their Beauty", and in this I endeavoured to show how short a way the theory of insect attraction goes in explaining the existence of beauty in plants.'

To the same magazine he contributed also an article on *Theology and Materialism,* in which he had some help from his old friend, Charles Tomlinson, F.R.S., a well-known neighbour at Highgate, who used frequently to visit him on Sunday evenings and find him reading aloud—perhaps *Paradise Lost,* or George Fox's *Journal,* or one of Dean Stanley's books—to his wife and children. Then the book was laid aside, and the children listened with eager ears to some delightful discussion on science or literature, which was all the more stimulating because barely intelligible to their young minds.

The following notes indicate his attitude to the opium question in the seventies and later:

'From my early day onwards, the iniquity of our treatment of

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[1] i. e. in 1872.

China in forcing the importation of opium upon her had been familiar to me as a matter of common knowledge ; and I think that it was some time in the seventies that a society was formed to endeavour to bring about the abolition of this trade. Having no very exact knowledge on the subject I determined to look into it, and I studied it with the light of such Blue Books and other works as seemed likely to enable me to form an independent judgement, and I came to the conclusion not only that in the past we had committed grievous wrongs to China in what are known as the Opium Wars but that we were then exercising undue pressure on China to prevent her imposing such duty on opium as she might desire, and thus checking the importation, and the consequent evil to her people. I published on this subject three articles in the *Contemporary Review* (February 1876, June 1877, and January 1878), subsequently reprinted in a pamphlet ; in the third dealing especially with the Chefoo Convention, which then remained without ratification, which would have set free the hands of the Chinese Government with regard to the taxation on opium. I also assisted the Anti-Opium Society from time to time with advice for which they asked.

I believe, in the low and malarious districts of China, opium in moderation is a blessing as a prophylactic against fevers and ague ; but of the vast evil wrought in many of the cities of that enormous empire by the smoking of opium there can, alas, be no question. Within the last few years (1909) the government of China have shown a zeal in the suppression of opium-smoking which has aroused new hopes of success.'

CHAPTER V

THE BENCH

1877—1892

On more than one occasion Edward Fry had been spoken of as likely to go on the Bench: one barrister, Mr. Busk, told him in after years that the very first time he heard him speak in Court he had said to himself, 'That man will be a judge'. In some instances the rumours of his promotion were very persistent, and when in the spring of 1877 Lord Chancellor Cairns obtained statutory authority to appoint an additional judge in the Chancery Division of the High Court, the gossips of Lincoln's Inn noted that the Chancellor had invited Fry and Cotton (afterwards Lord Justice) to a dinner at which all the other guests were peers or judges—and drew their omens accordingly.

On April 19, 1877, Fry received a letter from Lord Chancellor Cairns offering him the judgeship. He replied asking for time to consider the matter, for he was by no means ready to close immediately with the proposal; but after some hours of anxious thought he, on the morrow, accepted the offer. He records his own feeling at the time:

'I undertook the duties of a judge with some misgivings of heart, and under a very solemn sense of responsibility. I could not leave the Bar without a wrench. But when the news came out it was followed by such a body of hearty congratulations and with so much expression of belief in my fitness for the office that I was deeply touched, and, moreover, I felt strengthened for the work before me. I almost felt that to have refused the offer would have been to allow one talent to lodge with me useless. Shortly before the judgeship was offered me it had been suggested to me by a friend that there was likely to be a vacancy in the representation of the two Scotch Universities of Glasgow and Aberdeen, and that I might have a chance there, and I, to some extent, entertained the notion as I thought a University seat would suit me; but I had done little in the matter when the Chancellor's letter reached me. I believe that I had little or no chance of success: for I had the fatal defect of having been born south of the Tweed.

Immediately after my nomination to the Bench I made some notes as to my conception of my new duties from which I make some extracts.[1]

A judge's first duty is to do what is right: his second to satisfy the suitor that he has done so, or at least that he has done his best to do so. From a hasty judgement suitors often go away greatly dissatisfied and grieved. On the other hand, I have known a well-considered judgement satisfy the defeated suitor that he was wrong.

The forms of law should be used to do justice and not injustice: the technicalities of the law should be so used too, and they should be allowed to impede justice only when they are obstinate. But it is better sometimes to confess and yield to a technicality than to explain it away dishonestly.

A judge should avoid the desire not to decide—to find reasons why the substantial question cannot be determined: rather he should strive to determine these questions if possible.

A judge should avoid all seeming to know the law which he does not know: he should take it patiently and quietly from counsel if he does not know it. In all things a good judge is honest, even though it may expose him to the suspicion of slowness or ignorance.

A judge should avoid too great haste. *Festina lente* should be his motto as to pace. Personally I am apt to be impatient and in a hurry, and this I must avoid.

Talk so far as to let the counsel know the difficulties which press on my mind in the view he presents, but not so as to prevent his answering these difficulties. Give a benignant and receptive listening to each side, so as to feel the full force of the argument on each side; and then judge between them.

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[1] Did he remember in making these notes the somewhat similar resolutions of a great predecessor, Sir Matthew Hale, on his elevation to the Bench? See Bishop Burnet's *Life of Sir Matthew Hale*, Oxford, 1856. I do not remember his ever alluding to the book, though he possessed it, but it is of interest to find further that Sir Matthew Hale's judgements were so well weighed and delivered that 'the parties themselves, though interest does too commonly corrupt the judgement, were generally satisfied with the justice of his decisions, even when they were made against them'. P. 48.

With young counsel, and even with stupid counsel, I must be patient, and even kind. To the flippant and self-conceited I feel under no such obligation. I must remember how much pleasure a kind word from the Bench has been to me in former years.

I must never allow my attention to flag on the pretence of looking at the papers out of Court: I must be whole to the work while it is before me, and I must remember that I am never likely to be so well prepared for judgement as just after argument: so that even if I postpone judgement it should be for a short while.'

Nomination to the Bench was in some respects a diminution of labour for the new judge, as it involved shorter hours of work: he used to say the strain was less *per diem*, greater *per horam*. He missed too the change of posture from sitting to standing which counsel's speeches afforded him, when he came to sit hour after hour throughout the working day.

'I was the first Chancery judge appointed after the Judicature Act had merged the Court of Chancery in the High Court—the first Chancery judge to bear the title of Mr. Justice, and the first Chancery judge who was under any liability to go circuit. I confess that at first I dreaded the notion of going circuit and doing judicial work of a kind, and under circumstances with which I was entirely unacquainted, and above all I dreaded the criminal work. I never liked leaving my home and the dear ones there: I never really liked criminal business; but in many respects I found pleasure in the change of scene and in the society which circuit opened to me, and I have never had the sorrow of looking back consciously on any case as having miscarried in my hands.'

Apart from the nature of the work, it is no wonder that the new judge misliked the thought of going circuit and taking criminal cases. He had never been inside a criminal court from the day when as a boy he entered one out of curiosity till the day that he entered one as the presiding judge; and that there were pitfalls awaiting the unwary the following notes from a Bencher of Gray's Inn, Mr. T. Rose of West Monkton, will show:

'Some time in the seventies I watched with the interest of a young and keen member of the Common Law Bar the experiment of Equity judges going Circuit and administering branches of law to which they were not devoted. Several of them went the Oxford Circuit. The work on it was then considerable, and the members many and critical. The prisoner was certainly not the only person on his trial in the Crown Court when it was presided over by a judge who, however learned he might be in the high doctrines of Equity, was unaccustomed to the technicalities of Criminal Law, the art of cross-examination, and the direction of juries. Waiting for one of the new-coming judges to trip up *inter apices juris* and stumble in recovering himself was an unkindly amusement which enlivened the Bar table beneath him. But the chance of such diversions seemed slight when Mr. Justice Fry took his seat in the Court of Assize. His large dark bright eyes, alert look, and distinguished bearing gave a promise of efficiency. Curiosity as to what he might do soon changed to admiration for his judicial versatility. He sat at ease in unfamiliar circumstances, and showed at once the fine quality for which he was then already noted elsewhere. 'Quick, clear, patient, courteous, firm, and merciful, he seemed to have ample knowledge of the particular laws to be then enforced, and he caught points of mere practice out of a text-book with activity such as his famous namesake displayed in a more airy field of renown.'

The Judge has given a graphic account himself of his experiences on circuit.

'The summing up of a case to a jury is a mental exercise akin to, and yet essentially different from, that of delivering a judgement, and I have always rather enjoyed it. I have never followed the practice adopted by some judges of going into the evidence over again at great length: rather I have always striven to call the attention of the jury to the several points in controversy, and the general nature of the evidence upon each of these points. Some judges almost tell a jury how they ought to find, and so seem to me to assume a function which is not theirs according to our constitution. I have always striven to avoid doing this, and to leave the question really, as well as formally, to the jury, taking, however, great care that they should never find a man guilty whom I believed to be innocent.

My experience on circuit no doubt tended very much to enlarge my knowledge of the common law and of the criminal law of the country, and in that way helped to prepare me for taking my seat in the Court of Appeal, where I was as much concerned with common law as with Chancery cases, and also for taking my place as a Justice of the Peace and presiding, not only in the Petty Sessions of my own division, but at the Quarter Sessions of the county. I felt, as I have already mentioned, a very great repugnance in the first place to the notion of going circuit, but I am now glad that I had experience which, I believe, has increased my usefulness in life.

One circuit will always remain in my memory—the North Wales circuit, which I went in the winter of 1881, with Russell[1] as my marshal. One day in that winter the amount of snow which fell, and the extreme cold which accompanied it, almost paralysed England—and I passed it at Carnarvon. It was not easy to get on with the business of the assize: the High Sheriff was unable to attend from illness, but his place was taken by his good wife, who did all in her power to make us comfortable, and keep out the cruel blasts of the wind. The Grand Jurors could not get into town to perform their duties, and I was compelled to send out and call men in from the streets and highways—to form my jury in part at least "de circumstantibus". However, we got through and went on to Beaumaris, and there we drove to church on Sunday through a cutting in the snow which rose to the height of the carriage. But the mountains of North Wales looked like mighty Alps in their wintry covering, and as I took no harm from the journey I rather enjoyed the experience. But I think I never felt so cold in my life, before or after.'

To His Wife.

'Stafford, January 26, 1879.

Yesterday we had a busy day—the murder case lasting from 10 to 6, or five minutes before 6. It ended in an acquittal, though after more consideration from the jury than I expected, but I hear that there were a section who were for conviction. It was a very strange case. . . . Russell says I was provokingly impartial in my summing up. I was half afraid that I leaned too clearly for an acquittal, but a conviction would greatly have shocked me. . . .

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[1] The late Mr. J. Cholmondeley Russell, whose long friendship for Mr. Justice Fry induced him to undertake the duty of marshal to him on several circuits.

This morning I have been to church. I never felt more than here how largely my function is that of a clothes-horse: for I go to church in a large glass coach, quite alone, with a large group of people everywhere staring in—the High Sheriff is still ill, so is the Chaplain—and the under Sheriff and Rector and Mayor walk in the procession, which here precedes the carriage. Russell brought me, to comfort me, Bagehot's account (in his Book on the Constitution) of the ornamental parts of our system, and I try to console myself with the belief that I am very ornamental, and that at all events my clothes are worth looking at.'

He used to complain that it was an irony of fate that he, who cared so very little about appearance and disliked any trouble about dress, should be doomed to be continually changing his attire for one function or another; but he was at least thankful that the custom for judges to dress every day in brown coats and knee-breeches—the habit which procured them the nickname of 'the brown bishops'—had fallen into desuetude before his day.

My Father was fond of telling one or two stories of circuit doings: one was of a boy who appeared to explain why his father could not appear as a witness. 'The doctor said he has a confusion in his abominable parts which will probably result in an absence.'

Another was of a case on the Midland Circuit in which Mr. Henry Matthews (afterwards Lord Llandaff), well known as a Roman Catholic, was leading counsel. An action was brought by a Churchman against a Dissenter concerning a very bad smell caused by artificial manure. The plaintiff brought as witness the clergyman of the parish, an Irishman. Counsel asked him to describe the smell: the witness replied that this was a difficult task. 'Wasn't it', asked Mr. Matthews, 'a *Dissenting smell*?' 'Ah,' replied the Irish Protestant, 'that would take a Roman nose to detect.'

'After I had sat two or three years in my Court in Lincoln's Inn Hall and tried witness causes only, Vice-Chancellor Malins met with an accident which compelled him to leave the Bench, and I succeeded to the business pending in his Court, to his staff of chief and other clerks in his chambers, to the occupation of his Court, the best in Lincoln's Inn, and, what was very important, to his Bar. The business in his Court had been conducted with great laxity and garrulity; some of his leading counsel, two especially, were apt to engage in unseemly contests with one another and with the judge, and a scene in Malins' Court was a well-known and popular incident of life in the Chancery Courts. Mr. Glasse, one of the two counsel I have referred to, was an old man, who had been a soldier in early life, and was so far my senior that when I first went to Lincoln's Inn as a pupil he was, as I well recollect, a Q.C. It was not without anxiety that I found myself the inheritor of the Bar and of the traditions of Malins' Court. But all went well. I was studiously careful to avoid any occasion for controversy with myself, or to allow any controversy between counsel by requiring them in everything to address me: one of the most dangerous of the counsel soon migrated to some other Court, and the remaining one, Mr. Glasse, treated me with every respect I could desire.[1]

The Lord Chancellor Selborne had, in accordance with the Acts regulating the Supreme Court, constituted a Committee of judges to revise the whole body of the General Orders or Rules which regulated the procedure of the Supreme Court, and I was appointed by him to serve on the Committee. To make the nature of our work intelligible, I must mention that prior to the year 1875 there were two great systems of Jurisprudence in this country, the one the Common Law Courts of Queen's Bench, Common Pleas, and Exchequer, the other the High Court of Chancery. (I leave out of consideration the Courts of Admiralty, and of Matrimonial Causes and others, as well as all the inferior courts.) In the year 1873 a statute was passed which, when it took effect, merged in one Supreme Court the Common Law

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[1] The speed with which the new judge in the Court dispatched the quite futile cases which might have had a chance before his predecessor was hailed by some legal wit as 'The Massacre of the Innocents'. Such had been the condition of the Court that on one occasion the following advice is said to have been given:

'The Plaintiff has no case in Law or in Equity, but I advise him to file a bill in V.C. Malins' Court and instruct Mr. Glasse. He will then probably obtain a decree.'

Courts, Court of Chancery, and the Courts of Admiralty and so forth, and the old Courts were represented by separate divisions of this new tribunal. By another Act of 1875 a body of rules was enacted to regulate all the complex proceedings of the new Court, and a power of revision was given to the Rule Committee of the judges, but subject to the control of Parliament. This new judicature had been at work for some years, and it naturally became desirable, if not necessary, to reconsider the body of rules in the light of the experience thus gained. This was the heavy work placed before the Rule Committee, how heavy those only can estimate who know the complexity into which legal proceedings will and must run, and who appreciate what it is to weld together two systems of practice which had grown up separately during centuries and had their own several advantages and disadvantages. Some rules made by Lord Bacon as Chancellor were quoted in the books of Practice when I joined the Chancery Bar.

There is one part of the labours of this Committee upon which I look back with extreme satisfaction, and regard my part in it as one of the best actions of my life. "To throw an estate into Chancery" was a well-known phrase which in old times meant delay and vexation to all who had hopes from the will or the estate of the dead person; it meant often that legacies would not be paid till the legatees were dead: it meant sometimes that the whole estate would be devoured by the costs of the solicitors who gathered round the corpse. Various efforts had been made to check the evil: the proceedings of the Court had been simplified, chief clerks had been substituted for Masters, but still the evil persisted. The real difficulty was this—executors and trustees were and are dealt with severely by the Court if they go wrong, and therefore a right has been given them to come to the Court for their guidance; and persons interested in an estate have often lost it through the misconduct or carelessness of the executors or trustees, and therefore they too have a right to judicial aid. How are these rights to be preserved without a corresponding danger of wasting the estate in the exercise of these rights? We discussed the matter much, and ultimately a set of rules which I had proposed were in substance adopted, and they have, I believe, produced at least a great diminution of the evil to which they were addressed.[1]

Of all the cases which came before me as a judge of the first instance, none I think lasted so long, and few, if any, were so interesting, as that of the *United Telephone Company* versus *Harrison.* The suit related to the then novel discovery of the telephone, and incidentally involved questions as to the phonograph. It was brought upon two patents taken out in England on behalf of the two American inventors, Bell and Edison. I had before me as witnesses almost all the chief electricians in England—Sir William Thomson, afterwards Lord Kelvin, Professor Silvanus Thompson, Professor Ayrton, and Dr. Hopkinson—and it was a noteworthy circumstance that this last witness, who had been a Senior Wrangler, was examined before me by another Senior Wrangler and cross-examined by a third. Many very curious experiments were, in fact, performed to enable me to understand the various points that arose, especially as to the power of conveying the human voice, and I lent to the persons engaged the use of a room adjoining my Court for the purpose of establishing their instruments.[2] In 1876 Bell, the inventor of the telephone, had publicly shown an instrument something like what he afterwards patented at an Exhibition in Philadelphia. Sir William Thomson had seen it there, and when he was sailing for England Bell placed in his hands a parcel containing a receiver and transmitter which Thomson exhibited at the Glasgow meeting of the British Association in the same year; and the question arose whether this was not a publication of the invention in Great Britain, for this exhibition was well prior to the patent. The question was a very nice one, but for various reasons I held that it was not such a publication as invalidated the patent. The case lasted some fourteen or fifteen days, and on the day after the arguments were ended I gave judgement for the plaintiffs on the one patent and for the defendants on the other. My decision was appealed from, but solely, I believe, on the question of anticipation by the Glasgow Exhibition, and my judgement was upheld. . . .

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[1] Of the great value of the work thus accomplished the late Lord Cozens-Hardy, who was in a position to form a true estimate, wrote to me as follows:

'As a junior at the Chancery Bar it was my good fortune to witness the last days of the old Chancery practice and the gradual development of the new system which was largely the result, I may almost say the invention of your Father. "Jarndyce *versus* Jarndyce" was not much of a caricature in the days of *Bleak House.* He invented the procedure by originating summons which effected a beneficial revolution.'

[2] His son Roger, then a boy of thirteen or fourteen, keenly interested in electricity, went with him to the Courts one day to see these experiments. One of the men engaged in fitting them up, seeing the boy's interest, gave him a length of wire for his own hobby of making an electric light. But when his father heard of the gift that evening he would not consent to anything even so remotely akin to a bribe, and insisted that his son should go to the Courts with him next day to return the precious wire.

One day in 1883, when at the Rule Committee in the House of Lords we had risen for the luncheon half-hour, a letter reached me from Mr. Gladstone offering me the office of Lord Justice of Appeal, which had become vacant by the death of Sir George Jessel, the Master of the Rolls, and the promotion to that office of Lord Justice Brett. I had hesitated to accept a judgeship, but I had no hesitation in exchanging a Court of the first instance for the Court of Appeal, and I wrote at once and accepted the offer. Thus within a month or so after the Courts were transferred to their new homes in the Royal Courts, I found myself a member of the Court of Appeal, not sitting alone as before, but usually as one of a Court of three.

In some ways I felt the change a pleasant one: in others I felt it a loss. It was a great gain to be able to discuss points of controversy with colleagues, but it was a new burden to have to try to convince them of the accuracy of my own view, and to have to decide when I could yield to their judgement in a matter. I believe that I had the character of being rather unyielding, and not infrequently I was in a minority of one. My colleagues were, at first, Brett, Master of the Rolls, Baggalay, Cotton, Lindley, and Bowen. I did not often sit with Lindley because he and I generally exchanged places in the Courts. Of all my colleagues I saw most in some ways of Bowen, and we grew to have a great confidence in each other. Brett, who became Lord Esher, was a judge who sometimes tried my patience and my temper, but I got on with him well upon the whole.'

It was often said, both at the time of Lord Justice Fry's unexpected retirement almost immediately on the expiry of his fifteen years on the Bench and later, that his disagreements with Lord Esher were the cause of it, but, though their very different temperaments caused some strain, there was no truth in this suggestion.[1]

In other directions his relations were of the happiest description. With Lord Justice (afterwards Lord) Lindley his friendship dated from early days at the Bar and continued through life; while his admiration for Lord Justice (later Lord) Bowen's gifts made him delight in his society, and feel that in him he recognized something worthy the rare name of genius. No shadow ever marred their friendship, except that of growing anxiety on Fry's part for his friend's frequent ill health. 'No two members of the Court presented in some respects a more striking contrast than that afforded by Bowen and Fry—one the embodiment of Oxford culture, endowed with a gracious voice and a master of happy phrases; the other also a scholar, but with a somewhat harsh unpleasing voice, and caring nothing for the lighter side of things. But these two men had a profound admiration for one another, and listened to each other's judgements with rapt attention.'[2]

Lord Justice Bowen's feelings on the retirement of his friend after many years of work side by side were expressed when he wrote to him that he felt like a horse who had lost his stable companion.

For Sir James Hannen also Lord Justice Fry entertained a deep and affectionate respect, and he was much gratified to entertain him in his country home at Failand. By his own request Lord Hannen attended on Sunday morning the little

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[1] A few words from a recent book, *The Bench and Bar of England* (J. A. Strahan, p. 29), will give an idea of the difficulties in the Court of Appeal. The last words seem to refer clearly to the subject of this memoir. 'When a judge sits with colleagues as Lord Esher did, his irascibility, especially if he is also an able man, has a worse influence on the Bench than on the Bar. It tends to cause the colleagues, who desire a quiet life, to acquiesce with the irascible one whenever they can do so without actually outraging their consciences, and to lead the colleagues who are fighters to seek for grounds for dissenting from him. While Lord Esher presided over the first division of the Court of Appeal he had more than one coadjutor who might well have adopted the title which Lord Bowen said he pretended to take when called to the House of Lords—that of Lord Concurry; while at least one of them might be properly described as a conscientious objector.'

[2] *Law Journal*, Oct. 26, 1918.

Quaker meeting at Portishead, which was the usual place of worship of the family. His experience of silent worship was expressed to his host afterwards: 'For the first quarter of an hour, I felt it very *im*pressive : after that it became *op*pressive.'

'In the summer of 1892 my fifteen years of service on the Bench came to an end, and I was entitled to retire with the expectation of a pension. From the time I took my seat on the Bench it had always been my fixed intention, if I lived so long, to leave it at the end of this term, and I had so warned my clerk ; and as the time drew nearer the intention became more definite. For this resolution I had many reasons. In the first place, I felt that if I did not retire at this point of time there was no other likely to occur to mark the proper moment, and I might overstay my power of doing the best work which the Bench demands. Again, I felt the advantage of old men making room for the younger generation, and I had acted on this view in leaving the Bar at a time when I might, if I had remained there, have reasonably expected to add a good deal to my money. Then I was somewhat weary of the daily routine of life amidst the noise and turmoil of the Courts, and I longed with a great longing to possess more leisure for thought and reading, and to pass the last years of my life in the midst of the country sights and sounds in that daily intercourse with nature for which I was always thirsting in the midst of my busy life in London. Again—and this was not a small element in the consideration—I believed that a quiet life in the country was far more likely to be beneficial to the health of my dear wife than a continuance of our London life with the care of two houses, the one in London and the other in the country. Furthermore, I thought that the union of simplicity of life with the benefits of cultivation was more likely to be attained by a life in the country than by the double life of town and country. Lastly, I had a great desire to visit parts of the world which the Long Vacation hardly made accessible. Rome, Greece, Egypt, and Palestine made a loud call on my mind for leisure to visit them.

In May 1892 I wrote to the Lord Chancellor, telling him that I intended to resign in the Whitsuntide vacation, and I carried this intention into effect to the great surprise of the profession, and even of those friends to whom I had often stated my intention to retire when my term of fifteen years was up. They thought my statement was the commonplace statement of all judges, and they gave no heed to it. If I could have foreseen the way in which my resignation was received I hardly know if I should have had the courage to carry it through. Bowen and Hannen especially represented to me that I ought to withdraw it—a course not open to me if I had wished it; and I was met with expressions of regret and surprise which touched me, though they never shook me as to the wisdom of my course. I had taken no public leave of the Bar or of the Courts; I think and thought such forms objectionable, as they necessitate an amount of flattery which I abhor; but finding that the Bar were anxious to have some leave-taking, I gave a reception at Lincoln's Inn Hall to all who were inclined to come and shake hands with me. I had a large attendance and many kind letters. Perhaps what gratified me most were the assurances I received from more than one of the younger barristers that so long as I was on the Bench they felt sure of a friendly hearing.'

This simple farewell function at Lincoln's Inn was quite an innovation then, though some retiring judges have followed his example. But it is clear from the report given in the *Law Times* of July 2, 1892, that it was an experiment which in cases of a different relation between the Bench and the Bar might have been of a painful nature.

The feeling of the members of the Bar who practised before Sir Edward Fry may be illustrated by the remark of Mr. Montague Crackanthorpe, Q.C.—who had been one of the leaders in the Chancery Court—that to him it was an intellectual treat to come into daily contact with a mind so fair, so open, and so logical, and that he felt he had sustained a personal blow when Mr. Justice Fry left the Chancery Court for the Court of Appeal. More than one of the barristers who practised before him in their earlier days have spoken of his considerate kindness in their difficulties—of his 'tact and sympathy when he was being addressed by a young and nervous junior. He encouraged him in his argument, and often put it in better words for the other side to deal with'—as Mr. Percy Wheeler recollects. Sir Alfred Hopkinson speaks gratefully of the same characteristics in a small matter: the sun was shining uncomfortably in counsel's eyes as he addressed the Court; the Judge observed his dis-comfort and at once had the blinds lowered. On another occasion Hopkinson had written out some tables, showing how some figures would work out in a complicated case on three different hypotheses, and handed the document to the Court and to the opposing counsel, who was so angry at its introduction that he threw it back at him. Mr. Justice Fry intervened firmly, and though the indignant Q.C. was a leader at the head of the profession, he told him that Hopkinson had endeavoured to save the Court a great deal of time and trouble, but that, of course, the matter could all be dictated as part of his argument if this was insisted on.

There certainly was very general surprise at Lord Justice Fry's retirement: no announcement of it had been made beforehand, but his seat in Court was vacant when term commenced after the Whitsun vacation. That a man in the vigour of life, whose performance of the duties of his office showed his ease and mastery of it, and to whom higher legal appointments were almost certain to be offered in the next few years—that such a man should suddenly withdraw into the solitude of a country life, was a puzzle to those who did not realize how much of his nature was unsatisfied by the routine of legal work. If he could have had a few years of freedom he might have been willing to return to work, but for such Sabbath years there is no provision; or perhaps if he had foreseen how many years of health and strength awaited him his decision might have been different—certain it is that he never regretted it. And so in June 1892 his wife put away as a relic the last unopened blue envelope that came by the morning's post marked 'Day's Cause List', and cut out of *The Times* the Law Report and endorsed it 'The last day's work'. The last day's work indeed! Looking back over the many and varied occupations that were yet to come it seems as if his so-called retirement was the failure of his life, and the few years of complete leisure that followed his leaving London were more of a midday siesta than of the rest of evening. But henceforth he was to toil largely in fresh fields and with new companions, and to adjust himself to fresh demands, an adjustment for which he could hardly have been fit if his retirement had been much delayed.

I am indebted to Sir Alfred Hopkinson, K.C., for the following estimate of his work and influence as a judge:

'To attempt to estimate the contribution of a judge in modern times towards the development of the law by detailed investigation of the reported cases which he has decided would generally be an unprofitable, if not an impossible, task. The subjects are so various, often so technical, that without long explanation those decisions would be difficult even to understand. It is, however, possible in the case of a great judge like Sir Edward Fry to indicate, in a general way, the manner in which his special qualities of mind and character influenced the administration of the law during the term in which he held office. Unfortunately, the best evidence as to his work as a judge, that of his colleagues and of those who constantly practised before him, is no longer available. During the quarter of a century which has elapsed since he retired from the Bench almost all of them have passed away, so the impressions of one whose appearances before him as counsel were comparatively few, though sometimes in important cases, may now perhaps have some value.

‘ Sir Edward Fry's appointment as judge occurred at a time when the procedure of the Courts had just been radically altered by the Judicature Acts, and when it was said that there was to be a " fusion of Law and Equity ". The occasion was one when there was special need for a highly-trained mind, an exact and accurate thinker, and to use the words of Lord Cozens-Hardy written not long before his own death, " Sir Edward Fry had a large part in making the new system work ". Great learning was not a sufficient qualification for the task ; a very learned judge may get entangled in a maze of precedents : others, who claimed to be broad-minded, might be disposed to pay too little heed to established rules and to introduce an element of uncertainty, which is the gravest evil in dealing with cases that come up for judicial decision. This was especially serious when it had been enacted that where Common Law and Equity were in conflict Equity was to prevail. There was a risk that the idea would become usual that whatever was not Law might be Equity, if a particular judge thought it fair in any case. Sir Edward Fry's mental temperament was a useful check to any such tendency. It has been well said of him that " he was a judge in whose Court no man's reputation or interest was ever put to the arbitrament of chance ". His most marked characteristic might be said to be exactness. He demanded exact accuracy in the statement of facts, even in unimportant matters, and also in the statement of rules of law. Loose thinking and any vagueness in the presentation of a case annoyed him. His moral and his intellectual nature alike required that there should be no deviation from what was strictly right and honourable in conduct, true and correct in thought and expression.

‘ He had the highest conception of judicial duty ; no thought of personal convenience or of popularity could ever affect his action. He was no " respecter of persons ", and the youngest junior who knew his case and his law would have as full attention from him, and as much consideration, as the most eminent leader. Sometimes his manner might seem impatient, but this was certainly not due to any want of kindliness in his disposition, nor any reluctance to go into a case thoroughly, but rather to his eager desire to get at the real facts and the law to be applied to them, and to arrive at a just conclusion in accordance with the established legal principles and rules. No better example of this power to master fully the most complicated facts, to state the relevant matter clearly, to draw from a long series of precedents the true principles to guide a decision and to apply them fearlessly, can be given than the judgement delivered by him and adopted as the judgement of the whole Court of Appeal in the Banstead Common case.[1] His careful investigation even discovered one authority which, in spite of their elaborate researches, had escaped the attention of those who had long been engaged in the case.

'There can be no doubt that his scientific studies were of great use to him, both as a mental training and in enabling him to understand more fully the points involved in difficult cases, where some knowledge of the methods and results of modern science was needed to deal with questions relating to new inventions at a time when rapid advances in the application of new ideas were being made. When meeting him, scientific experts recognized that they were dealing with one who really understood their phraseology and modes of thought, and they respected him accordingly. None could take liberties with him.

'It is the highly trained mind and a wide range of knowledge and interest outside the ordinary experience of legal practice that usually distinguishes the great jurist from the merely competent judge. Lord Justice Fry was for some time fortunate in having as his colleagues two such highly trained intellects as Lindley and Bowen, L.JJ., in whom he found congenial spirits. Together they contributed invaluable work in the development of English case law at a time when there was a special need for men who possessed such qualities as his for dealing with the new conditions then arising. If his colleagues had fully dealt with all the points in a case, it was his habit simply to concur, unless out of respect to the Court below when differing from it, or to put some statement of the law in clear form, he added a forcible judgement of his own with that precision of thought and language which were specially characteristic of his utterances. All through the hearing he showed full mental alertness.

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[1] *Robertson* v. *Marktopp,* 43 Ch. D. 513.

Disliking discursiveness and anything that did not bear definitely on the matter in question, he made sure that no point escaped him, sparing no pains to arrive at a correct decision. Anything like levity in the conduct of judicial proceedings was repugnant to him, so that a smile from him was doubly welcome, if some point, raised by counsel, interested and amused him. Coupled with his moral inflexibility, mental exactness, and a certain austerity of disposition, was a real thoughtfulness for the difficulties and the feelings of others, showing itself in acts of considerate kindness which the memory of those who experienced them will ever gratefully retain. It may truly be said that he was best at the close of his career as a judge. He retired when his mental activity was in fullest vigour, and then brought those qualities of mind and character which specially distinguished him to render services of even greater importance.'

Shortly after his retirement Sir Edward Fry gave an address to law students at Liverpool, some extracts from which will show his interest in the philosophic and historical aspects of Law:

'Conscience has been speaking to man through the law since society began, and men have accepted what their forefathers have done as binding upon themselves, so that the law is not the utterance of one generation but the present result of the utterances of all the generations that have gone before. Here we have the law as a matter of history. In our own case the treasures we have received from our ancestors consist not only of rare material, but of most varied material. The main portion of English law is of Saxon origin, but it has other sources, such as (perhaps Celtic) Norman, Roman, while the Greeks have left their influence on our maritime law, and Phoenicia, Carthage, and even King David, have contributed. Again, the law represents the varying changes of human opinion on social questions, many of which changes are exceedingly subtle, and some of them—such as the gradual emancipation of agricultural labourers—have been effected without the aid of a single line on the statute book or a single legal decision. I sometimes in my own mind compare the history of English law to the history of living organisms, which modern biologists say are governed by the two laws of heredity and the tendency to variation, useful variations tending to permanency and useless ones tending to disappear. The House of Lords represents the principle of heredity, the House of Commons that of variation. . . . The Crown represents the mysterious principle of identity which lies beyond all shifting phenomena. The history of English law in the statute book is one of profound interest, containing not only the history of law, but a vast repertory of information on the trade, customs, and language of our people, as well as the varying political and economical theories which have from time to time prevailed among our rulers, and even the personal character and dispositions of our great kings. Notwithstanding the many investigations into our statute books I am convinced that the mine is still comparatively unworked, and that a laborious and philosophical mind might yet draw from it ore of the most precious kind for the illustration of our national life in almost every particular. . . .

When I look a little further afield I see materials collecting for the elucidation of some older laws than our own. The laws of Assyria and Babylon, the jurisprudence of Greece, are being disclosed by discoveries, so that one can look forward to the time when the philosophical student of the history of the law who may tread in the footsteps of the illustrious Sir Henry Maine will have a far wider field from which to draw his inductions than that which was open to the author of *Ancient Law.* Imperfect as are the materials for a history of law in general, and of English law in particular, enough is known to show that many surprises must be in store for us, and that many things will come to light which will set us upon new lines of inquiry and thought. Who would have thought that Aristotle would have given a better definition of Equity than any Lord Chancellor of England? Who would have expected to find the ancient Accadian laws providing for the separate property of a married woman? Who could repress some surprise at finding that the modern rule of Chancery practice, by which one of a class is entitled to sue on behalf of all, was anticipated by the beneficence of the judges at least as early as Edward III? . . .

Again, when the history of law comes to be written with fullness and knowledge I believe that there will be no more curious or instructive chapter than that of the history of the modes of deciding questions of fact. To many of you it may seem to be natural to try such questions by the testimony of witnesses speaking to the very facts in question,—that any other mode of trial would seem strange and unlikely,—and yet I believe that history would show that it was a method of very late growth in England, and of comparatively rare existence anywhere—that, in fact, it was reached as the very last resource, as a mere counsel of despair.'

This will be a fit place to give some account of his views on Punishment,—a matter which necessarily filled his mind largely when he was called on to administer the criminal law,—for it was at all times impossible to him merely to follow the beaten track until he had philosophized a matter for himself. His views on this question are probably largely at variance with those of most modern reformers and would-be legislators : they may be not the less worth consideration for being out of fashion. He expressed them in an article in the *Nineteenth Century* for September 1883, entitled ' Inequality in Punishment ', and republished the article in his book of essays, *Studies by the Way*, with a few alterations, and the amended title *Theory of Punishment*. The paper begins by inquiring what is meant by ' equality in punishment ', an idea which must underlie the frequent complaints of inequality in sentences.

' People, for instance, will glibly complain of the inequality of two sentences ; say one on a woman for embezzling her master's money, and one on a man for beating his wife. What is the desired equality between the punishments for these two offences ? What is their equation ? When are the punishments equal ? If the same punishment were inflicted for all offences as by Draco, punishments would be equal. But that is not the sort of equality which is suggested when inequality of punishments is complained of. What is really complained of is the want of proportion between two punishments and two offences. So that we are driven to a new inquiry, viz. What is the true proportion ? When can you affirm that punishment A is to punishment B as offence A is to offence B ? If a woman ought to receive six months' imprisonment for embezzling her master's money, how many months' imprisonment ought a man to undergo for beating his wife? That is a rule-of-three sum which I have never been able to answer, and which I know of no direct and simple method of answering.

Many people would say, without further inquiry into the particulars of the two cases, that the man ought to receive the heavier punishment, and if you ask why, you would get various answers. Some would think, but, perhaps, not say, because he was a man—an answer not absolutely conclusive to my male mind. More would say, and with more plausibility, because the person is more sacred than property, and therefore all offences against the person ought to be punished more severely than offences against property. But is this conclusion certain? Is it clear that the offence of treading on my toes or kicking my shins should be punished more severely than the offence of a servant who, bound to me by ties of long years of kindness, should by a skilful fraud and conspiracy rob me of my all, and reduce me and my family to beggary? Perhaps on this the answer would be amended, and we should be told that offences against the person deserved severer punishment than corresponding offences against the purse—an answer which would raise the difficult question of what offences do so correspond.'

It is then suggested that punishments should be fitted to the offence, and this raises the question, 'On what ground, then, do we punish people when they do wrong?'

The attractive theory that reformation is the sole principle on which a judge should act is dismissed on the ground that the results would be remarkable. A prisoner convicted of a large number of desperate crimes would be dismissed by a judge as incorrigible; and reform is therefore to be one element only in the mensuration of punishment, and not the sole guide, nor sole reason for its infliction.

Next it is suggested that punishments should correspond to the injury inflicted on the sufferer. Here again curious consequences would ensue: an attempt to murder which miscarried would go scot-free, while some small negligence which unexpectedly caused death would receive a heavy sentence. Can we then measure it by the injury, not to the individual sufferer but to society in general? Can we agree with Beccaria that 'Crimes are only to be measured by the injury done to society? They err, therefore, who imagine that a crime is greater or less according to the intention of the person by whom it is committed.' But this complete neglect of motive, of all consideration of the veniality or malignity of the crime, of all reference to its moral character, seemed to the writer of the article to be at variance with 'the indelible sentiment of man' to which Beccaria himself appeals as the only sure foundation of moral policy.

'Under such a scheme a great wickedness which resulted in no harm to society would go absolutely unpunished, whilst an innocent act which resulted in widespread misfortune would be the subject of severe pains and penalties. That result is to my mind absurd.'

Can we, then, find a criterion of punishment in its repressive tendency, and say that its severity should be measured by its success in preventing the repetition of a like crime? This answer accords (so the writer considers) with our sense that society has the right to do the best it can for itself even at the expense of its individual members, and therefore on its affirmative side is satisfactory; but not on its negative side. For it would lead to this conclusion, that if punishment would produce no repressive effects it ought not to be inflicted, so that we get entirely away from any relation between wickedness and pain, and in so doing, he emphatically held, we go wrong. But why? Why, in short, do we strive to associate pain with sin? Why are we, from Job onwards, perplexed by the sufferings of the good? Is it not because of a fundamental fact in human nature, a moral element incapable of further analysis, the fact that there is for us a fitness of suffering to sin,—a principle which we do not derive from the outer world, where we see but an imperfect correspondence between the two?

'Punishment in short is an effort of man to find a more exact relation between sin and suffering than the world affords us.'

This doctrine brought him into 'hopeless antagonism with those philanthropic minds who seek to make our punishments solely reformatory, and to eliminate from our penal institutions every trace of moral reprobation': at the same time this primary doctrine clears punishment of all taint of revenge, even if historically it may have had origin in this baser impulse.

Perhaps the best comment on these views is the practical application of them, of which an account will be found in the chapter on his retirement, and Mr. Rose's remarks in the earlier pages of this chapter.

I append here a later note on Equity which he headed

ARISTOTLE AND LAW

'I know of no one who has given so clear a definition of Equity and its relation to Law as Aristotle: *ἔστιν αὕτη ἡ φύσις ἡ τοῦ ἐπιεικοῦς, ἐπανόρθωμα νόμου, ᾗ ἐλλείπει διὰ τὸ καθόλου* (*Nic. Eth.* v, cap. 10). The whole chapter is a very characteristic bit of Aristotelian discussion on the subject. Now, I have often puzzled myself to think how Aristotle could have arrived at such a clear view of the subject; for one would think that it is only after a system of law has been worked and has been found defective that the notion of a corrective and higher system would distinctly arise. When the deficiencies of the old Roman law appeared in its working the Praetors stepped in with their perpetual edict and furnished the necessary remedy. When the rigidity of the common law of England became manifest the Chancellors intervened and step by step organized a Court of Equity. But what was there of this sort in Athens? What could Aristotle have seen in the legal machinery to enable him to form so distinct a conception of corrective equity?

I think that the answer is to be found in a passage in the *Rhetoric*. The Athenians had an elaborate system of arbitration, having arbitrators of two classes—those named by the State and those selected independently by the parties, and these arbitrators seem not to have considered themselves bound by the letter of Athenian law, but to have entertained considerations of equity. The fair or equitable man therefore prefers to go to arbitration rather than to law, for the arbitrator regards equity, but the juryman (the *dicast*) the law: *ὁ γὰρ διαιτητὴς τὸ ἐπιεικὲς ὁρᾷ· ὁ δὲ δικαστὴς τὸν νόμον.* For the arbitrator is selected for this very purpose, that equity may prevail (*Rhetoric*, 1–13 *ad fin.*). I picture to myself Aristotle in his spare moments walking about Athens and looking into the Courts of the arbitrators and listening to the proceedings there, and seeing the contrast between the principles on which they acted and those which governed the jurymen in the Agora. Aristotle found nothing dull, not even an arbitration.'

CHAPTER VI

GENERAL PURSUITS AND FRIENDSHIPS IN MIDDLE LIFE

The last four or five years of Lord Justice Fry's judicial life were passed in London at No. 1 Palace Houses, whither the family moved—largely for the sake of more room—in the autumn of 1887. The house is a rather large and decidedly ugly one, but it had a sense of air, wanting in many London buildings, and its nearness to Kensington Gardens and fine views down the Broad Walk greatly recommended it to him. It seemed spacious and rather pretentious after the little Highgate house, and its new owner on taking possession remarked that 'plain living and high ceilings' must now be the lot of the family. On many mornings, after half an hour's reading of science with his daughters, he would start on foot along the north of the Gardens, and walk a good part of the way to the Courts.

On Saturdays in the summer it was sometimes a pleasure to drive to Kew, but he never adopted the week-end habit, which would have involved for him either Sunday travel or an early start on Monday. He greatly preferred a quiet day with his wife and children, and even in his busiest years he somehow contrived to make it a day of complete change, never getting up cases when at the Bar, nor writing judgements when on the Bench. He scarcely ever failed to be at the Friends' Meeting for worship at St. Martin's Lane on Sunday morning (the meeting which John Bright frequently attended when in town); and the afternoon and evening were largely devoted to readings with his family. When away from home he generally attended a Church of England service, but, except in his extreme old age, it was a rare thing for him to pass a Sunday without attendance at some place of worship.

But of all his *πάρεργα*—to use a frequent phrase of my Father's—the heaviest during his legal career was his work for the University of London, and meetings of its Senate often occupied his evenings as soon as the Courts had risen, and were apt to send him home weary with long toil of brain. An account of his work in this line will be found later. Another of his interests was in the Society of Antiquaries.

'In or about 1884 a Bill was introduced into Parliament for the compulsory enfranchisement of copyholds, which would have rendered the Court Rolls of the manors throughout the country of little or no value for the purposes for which they had hitherto been preserved; and as the Court Rolls are very important for the social history of England, I felt inclined to do something for their protection, and I thought that the best course was to try to interest the Society of Antiquaries in the subject. Accordingly I wrote a letter on the matter to the Secretary (17 April, 1884), and in his presidential address, delivered a few days afterwards (23 April, 1884) (*Proceedings Soc. Antiq.*, 2nd series, x, pp. 85–6), the Earl of Carnarvon introduced my letter and warmly seconded my proposal that some steps should be taken to protect these interesting documents.

This led to my making shortly afterwards the acquaintance of Professor Chandler,[1] of Pembroke College, Oxford: a man of great repute as an Aristotelian and as possessed of a somewhat caustic humour, a most zealous member of the governing

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[1] Professor Chandler was introduced to him by the following letter from Dr. Wace:

'King's College, London.
'14 Dec. 1885.

'I have taken the liberty, on behalf of a friend, of sending for your acceptance a volume containing an edition of five Court Rolls of Great Cressingham, Norfolk. My friend is the Editor, Mr. H. W. Chandler, Fellow of Pembroke College, Oxford, and Professor of Moral and Metaphysical Philosophy in the University of Oxford. He printed the volume privately, for the intrinsic interest of its contents. But he observed that your Lordship, in some public remarks, drew attention recently to the value of such documents as the Court Rolls, and he was anxious therefore to bring this volume under your notice. He failed to discover your address, and when I called upon him the other day at Oxford he mentioned the matter to me, and I undertook to deliver the volume. It has been sent to you to-day by post.

'It may be unnecessary for me to tell your Lordship that Professor Chandler is one of the most learned, most original, and most genuine minds in Oxford. Grievous ill health compels him to be almost a recluse, but he is beloved by those who know him best; and, as an old pupil, I am bound to him alike by allegiance and by strong attachment. If your Lordship can excuse some paradoxical sayings in the Preface, I think you will understand this admiration and affection; and if you can be so good as to acknowledge the book, body of the Bodleian Library. He printed in 1885 five Court Rolls of the Manor of Great Cressingham in Norfolk, of which he was the lord, and he sent me two copies—one to keep, the other to give away. To these documents he prefixed an interesting introduction, and we had some correspondence on the importance of the preservation of such documents. A scandalous case of destruction had occurred not long before, when New College sold a cartload of deeds for thirty shillings. In the result Professor Chandler wrote for the Society of Antiquaries a very lively paper on the value of Court Rolls for the real history of the people of England, and I read it for him at the meeting of the Society on the 4th February, 1886 (see the *Proceedings* of that date). The discussion which followed resulted in a memorandum issued by the Society on the subject, which perhaps may have done some good; and it is interesting to me that I was lately (July 1901) the member of a Committee of our own County Council charged with replying to certain suggestions with regard to the custody and preservation of somewhat similar documents which have been laid before, I believe, all the County Councils of England. It was in consequence of the part which I took in this matter that I was elected a Fellow of the Society of Antiquaries of London, and for a year at least I served on the Council of that body.

At the end of a Long Vacation—I suppose in 1886—I paid a visit to Professor Chandler[1] at his rooms in Pembroke College,

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not to me, but to Professor Chandler himself, I shall feel sincerely obliged to your Lordship.

'This sort of work is his recreation. He is master of all philosophy, ancient and modern, but amuses himself or, I fear, beguiles pain by such trifles as writing the standard work on Greek Accents, or copying out Court Rolls in the possession of his family with this minuteness.'

[1] The invitation was conveyed to him in the following terms by Professor Chandler:

'Oxford is at its best in July and August: if you could contrive to spend a day or two here I could show you, what few ever see—the back slums of the Bodleian. Strictly this is against the law, but I can get leave, and then I could take you straight to a MS. (never, I think, printed) in which most of the old writs are turned into Latin verse, and one of Bishop Leofric's books (he lived in the Confessor's time) so splendidly written and stayed for a night there, and had the pleasure of going over the Bodleian with Chandler. He was the vigorous opponent of the practice of lending books from that collection, and his pamphlets on the subject were very forcible.

Somewhat akin to my interest in the Society of Antiquaries was the part which I took in 1886 or 7 in the foundation of the Selden Society, of which the object was the promotion of the historic study of English law. Lord Coleridge was the first president, and I acted on the Committee until I left London. It has done some excellent work.'

Mention of two other friends of this period is made in the following extract, Sir James Paget and Dr. Asa Gray, the American botanist, who had been a correspondent of his before they met at a gathering at Lambeth Palace,

'which in the year 1881 was summoned by Archbishop Tait with a view to inaugurate some combination on the part of men of science who were believers in Christianity and in science to hold the fortress against the scientific agnostics and unbelievers; and Archdeacon Wilson, who was present, has since refreshed my recollections of what took place. There were several men of eminence there—Stokes, Wyville Thompson, Asa Gray, Wilson, and many others whose names have passed from me. Many propositions were made, but none seemed to meet with anything like general approval. My own opinion was opposed to the formation of such an association as was proposed. I thought that the value of all reconciliations of opposing thought would be weakened by a previous declaration that such reconciliations were always to be looked for; and I thought also that for those who thought otherwise there was the Victoria Institute, which has taken such reconciliation as its special province; and after a time I expressed these views, and moved a resolution expressing the opinion of the meeting that whilst it was not needful to form any formal combination, it was desirable for scientific men who were believers in

that you will be ready to curse (but judges must not do that—I will do it for you) the invention of printing. Forgive this nonsense and believe me,

'Very truly yours,
'H. W. Chandler.'

Christianity on all occasions to give utterance to the faith that is in them—or to that effect. With an amendment by the Archbishop to insert "suitable" before "occasions", the resolution was adopted, and the meeting broke up.

The Archbishop—so Wilson told me—asked him to stay and have some tea, which he did. The Primate threw himself on his sofa, drank tea from a huge cup, and said, "I see I made a great mistake". Wilson replied, "Yes, I think your Grace did". Wilson agreed in looking back upon it that the Archbishop's scheme would have been a great blunder.

The Archbishop subsequently entertained at dinner some of those who had taken part in the meeting, and some others who had not been present, and the invitation included an option to come half an hour before the dinner-hour and to take part in the short service in the private chapel, of which many, including myself, took advantage. I recollect that there were there the Duke of Argyll, Lord Walsingham, Dr. Asa Gray, Sir James Paget, and J. K. Parker, the great anatomist. He was a very interesting man, and I had a good deal of conversation with him on this occasion. He was a Methodist, and had been, I think, a medical practitioner in a very humble line, but by his enthusiastic devotion to the study of anatomy, especially of the development of the skull, had risen to eminence. He was a man of great simplicity and goodness. He said to me, "I've often been in a cottage, but I was never before in a Palace". In coming away I brought Sir James Paget with me so far as the Athenaeum, and we talked about the religious views of men of science. "You would find as many religious men", he said, "amongst doctors" (or men of science, I forget which) "as amongst the same number of merchants." "Or of lawyers?" I added interrogatively. "Yes," he said, "only I did not like to say that to you."'

Of friendship in general my Father wrote:

'That friendships may and do differ extremely in kind whilst they may be equal in reality is, I suppose, the experience of every one. There are some with whom one is a firm friend in nearly all the regions of thought and feeling, in nearly all one's interests. There are many more who are friends with only a part of one's self. Many of those whom I love as friends have no sympathy with many things which greatly interest me, and would hardly believe that I have such interests. Another thing which I have found in friendships is, that one must not expect a friendship to seem equally deep, equally responsive, equally helpful at all times. You part with some one feeling you have had a time of intercourse that has greatly united you, and the next time you meet you cannot perhaps strike the same chord at all. One case of this sort I often recollect. When I was on circuit at Lincoln I made the acquaintance of one of the Cathedral clergy, and saw a good deal of him, and late on a Sunday afternoon, after the services were over, we lingered in the Cathedral and went into the cloisters, and together watched the summer sunshine on the noble towers: we were alone, and we talked of things unseen, and seemed to reach a common ground of thought and feeling deeper than anything which might divide us. I saw him several times afterwards and entertained him here, but never did I afterwards touch the old ground on which we stood. I do not say that this was due to him alone—it may have been as much due to myself; but the fact was so and is only one instance of what I have often experienced.'

It was said of my Father that he knew books better than men, and for mankind 'in a loomp' he neither had nor professed great admiration. He used to quote with relish Mrs. Poyser's words: 'I'm not denying the women are foolish: God Almighty made 'em to match the men,'—and perhaps it was this low expectation which made him constantly surprised at the goodness he actually encountered. But for characters which were at all congenial to him, morally or intellectually, he had a keen eye, and, as the sketches from his pen of Bishop Steere, Sir James Paget, Lord Bowen, and others given in their respective memoirs show, he had much power of analysis and delineation.

During all his busiest years at the Bar and on the Bench, my Father still continued to be a student, and to write occasional papers and give lectures or addresses on subjects connected with, or quite remote from, his legal activities. One of his great interests in these years was the study of Mosses, which he took up about 1881, when he found that he was fairly well acquainted with the flowering plants of his district. He was not skilful in his manipulation of the microscope, nor was his eyesight good, so it is not strange if he was not always accurate in his identification of species; but he found a very great deal of pleasure in the collection and preservation of these humble beautiful plants, both at Failand and on any journey at home and abroad. As usual with him, it was not the minutiæ, but the broad lines of the study, which attracted: he loved the mosses philosophically, both for their delicate beauty and for the biological questions they arouse. It was a great pleasure to him to be invited to lecture at the Royal Institution on this subject; the lecture was delivered under adverse circumstances, as on the failure of another lecturer he was called on to give it earlier than he had expected, and on a day when some foreign object in his eye was giving him acute pain. Nevertheless, 'as green as the greenest moss', wrote Sir William Huggins to him many years later, 'is the pleasant memory of the hour which we spent with you at the Royal Institution in the contemplation of the charms and wonders of these humble plants'. The lecture appeared afterwards in *Knowledge* and as a small book. I do not think that he ever had happier hours as a botanist than when, in the Jura Mountains, one of his travelling companions, whose eyesight was younger than his, came on a rare moss, *Buxbaumia indusiata*, of special interest from a speculative point of view. He had never seen it before, but knew it at once. What a resource this study was to him the following incident, described by a friend, the Rev. J. C. B. Geddes, of Largs, Ayrshire, will show. Writing of a visit to him and his wife of Sir Edward and Lady Fry, he says:

'One day, when there was nothing special to do, he and I went in one of the local steamers to Kilchattan Bay. I was annoyed to discover that by some mistake about the boats—some change of which I had not known—we were landed at that entirely uninteresting place, Kilchattan Bay, and that we should have to wait there for two hours before we could get a boat to bring us home. I apologized, of course, to Sir Edward for wasting his time. But he said we should not waste any time! He took me to an old roadside wall, and there with the help of his pocket microscope (lens) he showed me, to my great astonishment, what an amazing variety of lichens and mosses could be found on two or three yards of that old wall! The two hours which I had feared would pass wearily for him were all too short for both of us, and we were quite sorry when the moment came when we had to hurry to the boat!'

Bacon's dictum that 'studies are for delight' was never truer than in respect of this student and this subject. He mused in wonder over the leaves of Mosses whose definite shapes are combined with the utmost simplicity of cellular tissue: what limited the growth of this structure, and imposed order upon it?

Again:

'To any one who studies the subject, the immense variety as well as the beauty of the peristomes of Mosses becomes very impressive; if the sole end be the protection and extrusion of the spores in the proper weather respectively, why is there this infinite wealth and variety of form and colour? The question can be asked, but hardly can be answered: and the mind of the student, considering these small organs of these small plants, is left in a state of admiration and wonder at the richness of Nature: "Rerum natura tota est nusquam magis quam in minimis."'

At the conclusion of the little book he wrote:

'I can cordially recommend the study of the Mosses to any, old or young, who really love Nature: I have found in it a great source of pleasure during several years. The tops of walls, the banks of lanes, the shady woods, the mountain passes, each inhabited by different classes of mosses, are as distinct in their vegetation as the oak, or elm, or beech counties of England, or the pine-clad slopes or the birch groves of the Alps. A square foot, in some situations, will contain a large number of species of different forms and modes of growth. The long arms of the Hypnum may stretch along the ground, whilst the Tortulas raise their spires of rich brown from out rosettes of verdant leaves, and the Bryums with their pendant capsules vie with them in beauty. One stone or a bit of boggy land may be a study in colours—greens, browns, reds, greys, and gold—which my pen would fail to describe. A wall-top may show

"A stubble field, or a canebrake; a marsh
Of bulrush whitening in the sun."

Another may present a mimic forest, built up of various forms, as different from one another as were the huge vegetables of the coal period from our trees. In a word, I find myself, whenever in the country, surrounded by a world of beauty and interest which I only dimly perceived before I entered on the study, though I have never, I hope, been entirely unobservant of things around me. More than ever I can say

"In small proportions we just beauties see,
And in short measures, life may perfect be."'

He prefixed to this book words from the Greek Anthology:

'Do not spurn the humble: grace keeps company with the humble.'

The study of mosses increased his philosophic interest in botany, and just as years before he had challenged Darwin in his discussion of the use of beauty to flowers, so now he invited closer examination of two generally accepted doctrines: the doctrine of the Alternation of Generations, and Weismann's doctrine of germ and sperm plasm: he also conceived Weismann's doctrine of the non-heritance of acquired characters to be quite unproven. He certainly had no intention, or desire, to dictate to men of science on their own ground, but these questions were, he considered, matters of evidence and matters of clearness, or otherwise, of thinking. He used to lament the false metaphysics of much so-called science, and the condition of mind which could be satisfied with such statements as 'The law of geotropism causes the radicle to grow down' was simply deplorable to him. On the Alternation of Generations he held that much crude writing had prevailed, and that there had been a want of care in defining a generation, and a long article from his pen on the subject appeared in *Nature* for March 4, 1897, but I am not aware that he converted one single botanist to his view, and I think he would himself have abandoned at a later date one argument on which it was based. But a modern botanist tells me it is still suggestive.

On Weismann's theories he wrote as follows:

'In 1889 had appeared an English version of Dr. Weismann's *Essays on Heredity*, a book containing much of great interest. His observations as to the stage in the scale of creation at which Death enters as a normal event always appeared to me very striking. But his doctrine of the distinction between germ plasma and other protoplasm always seemed to me erroneous; and his proposition that no acquired character can be inherited always appeared to be false, or rather unintelligible. When

I published my little book on Mosses, I took the opportunity of showing how the phenomena of reproduction in that group of organisms showed either that there was no such distinction, or that germ plasma was widely, if not universally diffused, throughout the organism. Herbert Spencer had been a very determined opponent of this germ plasma theory, and accordingly I sent him a copy of the little book and called his attention to the relevant passages.

Again, in 1894 I was at the British Association at Oxford, and in the Biological Section much attention was given to this Weismann doctrine of the non-inheritance of acquired characters. It appeared to me that if the word "acquired" was used in its ordinary significance, and if no character which was acquired was transmitted, there was an end of the doctrine of evolution; if it was not used in that sense then I wanted to know in what sense it was used. I propounded this difficulty both in public and in private to those biologists with whom I had the opportunity of discussing it, but I could get no solution of the difficulty. I subsequently went through all the principal essays of Weismann in which he had announced his doctrine, and could not in the least understand what he meant. As the result I wrote a letter in *Nature*[1] asking, in short, What does it all mean? and there followed a series of replies from various people, but so far as I was concerned they darkened wisdom by words. In short, I came to the conclusion that whilst there were a great many interesting facts and a greater number of theories floating about, the biologists, including Weismann himself, had no precise conception of the meaning which he attributed to the terms which he used.'

He concluded the correspondence in *Nature* with the remark that the more the various answers to his question were read, the more did it become apparent that

'they are not at one, either with themselves or with Lamarck or Weismann, as to the use of the words "acquired characters"; and for myself, I repeat my regret that an inquiry of great moment should be obscured, as I venture to think, by a premature use of classificatory words before the real classification of Nature herself has been ascertained. For the question, "Are acquired characters transmissible?" I hope to see substituted the inquiry, "What characters are transmitted?"

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[1] See *Nature*, Nov. 1 and Dec. 27, 1894.

The reconsideration of the matter by biologists in the present year (1921) seems to indicate that these views, so long considered unorthodox, may yet be found to have truth in them.

In this connexion he received the following from Herbert Spencer, to whom he had sent his book:

'Fairfield, June 7, 1893.

'I am much obliged to you for your note and accompanying volume. The facts it contains would have been of great use to me in writing the late articles in the *Contemporary* had I known them. To me it seems that of themselves they suffice to dispose of Weismann's hypothesis, the wide acceptance of which I think discreditable to the biological world.

'The hypothesis of a "germ-plasm" as distinguished from the general protoplasm seems to me a pure fiction, utterly superfluous and utterly discountenanced by the facts; and the phenomena presented by the mosses are among those showing in the clearest way that there is but one plasm capable of assuming the form of the organism to which it belongs when placed in fit conditions: one of the fit conditions being absence of any considerable tissue differentiation.'

If my Father had allowed himself the easy luxury of intellectual prejudice it would certainly not have been in favour of any of the phenomena so compendiously described as spiritualism. It is, therefore, of the greater interest to find that his accuracy in weighing evidence and his willingness to follow whither good evidence might lead, induced him so early as 1894, at a time when the name of Eusapia Palladino and her manifestations were known but to few, to send to the *Spectator* [1] an article calling attention to some well-attested facts.

'If the scientific world', he wrote, 'still refuses to consider those matters as a legitimate subject of inquiry—still insists that they are a trick, a fraud, and nothing else—they will, it seems to me, do so at their peril. . . . It does appear that a prima facie case is made out which requires further and steady investigation at the hands of men of science.'

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[1] See *Spectator*, December 29, 1894.

CHAPTER VII

RETIREMENT: AND COUNTY BUSINESS

1892 AND LATER

> ‘Sachons cesser de bon cœur, et non lorsque la force des choses nous arrache de notre place pour nous signifier un congé brutal.’
>
> *L’Ami.* CH. WAGNER.

THE autumn of 1892 found my Father and Mother busy with alterations to Failand House, hitherto their holiday, henceforth their only, home; and here they and some of their daughters established themselves before the end of the year. The nucleus of Failand House dates from the time of Queen Anne, as two well-carved little mantelpieces of the time testify; but, after many additions and alterations at various times, it has become a somewhat shapeless structure of no particular character, and devoid of any architectural beauty without, unless a pleasant veranda of Bath stone, which my Father added, may count as such. Within, the library, which was built on his retirement, is a handsome room capable of housing some four thousand volumes, and in this pleasant sunny room, which was a great joy to him, many hours of his last years were spent, studying alone or with one of his daughters; and to this sanctum any ailing member of the family often received a special invitation. This room was, indeed, an environment of his own creation, as much an expression of his nature as the nest is of the bird: it was an epitome of himself, the books gathered by his own toil and tastes, and not only gathered but very largely read—worthless ones, ‘*βιβλία ἀβιβλία*’ as he called them, following Charles Lamb, occasionally weeded out, and the different classes of books presided over by busts of representative authors placed in recesses designed for them. Thus Marcus Aurelius indicated Philosophy, and Julius Caesar History, while Science was under the care of Aristotle. If there was a deficient section, as younger members of his family complained, it was in fiction, where the only authors fully represented were Scott, Jane Austen, and Trollope. He always insisted greatly on reference to original authorities, and would turn them up, if possible, even to ascertain a small matter, and if his accurate memory was ever at fault he always knew where to refresh it.

It was perhaps his strong personal interest in his books which made him, in appraising his friends’ houses, frequently give his verdict mainly according to the kind of library or study they could show.

Failand House is about four miles from Clifton, in a scattered hamlet of that name, but though so near to a large town it is an entirely rural place, being approached on all sides by deep and narrow lanes. The name is a standing puzzle to etymologists, but is certainly an old one, for Failand figures in the earliest map of Somerset, Saxton's map of 1575, and was probably then a more important place than it is now, being figured in all early maps with a church, concerning the site of which Sir Edward Fry used to speculate—for the old building has disappeared, and the church, whose spire is now conspicuous in all the neighbourhood, was not erected till 1881. Failand House stands some 400 feet above sea-level, and being only 2½ miles from the Bristol Channel has the full advantage of its height, which gives its northern windows command of a wide-stretching view of great and varied beauty. It directly overlooks the junction of the Avon and the Severn, where the distant lighthouses and warehouses of Avonmouth give a touch of human interest to the view, and whence great liners may be seen making their way to Jamaica and other western lands. Behind the great stretch of water formed by the two rivers and the Bristol Channel lie the ranges of Welsh hills: the valleys of the Usk and the Wye, the lofty Brecon Beacon and the Forest of Dean, the cliffs of Aust, where St. Augustine met the Welsh Christians, are all visible from the house or the lawn, and the everchanging lights and shadows on the waters, the great variation of the tides—a marked feature of this district—the summer sunsets flaming behind the hills, their winter snows, the vividness of their details before coming rain, the mists which reveal unsuspected hollows and folds—all these were no small pleasure to the owner of the house—a pleasure which he delighted to communicate to his friends. Round the straggling house is a corresponding garden, equally without style, to which he made considerable additions, including a small pinetum. It would be hard to say whether his library or his garden added more to the enjoyment of his later years. His wife used to remark that the garden was cultivated for the sake of its weeds, and certainly any rare weed—and weeds of all sorts appeared most obligingly—was gladly welcomed by him: not least the bright-eyed *Veronica Buxbaumia*—now so abundant in all our fields, which in his boyhood was only a rare stranger.

The great feature of the garden was of his own designing—a straight walk tiled with red bricks and with wide borders of grass and of herbaceous plants, leading to a small pond behind which Diana stands robing herself. This walk was my Father's quarter-deck ; here he would pace up and down and talk, or do a constitutional mile, twenty-two times the length of the path, on ungenial winter days.

He took an almost personal interest in his trees, whether those he found there—the great Portugal laurel on the lawn, and the group of Scotch firs in a field which formed a landmark to vessels in the Channel—or those he planted ; and when one Sunday morning a great western gale made havoc among them, his face as he watched the fall of a cherished cedar betrayed as real sorrow as a man may feel for a tree.

In mentioning the Failand garden, one word must be given to the faithful gardener, who was there from before the time that my Father bought Failand till the day of his death, and whose forty-five years of service were years also of devotion and mutual friendship. David Williams, in spite of a very meagre education, had made himself master of local botany—contributions from his observant eye will be found on many pages of White's *Flora of Bristol*. Such a master and man were, indeed, well met, and contributed to each other's stores of knowledge: my father used to say that Williams was a fortunate man in that his work and his interest in life lay so closely together.

One other old servant's name must find mention here, that of his coachman, William Gibbs, who drove him for nearly forty years, beginning as a young man in the Highgate days, following him to London, and later exchanging the London streets for the Somerset lanes with perhaps as much pleasure as his master. He was a North countryman of much resolution and independence of character, and the author of various racy phrases which became current in the family. His friendship and his long service made him one of the pillars of the house, for his continued help and health seemed matters which could be counted on, so that it was a personal loss when a fatal illness, too long resisted, forced him to give up work a few months before his death.

Sir Edward Fry certainly had real pleasure in his ownership of two hundred acres of land, and used to express wonder that with the limited acreage of England it was possible for a man of his moderate means to gratify this taste. What the fields and woods and streams of his home were to him only those nearest to him knew: one wooded hillside of special beauty, Durbin's Batch, was a most beloved spot—his wife maintained that he had bought the place for that one field. He enjoyed the duties which land-owning brought—the improvement of cottages and responsibilities of oversight—and after a few years of retirement London life and associations had greatly receded and he had fully entered his new rôle. For two of the usual habits of a country gentleman he had, however, no liking: he neither smoked nor shot. It would be difficult to say from which he would have been more averse. Smoking seemed to him a habit of mere self-indulgence, which even defeated its own end eventually; and his dislike of killing anything was only overcome in the case of wasps. A day with the guns would have been a day of sheer distress to him.

When Lord Justice Fry left London and became known to his friends as Sir Edward Fry he did not completely relinquish the law: he sat, when requested, on the Judicial Committee of the Privy Council, and having quitted a Supreme Court of Judicature to the surprise of his friends, he, also to their surprise, took his seat in a local court of Petty Sessions, and acted for several years—till a second retirement in 1913—as Chairman of the Quarter Sessions for Somerset. Not unnaturally this produced some amusing situations, as when once the County Council appealed on a point of law from a decision of his, lost their case, and were laughed at into the bargain: or, when a smart young solicitor down from town resented some ruling of his about evidence at Quarter Sessions, and proclaimed that 'no judge of the High Court would have made it'. Sir Edward Fry made no comment, but the unfortunate young man soon learned to whom he had spoken, and had the grace to make a private apology.

The late Sir Charles Chadwyck-Healey, a valued friend of my Father's, kindly furnished me with the following account of his work on Quarter Sessions:

'When Sir Edward Fry was sitting as a judge of the High Court and as a Lord Justice I think that there was an impression, shared by many who practised before him, and even by some of his colleagues on the Bench, that his severely logical habit of thought tended sometimes to induce him to take a too technical view of the particular matter under consideration, and that occasionally a decision, right in itself, might just miss the possibility of a wider and more useful application by reason of the fence of logical and technical conditions with which he surrounded it.

'Later in life, when he was free from the traditions and strict conditions of the Supreme Court, and his judicial functions were, in the main, diverted to the trial of criminal cases at Quarter Sessions, I think that there was some relaxation of the strict attitude of mind with which those who knew him were more or less familiar in the old days. If I may venture, I would suggest that in his changed sphere of action he was confronted by a different aspect of humanity. He quickly realized that in the class of offenders with which he had to deal there was much that, humanly speaking, had to be grasped, much that would not be presented to a Court of Civil jurisdiction in its ordinary procedure. If a prisoner is not professionally defended his interests must be carefully watched by the Chairman of the Court, who must see that he has every chance, notwithstanding what the depositions taken in the Court below may say against him. I think that Sir Edward never failed in this duty. He had studied the depositions ; no man ever gave more care to this preliminary work than he did. As his Deputy Chairman I had very many opportunities of discussing these documents with him, and although he would occasionally sum up his then opinion with the characteristic words "he is a bad man", he never allowed that opinion to interfere with what he realized to be his duty when the offender stood before him in the dock.

'His charges to the Grand Jury were always carefully considered. Occasionally his study of the depositions in a case would reveal to him some point of law or procedure which had perhaps been overlooked or undiscovered by the Court below. The point might perhaps be thought by some to be "very technical", especially when "on the merits" the case of a person charged did not look well. Still, if logically the prisoner could have the benefit of it, he had it, and the Grand Jury were advised to throw out the Bill.

'A more conscientious judge it would not be possible to name, or one who had his conscience more thoroughly under severe logical control.'

Mr. Simey, Clerk of the Peace, contributes the following :

'Sir Edward Fry's activities on the County Council were not very marked, although he generally attended the meetings of the Standing Joint Committee of the County Council and also of the General Purposes Committee, where his legal opinion was always valuable and carried considerable weight ; particularly in connexion with questions of disputed rights of way, or of their repair, and parliamentary and similar proceedings. As instances of the former I may refer to a question of the repair of a footpath which arose near his home at Failand in May 1910. The matter being referred to the Chairman of the County Works Committee and myself for a report, we called upon Sir Edward, who, not content with giving us his opinion on the matter, put himself to the trouble of walking over every yard of the footpath with us himself on a hot summer's day—no mean exertion for a gentleman of his years. An example of the latter is shown by the care he took to see that the grant of powers for public electric lighting in his district was made on suitable terms in the public interests, and that the County by-laws for good rule and government were properly framed, particularly in connexion with the prevention of the wholesale uprooting of plants and ferns which was taking place in some of the country districts.

'It was, however, to Quarter Sessions that he more particularly devoted himself in connexion with the County work. He was rarely absent, except when prevented by his duties at The Hague, and the affectionate respect with which he was regarded by both his brother justices and the Bar testified to the truth of Lord Alverstone's description of him (in the Court of Criminal Appeal) as "a lawyer of great humanity and learning". He sometimes surprised me by (1) the readiness with which he would grant legal aid to a prisoner under the Poor Prisoners' Defence Act in an apparently clear case, if he could find any point, however small, which he thought told in the prisoner's favour, and which he considered should be put before the Court by Counsel for the defence; (2) the mildness of his sentences, as a general rule: this, however, at times was varied by severity. He once (the only time in my experience) ordered an incorrigible rogue to be whipped; on another occasion he sent a man convicted of some small larceny, after a very long record of previous convictions, to the maximum sentence of ten years' penal servitude (the only occasion on which I have known five years exceeded at Quarter Sessions), with the brief remark, "You are a pest to society". On the other hand, he took full advantage of the Probation of Offenders Act, and I have more than once known him induce the Court to release an offender on probation where others would have sent him to prison, even when he said, "I am convinced that the defence set up was untruthful".

'Sir Edward was a great upholder of the dignity of the Court: he expected all who had duties there to carry out those duties to the letter, and would tolerate no slackness or unpunctuality in jurors or others, though always ready to listen to reasonable excuses: he was strict, but never discourteous, and always considerate for others.

'On the passing of the Licensing Act, 1902, Sir Edward took immediate steps in the direction of the reduction of the numbers of licences in the County.'[1]

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[1] In connexion with the question of the reduction of licences, my Father determined to see things for himself, and ordered the pony-cart one morning and drove down to the neighbouring village of Pill, where he paid surprise visits at all the numerous public-houses with a view to ascertaining whether any were in much worse condition than the rest, and could therefore be abolished.

His work on the Somerset County Council is thus described by his friend and fellow-worker, the Rt. Hon. Henry Hobhouse, of Hadspen, Somerset:

'Although as a young barrister I had a great admiration for Sir Edward Fry's work as a Chancery judge, I did not come into close contact with him until he had retired from the Bench and settled at his charming country home at Failand. To see him there among his books, and flowers, and shrubs, in which he took so deep an interest, was to appreciate the beauty and happiness of a calm and cultivated old age after a life spent in useful public work.

'It was in the year 1899, when Sir Edward had attained a European reputation as a lawyer, and had reached an age (72) at which most men are content to rest on their laurels, that I approached him with the request to take the Chair of the Somerset Quarter Sessions. He had then for some years been doing active service as Chairman of his own Petty Sessional Bench, but he did not hesitate to respond to the further demands of his neighbours, and accepted both the Chair of Quarter Sessions and an aldermanship of the Somerset County Council. These posts he held for fourteen years, to the great satisfaction of his colleagues in County work, and only retired at the advanced age of 86, when he felt his powers beginning to fail.

'I should say that the leading characteristics of his work in the County were:

'(1) His strong sense of public duty. This was shown in his close attention to what many persons of his age and distinction would have regarded as dull and tedious detail. Although he did not take a very active part in the work of the County Council, he sat through our long sittings, and intervened at times with great effect, as he had the ear of all parties in the Council. I think I am right in stating that he never missed a Quarter Sessions except when he was called away to Paris or The Hague on more important national duties. Sitting beside him in the Court of Quarter Sessions one could not help being struck by his minute care in taking notes, and his careful grasp of the details of every case.

'(2) His eminent fairness of mind in judging both public questions and the criminal cases brought before him. Like all thoughtful men he had no doubt some natural bias and predilections, but he invariably put these aside in his addresses to the jury, and in public controversy always made full allowances for his adversary's point of view. I do not think the most prejudiced prisoner who was tried by him could have regarded him as an unjust judge. To many of us, at all events, he was the personification of justice and equity.

'(3) His high standard of morality. In this respect he rose far above the average man's point of view. His hatred of corruption in every form, especially that of secret commissions, is well known, and he was always keen to condemn actions prompted by low motives. As an instance of the extent to which he carried his views, I remember his once finding fault with a portrait hung on the walls of a house where he was visiting on the ground that the beautiful lady whom it portrayed had borne a character not without reproach. The somewhat too severe view he sometimes took of the delinquencies of defendants at the Sessions may be attributed to his incapacity to make sufficient allowance for the low motives which actuated them.

'By some of his neighbours who only knew him slightly he was probably regarded as somewhat severe and ascetic. But as you became better acquainted with him this impression wore off, and his manner, which in his middle age recalled the keen and critical Chancery judge, became mellowed in his old age by the kindness and philanthropy of his nature.'

For more than four years after his retirement no public call was made upon Sir Edward Fry's leisure other than some of the county work just described, and he was able at one time or another to gratify his long-standing desire to visit the Alps in early summer, to set foot in Greece and in Rome, and to visit Egypt, Sicily, and Algiers. Little need be said, however, of his travels, greatly as he felt they enriched his life and mind, for the age at which he made them, and the fact that no journey which his wife could not share would have been pleasurable to him, kept him on, or pretty near, the beaten track of tourists. But his independence of mind asserted itself in his travels as elsewhere, making him always refer to original sources, reading Strabo on the deck of a Nile steamer, or taking Pausanias to Greece; and hence he formed his own judgements on what he saw—as when in Sicily a stay in Syracuse and an excursion to Epipolae convinced him that the failure of the Syracusan expedition involved less blame to the Athenian generals than some modern historians who have never visited the scene have supposed; or at Cannae and Roncesvalles, where his observations resulted in articles for the *Historical Review*. Again, when he was in Switzerland immediately after his retirement, he visited the ruins of St. Gervais near the Arve valley, a place which had been almost totally destroyed a few weeks before by a terrible flood of water, suddenly poured down upon it from a superjacent glacier. His observations and the information he collected on the spot formed the subject of an article in *Knowledge*.

He was an excellent travelling companion, for his many interests in history, geology, and botany, his copious and accurate memory, his careful preparation beforehand, his keen enjoyment of the pleasures and his cheerful submission to the inevitable discomforts and disappointments of travel, all contributed to make him so. ‘Never did we see him cross,’ wrote one of his companions in Egypt, Miss Gulielma Lister, ‘unless it was for a moment when a tiresome Arab would interrupt and talk, and Sir Edward said to him in a commanding voice, “Don’t you see I am talking to my friends?” but the instant reply, “*I* am your friend”, at once disarmed him and made him laugh.’

Of all my Father’s journeys perhaps that to Greece in 1894 was the one which delighted him most, and here he had a few days of roughish travel when, leaving the rest of the party at Delphi, he and a nephew made their way through Boeotia. At a small wayside inn where they stopped for a midday meal they were joined by an Englishman who, to my Father’s delight, could give him real information about the country, and he plied him so eagerly with questions that at last the hungry traveller had to say, ‘If you will allow me to finish my soup, I will endeavour to satisfy you’. The stranger proved to be the Rev. H. F. Tozer, the author of *A History of Ancient Geography*, and the very best guide one could wish to meet in the uplands of Greece.

But the pleasant tenor of his quiet home life and holiday travel was interrupted in 1897, when the first request reached him from the Government to undertake work of a new description; and henceforth for many years requests of this sort—from the Government, Railway Companies, &c., from learned societies, and even private friends—were so many that his friend Mr. George Brodrick wrote to him, ‘I think I have read in law-books of the common voucher, and I am not sure that we shall not read of the universal arbitrator’, while the title of Lord High Pacificator was kindly bestowed upon him by the newspapers. The following is a short summary of his chief activities in this respect:

In 1897–8 he presided over the Royal Commission on the Irish Land Acts; in 1898 he acted as Conciliator in a South Wales Colliery Dispute; in 1900–1 as Chairman of a Departmental Committee on the Patent Laws; in the same year 1901 as Arbitrator in the Grimsby Fishery dispute. He was Chairman of the Court of Arbitration under the Metropolis Water Act, 1902; in 1902–3 Arbitrator at The Hague between the United

States of America and Mexico in the Pious Funds dispute; in 1904 he was Legal Assessor to the International Commission of Inquiry on the North Sea incident; in 1906 Chairman of the University College, London, Transfer Commission; in 1908 Arbitrator between the London & North Western Railway Company and their employees. In 1906–7 he was Chairman of the Royal Commission on Trinity College, Dublin, and the University of Dublin; and in the latter year first British Delegate and Ambassador Extraordinary to the Second Peace Conference at The Hague. In 1909 he was again at The Hague as one of the Arbitrators between Germany and France in the Casa Blanca incident.

CHAPTER VIII

VARIOUS GOVERNMENT EMPLOYMENTS

1897. Royal Commission on Irish Land Acts
1898. Conciliation in South Wales Colliery Dispute
1900. Patent Committee
1901. Grimsby Fishery Dispute
1902. London Water Companies Arbitration
1904. Centenary of the *Code Civil*
1908. Arbitration between London and North Western Railway Company and Employees

Royal Commission on Irish Land Acts

'In the summer of 1897 Lord Cadogan, then Viceroy of Ireland, wrote to me and asked me to undertake the chairmanship of a Royal Commission to inquire into the procedure and practice of the Land Commission and Land Courts in Ireland in relation to the fixing of fair rents and certain other points. I acceded to his request, and in July a Royal Commission was issued to myself and four colleagues—Mr. Fottrell of Dublin, a solicitor of much experience in the land business of Ireland; Dr. Anthony Traill, a senior Fellow and since Provost of Trinity College, Dublin, and a strong Orangeman, from the North of Ireland; and two estate agents: Mr. Vigors, of London, and Mr. Gordon, of Inverness. We met in London on one day in August, and on the 22nd of September in 1897 we held our first sitting in Dublin. We held sittings also in Cork, Belfast, and Galway, and held our last public sitting on the 3rd of December, 1897. Some of us, including myself, went for a couple of days in November from Galway to Cashel, and so through some of the most desolate parts of Connemara, with a view to see how the terms of the Land Acts were applied to the potato grounds of the wretched land, and I also visited farms near Drogheda and in Tipperary—thus for the first time in my life seeing something of Ireland. I opened the Dublin sittings with an address, in which I pointed out the limits of our inquiry and the mode in which we intended to proceed, and in order to deprecate the passion which seemed likely to interfere with our proceedings, as it had done with several previous Commissions, I appealed to the counsel and others who appeared before us to "give us a maximum of light with a minimum of heat"—a phrase which had a certain run in the papers and with the public.

The settlement of the Report was a rather heavy business: the burthen of it, of course, fell upon me as Chairman, and our meeting upon it at the Paddington Hotel lasted three days; but it ended in the signing of a single Report without addition or qualification, a thing which has been very rare in Irish reports.

The visit to Ireland which this Commission involved gave me some acquaintance with the men connected with the Courts and with Trinity College, but beyond this I saw little of Irish Society—for we declined all invitations when in the country, and I was very careful in Dublin not to associate myself with any party. I was, indeed, rather glad that the Viceroy was away whilst I was there, and that I had a valid excuse for declining to dine with the Chief Secretary—so that I was quite outside the Castle influence. I liked the Trinity College people much—Mahaffy, Dean Dickenson, and Dr. Salmon the Provost, a wise and witty man. I breakfasted with him once or twice after the early service in Trinity College Chapel, and then at his dinner table met many of the professors.

Dublin has many of the advantages of a small capital: the presence of the University, of the Law Courts, of the Government offices, all help to make it contrast very favourably with its pushing rival, Belfast—a place which did not attract me at all.

For long after our Report was published there was from time to time an agitation on the part of the Irish landlords to get the Government to bring in a Bill to give effect to the various recommendations we had made. But the Government long declined to go in for further legislation. Lord Justice Fitzgibbon has told me (and the Irish Lord Chancellor has said the same in the House of Lords) that effect has been given by the action of the Land Committee itself to many of our suggestions, and so I hope that in one way or another our labours have not been entirely in vain.

In 1903 the Government passed an Act to facilitate the purchase of the land by the tenants: a very important measure, which has done and is doing something to put an end to the existing dual ownership, though it is far from certain that it will prevent such a dualism from reappearing. I met Lord Lansdowne at a Balliol gaudy in the summer of 1903, and he, as a great Irish landlord, was, of course, much interested in the operation of the Act: he told me that the Report of our Commission had much to do with the introduction of the Act, as it convinced the Government that the system of settling judicial rents from time to time was an incurable evil and ought to be swept away.'

The appointment of an English ex-judge to preside over a Commission which was demanded by the landlords was, of course, hailed by many of the Irish papers as a piece of manifest injustice. 'Sir Edward Fry', so *Freeman's Journal* declared, 'has no experience or knowledge of the Irish land laws, which have no counterpart in England. He might, indeed, in a moment of frank confidence, repeat without untruthfulness the remark of a distinguished Irish judge when a question of law in which he had no experience came before him: "I yield to no man", he declared, "in my ignorance of the subject." Sir Edward Fry yields to no man in his ignorance of the intricacies of the Irish land law.'

The *Irish Independent* took up the same note during the sitting. 'The observation made yesterday by Sir Edward Fry in all innocence is surely one of the severest comments that could be uttered of the manner of investigating Irish grievances. . . . "Explain to me," he said, "what is meant by 'occupation interest', for, you know, I am unfortunately an Englishman."' Perhaps the innocence may have been more on the part of the journalist than the judge, who was by no means incapable of posing a Socratic question: at any rate at the close of the sittings Mr. Campbell, the senior counsel, declared that it was a revelation to the Irish Bar to see the marvellous knowledge which the President had shown of the intricacies of land legislation in Ireland.

Realizing the acuteness of feeling on both sides, and fearing lest a small spark should kindle a great fire, the President made two rulings for the court: one to the effect that all questions were to be addressed direct to himself; the other that all needless adjectives and adverbs were to be banned. Thus such a question as 'Did not the (grasping) landlords (wantonly) eject the (poor) tenants?' was stripped of its dangerous question-begging elements.

Another ruling of the President was voted 'preposterous'. Sir Edward Fry had stated that the Commission would allow expenses to certain witnesses 'if they appeared to be witnesses to truth, if their evidence was relevant', when the following dialogue took place in Court:

> Mr. Clancy (appearing for the tenants): Did I correctly understand you to say, Sir, that the witnesses called by us should be witnesses of truth?
>
> The President: They should appear to us to be witnesses of truth.
>
> Mr. Clancy (hesitatingly): Well, Sir, —
>
> The President: Does that stagger you? (Laughter.)
>
> Mr. Clancy: If the evidence appears to be relevant I think that should be enough.

Nevertheless, in declaring this condition preposterous and suggesting its withdrawal, the *Irish Weekly Independent* added that hitherto the ex-judge from the English Court of Appeal had displayed a very judicial manner and temperament.

The constitution of this Irish tribunal was far from congenial to the mind of its President: it was almost openly avowed that one of the Commissioners was appointed to see justice done to the landlords, and another to represent the tenants; whereas a well-appointed tribunal, in his conception, was one in which each member was impartial, and from which the higgling of the market, induced by direct representatives of the two parties, was absent. This original fault in the composition of the tribunal no doubt aided the rumour which was current at the close of the sittings that there would be *two* reports, and when, to the general surprise, a report appeared signed by all the members, Professor Mahaffy wrote to Fry: 'Every one here [in Dublin] is agreed that you accomplished an almost impossible task in driving your team without letting one of them bolt.'

There was a general consensus as to the rapidity, knowledge, and fairness displayed by the Chairman of the tribunal. Even *Freeman's Journal* acknowledged that he did his work too well—too well, that is, to please the landlords in whose interest the Commission was held to have been appointed; while the *Dublin Express* wrote:

'No evidence of real value or importance relevant to the issue has been shut out; while, upon the other hand, the forbearance of the Chairman has been more than once taxed by persistence of witnesses who have really had no material assistance to offer to the Commission. We think it but right that at the close of the taking of the evidence, and while the report of the Commissioners is still a secret beyond the reach of the most acute diagnosis, public acknowledgement should be made of the scrupulous fairness and the spirit of equal justice with which the inquiry has been conducted under the presidency of Sir Edward Fry. We note with pleasure that at the conclusion of yesterday's sitting Mr. Campbell, Q.C., as the senior counsel engaged in the case, not only for himself and his colleagues, but for all the counsel engaged before the Commission, gave expression to the unanimous recognition by all concerned of the wisdom, learning, and tact which the Chairman brought to the conduct of the inquiry, and which he displayed at every point of its proceedings. The history of the Fry Commission has certainly been a much more fortunate record than that of some other public inquiries of a cognate kind which have taken place in this country. It is but seldom, unhappily, that in Ireland two months of keen controversy upon topics of burning public interest have passed, to use the language of Mr. Campbell, "without a single incident calling for either forgetfulness or forgiveness". That this has been the case is primarily due to the tact, courtesy, and kindness of the Chairman, who succeeded to an extent which could scarcely have been expected, in presence of such inflammable materials, in inspiring every one concerned, colleagues, counsel, and witnesses alike, with his own desire, so felicitously expressed at the opening of the Commission, to obtain "the maximum of light with the minimum of heat".'

Conciliation in the South Wales Colliery Dispute

In the summer of 1898 there occurred a long and widespread strike of the colliers working in the coal-fields of South Wales and Monmouth. The causes of the dispute were many. On the one hand, the men repudiated the sliding scale of wages, and demanded an increase in wages and an independent Chairman ; on the other, the masters insisted on a scale which induced reduction in wages, and for the abolition of what was known as Mabon's Monday—Mabon being the well-known Mr. Abraham, Member of Parliament, who acted as the men's leader throughout, though not in sympathy with all their demands. The strike lasted nearly half a year and involved some 100,000 men, and occasioned distress on a large scale throughout the district. The Merthyr Board of Guardians, for instance, were spending relief at one time at the rate of £1,500 a week ; by July, the fourth month of the struggle, the furnaces of the iron and steel works were blown out: no ships came into the dry dock for repair, and the squeezes and falls in the levels and headings of the coal-fields caused damage to the extent of thousands of pounds. The public at large were greatly concerned by the long continuance of the unrest; and, rightly or wrongly, the abandonment by the Lords of the Admiralty of the Navy manœuvres was attributed to the diminished supply of smokeless coal. By the Conciliation Act of 1896 the Board of Trade had the power of appointing a Conciliator in industrial disputes on the application of one of the parties: it was not possible to appoint an Arbitrator without the request of both sides. The Act was but two years old and no Conciliator had been appointed under it, in an affair of any magnitude, when, at the request of the South Wales miners, Mr. Ritchie, the President of the Board of Trade, requested Sir Edward Fry to undertake the office and endeavour to bring about a settlement. He had gone to Switzerland, and had been delighting in the mountain meadows and the early Alpine flowers, when, on his return one afternoon to the Riffel Alp from a day's excursion, he found awaiting him Mr. Ritchie's decidedly unwelcome telegram, begging him to accept the duty and return at once to discharge it. Two of his daughters had come from England about a week before, and if there was any hesitation on his part it was largely on their account. It was tantalizing, too, that the hitherto uncertain weather promised amendment; but his decision was taken almost immediately, and the party set off for London with all haste, and, travelling through Sunday, reached London on Monday afternoon. On Monday evening Sir Courtenay Boyle found him in an hotel in London, and together they visited Mr. Ritchie, with whom the needful preliminaries were settled at once. Fry's appointment and his speedy return were thankfully hailed as hopeful omens, for his conduct of the Irish Commission had already given him prestige in such matters, and there was a general expectation that if a settlement could be achieved he was the man to do it. There was, however, some misunderstanding about his position: he was not an Arbitrator, he had no plenary powers: he was a Conciliator backed by no force, and with persuasion as his only implement.

The Conciliator began work by endeavouring to put himself in touch with both parties: at his request the leader of the coal-owners, Sir W. T. Lewis, called on him, but was careful to explain that he only did so 'out of courtesy', and quite frankly made it plain that the masters declined to admit any intervention of a Conciliator, or of any other person appointed by the Government or otherwise. In this decision—however much they put themselves in the wrong with the public thereby —they were, of course, entirely within their legal rights, and the rebuff fell less on the Conciliator than on the Department which had appointed him.

'This is, of course,' said the *Pall Mall Gazette*, 'a moral slap in the face for the Board such as has, we imagine, rarely been administered to that, or any other great public department. One is as sorry for the Board as it is humanly possible ever to be for any official entity possessing, as Sydney Smith said, neither soul to be saved nor body to be kicked.' But the Conciliator was by no means discomfited: he met the men's committee as arranged, and continued to put himself at their disposal, paying several visits to Cardiff, and sending three or four reports to Mr. Ritchie.

It was suggested in some quarters that the men, who had full confidence in the rejected Conciliator, should appoint him, in his private capacity, as their representative, with full powers to negotiate with the employers; but it was, of course, doubtful if, even so, the owners would have met him. Nor were they willing to accept the mediation of Dr. Percival, Bishop of Hereford, when on his own initiative he offered his services. The whole episode brought out the difficulties inherent in the Conciliation Act, and questions as to its workability—difficulties and questions to which the Conciliator himself had long been alive.

But Sir Edward Fry did not consider that his mission had altogether failed.

'In one sense my mission failed: in another it succeeded. I failed to bring about any agreement between masters and men, for the masters declined to meet me; but I was able to see that the men were engaged in a contest for they knew not what, that they had no coherent plan of action, and that the strike was hopeless. The Committee were without a policy and without a leader, and the men were out of sympathy with their own Committee. In my final report to the President of the Board I was able to bring out this position of affairs, and very soon after the publication of this report the men yielded and the strike came to an end—after months of disastrous idleness on their part.

It was natural that my employment as Conciliator in this dispute should induce me to give some study to the subject of arbitration and conciliation in Trade disputes, and at the request of the Editor of the *Law Magazine* I wrote a paper upon the subject in the number for November 1898, in which I traced the history of the question in England from the Statute of Labourers of Edward III, and also gave some account of legislation in other countries, including the experiment now being tried in New Zealand.'

This paper begins with a statement of the difficulties radically inherent in the proposal:

'Recent events have called public attention to the advantages of devising some method of settling disputes between masters and men, and have given rise to the expression of that very common and often very hopeless suggestion—that something ought to be done. But, in addition to that confused cry, there has been heard a demand for compulsory arbitration. It may be permissible in writing for lawyers, who, I hope, will always retain a desire to use exact language, to observe that the phraseology of this cry is somewhat embarrassing. A lawyer understands by arbitration the voluntary settlement by reference to a third person of some existing right or wrong. Those who cry for compulsory arbitration desire the reference by legal compulsion to some tribunal of the question what wages masters ought to pay in the future, and what wages men ought to work for; in other words, what is asked for is that some tribunal shall be constituted which is to make contracts to bind men in the future.

I have never seen any definition or explanation of what is meant by the demand for compulsory arbitration in trade disputes, but the only meaning that can be put upon it is that men shall be compelled to submit their disputes as to future wages to a judge, and shall be compelled to carry into execution the decision of the judge; or, to put it in other words, it is that a body of masters who wish to make their own contracts for labour shall have these contracts settled by some third person, and that then they shall be compelled to carry on their works and pay the rate of wages mentioned in the judgement—and that, I suppose, whether they gain or lose by their works so carried on. For how long must they carry on their works? Will neither loss of profits, nor old age, nor desire for leisure, excuse them from this obligation to carry them on at the rate of wages fixed by the arbitration? And how is this obligation to be enforced? . . .

And in like manner for the workman, is he to be compelled to work at the wages fixed? Is he to be adscript to the factory or the coalpit? May he be stopped from emigration by a writ of *ne exeat regno*? May he be kept in prison till he works on at the wages fixed, and this till death liberates him from the effects of compulsory arbitration?

Some of these difficulties may, no doubt, be removed by careful legislation, but only by at the same time lessening the efficacy of the remedy. It might, for instance, be provided that no award should remain in force for more than a year, and that disobedience to the award should entail only the liability to some stipulated payment, whether by way of fine or damages. But unless the penalty be such as practically to compel obedience, the award may fall inoperative; and, after all, the great difficulty will remain—that compulsory arbitration is a scheme for forcing men to do, on the terms imposed by a third person, that which in a free state they ought only to do, and can only well do, on their own terms and of their own free will.'

The evidence given on behalf of the London Chamber of Commerce by Mr. Boulton before the Royal Commission on Labour was cited, concluding with the evidence of the witness: 'we do not see any way out of it, except by voluntary arbitration and conciliation. In looking at all the past legislation on the subject, we find that there had been an entire failure in every case where compulsory powers had been attempted to be enforced.' The writer then reviews the drastic enactments of the Statute of Labourers, under which those refusing to work for certain wages might be sent to prison, and remarks that this statute is very instructive reading for those who advocate compulsory arbitration, and after a general review of the repeated failures of English legislation in this respect, and an allusion to the Act under which his appointment as Conciliator in the late dispute had been made, he considered the legislation on the subject abroad and in the Colonies; the results of the latter would be watched with much interest in this country, but were as yet indecisive.

It would not have been like Sir Edward Fry, however, to quit such a subject on a mere note of despair: his destructive criticisms of high-sounding schemes were generally the prelude to some carefully considered step—even if a humble one—which he felt might be safely adventured in the desired direction. The best hope, so he considered,

> 'lay in the development of voluntary Councils of Conciliation constituted of representatives of employers and employed, with recourse to arbitration as a last resort. . . . In the event of an equal vote in the Board of Conciliation, and in that event only, it seems to me that masters and men may reasonably be asked to admit some form of arbitration. To this it may be replied that such an arbitration in such an event is open to all the evils attending on compulsory arbitration ; and that a master may be compelled to carry on his works, and a man to give his labour, on terms which they respectively deem unjust. I confess the difficulty, and I would avoid it by giving to each party to the arbitration a power after the award to determine the agreement by a short notice, and so bring within narrow limits the evils to be feared. With this provision, the reference to arbitration gives an opportunity for fully threshing out the question in difference, and it gives a pause before war can be declared ; and both these things are of high value.'

In support of this view he instanced the very successful working for many previous years of the joint system of conciliation and arbitration in the manufactured iron and steel trade of the North of England, and also of the successful efforts for prevention of disputes carried on under the auspices of the London Chamber of Commerce. The article concluded thus :

> 'To me it appears that more is to be hoped for from an extension of the system of domestic tribunals—from Boards of Conciliation and Arbitration adopted by the parties themselves—than from statutory bodies ; that more is to be hoped for from active steps taken for the prevention of strife than from attempts to quench it when it has risen.'

For good or evil, the Conciliation Act has been little heard of during recent labour disputes ; it must be left to the historian of such matters to decide how far the failure of conciliation in South Wales, and the subsequent discussion, showed that, human nature being what it is, Conciliation, as conceived by the Act, was but a blind-alley in the maze of industrial unrest.

PATENT COMMITTEE

'In the spring of 1900 the Board of Trade again laid its hand upon me and asked me to preside over a Departmental Committee to inquire into matters relating to several points on the patent laws. One object in view was to check the issue of patents for things already covered by previous inventions, or for things which were no inventions at all; and another was to consider the question relating to the compelling of patentees to grant licences when they did not themselves work. I had a good deal of consultation with Sir Courtenay Boyle, the Secretary to the Board, as to the constitution of the Committee. Finally it consisted of ten members, amongst whom were Lord Alverstone, the Lord Chief Justice; the Solicitor-General, Sir Edward Carson; and Mr. Fletcher Moulton. We sat in a fine room in Gwydyr House, looking towards the Thames; and we made our report in January 1901. The result of our labours has not shared the fate of many other recommendations in Reports of Commissions and Committees, and lain for posterity buried under its own weight of evidence; for by the Patents Act of 1902 effect was given to the most important of our recommendations.

One important point which we had to consider concerned the practice which had grown up of foreign inventors taking out patents in this country and neither working their patents here nor granting licences for their being worked in this country: the result of this practice was to defeat the object of the patent law, which was intended to promote and encourage new inventions within the realm. The Committee recommended that where the reasonable requirements of the public in reference to a patented invention had not been satisfied by reason of the neglect or refusal of the patentee to work or grant licences on reasonable terms, the High Court should have the power of making an order conferring a licence on the applicant on reasonable terms. I rather dissented from this conclusion, and in a note supplemental to the Report I said:

"I should myself prefer a scheme for the defeasance of letters patent, if the patentee does not use it reasonably, to a scheme for the grant of a compulsory licence. In the first place, I have a strong objection to requiring any person in a judicial or *quasi*-judicial position to fix a fair rent or a reasonable royalty, or to settle any other terms which ought to be determined by agreement between the parties, and this objection applies especially to cases where there is nothing like a market to which recourse can be had for guidance. In the next place, the provision which exists in all letters patent for inventions (though it has fallen into desuetude) for their determination, if it be made to appear to six Privy Councillors that the grant is prejudicial or inconvenient to Her Majesty's subjects in general, suggests a close precedent for such a course as I suggest."

In the Patent Act of 1902 these two views are united, and the Judicial Committee of the Privy Council is invested with the power, in case a patent is not reasonably worked, of directing the grant of licences or the revocation of the patent. This legislation has excited a good deal of criticism—partly from the advocates of Free Trade and partly from foreign nations. It has been alleged that the provision is intended to favour British productions as contrasted with foreign, and is opposed to the doctrines of Free Trade. This appears to be erroneous. A patent is a monopoly and is *pro tanto* an invasion of Free Trade, and to lessen that monopoly is to lessen the invasion of the freedom of trade. It seems to me that to allow patents to be used for the entire prevention of a manufacture within this country for fourteen years is to fix a most unwarrantable fetter on manufacturers. The Americans and Germans have, I believe, objected that the clause in question is unfriendly on the part of our Government, but for my part I think we are well entitled to put this reasonable limitation on privileges which we grant to foreigners. The clause is having a very considerable effect, and numerous foreign patentees are now establishing works in this country in order to prevent risking the compulsory grant of licences or the revocation of their patents.

The most curious thing that came out in the course of our inquiry was the ridiculous rubbish which is sometimes covered under the shield of letters patent from the Crown. One man had a patent of a new method of getting gold from wheat, which consisted in steeping wheat and straw in water, catching up the skim, 'and then let this skim dry, so getting some results of fishes of gold'. An American lady proposed to utilize volcanic forces, but without showing any precise means of producing so useful a result: and she had another patent for the training of birds to aid balloons and choosing the species according to the size of the balloon. One man had a patent for confectionery jewellery for children, necklaces and so forth which they could swallow without harm; another man patented an invention which was to enable a lecturer to have his lectures photographed and placed on the rim of his spectacles—a clergyman his sermons and so on. These things may come hereafter—but the patentees did not show how.'

Grimsby Fishery Dispute

'Another important matter which I undertook at the instance of the Board of Trade was the arbitration in the dispute in the fishing trade of Grimsby. In June or July 1901 the controversy between the owners of the steam-trawlers of Grimsby and some classes of their employees had reached such a point that the men refused to go to sea and the trawlers were laid up for months. Distress and misery followed, and riots of a serious nature took place. At last, some time I think in October, agreements were come to between the owners and the men for a reference of the matter in dispute to an arbitrator chosen by the Board of Trade, and I was accordingly named. I appointed Mr. Arthur (now Sir Richard) Paget as my private secretary for the affair, and through the Board of Trade I obtained the assistance of Mr. R. S. Green as an assessor, i. e. a person who, without having any voice in the ultimate decision or any responsibility for that decision, should sit by me and aid me on every point on which I might require help. This was necessary by reason of the highly technical nature of many of the questions left to my decision, such as the relative duties of engineers and fitters, and the part to be taken by the several ranks of sailors in the discharge of the trawler, and so forth—in fact, all the duties of every member of the crew at sea and in port. Curiously enough, Mr. Green had been a great friend of James H. Tuke,[1] and had helped him in his fishery plans for Ireland, and had then, largely I believe through Tuke's influence, been appointed Chief Inspector of Fisheries in Ireland—so that from having been a beneficed clergyman in County Cork he had been turned into a Fishery official, in practical command of a Government steam yacht, engaged in looking after the fisheries all round the coast, and often in the detection and capture of piratical invaders of the rights of the Irish fishermen. He was a thorough Irishman, full of fun and good stories, and yet a very able and careful worker. I sat several hours each day hearing the counsel who appeared for the owners and separately for the engineers and the sailors, and hearing the evidence which they produced or I called for. I had an accountant down from London to help me on some questions of accounts which involved the investigation of the owners' books—in order to settle the rates of wages. I was impressed by the view that much of the unsatisfactory state of things at Grimsby was due to the owners of the trawlers being hasty and short-sighted in their pursuit of gain and careless of the welfare of their men. And I was clear that the influence of the agent of the Board of Trade in the port would be useful, as that of an impartial and disinterested person: I was impressed, too, with the notion that unless things improved the fish trade of Grimsby was in no small peril, and I gave expression to some of these views at the conclusion of my sittings. We went over one of the trawlers in dock, but I did not accept the proposal of the men that I should go for a cruise in one of them: my visit to the vessel certainly increased my sympathy with men who pass a great part of their lives in such uncomfortable quarters.

After our return home I set to work to compose my award, and Green came from Ireland and spent two or three days over it. I gave the men a slightly larger share in the produce of each trawling voyage, and I increased their benefits when they stuck by the ship, and lessened them when they shifted from one trawler to another ; and in the matter of signing on and off, i. e. of joining or leaving the trawler, I gave them the protection of the Board of Trade official. I have received information from time to time (the last was from a Grimsby man who, finding that I was at Derby, sought me out and gave me news of the port), and I am glad to believe that the award has been fairly carried out and is working well.'

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[1] My Father was a life-long friend of this English Quaker banker, whose efforts for the benefit of the Irish peasantry he recorded in a *Memoir of James Hack Tuke*, Macmillan, 1899.

London Water Companies Arbitration

One of the heaviest and dullest of Sir Edward Fry's labours in the work of Arbitration in England was connected with the Water Companies of London, when in 1902 Mr. Long, then President of the Local Government Board, urgently begged him to take part in a Court of Arbitration which was to settle the compensation to be paid by the new Metropolitan Water Board to the various old Metropolitan Water Companies. His colleagues on this Board were Sir Hugh Owen and Sir John Wolfe Barry. Some questions of engineering and of bacteriology which arose were of interest, and a point which much impressed my Father was that it appeared that although much of the London water came from the more or less polluted sources of the Thames and the Lea, there was no convincing evidence that any disease could be traced to the impurity of the water supplied. The figures in this arbitration reached a great sum : many awards were made of which only one did not run into millions, and many of the single awards exceeded the whole sum in dispute in the *Alabama* case.

I find in *The Times* of November 3, 1906, that the following letter was addressed by the President of the Water Arbitration Board to the Chairman of the Metropolitan Water Board :

From Sir Edward Fry to Sir Melvill Beachcroft.

'Failand House, Failand, near Bristol, Dec. 30, 1905.

Sir,

Now that the Court of Arbitration under the Metropolis Water Act, 1902, have concluded their labours, I address you on a matter personal to myself. For the year of our chief labours—October 29, 1903, to October 29, 1904—I have received as remuneration a sum of £5,000 ; for the intervals before and after that period much smaller sums. I do not desire to retain for my personal use in respect of my services in any year a larger sum than £1,500, the difference between the salary I received as a Lord Justice of Appeal (£5,000) and the pension which I receive as a retired Lord Justice (£3,500). From the £3,500 thus set apart I deduct £168 9*s*. 8*d*. for the income-tax I have paid on that amount, and a sum of £250 which I have presented to the Institute of Mechanical Engineers in recognition of their courtesy and in addition to the sum voted by your Board, and for the balance, £3,081 10*s*. 4*d*., I now enclose my cheque, and beg its acceptance by your Board.

I am, Sir, Your obedient Servant,

EDWARD FRY.'

Sir Melvill Beachcroft wrote in reply: 'It will be my privilege to communicate this letter to the Board at the earliest opportunity, when, without doubt, your unexpected gift will be most gratefully accepted, and instructions given me to convey to you the high appreciations of the Board for so generous and unprecedented an act.'

The sum of £500 which the Institute of Mechanical Engineers received from the Metropolitan Water Board and Sir Edward Fry was invested, and the interest applied biennially to a prize to be known as the Water Arbitration Prize. The first subject was announced as dealing with filtration and purification of water for public use.

Sir Richard Paget—whose help on many of the foregoing occasions my Father valued highly—has the following recollections of him:

'Sir Edward's predominant characteristics were an extraordinary clarity of mind, a wonderful precision—mental and verbal—an unfailing memory, and an exalted standard of integrity.

'He was sternly just, but withal of great patience and forbearance towards the mistakes of others—excepting only when he detected prevarication. Then he would literally "sit up"—his head very erect and eyebrows raised—and wither the offender with a crushing denunciation.

'His range of interests was very wide—his personal industry was remarkable.

'In the four cases in which I acted as his official secretary (Patent Committee 1900, Grimsby Arbitration 1901, Water Arbitration 1902, and University College Transfer Commission

1905) he invariably did all the spade-work himself—collecting his own data, and preparing all drafts with his own hand.

'Throughout those years I cannot recollect a single occasion on which Sir Edward made a complaint or a criticism, though I can recollect many when such would have been justified.

'An incident comes to my mind. At one time during the Water Arbitration Sir Edward stayed with me for a week-end at the Dower House, North Cray. We were about a mile from the station, and he expressed a wish to walk to the train. For some reason (for which Sir Edward was certainly not responsible) we started late, and, in spite of walking our fastest, might have missed the train and held up the proceedings of the Court for at least half an hour had we not been picked up by some neighbours, who overtook us in their carriage and gave us a lift. Sir Edward thanked our friends, but made no comment to me on our lateness.

'In spite of his natural gravity and precision of outlook he had a strong sense of humour, which made him above all things human and lovable.

'In the Water Arbitration the proceedings were (as Sir Edward himself has indicated) not infrequently lengthy, and at times actually dull.

'Among the counsel employed was one who held a watching brief for a London borough. Day by day he sat in Court, but never was any reference made to the borough in question. At last "the day" came, and the borough was mentioned; but at that moment the learned counsel was deep in thought on other matters, and his eyes were closed!

'Sir Edward wrote a note on a slip of paper and handed it down gravely to me. It contained the instructions: "Draw —— as a Watching Brief." The portrait is now in my collection of sketches in court!

'Sir Edward described with evident pleasure a conversation he had held with (I think) the Chief Justice of one of the Balkan States on the subject of that gentleman's official and unofficial emoluments.

'The Chief Justice explained that his official pay was small, but that it was supplemented by unofficial fees from the parties.

'The system was as follows: Before the case came on, his Clerk visited the plaintiff, and after pointing out how essential it was for him to gain the judge's goodwill, obtained from him the largest fee he could extract. He then visited the defendant and obtained, if possible, an equal fee from him.

'Sir Edward replied that, under these conditions, he understood that the case could be tried without bias, but he could not understand how the judge could maintain a reputation for judicial fairness if he accepted payment from a litigant and then decided against him. The Chief Justice replied that that also was secured, for when judgement had been given, his clerk returned the fee to the unsuccessful party!'

Centenary of the *Code Civil*

'The centenary of the publication of the *Code Civil*—the most important element of what we generally call the *Code Napoléon*—occurred in 1904, and the French seized it as an opportunity for a celebration, to consist of two meetings under the care of two French judicial societies, La Société de Législation Comparée and La Société d'Études Législatives, and of a more splendid function in the Sorbonne, to be presided over by La Garde des Sceaux and Minister of Justice, and to be attended by all the higher judges and magistrates of France; and the French Government invited the presence of delegates from foreign Powers. It was in response to this invitation that I went to Paris in November 1904, at Lord Lansdowne's request. I took with me the faithful Clausen, and put up at the Hotel St. James.

I cannot say that the foreign delegates received any special attention, and I felt so much annoyed at the disorder of the great dinner given on the Saturday that I begged off attending the dinner subsequently given by M. Vallé, the Garde des Sceaux. The most interesting question which emerged in the various disquisitions on the *Code Civil* was to me the inquiry how a fixed Code can be adapted as years go by to the changing views of society and of legal obligations. For instance, there seems to be no doubt that the views of, and the status of, woman on which the Code proceeds differ widely from those entertained generally in France at the present moment; indeed, there were female protestors against the festival of the Centenary on that ground, and one excited woman interrupted the speech of the Garde des Sceaux with a violent speech—"à bas le Code, il a écrasé la femme". It was admitted by some of the speakers that parts of the Code have become obsolete, that other parts are now interpreted in a sense quite different from that of their authors, and that " la jurisprudence ", i. e. the body of case law, has modified and added to many of the provisions of the Code, from which it obviously follows that the Code cannot now be taken as a simple text, to read and understand which is to understand the current law of the land. As the result, I understand, of this Centenary celebration, an inquiry is on foot as to the expediency of a thorough revision of the *Code Civil.*

Every one knows that the first Napoleon had a great deal to do with the unification and codification of the French law, and the whole collection of codes is often known as the *Code Napoléon* ; and yet such was the jealousy of the party in power of any homage to the genius of the great Emperor that I never heard his name mentioned from first to last by any one of the numerous speakers whom I heard ; and Mr. Beach, an American lecturer on English and American Law at the Sorbonne, who read a paper at one of the meetings, told me that the managers requested him to omit from his address some references which he had proposed to make to the labours of Napoleon.

In fine, I doubt whether the consideration of the papers read on this occasion would induce one to wish to attempt a general codification of English Law.'

ARBITRATION BETWEEN LONDON & NORTH-WESTERN RAILWAY COMPANY AND EMPLOYEES

' For some time in 1906 and 1907, or at any rate before the latter part of the latter year, there had been much debate between many of the Railway Companies and their men as to the rates of wages and the hours of employment, and under the influence, more or less direct, of the Board of Trade, schemes for arbitration as to these matters were arranged between the Directors and the men. One such scheme was adopted in November 1907 between the London and North-Western Railway Company and the great majority of their men, which provided first for sectional Conciliation Boards, next for a Central Conciliation Board, and lastly for an Arbitration. These Boards having failed to bring about any settlement, I was asked to act as sole arbitrator in the matter. I undertook it, not very willingly, as the questions were not of a kind with which I was familiar. The matter proved to be one of great complication, involving as it did a vast variety of points, such as hours of rest, Sunday work, overtime, temporary duty, guaranteed days, guaranteed weeks, lodging allowances, fogging, &c., &c., and these questions varying with each class of men—guards, porters, engine-drivers, stokers, and so on, all down the scale of employment. The case or cases of the men were argued before me by Mr. Richard Bell, the well-known leader of Railway employees, and the side of the Company was argued by one of their principal managers, and for eight days in December 1908 I heard the witnesses and the arguments on both sides, sitting in the Board Room of the London and North-Western Railway at the Euston Station, and on the 2nd February 1909 I issued my award. This was, I think, perhaps the most tiresome piece of business which I ever transacted. I believe that, notwithstanding some questions which arose, the award worked smoothly and well for a time.

I declined to receive any fee for my services, and in consequence the parties in litigation presented me with a silver salver, and expressed their warm thanks for the manner in which I had conducted the arbitration.

The next case of the like kind to go to arbitration was that of the Midland Railway, in which Lord Cromer acted as arbitrator. He was anxious to get some hints and help from me, and we not only corresponded but he visited us here, and we had long consultations on the emergent questions and the mode of procedure.'

CHAPTER IX

UNIVERSITY REFORM AND ADMINISTRATION

1879 AND LATER

A MATTER which occupied a great deal of my Father's time during his busiest years at the Bar and Bench was the establishment of a teaching University for London, and the adaptation to that end of the existing University, which had been an examining body only, and the fusion therewith of other educational bodies already existing in London. After long years of effort his hopes and schemes seemed frustrated, but eventually the idea for which he had so long contended was realized almost as he had conceived it. The late Sir Henry Allchin's *Account of the Reconstruction of London University* (Part I) is dedicated to him, Dr. Pye-Smith, and Mr. James Anstie, K.C., as those 'to whose efforts within the University its reconstruction was mainly due'.

'Some time in the seventies I joined the Council of University College. I took an active part in its management, and in the spring of 1879 became a Vice-President in succession to Lord Kimberley, who became President. In or about the year 1884 an Association was set on foot by persons interested in the higher education in London, for the establishment of what is called a teaching University for London, and in this movement I heartily sympathized. As the movement gathered force and attracted sympathizers it rapidly developed lines of cleavage. Some of the promoters wanted to found a new independent University: some of the doctors wanted to found a medical University out of the two Royal Colleges; the professors of University and King's Colleges, London, headed by Sir George Young and Dr. Wace, wanted to turn these two Colleges into a University; and others, of whom I was one, wanted to utilize the movement to increase the usefulness of the existing University of London; and we who took that view have ultimately won.'

In January 1885 the Convocation of the London University appointed a Committee to consider the proposals of the Association for Promoting a Teaching University of London, and of this body Lord Justice Fry was a member. In February the Committee reported to Convocation that in their opinion the objects of the Association would, if carried into effect by the University, add to its usefulness and importance. Speaking in Convocation, Lord Justice Fry said that

> ‘in bringing forward this resolution he did not desire to cast the slightest slur upon the past history of this University. All must acknowledge, looking at the history of education in England, that their own University in times past had done a great work for education in this country. Not only had it enlarged the area of University education in respect of the subjects which it taught, but by throwing its doors open to whomsoever chose to come in, it had undoubtedly elevated the character of teaching throughout the country. But there was a time in the career of the most successful institutions, as in the career of the most successful men, when it was well to look not only at what had been done in the past, but also at what was to be done in the future. Something of this kind would appear to have occurred in the history of this institution. In London, besides this University, there was a vast amount of teaching of a University character which hitherto had been scattered and unorganized, but which undoubtedly exerted an indirect influence on the counsels of the University. There was in London an amount of teaching of a University character which, if gathered together and united in one institution, would present a body of University teachers of no mean character.’

To the Medical Schools especially, the speaker pointed out that such combination would be greatly advantageous. London was undoubtedly by far the greatest clinical school in the world, with some 60,000 people passing annually through its hospitals, and most of its hospital beds being used for clinical instruction; but in the forty years of its existence the London University had conferred the degree of Bachelor of Medicine at the average rate of nineteen a year only. London contributed barely more than 7 per cent of the medical graduates practising in the Empire, while the Scottish Universities were represented by 64 per cent. After disclaiming any desire to see an undignified competition between Universities, the speaker pointed to the striking disproportion exhibited between the medical opportunities offered by London and the number of degrees granted by her University—a discrepancy indicating that the standard required for the degrees was too high or that of the teaching too low. This was not a matter to be regarded from any narrow or professional point of view, he added, alluding no doubt to the aversion from any change felt by some of the older graduates of London, who valued the distinction between London degrees and those of other Universities. A great evil was being done, which it might be in the power of the University to remedy, if London was driving away students from its hospitals to places where, although they could get less information, they could more easily get degrees. He dwelt also on the evil of the great increase in the practice of cramming, and on the hope that by bringing teaching more directly into communication with examination they might tend to check the evil, and thereby benefit the country at large as well as the University. As for practical difficulties, so far from believing them to be insuperable, he believed some such change to be inevitable, and that if the University were not forward in promoting a scheme of this kind it would find itself surpassed by some other teaching body. The motion was seconded by Sir Joseph (later Lord) Lister, and carried, in spite of some opposition, by a large majority, and the University seemed fairly started on the path of reform. Many years later the mover of the resolution wrote:

> ' It is interesting to me, at least, to look back on that speech, and to observe how far the changes there proposed have been realized in the constitution which the London University has assumed after years of protracted struggle.'

The Committee being reappointed by Convocation to prepare a draft for the reconstitution of the University, it fell to Lord Justice Fry as its chairman to take a large share of the work. He wrote later: ' I am almost ashamed to think of the number of schemes which I drew or revised as the work went on.'

The Committee, however, was not long in bringing in its first report, and in July 1885 an Extraordinary Meeting of Convocation was held to receive it. It was urgently recommended, and discussed at some length; finally the house adjourned to November without coming to any conclusion. ' This date ', wrote Sir Henry Allchin,[1] ' was memorable in the history of the reconstruction of the University, for it marked the commencement of that struggle within Convocation itself which did so much to delay the much-needed reform, and that in the end materially impaired the measure of improvement that was ultimately obtained. It should not be forgotten that up to this point Convocation . . . had pressed upon the Senate the desirability of accommodating the University and the pressing demands of the teachers. . . . Now, however, that a detailed scheme was submitted for their approval, one that had been proposed by a representative Committee of some of the ablest graduates of the University, well acquainted with the needs of teachers and of students in the various faculties, opposition was aroused. Indications of this had appeared at the meeting in February and found expression in the amendment,' the speech of one member being 'such a deliberate attempt at ignoring the demands for a teaching University and of pretending not to understand the objects of its promoters as to justify Lord Justice Fry's well-timed remark "that there are two ways of reading a document—one, with a view to understand it, and the other with a decided intention not to do so; and he need not say which the inner circle of the Senate had obviously been pursuing".'[1]

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[1] *Reconstruction of the University of London*, Part I, p. 92.

'Nothing came directly of the action of Convocation, which, to say the truth, was a very unwieldy and not very satisfactory body. Meanwhile, I worked at the question from a new point of view. The course which was being pursued by the Convocation had attracted the attention of the more select and manageable body, the Senate, and about the end of the year 1885 I was appointed by the Crown a member of that body, and soon after I presented to the Senate "a Memorandum on the proposed changes in the University", and so brought the matter before that body, which took it up, and proceeded by means of Committees and so forth to consider what scheme they could frame which would add to the usefulness of the University. I took an active part in these Committees, and for years the matter occupied my attention, and often a good deal of time: for as the matter went forward the difficulties became more apparent, the claims of the several bodies of professors or institutions more urgent, and the complication more difficult to unravel. There were two Royal Commissions successively appointed to deal with the subject, presided over respectively by Lord Selborne and Lord Spencer: before both of these Commissions I gave evidence, and in their Blue Books, especially in the former, full explanations exist of my views on this complicated subject. This work in relation to the University brought me into communication with many interesting people; Lord Granville, Lord Herschell, and Lord Kimberley respectively filled the office of Chancellor, and often presided over our meetings: Sir James Paget was throughout nearly the whole time Vice-Chancellor, and I was in constant communication with him, and often gave him a call at his house in Harewood Place on my way to the Courts. Huxley took a very active part in our deliberations, and though he and I did not always agree we got on very pleasantly together. The matter passed after a time more or less out of the hands of the Senate into the hands of the Government and Parliament, and after my removal from London I naturally ceased to follow all the steps which have ultimately led to the new constiiution of the University.'

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[1] *The Lancet,* as quoted by Sir W. H. Allchin.

That Huxley's aims were closely akin to those of Lord Justice Fry the following words from him show:

'4 Marlborough Place,
Abbey Road, N.W.
Nov. 24, [1887?].

. . . .

'It seems to me that there are only two practical alternatives, either to stop as we are—offering examination to those who want education; offering freedom from tests which nobody now imposes; offering freedom of examination to all comers, and, in the same breath, imposing conditions of instruction (see Medical Regulations); doing our best to raise the standard of teaching, and yet raising that standard so high that the average student is afraid to come near us, and flies to Edinburgh for the degree we refuse to give him; or, to make up our minds to metamorphose ourselves into the University for London which is demanded.

'I may say in passing that, to my mind, it is impracticable to give provincial teachers any real share in the work of such a University—for the very simple reason that they cannot afford (as men in large professional practice can do) to make frequent visits to London.

'You have steered us with such admirable skill and patience through the rocks and whirlpools of the Committee of the Senate that, if your judgement suggests the advisableness of trying a grafting scheme, I shall think it my business to help to the best of my ability.

'But I doubt if such a scheme has much chance with the Senate; while if it should be adopted I suspect the graft will soon substitute a new root, stem, and branches for the old. Perhaps that is the best thing that could happen.'

'I had retained my seat on the Council of University College after I was appointed on the Senate of the University, but I soon found that many of my colleagues on the College Council were anxious to push on the scheme for constituting a University out of the two London Colleges, and when in the spring of 1887 the Council by a majority committed itself to that policy, I and several other members of the Council, including the President, Lord Kimberley, resigned our seats on the Council of the College. In looking back upon it I still feel that the conduct of the majority of the College Council was most unfortunate. Their scheme I always thought selfish, and too narrow for the needs of London or the just claims of other institutions, or for the good of the students of the College; and the only result of their action was to postpone for years the settlement of the question on its true basis of embracing in one all the institutions of high educational character in the metropolis. As regards London the scheme which has been embodied in the existing reconstructed University of London is not very different from what I had desired. But as regards the rest of England, the ideal which I had set before myself, and towards which I worked, has not been realized by any means, but has had to give way before difficulties too strong for it. I saw that there were educational bodies of a high character not only in London but in the provinces, and that these bodies were seeking more and more for recognition as Universities. There were the Colleges at Manchester, Birmingham, Leeds, Nottingham, Sheffield, Bristol, and in North and South Wales. I knew the danger of investing small colleges with the power of conferring degrees—that competition leads to the degradation of degrees, as in America; and, on the other hand, I thought I saw the need of allowing a variety in the courses of study, and of thus maintaining individual freedom of teaching institutions. I saw further the vast capacity of London as a place for medical, especially for clinical, education, and that its opportunities were thrown away by reason of the high standard of the London medical degrees, which drove students to places like Durham and Newcastle for a degree with an inferior education. These being the facts, the solution which gradually grew in my mind was the development of the University of London into a body in which all the London and Provincial Colleges of due rank should have a part (by election of representatives on the Governing Body and on the Boards of Studies), that students from all the colleges as well as from no college should have access to its degree, and that by a careful scheme of alternative studies (as e.g. an examination in Celtic being equivalent to an examination in English) the freedom of the several teaching bodies to select their own curricula should be preserved; and that by a joint board of examiners in medical subjects from the University and the two Royal Colleges, the same papers could serve to determine the diplomas of the Royal Colleges according to their own standards and the reports of their examiners, and to determine the degrees of the University according to their own standard and the report of their examiners, and thus the burden of examination be lightened without lowering the University degree. I fancied that by this scheme I could unite a freedom of study like that of the German University, with the presence of one great superintending body like the University of France. But the zeal of Manchester and of Wales for their own institutions, the centrifugal forces of local particularism, were too strong, and the ideal which I had before me will never be realized in England.

This ideal having become impossible, the best course appeared to me to be the formation of small local Universities placed under a more than usually strict visitorial power; and it has happened that I have been called upon to take a part in guiding this development of local academic institutions.

The Victoria University, which had its seat at Manchester, was the strongest of the new local Universities: it had affiliated to it the colleges at Liverpool and Leeds: Manchester and Liverpool have from of old retained a lively sense of rivalry and antagonism (they would not, said Lord Rosebery, enter into the Kingdom of Heaven together), and the only thing on which they were said ever to have agreed was their wish that their colleges should be separated from one another; and when

Birmingham, under the powerful patronage of Joseph Chamberlain, turned Mason's College into a University, Liverpool felt that it should aspire to be a University city and desired to be freed from the Victoria University at Manchester. Manchester was only too glad to get rid of Liverpool, and wished also to shake off Leeds ; and if Leeds was to get a charter, Sheffield claimed to be placed in the same position. Hence many applications to the Crown, which the King referred to the Privy Council, and in 1903 the Duke of Devonshire, then Lord President of the Council, asked me to serve on a Special Committee to hear and consider these petitions. I consented, and had as my colleagues on the Committee the Duke, Lord Rosebery, Lord Balfour of Burleigh, and Lord James of Hereford. We met some three or four days to hear the addresses of counsel and the witnesses, and met at other times for conference. We found that if charters were granted the springs of local beneficence would flow in much stronger streams than if they were refused, and that the notion of a University stirred local patriotism and opened local pockets in quite a different way from that of a mere college ; and in the end we acceded to the petitions presented and advised the King to grant charters. But we were conscious of the dangers attaching to small Universities, especially if a period of laxity should fall on the education of the country, and we strove to lessen these dangers : we required the presence of outside examiners on the examination for degrees : we reserved to the Crown, in addition to the ordinary power as visitor, a power to inspect the whole machinery and equipment of the University, and we required these new bodies to act in concert as regards the matriculation—to keep up, if possible, the standard of education at the beginning of the University course, and to prevent these new bodies from degenerating into schools for elder boys. If these small Universities should increase and multiply, these provisions may prove, I think, of very great value in the future, if, as I anticipate, they will be incorporated in future charters.

The Committee was not without its share of gentle amusement. The contrast between the rather heavy, somnolent good sense of the Duke, always apparently a little behind the point in hand and very cumbrous in expression, and the lambent fun of Lord Rosebery, was very amusing—not so much, of course, when we were sitting in public as when we were together in private, either over the luncheon table or in consultation. One of the educational experts called before us replied to a single question of counsel in a lengthy speech: he was, said Lord Rosebery, like the rock smitten by Moses.

More recently still (1905), I have been called upon as a member of the Privy Council to take part in settling the terms of a charter for Sheffield, and we proposed in its main features to follow the lines of the charters for Manchester, Liverpool, and Leeds.

In 1905, by an Act of that year, provision was made for the separation of University College, London, into three parts—the Hospital and Medical School, the Boys' School, and the College proper, and for the transfer of the College proper to the University of London. The Act further appointed four Commissioners, and gave the King in Council the duty of appointing a fifth Commissioner to act as chairman, and I was accordingly appointed. The Commissioners were required to divide the property of the College between the several institutions, and to frame statutes for the government of the School and Hospital. I had as colleagues Sir H. H. (later Lord) Cozens-Hardy, the Master of the Rolls, Sir John Rotton, Sir Edward Busk, and Professor (now Sir John) Rose Bradford, and Mr. Arthur Paget (now Sir Richard) acted as our secretary. We got through the rather complicated business comfortably, and on the 22nd October, 1906, the King in Council made an order approving of the several statutes and orders which we had framed.

The statutes have, I believe, worked well, and I understand that the adoption of the College as a constituent part of the University has given a great impetus to it.'

On the conclusion of the work of this Commission the Chairman was surprised and gratified to receive a handsome gold plaque bearing the words 'University Transfer Commission' from his colleagues—a token, one may suppose, of their satisfaction in working with him.[1]

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[1] The recent acquisition of a large site in Bloomsbury, next to the British Museum, and reaching almost to University College, gives promise of development on the lines that Sir Edward Fry desired,—a real teaching University in close proximity to its colleges. A site adequate for the buildings both of the University itself and of King's College, with space

Trinity College, Dublin

'My next employment on University matters was in connexion with Trinity College, Dublin. In March 1906, when I was abroad on our journey to North Africa, my old friend James (now Lord) Bryce, then Chief Secretary for Ireland, wrote to me asking me to accept the Chairmanship of a Royal Commission to be issued to inquire into the condition of Trinity College, Dublin, and the University of Dublin, with a view to the solution of that old-standing problem of University education in Ireland. This letter I found awaiting me at Marseilles, and on my return to town I saw Bryce, and ultimately I accepted the duty of presiding over the Commission, which was constituted of myself as Chairman, the Lord Chief Baron Palles, Sir Thomas Raleigh, Sir Arthur W. Rucker, Professor Henry Jackson, Mr. S. H. Butcher, Dr. Hyde, Dr. Coffey, and Mr. Kellaher—a Commission, in my opinion, too large for convenient discussion. We met first in London in June to settle inquiries, &c.; then in October we sat in Dublin; and again in November 1906 and January 1907 in London. When in Dublin the Commission met in the dining-room of the Provost's Lodge, placed at our disposal by the courtesy of my old colleague, Dr. Traill.

On the questions of domestic reform to be introduced into the College we were practically unanimous, and I understand that many of the recommendations we made have been carried into effect by the governing body, and that others are likely to follow hereafter, as the reforming party in the College get more power by effluxion of time.

But on the great question, what was to be done with Trinity to satisfy the aspirations of the Roman Catholics, we were much at variance. The Roman Catholic body itself was almost as much divided, the moderate laity wishing for admission to Trinity College and the association of their youth with the young men of Protestant families. On the other hand, the clergy—the Bishops especially and their more high-placed

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for the development of other University institutions, and in close contact with the treasures of the British Museum and of its Library, may well result in the growth of a London University second to none either in teaching or in research work.

ecclesiastics—wished for separate institutions, where they might reign supreme without the infection of Protestant thought.

The Commission, I have said, was much divided on the question thus raised. In the end four of them were in favour of remodelling the University of Dublin so as to admit a Roman Catholic College with others; another Commissioner was in favour of the same course, but recommended delay; one Commissioner thought that no new College was wanted; whilst three Commissioners—Sir Arthur Rucker, Mr. Butcher, and I—were in favour of leaving Trinity College and the Dublin University to themselves, and constituting a Roman Catholic College in the Royal University. We three felt very strongly that to introduce a Roman Catholic College side by side with Trinity, the stronghold of Irish Protestantism, would work for discord and not for peace, and we drew up a full statement of our views on the matter, which may be read by whomsoever will in the Blue Book. The Commission was dated the 2nd June, 1906, and our final report was dated 12th January, 1907, so that the Commission did its work in about six months; it was, I think, a pretty quick piece of work.

Before our report had been presented to the King, Bryce as Irish Secretary took a rather unusual step. He received a deputation of Roman Catholics, and announced to them the intention of the Government to bring in a measure for the remodelling of Trinity and the introduction into the University of Dublin of a Roman Catholic College (I am writing from memory and the form of the announcement might have been somewhat different). However, before long Bryce went to America as Ambassador at Washington, and Birrell reigned in his stead. He has taken a different view, and agreed with the three Commissioners that Trinity ought to be preserved, and has established a new University in Dublin over which there is now (1910) much disputing. So perhaps the three dissentients may have done something to preserve the venerable foundation of Elizabeth.'

Hospitals

'I had not much to do with hospitals during my life in or near London, and certainly had no special knowledge of how they ought to be managed. But in the early part of 1901 I was asked to take part in an inquiry into the condition and management of the National Hospital for the Relief and Cure of the Paralysed and Epileptic in Queen's Square, Bloomsbury. It was a hospital which for a long time had been in hot water: the medical staff had been almost in open rebellion against the committee of management and the Secretary Director, and had, in fact, threatened to resign *en masse* unless some reforms were introduced. Various schemes had been proposed to bring about a settlement, and the Lord Chancellor had tried his hand: but in vain. At last a Committee had been appointed to select a body who should constitute a Committee of inquiry into the whole matter. Sir John Paget, a son of my old friend Sir James, asked me very earnestly to take a part in this Committee, and I consented. The investigations lasted over some weeks; we heard evidence from upwards of forty witnesses, we heard counsel for the Committee, we paid two surprise visits to the hospital, we went over the whole building, and we made an elaborate report finding in substance, though not on all points, that the doctors had been justified in their complaints, and that the committee of management had been behaving very ill. A well-known writer and High Churchman was one of the most prominent members of this committee, and appeared to be actuated by something almost more than distrust of the religion, the morals, and the good intentions of all the medical men on the staff, many of whom were men of much distinction.

The result of our labours proved to be very satisfactory: the whole of the managing committee and the Secretary Director were got rid of; a new committee was chosen, two doctors were added to the managing committee, and the various reforms and changes which we had proposed were all, or nearly all, carried into effect, and the hospital is now (1912) I believe in a very flourishing condition.

I acted as chairman of this Committee, and as such had the duty of drafting the report we made.

My connexion with this inquiry probably led to my other engagements in connexion with the hospitals of London.

A very important fund had been established in London for aiding the London Hospitals, under the direct patronage, and even management, of King Edward when Prince of Wales, and, after his ascending the throne, of his son, the present King George. From the great importance of this fund its managers gradually came to exercise a considerable influence on the management of the hospitals, and they became involved in a question as to how far the moneys subscribed to hospitals were diverted for the benefit of medical schools connected with them. This question was eagerly pressed by Mr. Stephen Coleridge and others, who, like him, were anti-vivisectionists—they objecting to many hospitals as places where vivisection was practised. Under these circumstances the then Prince of Wales asked Lord Welby, Dr. Lang (then the Bishop of Stepney, and now, 1912, Archbishop of York), and myself to act as a Committee to inquire into the relation of the schools with the hospitals to which they were attached—and we all undertook the duty. I again was elected chairman: we had several meetings and heard a good deal of evidence which we published with our report.

In our report we found that some of the hospitals made large contributions to the schools, and we found it impossible to set any pecuniary value on many of the benefits rendered by the schools to the hospitals. We recommended that in the future the schools and hospitals should be kept absolutely distinct as regards their finances, and we supported the contention that the preliminary studies of the medical students ought to be carried on rather in an institution of University character than in the several schools separately. There appeared to us to be no doubt that many of the medical schools had embarrassed themselves much by the effort to teach the preliminary subjects instead of confining themselves to the only proper subject for a hospital, viz. clinical instruction.

The report appeared, and I looked forward to a complete change in the system of medical education in London and of the part played in that by the University of London as highly probable in the not distant future—an anticipation not yet at all fully realized.'

CHAPTER X

BRIBERY AND SECRET COMMISSIONS

1896 AND LATER

Of all my Father's activities, whether official or otherwise, none perhaps will be more lastingly beneficial than his action in exposing, and his efforts at checking, the growing evil of secret commissions—that destructive fungus on the commercial systems of all civilized nations. He was drawn into this crusade almost by accident during the summer of 1896, when he was invited to distribute prizes and give an address to the students at the Merchant Venturers' Technical College in Bristol.

In July of that year a case, *Oetzman & Co.* versus *Long & Co.*, was tried by the Lord Chief Justice, Lord Russell of Killowen, in which 'the plaintiffs sought to recover damages for the injury sustained by them in consequence of the defendants having corruptly procured contracts for the supply of ivory to the plaintiffs from one of the plaintiffs' buyers in excess of current market prices'. In summing up, Lord Russell spoke weighty words; the case, he said, was an important one, and its importance was not confined to those immediately concerned. 'He could not forbear speaking of its importance in the interest of honest trading. This business of corrupt bargains was a malignant canker; it was affecting honesty in all or in many details of the relations of life, and it was not confined to commercial relations. It was dishonest to the fair employer; it broke down that principle of morality which ought to be preserved among men who desire to cultivate and observe honesty. The Legislature had made it a crime to make corrupt bargains with persons holding public positions—surveyors, architects, clerks of public bodies, and the like—and if the evil, which constantly cropped up in the courts of justice, continued, the Legislature must attempt the task of cutting out this canker, and, so far as the matter rested with juries, they must not flinch from their duty.'[1]

I do not know if the reports of this case influenced Sir Edward Fry in his choice of subject in distributing the prizes at the Merchant Venturers' College at Bristol. However that may be, after speaking of the great advance of physical science and the quite unmoral character of such knowledge—'the same dynamite which is used to remove an obstruction between friendly nations, and facilitate the construction of a railway to bring the products of one country to another, may be used for the destruction of men'—he urged the need of moral education, and asked:

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[1] See *The War against Bribery*, by R. M. Leonard, published by the Bribery and Secret Commissions Prevention League, Incorporated.

> 'Is the morality of trade and commerce satisfactory in this country? Looking at the published facts, I fear our answer must be in the negative. See the facts disclosed in the last thirty years as to the over-insurance of ships and wrecking them, with the crews, for gain; look again at the bad, lazy work put in by those in receipt of wages—not the best work the men can do, but the best they choose to give. Look at the adulteration in the articles of consumption, and bear in mind that it requires a whole army of inspectors and analysts to keep adulteration in the limits to which it is now confined. Look at the large extent to which dishonesty permeates the commercial system. In the name of commission men take money which belongs to their employers, or overlook defects which it is their duty to detect in the work which they are paid to supervise. Look, again, at the efforts which are made to infringe trade-marks,—and the amount of ingenuity to effect this without infringing the law is appalling; and for what object?—to abstract the benefits from another manufacturer owing to the excellence of his make.'

The speaker little knew which of these shafts would go deepest, nor the large correspondence and long labours which this passing allusion to commercial corruption would bring upon him. The suggestion of over-insurance of vessels touched some shipowners to the quick, and correspondence in *The Times* and elsewhere followed, which, if it happily showed that the practice was less frequent than fifty years previously, did not succeed in showing it to be extinct. But it was the words about bribery which involved him in a long campaign.

Shortly after this speech, of which brief reports appeared in some of the London papers, a firm of engineers in the north of England wrote to Sir Edward Fry making statements on the subject of commissions which appeared to him so important that, with their permission, he appended their statement to a letter addressed by him to *The Times* (September 12, 1896), in which, after alluding to other forms of fraud and dishonesty, he wrote:

> 'Lastly, but not least, bribery in one form or the other riddles and makes hollow and unsound a great deal of business, including transactions in which the professions of engineers and architects are interested. Sometimes the bribery is effected by the payment of a single sum, more often under the name of a commission or by way of percentage; sometimes pickings are secured under the form of a royalty on a worthless patent, or stipulations as to the firms from which articles are to be obtained for use in the work to be done.
>
> These practices are a disgrace to our civilization; they are specially disgraceful in an age which prides itself on its recognition of that social tie between man and man which every one of these practices tends to break or loosen.
>
> To what extent our country is worse than other countries; to what extent this age is worse than those which have gone before; to what extent these practices stand in the way of prosperity of our trade, I am not concerned to inquire. It is enough that they exist.
>
> Is it not possible that the great professions of engineers and architects may bestir themselves and consider whether something cannot be done to check practices which the honourable members of their callings admit and deplore? Is it too much to hope that the great body of honest and straightforward manufacturers and traders who find themselves hampered and vexed by the dishonest practices of those around them can pluck up heart of grace to expose and put down what I know harasses them from day to day?'

This letter called forth many communications, public and private, and on the 22nd of September he again wrote, showing that in spite of some indignant denials the practice was admitted by competent authorities to be widely prevalent.

In consequence of these letters a large correspondence poured upon him—letters of indignant denial, letters of confirmation, letters from those who were striving hopelessly against a prevalent evil, letters from those who believed themselves ruined by it, letters asking his advice—inevitably, too, letters of faddists; and for many years he was engaged in intermittent discussions with various classes of people who were more or less galled by what he had said—with the engineers, the solicitors, the doctors, and the Insurance Companies and architects.

One feature of the discussion which seemed to him deplorable was that various professional bodies, while admitting the evil, were unwilling to make any efforts to diminish it. It may be worth while to give here a few of the many cases which in one way or another came under his notice.

A steward on a large estate sent the following particulars: 'On paying the first tailor's bill for liveries, he received from the firm supplying them a present in kind, which he returned. His clerk informed him that a man who was negotiating for the purchase of some ground-rents had offered him (the clerk) £5 to use his influence with the steward to let him have the rents cheap. Another man who was negotiating for the purchase of some building land wanted him to increase his price £50 an acre, and to let him (the negotiator) have the £50 for himself. A well-known gunsmith when told that no commissions must be paid to any of the servants said that on such terms he must decline his custom.'

A well-known clergyman sent him a memorandum from the owner of a monumental concern who had done a job for him:

'Rev. Sir,—I have been thinking that you might possibly have an opportunity of recommending me a customer or two, or otherwise put me in communication with parties, which might lead to business. If so I should be very pleased not to make any charge at all for the work I have done for you.' 'It is too bad', wrote the Canon who communicated this, 'to tempt the poor clergy in this way.'

The following came from Exeter:

'The ancient church of St. Mary Major, in the Cathedral Close of this city, was rebuilt (A.D. 1865–8) from the designs of the late Mr. Edward Ashworth. When the roof was nearly all covered in, it was found by Mr. Ashworth that the copper nails specified for the slating had not been used by the contractors. Mr. Ashworth firmly told the builder that all the slates would have to come off again, and be properly fixed according to the specification. The same evening a dozen bottles of prime port were delivered at the architect's residence, accompanied by a polite note from the builder asking his kind acceptance of the little present. Mr. Ashworth, ever as tender-hearted as he was honourable, was the last man to hurt any one's feelings, even if he did not agree with them, so next morning he dispatched his servant to the builder's house with another hamper of wine and a note that ran something as follows: ' Thanks for your kind present. Favour me, in return, by accepting the accompanying dozen of dry sherry. You will have to use the copper nails.'

Equally deft was the following reception of a proffered bribe: *A* called at the office of *B* with a view of obtaining some business order. During the conversation *A* put on the table by *B* a five-pound note. *B* said nothing, but invited *A* to smoke a cigar, which *A* did. *B* then took another cigar, twisted up the five-pound note, and lighted his cigar with it.

But practices such as these, however happily they may occasionally be defeated, must infallibly hamper trade, and, what is worse, must for the time at least penalize the honest trader.

' Is it right ', Lord Justice Bowen had asked when a case involving secret practices of the kind described above had been before him, ' is it right that the wolf should give a sop to the watch-dog without his master's leave ? '—but the wolf and the watch-dog having so long and frequently been secretly dealing in sops to the loss both of masters and flocks how were such practices to be ended ? Suggestions for legislation were put forward in the papers: ' a very simple measure ', so the *Pall Mall Gazette* declared, ' would meet all the needs of the case.' But Sir Edward Fry had no child-like faith in the efficacy of legislation, and saw that a ' very simple measure ' might be a mere dead letter in the statute book, and as such a hindrance to any further movement for reform. However, after some correspondence with Lord Russell, the latter said that if Sir Edward would draft a Bill, he would himself introduce it into the House of Lords. The Bill was drafted accordingly, and Lord Russell and my Father met and corresponded frequently upon the matter: the Bill was introduced by Lord Russell in April 1899, but owing to his absence in Paris in connexion with the Venezuelan Arbitration it went no farther; nor was its reintroduction in 1900 successful, and Lord Russell died before the measure became law. My Father's acquaintance with Lord Russell had begun when he was on the Bench, but it had been very slight: the intercourse between them on this matter greatly increased its intimacy, and greatly heightened his estimate of the Lord Chief Justice, who spared himself neither time nor trouble over the details of the Bill, and whose earnest desire to improve the commercial morality of the country was manifest throughout. And his glimpses of Lord Russell's home life gave him a most pleasant impression of him as a man. Lord Russell's death was therefore a personal loss as well as a blow to his hopes. But meantime the London Chamber of

Commerce had appointed a Committee, under the zealous chairmanship of the late Mr. David Howard, to inquire into the matter. Sir Edward Fry was elected on it, and as a matter of fact drew up the report, which, issuing from such a body and containing much evidence, proved very useful in calling attention to the matter; and in the same year an explanation of the scope of the Bill appeared over the signature of the drafter in the *Contemporary Review* for November 1899. Unlike the writer in the *Pall Mall Gazette* he felt that the matter bristled with difficulties, partly owing to the great complexity of commercial relations.

'The subject is confessedly one which presents considerable difficulties to the legislator,[1] and, in consequence, the Bill as it now stands is not one of the simplest,' he wrote. After explaining the various clauses of the Bill he declared:

'Is it expedient that such a Bill as I have endeavoured to expound should pass into law? I have sought not to hide the difficulties which accompany such legislation, but I believe that it would do much good to pass Lord Russell's Bill. It would, as I have said elsewhere, be a solemn utterance of the national conscience against an evil practice; and though it be true that you cannot make men good by Act of Parliament, it is true also that the laws of a country may do much to quicken and enlighten the conscience. Above all, I am sure that it would be a strength and support to many who now call for such help. Few things are more pathetic than the position of those who, coming perhaps from an honest home, find themselves exposed to the temptation to take secret moneys, and find in the atmosphere by which they are surrounded nothing but scorn for their scruples; or, again, of those who in the stern conflict of competition find that they have to choose between corruption or starvation; and these positions are no imagination of the brain, but sad realities of commercial life. Many will feel strength to say

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[1] Lord James of Hereford, speaking in the House of Lords in 1900, said: 'Some twenty-five years ago, in conjunction with the late Mr. Russell Gurney, I tried my hand at a Bill for the purpose of stopping the practice of giving illicit commissions. I must confess that our efforts were not successful, for it was pointed out to us that we had framed our Bill in such a way that any one who gave a small sum to a railway porter was liable to imprisonment.' See *War against Bribery*, p. 1.

" I cannot commit a crime " who are afraid to say " I will not cheat my master ". The familiar argument, *così fan tutti*, would meet with stern rebuke from a Penal Act of Parliament.'

His fears that an Act might prove ineffective had suggested to him a means of strengthening it. He concluded the article :

'There are two heads of criminal law with which this generation is familiar, but which would have been scouted by our ancestors as instances of grandmotherly legislation—I mean cruelty to animals and cruelty to children. The success of these measures in practice has been, I believe, largely due to the activities of the two societies which have been formed for the purpose of enforcing these laws ; and I cannot help thinking that the formation of such a society in relation to commercial corruption would be followed by the like beneficial results.'

In these words lay the embryo of the present Bribery and Secret Commissions Prevention League, Incorporated.

The Bill drafted in the Failand House library, and so often discussed and amended with Lord Russell, had twice failed to pass, and the death of Lord Russell might have seemed to discourage all hopes that it would become law ; but in 1906 the Liberal party were returned to power and much reformatory legislation was at once expected. In a *Punch* cartoon an overladen donkey carried a large crop of promises, and one of these was labelled Prevention of Bribery Act, and that prophecy was soon fulfilled. Lord Alverstone took the matter up ; but the old Bill was dropped and a fresh one drafted which is known as the Prevention of Corruption Act, 1906. One clause in the new Act had had no prototype in the earlier Bill ; it was that by which the fiat [1] of the Attorney-General was made requisite before proceedings could take place. This clause—introduced no doubt to prevent malicious or petty prosecutions—has been a decided drag upon the usefulness of the Act, and various efforts, hitherto ineffective, have been made for its removal. There can be little doubt, however, of the beneficial operation of the Act, which for the first time made the taking of a bribe by any citizen a crime, as it had hitherto been among public servants.

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[1] The following words occur in the explanatory memorandum of the Bill which was drafted by Sir Edward Fry : 'If it should be suggested that no prosecution ought to be allowed under this legislation except with the consent of the Attorney-General, as is the case in the Public Bodies Corrupt Practices Act, 1889, it is submitted that the cases are entirely different ; that in the case of public bodies the representative of the Crown, i. e. the representative of the public, is the proper person to intervene ; whereas under the present Bill private as well as public wrongs are dealt with. It is submitted that the great difficulty of working the Act will consist in the scarcity of evidence, and that attempts to put the Act in force ought to be encouraged in the hope of breaking up the conspiracy of silence as well as of fraud which now exists.'

In October 1906 the Bribery and Secret Commission Prevention League, Incorporated, 9 Queen Street Place, E.C., was founded, and my Father became its President and retained that office till his death. He presided over the great City of London meeting held under its auspices in May 1908, and in every way took a lively interest in its welfare.

Shortly before the first Christmas after the passing of the Prevention of Corruption Act the usefulness of the League became evident. The Attorney-General, Sir John Lawson, had written that 'Christmas presents which really have that character, and are openly and honestly given as such, cannot be within the meaning of the Act', and these words brought a flood of inquiries to the Secretary of the League as to the exact relation between Christmas presents and bribery. To aid in a general enlightenment the president of the League addressed the following words to *The Times* (November 20, 1907):

'There is, in my opinion, no doubt that most Christmas-boxes given by tradesmen to servants are given as inducements to show favour to the tradesmen. So plainly is this thought to be the case that those tradesmen who hesitate to make these presents are wont to declare that unless they break the law they will lose their custom; and thus they complain of the painful dilemma between honesty and gain. It is equally clear to me that a gift made as an inducement to a servant to show favour to a person dealing with his master, and made without that master's assent, is corruptly given; for the very essence of the servant's duty is to serve his master without favour or disfavour to any third person, and therefore the gift tends to lead the servant astray, and so corrupt him.

It follows that the only safe course for those who wish to make Christmas gifts to servants is to do so with the express consent of the master, if such consent can be obtained; and if it be not obtained, then to abstain from making the gift. Some dealers, acting upon this view, have issued circulars to the servants of their customers, pointing out the danger of continuing the habit of giving Christmas-boxes, and inviting the servants to procure their master's signature to an enclosed form assenting to the payment of the gift. Wherever a master thus assents to the receipt of a present by his servant, it is obvious that the payment and receipt are not corrupt, and not therefore within the meaning of the Act.

There remains a moral question. Ought a master to consent to the receipt by his servant of a donation from the dealer? It is in my opinion generally unwise to do so, and it is especially unwise when the gift is proportioned to the amount of the dealings. The evil of such payments is that they tend to place the servant in a difficulty—to create an obligation or an inclination to act in the interests of a stranger when he ought to act with a single eye to his master's benefit. Suppose a gardener is paid 5 per cent. on the amount of the orders given for the garden; he is placed under a direct inducement to order more than is needful, whereas his duty to his master requires him to order only what is needful; he is placed under a like inducement not to point out any faults in the goods supplied, whereas his duty requires that he should be vigilant in respect of all defects.

To those masters who are willing to allow their servants to receive Christmas-boxes I would suggest that they confine their consent to gifts of a fixed and limited amount, and that they should consent not generally, but only from year to year.'

Under its indefatigable Secretary, Mr. R. M. Leonard, the League has now a membership of nearly 1,000, consisting of business firms and private members, and whatever measure of success the Prevention of Corruption Act has had is undoubtedly due to no inconsiderable extent to the existence of the League. It has instituted many successful proceedings of considerable public importance and secured the conviction of many offenders; and the Government prosecution in the Canteen case, which has changed the whole methods of the War Office in this connexion, was undertaken owing to the League. An amending Act passed in 1916 provided incidentally for severer penalties. Those actively engaged in the work of the League were greatly encouraged by Sir Edward Fry's presidency. After my Father's death an article was published by the League which concluded as follows: 'It would be hard to exaggerate the value of such a figure-head, whose name stood for the highest virtues in the land, coupled with such great intellectual accomplishments, whose varied occupations were never allowed to interfere with his interest in the campaign against bribery which for upwards of twenty years he led, whose sober hope of the future never faltered. He was a great and inspiring chief.'

The Secretary of the League writes that this 'was no conventional tribute, but the record of feelings frequently expressed at meetings. The choice could have fallen on no other as President, and Sir Edward Fry's prompt acceptance of the position gave the greatest satisfaction. The fact that he identified himself thus with the League influenced much of the earlier support given to it; and those who, as I, had opportunities of personally discussing the work with him drew fresh courage to persevere, and found an added dignity in their labours.'

I may here mention that the League has its counterparts in some foreign lands; among others there was before the war, and still exists, a German *Verein gegen das Bestechungsunwesen*; also that the English League, mindful of my Father's sense that the evil is partly an intellectual one requiring careful exposition, has instituted a Sir Edward Fry Memorial Prize for essays on the subject of commercial purity, and is endeavouring in other ways to provide enlightenment for the young in this matter.

At a general meeting of the League he had said:

> 'Might it not be worthy of thought whether some teaching on the duty of keeping clean hands could not be given to the elder classes in schools? This would be all the more desirable because the duty in question is scarcely to be found in the Decalogue or the Catechism, and because it is not always clear to a mind which has not reflected on the subject; the line between an honest and a corrupt gift is not always obvious to every mind.'

In spite of all the activities of the League, in spite of legislation, bribery is still among us, if less rampant and bare-faced than it would otherwise have been, and it may be recalled that Sir Edward Fry did not expect the Augean stable to be wholly cleansed by the simple broom of law-making. Before legislation was seriously contemplated he had pointed out (*The Times*, Sept. 26, 1896) that much might be done by tradesmen issuing a printed notice (as had already been done in one case) declining to recognize the practice of paying secret commissions:

'Honest men might help their servants and their younger fellows by explaining the true nature of secret commissions (for the evil is partly intellectual), and they might do good by mercilessly exposing and shunning those who wilfully receive or pay them. May not something be expected from the pulpit? I have often longed to hear a sermon in which honesty was not only referred to in general terms, but explained by reference to these particular forms of dishonesty to which the members of the congregation were mainly exposed.'

Speaking in London on the same subject, he asked whether it were not possible that in the midst of a great city occupied in commercial dealings there should be heard not 'mere general denunciation of wicked ways—not descriptions of commercial sins so vague that each may think they depict his neighbour and not himself—but sermons coming under the description that Latimer gave of the preaching of Jonah, "a nipping sermon, a rough sermon, and a sharp biting sermon",' and he gave as an example of what such a discourse might be Latimer's own sermon denouncing the use of 'Devil's dust' in the manufacture of cloth, a denunciation all the more courageous in that the guilty manufacturers were, like the preacher, among the reforming party in the Church.

This hope of help from the pulpit has proved barren, or almost entirely so. One burning sermon on the subject was indeed reported to him, but for the most part the clergy seem to prefer to leave these concrete evils to be exposed by dramatists, as this very matter has been in Seumas O'Kelly's terrible little play *The Bribe*. Not that there is any lack of texts referring to dangerous gifts, or outspoken denunciation of bribery in the Bible. Two distinguished members of the Church of England did, however, come into touch with Sir Edward Fry on the matter. Canon Scott Holland presided over a meeting of the London Branch of the Christian Social Union, at which in 1901 my Father read a paper subsequently published by that society under the title, 'The Sin that Sticks between Buying and Selling'.

Again, in the autumn of 1904 Canon (now Archdeacon) Talbot, at that time incumbent of St. Werburgh's, Derby, had obtained the permission of the Bishop for his pulpit to be occupied on Sunday afternoons by laymen who should give discourses on appropriate subjects, the lecture being preceded and followed by some short religious exercises. He asked Sir Edward to speak on the subject of Commercial Morality, and he accordingly did so to a large congregation in which men were unusually numerous. This discourse was published in the *Magazine of Commerce*, and subsequently read at or after a Quarterly Meeting of Friends at York, and published by them as a pamphlet under the title of ‘ Commercial Morality ’.

The following passages occur in this discourse, which might well be called a sermon:

‘One of the points on which I desire to insist is the duty on the part of the master to pay adequate wages and salaries to his people, and attention should especially be given to the salaries of those buyers or sellers, or other agents, who are entrusted with large discretionary powers, and are exposed to special temptations to accept bribes. I believe that many such a man has striven to quiet his conscience in so doing by thinking of the inadequacy of the payment which he receives from his employer. . . .

There are those, I well know, who would think scorn of the doctrines which I have ventured to bring before you. They would say: “ It’s all very well for an old man who has never been in trade to talk to us in this fashion—to preach counsels of perfection that no one can follow ; we must act as sensible men —business is business—and we are not going to lose our chances of making our pile for any such foolish notions.” To such men I have no reply to make ; we are not wishing to walk in the same road or seeking the same goal. I can only look on them with sorrow.

Again, there are those who will say that the practices against which I desire to protest are very old—that they are so inveterate that it is useless to think of waging war against them, and that no man of good sense will waste his time and thoughts in such an enterprise. That they are old and inveterate is too true; but surely the history of our own country may teach us lessons of sober hope. Evils which were thought inveterate and incurable have disappeared. Once England from Berwick-on-Tweed to the Land’s End was cultivated by serfs, but gradually and silently the better thoughts of men, the teachings of the Church, the presumptions of the law, so worked that not a serf remained within the four seas, and that to touch English soil is to be free. . . . Once our mines as well as our factories were worked by poor women and tender children ; now, to a great extent, their condition is ameliorated, even if it is not all that we could desire. And so the past bids us hope ; to give up the hope and the strife after better things is not to stand still, but to fall back into the Slough of Despond, which, you will recollect, is nigh to the City of Destruction.

Let us, then, cast aside as cowardly the thought that we can do nothing to improve the morals of commerce, and so the moral welfare of this country, to be a citizen of which ought in itself to be a call to noble effort. The Athenian youth, when he was admitted to the roll of citizens, took an oath to hand down his country to those who followed him better than he had received it from those who went before him. Let us by God's grace and help act in the spirit of that oath.'[1]

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[1] For further information on the legal aspects of the subject of this chapter the reader may be referred to *The Law relating to Secret Commissions and Bribes, Civil and Criminal*, by Albert Crew. Second edition, with American notes, by M. Q. Macdonald.

CHAPTER XI

RELIGIOUS OPINIONS

Some time in the summer or autumn of 1897 my Father wrote down some notes on his religious opinions and feelings, for his own satisfaction alone. A few alterations and additions were subsequently made to the notes, which he headed

'Religio Iurisperiti

I look back upon my life from the watch-tower of old age: for I am fast nearing the threescore years and ten which the Psalmist allotted to life as its normal span. Nevertheless, I can still recall many of the feelings as well as the events of my youth and middle age; and I can to some extent trace the growth of those views on religion which I now entertain, and which I have substantially entertained for many years past. To many of my friends I suppose that I appear careless and lukewarm, and yet I believe that my faith is sincere.

I can hardly remember a time when a sense of mystery and wonder was absent from my mind: I recollect a vague feeling of awe at the unknown when a child, and especially I associate this feeling with ramblings in my grandfather's garden at Redland. I was early taught to read the Bible; but I do not think that it had any very direct effect upon me as a child, except so far as the grand passages of it which I did not understand seemed to attach themselves to the unknown things which habitually excited my wonder. To these feelings I continued to be vividly alive, and anything which stirred me as sublime produced a physical thrill throughout my whole body.

One Sunday afternoon my father, talking to me, said that the existence of evil was, he thought, the greatest of all difficulties in the way of religious faith, or something to that effect. I knew of evil before, and I knew of the doctrine of God's omnipotence before, and I believe that I knew vaguely of the difficulty raised by the existence of evil; but somehow these words of my father drove home the terrible problem into my soul in a perfectly new way. Though I did not lose my faith in God I felt a distress which I had never felt before.

Another most memorable moment in my spiritual life was a Saturday morning when I was at Dr. Booth's school: it was a morning which ought to have been devoted to ancient history, but somehow or other Dr. Booth introduced Berkeley's theory about matter, and allowed the class to argue the matter out with him. I believe that I took the lead in the chorus of opposition to the Berkeleyan theory; but I felt myself worsted and driven back, and at the end of the morning—for the discussion went on till the time came to break up—I was greatly shaken. I eagerly accepted an offer of the loan of Berkeley's *Theory of Vision.* I took it home with me and devoured it, and from that day to this I have been something of a convert. That morning's work made a vast step in my intellectual and religious life: it left on my mind that view which I still hold, that the inner consciousness is the one thing we know primarily and certainly: that it stands above all other possible evidence—in a unique and solitary dignity; and that by it everything else must ultimately be tried. From this I have been led to put a comparatively low estimate on the historical and external evidences of religion—of which more anon. Again, my mind had been much struck by those passages in the New Testament which dwell on the things that are not seen as opposed to the things that are seen—on the spirit as opposed to matter; and somehow these passages and the Berkeleyan theory seemed to coalesce in my mind and to confirm one another, and to form the two piers of a solid arch from which I could look abroad with clearer eyes, and where I could breathe a more spiritual breath than I had known before.

Then there came a time when I took to Cicero and Seneca, and they fed my spiritual life. At a later date I read Epictetus and Marcus Aurelius. The teaching of the Stoics found a response in my soul, and sent a thrill, sometimes almost a physical thrill, through my being. Even now I look back upon them with reverence as my teachers.

And then came another time—it was the summer, I think the early summer of a very fine year, when for some reason our house was more empty than usual—that I read the *Phaedo*. Morning after morning I sat in the quiet drawing-room and read, and each afternoon or evening I walked out and thought over what I had read. I know that some of the arguments of that immortal dialogue are weak—that some may be false; but nothing can ever undo what that reading did for me; and still, if the fear of death were on me, I believe that I should turn to the last sad but soul-inspiring scene. Of all uninspired writings, if uninspired it be, I regard the *Phaedo* as the noblest.

I have by me still the volume of Cicero with the *De Officiis* and the *De Amicitiâ* and the *De Senectute*, and the *Phaedo* of those old days, and they still always awake in me a memory of the feelings which they aroused.

My religion was then, if you will, rather pagan than Christian; but as the time went on, I found more and more in the New Testament that which nourished my inward nature: I applied to myself sometimes the words of Christ, "Ye believe in God, believe also in Me". I have said that the basis of my religious belief was the inner conscience of man—nay, I may say my own individual inner conscience: that it was for me the test and the standard of all my religious belief. Like Tertullian, I have ever been inclined to hold the testimony of the Soul itself to be the highest of all—"omni literatura notius, omni doctrina agitatius, omni editione vulgatius", and to bid it stand in the witness-box —"Consiste in medio anima" (Tertul. *De animae Testimonio*, cap. 1). I hold the same as regards my belief in things in general: my own experience, which is an unseen and spiritual thing, is the one primary piece of evidence in the world; and therefore as regards materialism I always feel that if I am not to believe in both matter and spirit, matter must go to the wall—for of it I have no direct testimony, whilst of spirit I have the most direct evidence. And so as regards revelation, or what claims to be revelation, I bring it to the one test, does it fit my internal moral sense? and if it does not, no amount of old documents from the monasteries of Sinai or Athos, no volume full of miracles, no living testimony even to their presence and their abundance, comes near to convincing me at all. With this corresponds the teaching both of Moses and of our Lord. "If there arise among you", says Moses (Deut. xiii. 1–3) "a prophet, or a dreamer of dreams, and giveth thee a sign or a wonder, and the sign or the wonder come to pass, whereof he spake unto thee, saying, Let us go after other gods, which thou hast not known, and let us serve them; thou shalt not hearken unto the words of that prophet, or that dreamer of dreams: for the Lord your God proveth you, to know whether ye love the Lord your God with all your heart and with all your soul." And so, too, our Lord warned His disciples against giving heed to signs and wonders to be wrought by the false Christs who should come after Him.

Thus there arose distinctly in my mind the inquiry whether the doctrines of Christianity are or are not in accordance with the nature of man; and to this, especially in my college days, I gave great thought: the inquiry was primarily and essentially one carried on by self-reflection, and I often thought that in thus dealing with myself I was more conscious of the mechanism of my inner being than most of my friends seemed to be. The struggle between good and evil, the warfare between the flesh and the spirit, the antinomy between the deliveries of sense and those of the pure intellect, often seemed to me to be more terrible, more keen in myself than in the majority of men. I know not if this were so, but the sense of dualism in my own nature was impressed on me most painfully, and the passionate language of St. Paul in describing the strife between the two selves and the two laws, and the wretchedness of the being in whom this intestine warfare is raging, all seemed description of my own experience.

In these inquiries I was helped by three great works which have left a lasting impress on my mind, and to the writers of which I still look up as my masters. They were Butler's *Sermons on Human Nature,* Aristotle's *Nicomachaean Ethics,* and Kant's *Reine Vernunft.* It is perhaps some evidence of the greatness of a book that it so satisfies the mind that it leaves little room for further teaching on the same subject, and something of this sort has been my experience with regard to these books. I have recurred to them, or parts of them, time after time since the days they first laid their spell upon me, and I still recognize their mastery. I dare say that it might almost be true to say that since that time I have made no considerable advance in my ethical views: certainly no books before or since have had any like influence upon my mind.

What, then, are the outlines of my belief? In the first place, I am above all things a believer in the supremacy of spirit over matter—if such a thing as matter there be. I find direct consciousness of spirit: *Cogito ergo sum*: not only do I exist as a being, but as a spiritual being. So strong is this belief ingrained in my feelings as well as my intellect that I have a kind of natural repulsion at the real materialist, and I view with a kind of moral disapprobation every attempt to reduce the world to a material origin. The attempts of modern materialists have been for the most part amusing. They ask you to give them a handful of material atoms to cook with, and then they seek to slip into the pan from time to time doses of life and spirit and intellect, but in such small quantities that no one has a right to notice them or to treat them as anything but negligible quantities, and then they show you as the result of these operations the human being with all his divine gifts. But assuredly you can get nothing out of atoms but what is in them: if you put into them soul and spirit you may get it out: if you put in nothing but matter you will get out nothing but matter.

But it is not so much the futility of all materialistic theories which makes me a spiritualist as the irrepressible belief that in nature there speaks to me a spiritual being, a being holding commerce with my being—a spirit speaking to spirit: and this is to me the charm of nature. If I felt that it was matter and matter only methinks I should dread to see the sun arise, to watch the stars in the sky, or to walk in field or wood.

And then again, in the purest intercourse of myself with my fellow men I feel that the intercourse is spiritual: I cannot for a moment believe it to be the outcome of matter—unless, indeed, matter be primarily clothed with all the attributes of spirit, in which case the question has become one not of things but of words.

So that, in fine, I feel myself to be a spirit, I feel my fellow-men to be spirits, I feel that in nature I commune with a spirit. These independent but concurring convictions make the tripod of my belief in the spiritual as opposed to the material theory of the universe. As Cudworth has it, I believe in the intellectual system of the universe.

In the Divine Existence, in the reality of God the Father the creator and upholder of the world, my faith is strong; and I can hardly frame to myself a state of mind in which I should not retain this belief. When I come to the popular language on this great subject I often feel myself at fault, or in a state of disagreement. I believe that when the veil shall be withdrawn from our eyes, we shall find in God all that the opposing schools desire to see exclusively in Him. With the pantheist, I believe that He upholds all things, and that in Him not only we, but all things, live and move and have their being. With the advocates of a personal God, I believe that He is a person, the object of love and reverence, and possessing in infinite splendour all those qualities which in human beings, in a lesser degree, dimly shadow forth the notion of a person: I believe that almost all the affirmations as to the Divine Nature are true, and that the negations which the opposite affirmations seem to involve will disappear with fuller knowledge.

I believe in Christ, the everlasting Son of the Father and the means of access to Him; and I believe that He died for us men and for our redemption. But when I am asked to dwell on the sufferings on the cross—on the nails and the spear, and above all on the efficacy of His blood—I often feel an inward revolt against this magnifying of the mere accessories of His death. I can accept the statement of His vicarious sufferings and of His paying the debt for man as rough and imperfect analogies to illustrate one side of a many-sided theme; but when I am asked to believe as a fixed and settled doctrine that a just God laid on an innocent being the sins of wicked men, and that He accepted His sufferings in lieu of theirs, my whole heart rises in revolt, and I reject it with all the emphasis of my moral nature. Furthermore, a debt is one thing, a punishment is another: one man may pay the debt of another and for another: no man can justly bear the punishment that belongs to another, and if he did undergo the like suffering, it neither relieves the judge from the duty of inflicting it on the criminal, nor the criminal from the obligation to undergo it. To confuse a debt and a punishment is to confuse a thing with a person. To accept such a view of our redemption appears to me to attribute to the Almighty an act of the most flagrant injustice. And "shall not the judge of all the earth do right"?

I am far from daring to suppose that I can understand all that may be involved in the death of Christ; but I have always felt that there is nothing over-daring in endeavouring to see from the human side how this great event has operated upon human nature, and I have seemed to myself thus to see something of the meaning of salvation and redemption. The life and character of Christ are beyond expression attractive of our love and admiration, and those whom we love we desire to imitate. May it not perhaps be truly said that the desire to imitate is in proportion to the love and admiration? This tendency to imitation is the great means by which alike good and evil are infectious—by which they are communicated from one to another. Thus, in point of fact, and that visibly in the history of the world, the example of Christ has wrought a change in thousands of human beings—they have desired to become Christ-like, and by desiring they have so become. To be made Christ-like is to be made holy—and this is sanctification; to be made Christ-like is to be made just in the highest and widest sense of that term—and this is justification. To be made holy and just is to be set free from the power of sin—and this is salvation. These things seem to me to be not great transactions in heaven, or great mysteries requiring tomes of theology to explain them, but real simple facts in human life, produced according to the principles and emotions of our human nature. There is no need—nay, there is no room—to draw a line between the work of Christ as a Saviour and His work as an Example: He works as a Saviour because His example in life, and still more in death, works on our hearts and feelings, and makes us abhor those things which are evil and cling to those things which are befitting to Him. And as no being but a human being can seem a really fitting example for man—as the force of imitation is proportioned to our sense of nearness to and love for our example—so no example could have worked upon us like that of a man, and so Christ took our human nature upon Him that He might thus redeem us from our sins.

I believe in the Holy Ghost: and as I cannot contemplate nature and life without finding myself in the presence of what I believe to be spirit, so I accept the doctrine of the perpetual presence of *ὁ κύριος ζωοποιῶν*—the Lord and Giver of life, and can attribute to Him the divinity that hedges us round on all sides. Furthermore, though I cannot separate in my mental being the suggestions of the Divine Spirit from those of my own spirit, I yet can and do believe in His blessed presence, as illuminating, so far as it is illuminated, my own mind. Such things do not admit of proof; but I cannot look back on my past life—on the way by which I have been led—and believe myself to have been left entirely to myself. I cannot think that I have been entirely a wanderer without help and guidance in a fatherless and forsaken world.

The one subject of contemplation which beyond all others has filled me with amazement and awe has been the bare fact of being—of existence—I mean of the being and existence of anything. That anything should be has been to me above all other mysteries the mystery of mysteries; and given this as a fact nothing seems incredible. Often and often the sense of the great marvel comes over me, and especially I think in the night when the multiplicity and variety of the subordinate phenomena of existence are less present to the senses. I dwell upon it and cast it over and over in my thoughts, and that fact remains unchanged and unchangeable—awful no doubt, but made bearable by the sense of the reality of goodness as well as existence.

And then next to this comes the thought of my own existence—of the being in which I am involved: of the absolute incapacity under which I labour ever to lay aside this being. The thought of an eternal self-existence of misery has been, I suppose, a source of terror to most reflective minds: for this misery does exist, and this "horror of great darkness" has fallen upon me. When a boy, the awful passage about the sin against the Holy Ghost got possession of me, and the very dread of having committed the sin worked on me the fancy that I had done so:

and then followed a state of misery more easy to imagine than to describe. From this I was delivered, I believe, by my reason reasserting its authority; but the awfulness of the thought of my own existence is a thing never to be lost—though I trust in God that that awful thought enfolds the infinite blessing of an eternal life of joy.

About prayer I have not had the same doubts and difficulties as many people. Believing in a Divine Father, and that I am a spirit in the presence of a greater spirit, I feel that communion between such spirits is highly probable and, so to speak, natural; and as a child makes known its wants to its earthly parent, so I should naturally make known my wants to my Heavenly Father.

Furthermore, the impulse to prayer has always seemed to me a part of my nature. To turn quickly and often towards the Infinite Being with an aspiration, a hope, a prayer—not in times only of danger or anxiety, but in moments of solitary thought and reflection, in the fields or the lanes, or even in the busy streets—has been, I believe, through all my life a matter of nature and habit; and it seems to me as if the light would fade away from the heavens if I did not believe that I might thus hold some kind of communion with God. And surely this is in great degree the common feeling of mankind.

I believe in the fixity of law and the fixed sequence of cause and effect; but so far from this interfering with my belief in the efficacy of prayer I have always felt that it was essential to it. It is because laws are fixed that wills can give effect to their decisions. If a stick were not stiff I could not be sure of beating a dog with it: if the laws of electricity were not fixed I could not be sure of sending a message along the wires: if matter were unstable I could not provide a dinner or a breakfast. But the cohesion of the stick does not prevent my free choice to beat the dog: the fixity of the laws of electricity does not determine the message I shall send, nor do the laws which regulate cooking fix whether I shall dine on mutton or beef. It is always through a fixed law that wills can operate, and in exact proportion to our knowledge of these laws is our capacity to produce results. The savage has comparatively few things which he can successfully will: the man who has, or he whose fellows have, a large knowledge of the laws of nature, has a far wider area of effectual volition, and this is the meaning of the aphorism that Knowledge is power. If then there be a Being who knows all the laws of nature, He can do whatsoever He will in Heaven or on earth. But the outcome of human volitions effected through the laws of nature appear as, and in fact are, natural results—not violations of the laws of nature, but results of those laws: and so, if there be a Divine Being with infinite knowledge of those laws, whatever He wills to do will appear as the results of natural laws, and not as miracles or as violations of these laws. If a son ask bread of a father and he give it, there is a prayer, there is the will to grant that prayer, there is that will effectuated through natural laws; and so if a man ask something of his Almighty Father, the answer may come in the same way through natural laws.

But there is a difficulty beyond—to many minds. You pray, it will be said, for something the opposite of which is involved in existing or pre-existing facts—you ask for the recovery of a beloved one from sickness—when life or death is the necessary result of pre-existing causes and conditions. But this objection has never staggered me; for, in the first place, I believe time to be only a condition of our cognition of things and not of things in themselves, so that the difficulty has no reality in it; and, secondly, even in the region in which we live, and in which time conditions *seem* to regulate things, we know that there is no limit to the extent to which currents of events may be set in motion which so far modify existing currents as to make the result different from what it would otherwise have been. A man has, we will say, swallowed an acid which by itself must cause death; the administration of an alkali may operate so as to save the man's life; and here life or death, whichever occurs, is equally and alike the result of natural causes.

Thus it seems to me that the analogues of our human society are all in favour of the existence of the relation established by prayer: of its operating on the mind of the Divine Father, and of the answer to it always appearing under the guise of the natural results of natural currents of events.

"We know", says Mr. Jowett (*Life*, ii. 313), "that the empire of law permeates all things." I should rather say that what I see and know is that the empire of will effectuated through law is universal. Instead of finding will excluded from the universe I feel and find it everywhere, from the sublime will of the hero or the martyr, to the will of the ass to choose between two bundles of hay and the will of the amoeba or the swarm spores to choose their course in a drop of water. To listen to some expositions of the rule of Law in the Universe one would suppose that the outcome of the forces of nature were of an absolute mechanical regularity and uniformity; and yet nothing could be further from the truth. Go into a manufactory where there are a score of identical machines which have been set to work, and left to work all in the same manner and at the same pace, and all producing identical results in identical intervals of time; and then go abroad into the world of human nature, or of nature at large, where an ever-varying series of results is occurring in respect of every individual and of every successive interval of time: and yet both, you are told, and rightly and truly told, are brought about by immutable laws. From whence comes this vast difference between the two sets of phenomena?

To answer this let us return to our manufactory, and suppose that instead of the machines being left to do their work alone, the foreman has come in and has ordered one machine to be slowed down, another to be quickened, and a third to be stopped. Here a diversity of results is introduced, and that by what is, or appears to be, an exercise of choice and will operating through fixed and immutable laws. Just such, but on an infinitely wider scale, seems to me to be the phenomena of nature and the world.

There is a habit common to many preachers and many religious persons which often rather irritates me. They are dealing with some proposition about our human nature which if true must be known to be true by the experience and conscience of their hearers; and yet instead of appealing to this conscience they appeal to the Bible as the authority for the statement. Plowden, one of our old law-writers, in explaining the regard which the law pays to the natural affection of parent and child, quotes Aristotle to support the proposition of the likeness between parent and child—that like begets like—a fact one would have thought known to most men. And something like this has often seemed to me the practice of many preachers. One doctrine where this often emerges is that of the fall of man: they will give you the narrative of Genesis, and then quote the psalmist to prove that man is desperately wicked, and perhaps make no reference to the knowledge of sin in ourselves and others which is present in the bosom of every hearer. I have been accustomed to think on this subject of the fall from the human point of view, from my own conscience, from what I see around me or read in history and the newspapers. I see that man is a state at war with itself. I see a conscience with a claim, an undisputed claim, to supremacy, and a horde of rebel passions: I see a chasm between the aspirations of man and his achievements. How is this to be accounted for? Are not these facts evidence of a fall—evidence, that is, on the one side of his high position, and on the other of his descent from it? I have been accustomed to regard some cataclysm in his history, coupled with the doctrine of descent, as the best explanation of these strange, and in some sense unique, phenomena. I know that of late years the theory has been suggested that the facts are capable of an explanation derived from the two doctrines of progress and reversion: that is to say, that man starting from a low state has developed social virtues and a moral sense, and that the highest specimens of the race exhibit these qualities in the highest degree; but side by side with this exists the tendency to revert, to throw back to the earlier and lower forms, and that this tendency shows itself in the vice and wickedness of a large part of mankind. The same kind of explanation has been suggested for the fact that amongst men there appear those who are dumb without being deaf, and those whose brains are so little developed that we call them idiots; and these individuals often exhibit physical peculiarities which recall the lower animals. Here the explanation seems probable, but whether it be equally satisfactory in the case of moral degradation appears to me at least very doubtful. The one set of phenomena excites in us pity, the other moral reprehension; and the facts of conscience, and of penitence and remorse, would have to be carefully analysed before I could assent to this evolutionary explanation of the dual nature of man.

Holding the views which I do, and have held for years, it is no wonder that my religious life has been a solitary one: that I have often felt as if no one quite understood my position or my thoughts; and as though, on the other hand, I was unable to enter into the religious combinations of those by whom I have been surrounded. But attractive as close religious sympathy with some body of good people has sometimes appeared, I have always felt that it was not for me: rather that my duty was to stand to my own beliefs and to live as best I could my own life in the sight and fear of God. I have felt the awfulness of my individuality—I, a person by myself, standing before God, so solitarily that not the nearest or the dearest one can come between us: I was born alone: I must die alone, and in spite of all the sweet ties of home and love (for the abundance of which I thank God) I must in some sense live alone. By the side of this sense of individual life and duty, the claims of "the Catholic Church" or of "our beloved Society", or even of the communion of Saints, have grown thin and pale. All ecclesiastical combinations have a painful mark of sectarianism about them. Their business is often controversial, often occupied with promoting the interests of their particular section of the Christian Church; and the success of an organization which sends joy into the hearts of its promoters is often only the abstraction from some other existing body of its best blood. There is enough of this kind of thing in almost all ecclesiastical meetings to repel me from them. But whilst I feel this for myself personally, I can thank God for the energy displayed and the success achieved by many churches and many bodies in the great fight with evil; I can thank Him for the good wrought by many from whom I most emphatically dissent, and by institutions with which I could not possibly co-operate. Nay, more, to me this is one of the marks of the Divine origin of Christianity, that it shines as a bright light through very dark lanthorns. The folly, the abject folly, of many good people often makes me sad: but where would goodness be if it were confined to the reasonable and the wise?

A man of religious genius like George Fox arises and impresses a body of his contemporaries with his own views and his own conception of religion, and these followers organize themselves and become a body corporate: the group of heretics (as they were originally thought to be) establish an orthodoxy of their own—ban and banish those who differ from this standard, and create an *esprit de corps* which leads them to judge of things political and religious from their effect on their own particular body, leads them to maintain faiths and practices in which they scarcely any longer believe, leads them to stand by and extenuate the sins of their fellow sectarians, and to magnify the shortcomings of those to whom they are opposed. The outlook on things spiritual and temporal of the regular attender of Church Congresses or of Yearly Meetings has never seemed to me to be that of the really wise man, or one to which I could desire to attain.

I believe that in the Quaker body things are much changed since I was young, and that a great body of excellent work and wholesome thought exists; but the miserable questions about dress and address, and the disputes about orthodoxy which I remember when young, produced a chasm in my feelings between myself and systematic Quakerism which I have never got over.

"I confess", writes Dr. James Martineau in one of his letters (*Life and Letters*, ii. 89), "I have never been able to admire the 'denominational' arrangement of society or felt the least wish to push it into general life further than its special and limited purposes require. A world composed of religious clubs may hang well together round its small centres, but it produces men of narrow minds and disproportioned affections, who judge persons without candour, and affairs fanatically. I have more faith in the culture of the world, than in the ties of the Churches." This very much expresses the feeling on the subject in which I have acted throughout my life.

If I have been kept from the ordinary close religious connexions with any one Christian body by want of sympathy, I have been almost equally impelled in the same direction by the width of my sympathies. I can appreciate the quiet and simplicity of a Quaker Meeting (when it is a quiet and simple one): I can appreciate the glorious music and the splendid architecture of a great cathedral church: and I feel that alike in regard to the one and the other there are reasons for their existence and there are relations with our spiritual nature. I know that religion is a thing of the heart and soul of the individual man, apart alike from art and from politics, and I can see the origin of the Quaker ἦθος in this great truth. But, again, I know that if religion work in the whole man, it must come into relation with his aesthetic nature and with his social and political activities; and hence I can sympathize with all the works of the mediaeval builders, with the splendid services of our greatest churches, and with the political character of our great corporation, the established Church of England. Above all, perhaps, I am moved by the thought of the historical continuity of our great churches. To believe, as I do believe, that Rome was visited not by Paul only, but by Peter also, adds greatly to the feelings which are awakened in me by the great Basilica of Rome. And I cannot stand unmoved under the shadow of those churches which have any reasonable claim to the names of SS. Prisca or Pudens or Clement. And in like manner it is much to me that the church of Canterbury can trace her story back to St. Augustine, that Westminster recalls Mellitus, and that Glastonbury has kept alive Christian worship from the Celtic times down to our day. How could such a man as this be a good Churchman or a good Quaker? I have been neither, but perhaps something more catholic than either.

I will yet again return to my conception of religion. It has always appeared to me an essentially moral thing—a thing relating not to our physical or even our intellectual nature, but to us as moral beings. This conception of religion has had many consequences in my mind, and perhaps in my life. It has made the notion of the sacraments as things essential entirely impossible. How can water applied outside, or bread and wine taken into the body, touch the moral nature of man? By miraculous or a superhuman agency, it may be replied; but such an agency is not moral. It has made me willing to concur in various forms of worship, and to regard differences of form as unimportant.

At the same time it has made insistence on form or ceremony especially repulsive to me.

How can he care about a chasuble or an eastern position who realizes for a moment the greatness of man's moral nature, who thinks upon God and upon eternity, and who goes forth by night and gazes on the starry sky?

That the world is a strange medley no one can doubt: there are seen mingled together and striving together the good and the evil, the beautiful and the ugly, the true and the false, the joyous and the sorrowful: and even within myself conscience and passion, the ape and the angel. The conflict has gone on, and is going on with various fortunes, in the different parts of the great battle-field, and sometimes the forces of good and sometimes the forces of evil seem to prevail: and even if, on the whole and in the long run, there be something of advantage on the side of the good it is too individual and uncertain for my soul to rest upon. Upon what then can the soul rest? It can rest upon its own inner sense, upon its own final judgement; out of the medley of life it can distinguish what it knows to be true and what it feels must be conqueror in the end—be enduring, nay eternal—and what it so chooses is goodness and beauty and joy, and what it can reject as temporary and destined to vanish away in spite of all its outward show is the evil and the ugly and the false and the sad. In this confidence I have striven to bear up against the phenomena of the world.

I have dwelt upon the way in which I have found in my inner nature the highest evidence in respect of the highest themes: that inner nature I have taken for my guide in other matters also. I have read in the lives of good men and women, and have heard from the lips of good men and women, exhortations to a sole and exclusive devotion of all the faculties to the service of God, in the sense that all outward and earthly things should be laid aside and all the mind and energies be devoted to exclusively religious exercises, that all our books should be Sunday books, and all our talk should be about religion. But such a limitation of the mind I have never been able to adopt. I find in myself an intense desire for the beauties of nature, an inveterate longing to know, a great interest and a great pleasure in the society of my fellows ; and I cannot find that my conscience feels any disapproval of these desires or discourages me in seeking their satisfaction, and therefore I have consciously embraced them in my scheme of life.

26th March, 1916.

There is a consideration which has often been in my mind during the last few years. I suppose that every one who thinks about prayer, or any form of communication with God, must at times have been oppressed with some such thought as this : How can the Divine Ruler of millions of worlds be able to attend to the prayer of one of the many millions of inhabitants of one of the million worlds ? That, to speak after the manner of men, He must be too busy to care for me. If this be true, we shall certainly find some slackness of His care in the petty affairs of His smaller creations : some slackness in His ordering of the most insignificant beings. But what do we find in fact ? Turn the microscope on to the shells of a diatom, or of a Foraminifer, or on one of the thousands of micro-organisms, and we see the same evidence of design, of order, of beauty : the same evidence of mind as in the starry heavens ; we can confidently believe that He who cares for the diatom will care even for me. This thought has often comforted me.'

When my aunt, Mrs. Waterhouse, of Yattendon, was preparing *A Book of Simple Prayers* she asked my Father for a contribution. He sent her the following :

' O Thou whose thoughts are not as our thoughts, whose ways are not as our ways, who dwellest in the unsearchable light to which no man can come near, we thank Thee that Thou hast made Thyself known to us as our Father, that Thou pitiest them that fear Thee, as a father pities his children ; and we thank Thee, too, in that Thou hast given us Christ Jesus as a way of access to Thee. We therefore come to Thee in His name to tell Thee of our great need, of our sense of hunger and want and nothingness ; we know not what to ask for, because we know that we want everything ; we cannot utter to Thee our speechless craving after Thee. Our souls, O Lord, thirst after Thee, and oftentimes we strive to find Thee in the way of sense, or of reason, or of intellect; and then we feel that Thou art not there as we would know Thee, and we say, When shall I come and appear before God, even the living God?

But now, O Lord, we come before Thee through Christ, and beg of Thee to fill our souls with Thyself, and be near us day by day and hour by hour, strengthening us by Thy strength, and guiding us by Thy hand, till Thou lead us home to Thine eternal peace and joy. Amen.'

It is in keeping with the whole tenor of this chapter that my Father was wont to dwell on what he called 'the smallness of Religion', or in Bishop Hall's words (as quoted by Lord Morley) 'de paucitate credendorum'—the fewness of the essentials to a true life. In the same spirit he said to one of his daughters, *à propos* of theological difficulties, that he felt no one would go far wrong who held to the spiritual meaning of the Universe.

CHAPTER XII

INTERNATIONAL COMMISSIONS

1902. ARBITRATION IN PIOUS FUND OF THE CALIFORNIAS
1904. THE DOGGER BANK INCIDENT

THE PIOUS FUND OF THE CALIFORNIAS

BEFORE his seventieth year Sir Edward Fry had duly played four out of five of the ‘ many parts ’ allotted to man :—the Infant, the Schoolboy, the Lover (the Soldier omitted), and the Justice, but when the sixth age should have ‘ shifted him ’ into ‘ the lean and slipper'd ’ stage a wider and unsought scene of activity opened before him—that of International Arbitration. In August 1898 the world was startled by the proposals of the Tsar of Russia—the pacific but ill-fated Nicholas II—for the arrangement of conferences between the civilized Powers, aiming at an understanding not to increase, and if possible to decrease, the armed military and naval forces of the nations, and for the general bettering of relations between them. In spite of the mutterings of some pessimists—‘ This means war ’—the proposals were in general hailed as a step of great importance, and the First Hague Conference took place in 1899.

‘ As the outcome of these deliberations at this Conference on the 29th July, 1899, three international Conventions were signed by most or all of the assembled delegates. The first was for the pacific settlement of international disputes ; the second for adapting to maritime warfare the principles of the Geneva Convention of August 22nd, 1864 ; and the third with respect to the laws and customs of war by land. This event has been universally recognized as a notable one in the history of international relations, and especially as the first successful attempt to establish a permanent system of a judicial or quasi-judicial character to be applicable to international disputes.

The first of these three Conventions is divided into four titles—the first “ on the maintenance of general peace ”, the second “ on good offices and mediations ”, the third “ on international commissions of inquiry ”, and the fourth “ on international arbitration". The ninth article of the first Convention of The Hague contains a recommendation that in cases of an international nature involving neither honour nor vital interests, and arising from a difference of opinion on points of fact, the parties who had not been able to come to an agreement by means of diplomacy should, as far as circumstances allow, institute an International Commission of Inquiry to facilitate a solution of these differences by means of an impartial and conscientious investigation.

The tenth article provides that International Commissions of Inquiry are to be constituted by special agreement between the parties in conflict—that the Convention for an inquiry shall define the facts to be examined and the extent of the commissioners' powers, that it shall settle the procedure, and that "L'Enquête a lieu contradictoirement". The fourteenth article provides that the report of the Commission is to be limited to a statement of facts, and that it has in no way the character of an arbitral award, and that it leaves the conflicting powers entire freedom as to the effect to be given to this statement.

The provisions of the Convention with regard to International Arbitration are of quite a different character.

These provisions contemplate the actual settlement and final determination as between the submitting nations of differences between them, and declare (Articles 15–18) that the submission to arbitration implies the engagement to submit loyally to the award: whereas in the case of the report of a Commission of Inquiry the contending parties were, as we have seen, to be left in entire freedom of action. In the case of such a Commission it was, as we have also seen, to be constituted *ad hoc*, and without restriction as to the persons to be selected; in the case of international arbitration, on the other hand, the Convention provides for the construction of a Permanent Court, competent for all arbitration cases; it provides for the selection of the judges of the Court by requiring each signatory Power to nominate four persons of known competency in questions of international law and of the highest moral reputation, these nominated persons constituting a panel or list from whom the submitting Powers are to select the arbitrators to act in any particular case.

In addition to this stipulation the Convention further constitutes a Record Office for the Court, and a permanent Administrative Council.

Once more, whilst the clauses which relate to Commissions of Inquiry contain no rules of procedure, and propose to leave that important matter to be determined by the special agreement between the parties, the clauses relative to Arbitration contain a long series of provisions (Articles 30–57 inclusive) dealing with points of procedure, of which more hereafter.

It is obvious from what I have said that the two methods of procedure were intended by the signatory Powers to be entirely distinct.

It remains to observe that in both cases alike, nothing can be done except as the result of a special agreement (whether called Declaration—*Convention d'enquête*—or otherwise) between the parties in difference; and that it is, of course, competent to the contracting Powers to adopt as much or as little as they like of the Hague Convention, and to modify at will its several provisions.

In November 1900 Lord Lansdowne, then Secretary for Foreign Affairs, asked me to accept a place on the list of judges for the International Court. I accepted, my English colleagues being Lord Pauncefote, the British Ambassador at Washington, Sir Edward Malet, formerly an Ambassador at Berlin, and Professor Westlake, of Cambridge. I could not decline to aid a Court established in the interests of peace, though I felt that I did not come within the description of a qualified person, for International Law had never received much attention from me.

For two or three years the Court was an empty shell. The Administrative Council was formed of the Ministers of the Powers accredited to The Hague; a Secretary-General and other officers were appointed. A mansion was secured, but no one came to the Court, and one or two cases of international arbitration had been settled outside the Hague Court. It looked as though the whole thing was a failure, and talking the matter over with Sir Edward Malet (whom I met in London) in the summer of 1902, we both agreed that we were never likely to be called upon to go over to The Hague to take any part in an International Court of Arbitration.

It may be worth while to remark that a similar spell of inactivity followed the formation of the Supreme Court of the United States, which, as between the several States of the Union, administers International Law; and perhaps the vast importance at the present day of the jurisdiction of this Supreme Court may be accepted as an augury for the future of the Courts of Inquiry and Arbitration projected by the Convention of The Hague.

Within two or three weeks of this conversation with Sir Edward Malet, I received a telegram from Mr. Choate, the United States Ambassador in England, asking where I could be seen the next day. I replied, "At Taunton", as I was just starting for the County business there. Accordingly, the next day a messenger from the Embassy appeared and handed to me a letter from Colonel John Hay, the Secretary of State at Washington, asking me to accept a nomination by the States to act as Arbitrator at The Hague in a dispute between them and Mexico with regard to certain funds known as the Pious Funds of California. I agreed to act accordingly, and before long received from America the first instalment of papers.'

The intrinsic importance of this case was, perhaps, not of the greatest: its weight lay in the fact that it was the first case to be brought before the Hague Tribunal, and not, as previous cases of arbitration, before an authority chosen for the one case in hand: was it possible to establish an international mode of procedure of such undoubted weight and impartiality, such accessibility, convenience, and promptitude, that a general habit would arise among civilized nations of referring international disputes to it?

The case in dispute may be briefly summarized as follows: The Pious Fund of the Californias was instituted for the conversion to the Catholic Church of the Indians of that district, and for the maintenance of a Catholic priesthood there. In the nineteenth century the fund had come under the administration of the Mexican Government, and on the sale of Upper California to the U.S.A. the Catholic bishops in the transferred region held that they were entitled to a portion of the interest. This the Mexican Government refused, and, the matter having been referred in vain to commissioners appointed by each State, it was at last referred to Sir Edward Thornton, then British Minister at Washington, who in 1875 determined that a certain sum was due from the Government of Mexico to the bishops, as an arrear of interest. This was duly paid, but current interest was still not forthcoming, and in May 1892 the matter was referred to the Hague Tribunal, who finally upheld Sir Edward Thornton's decision.

'The first meeting, which was for the election of the fifth arbitrator and President of the Court, was held at The Hague on the 1st September, 1902, and I started with my brother Lewis a few days beforehand so as to visit Bruges and the Exhibition there on our way, and late on Saturday, the 30th August, we arrived at The Hague. The Sunday proved what we call an International Day, as I received visits from M. Ruyssenairs, the Secretary-General of the Court, Ralston, the American Agent, and M. de Martens, one of my colleagues; and on Monday the four arbitrators met at the Mansion of the Tribunal. The selection of a fifth was no easy matter, but we chose Dr. Matzen, a Dane, and after the delay of a day or two received news of his acceptance. I then returned home, but was back again in The Hague on Saturday, 13th September, to make preparations for opening the Court on the 15th.

At first I was, I confess, a little anxious as to the course of this arbitration: all my colleagues were then strangers to me, and I knew how different are the methods of British and Foreign Courts, and I knew how very unsatisfactory the proceedings at the Geneva arbitration had proved. But we got on very well, and I think that the forms of procedure which we adopted worked satisfactorily, if slowly.

We sat in the Mansion of the Tribunal—in the Prinsengracht—a good old-fashioned house, with one large room which we used for the Court. The arguments were on the American side partly in English (i. e. in American) and partly in French; and on the Mexican side wholly in French, which we adopted as the official language.

At our first meeting after the conclusion of the arguments, it seemed that the two Dutch members were likely to differ from the other three arbitrators; but we then rose for a few days to enable our President to preside at the Danish Landsthing, and to enable De Martens and myself to be at the Bodleian Tercentenary at Oxford. He visited us at Failand and spent one day there, and, I believe, much enjoyed his acquaintance with an English country house; and we met him again at Oxford, during the pleasant two or three days which my wife and I then passed at Frewin Hall with Dr. Shadwell. On our meeting again at The Hague the members of the Court had drawn much nearer together, and ultimately we were all agreed on the conclusion, and then came the business of drawing up the award, which was to assume something of the forms of a "jugement motivé": and this gave rise to frequent interviews and discussions. However, it was finally settled and executed by us in triplicate, and then read at a public audience of the Court, at which most of the foreign ministers at The Hague were present.'

On this first, as on all subsequent visits of any duration to the Continent on international business, my Father was accompanied by my Mother and one or other of his daughters, without whom his sense of exile would have been almost unbearable, for a certain shyness in his nature, a trait suspected by few, made him greatly dependent on his family for intercourse. There was, indeed, always a certain homeliness in his entourage, which procured for him and his wife at the Hague Conference allusions to Darby and Joan.

'We received a great deal of kindness and hospitality from many persons at The Hague. The Queen entertained at dinner all the members of our Court and the ministers of the two litigant Powers, and during and after dinner entered into conversation with each of us in a very pleasant fashion. It was impossible not to look with much interest on the girl on whom were centred all the hopes of the Dutch people as the one surviving member of the great family of Orange. She has since become the happy mother of a little princess.

Before we parted, we, the arbitrators, drew up a paper containing suggestions for the improvement of the arbitral procedure derived from our experience on this occasion: for we all felt it our duty to help forward to the utmost of our power the success of this Hague experiment. I confess that I looked forward to it with hope—with the hope that the nations would more and more acquire the habit of referring their disputes to arbitration, with the hope that gradually a body of men would arise who by their learning and ability and impartiality might take amongst the nations something like the position of our English judges amongst individual Englishmen; and I could not but be glad that it had fallen to my lot to have a share in the first international arbitration under this general scheme. The hopes I then felt have been in part strengthened and in part weakened by subsequent events. [This was written before the outbreak of the great European War.]

I should add as an indication of the consideration of our Dutch friends, that though a feeling of much soreness towards England was created by the South African War—and still more, as Sir Henry Howard assured me, by the peace—no allusion to the subject which could cause us a moment's trouble was ever made to us by any one at The Hague.'

Sir Edward Fry had some slight acquaintance with Sir Edward Thornton, and thinking he would hear with interest of the Hague verdict, which upheld his own earlier decision, wrote to him concerning the award. Sir E. Thornton, in reply, wrote: 'In the great number of claims I have had to do with in various parts of the world I have always found one difficulty, and this is that I always doubted whether I could give credit to the *written* evidence of witnesses, written perhaps many years before the claim was presented, and concocted by the claimants themselves, who found it very easy to find men who for a very small bribe would sign and swear to anything which was put before them. I have always thought that it should be in the power of arbitrators, if it were possible, to summon witnesses and cross-examine them, by which means the truth would probably be extracted from them. In the case of most of the other claims which I had to investigate at the time, the evidence almost entirely was in Spanish, and very bad Spanish, sometimes almost unintelligible; yet I did not like to do an injustice to claimants by throwing it over altogether.'

After the conclusion of the case the following letter reached Sir Edward Fry from the American Embassy, London:

'The impartiality, learning, and ability evinced by the Hague

Court in the consideration and determination of the controvercies in question have given great satisfaction to my Government, not merely because the award was favourable to the United States, but because the precedents set by the Court constitute a happy augury for the cause of international arbitration, and for the promotion thereby of the peaceful relation of the States.

'Henry White,
'Chargé d'Affaires of the
United States of America.'

The next case presented to the Hague Tribunal was undoubtedly more important. It was that of Great Britain, Germany, and Italy *versus* Venezuela, and even while the Pious Fund case was pending a third matter was under discussion for trial at the same new Court. This was a dispute between Great Britain, France, and Germany on the one side, and Japan on the other, concerning the interpretation of an article in a treaty with Japan dealing with the rights of perpetual leaseholders within the foreign concession of that country: two arbitrators were to be chosen, one by Japan, the other by the three European nations concerned, and as the British interests were much greater than those of the two other Powers combined Lord Lansdowne was anxious to appoint a British arbitrator—a course favoured by the Japanese—and requested Sir Edward Fry to act, if France and Germany would consent to be represented by a British arbitrator. It was found impossible, however, to persuade these Powers to such a course, and time pressing, recourse was had to the almost childish expedient proposed by Germany, and accepted by France and England, of casting lots. The lot was drawn by France and M. Renault was appointed.

North Sea (Dogger Bank) Incident

It was barely conceivable that Mexico and the U.S.A. should have crossed swords over the Pious Fund, or that the Japanese land-tax should have become a *casus belli*. In the Venezuelan dispute the reference to The Hague put an end to the blockade by the European Powers, but it was reserved for the sudden and alarming North Sea incident to demonstrate to Europe the immense advantage of the possibility of referring a really acute question to international arbitration—not, indeed, to the Hague Tribunal, but to an international Commission of Inquiry, which was also provided for by the Hague Conference of 1899 as a last resort in the failure of diplomacy.

'On the night of the 21st–22nd October, 1904, a terrible incident occurred on the Dogger Bank in the North Sea. A fleet of Hull trawlers were peaceably pursuing their business by night, the boats slowly moving along with their trawls down, the men at work cleaning and packing the fish by their deck lights, when suddenly two groups of Russian men-of-war appeared amongst them, and four vessels of war in succession opened fire on the harmless fishermen, sank one trawler, the *Crane*, killed her master and third hand, injured other trawlers, and wounded other men. The dead bodies of the killed and their wounded comrades were brought into Hull, and next morning England rang with cries of execration at the outrage. Russia replied that there was some mistake, and by and by asserted that in fact there had been torpedo-boats amongst the fishing fleet, and that the Russian admirals had only acted in self-defence. For days things were in a most excited and critical condition, and we were walking on the edge of a precipice. The Government ordered a concentration of our fleets at Gibraltar, and at a single word from the Government they could have sunk the whole of Rojdestvensky's squadron to the bottom of the sea. Things were in this state when I was in Paris on the Centenary business, and Sir Edmund Monson expressed to me the liveliest anxiety.

If feeling was acute and excited in England, it was not less so in Russia, and Sir Charles Hardinge, the English ambassador there, warned the Foreign Office of the critical condition of feeling in St. Petersburg. The desire to invade Afghanistan and India, the wish to punish England for her alliance with Japan and her supposed assistance to the Japanese arms, the hope that a foreign war would allay internal troubles of the State and furnish an excuse for a peace with Japan—all these things worked together towards a war with England, especially in the minds of the Archdukes and their stupid party.

And now was seen the advantage of having a scheme for the settlement of such questions ready under the hands of the foreign ministers, and instead of having to frame such a scheme with haste and heat, they found in the clauses for an International Inquiry an honourable means of settlement; and thus, thanks to the coolness of three men—Lord Lansdowne, Sir Charles Hardinge, our ambassador at St. Petersburg, and Count Lamsdorff, the Czar's foreign minister—war was, by God's blessing, averted.'

The inquiry which followed was the first, and so far the only, instance of an International Commission of Inquiry, and, as explained before, this form of arbitration differs in many respects from that of an Arbitration Court, notably in the fact that a Commission of Inquiry only reports upon a case, leaving the parties free to act on it or not, whereas in the case of an Arbitration Court the litigants have bound themselves to act by the findings.

'The declaration between the two Powers signed at St. Petersburg on the 25th November, 1904, departed in two important respects from the intentions of the Hague Convention in reference to Commissions of Inquiry.

In the first place, the Commissioners were required not only to inquire into and report on all the circumstances relative to the North Sea incident, but also particularly on the question as to where the responsibility lay and the degree of blame attaching to the subjects of the two High Contracting parties, or to the subjects of other countries in the event of their responsibility being established by the inquiry. It has, I confess, been a subject of surprise to me that none of the Powers to whom this document was communicated have protested against an agreement between England and Russia to ascertain the degree of blame which might attach to the subjects of Powers who were not parties to the declaration.

In the second place, the declaration, instead of settling the procedure to be followed by the Commission as intended by Article 10 of the Hague Convention, contained no provisions for procedure except as regards the time of meeting, the signature of the report, and the power of the majority to decide all questions, and it expressly left to the Commission (Article 3) the settlement of all details of procedure.

The Commission was constituted of five admirals, named respectively by the two Powers[1] in controversy and by France, Austria-Hungary, and the United States of America, and was to be assisted by two Legal Assessors, named respectively by Russia and Great Britain. Our Government, through the Lord Chancellor, asked me to accept this office of Assessor, which I did. Not long afterwards I had an interview with Lord Lansdowne on the subject, and two or three other conferences at the Foreign Office, with Sir Francis Bertie, Sir Thomas Sanderson, the Attorney-General, Lord Desart, Admiral Sir Lewis Beaumont, and others concerned. The terms of the agreement, which left to the Commission the settling of its mode of procedure, naturally attracted my attention as the matter on which I could render most assistance to the Naval Commissioners, and when we met in Paris I took an active part in the "Règlement" by which the Commission determined to guide itself in the inquiry entrusted to it. My experience at The Hague and in Paris in the attempt to lay down rules of procedure for these new bodies gave me a very forcible sense of the support and aid which a well-established procedure and known laws of evidence, and a well-known precedence amongst the judges, gives to those who are engaged in the solution of litigated questions. When we approached the subject at Paris the divergence between the English, Russian, and French views was very marked, and it was no little satisfaction to me that in many respects English views prevailed, and that the body of the rules—which was, of course, more or less the result of compromise—worked very well on the whole. The experience then gained helped me greatly at the Hague Peace Conference.

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[1] Sir Lewis Beaumont was appointed for Great Britain.

On this business I first went over with Admiral Beaumont for about a week, and after a few days in England again returned in company with my wife and my daughter Ruth, and I spent in Paris nearly all January and February 1905. Of this time a good deal was passed in waiting for the putting in of papers and the deliberation of the Admirals.'

Admiral Sir Lewis A. Beaumont, G.C.B., whose friendship with my Father dated from their meeting in this arbitration, had served in the Arctic Expedition, 1875–6, and gained the Arctic medal. He had been Director of Naval Intelligence, A.D.C. to the Queen, and Commander-in-Chief in the Pacific and in Australia. He and, for part of the time, Lady Beaumont were lodged in the Hôtel Bristol, and his stories of life in

Australia, at sea, or at Court, enlivened the meals of the English party.

The Inquiry opened on the 19th January, 1905, in the gilded magnificence of a large apartment in the Palais d'Orsay. At one end of this great banqueting hall were seated the five Admirals, under the presidency of Admiral Fournier, a Frenchman. On their right sat the English Legal Assessor, Counsel, and Agents, on the left the Russian. The proceedings opened with the reading of the English case in French by Mr. O'Beirne, the English Agent, and of the Russian case by Mr. Nekludoff, the Russian Agent, which latter held that though the officers on board their fleet saw the English fishing-boats, the danger from the approaching torpedoes was so great that they had to fire notwithstanding. The Court then adjourned till the 25th. On this day the hearing of the English witnesses began, twenty-seven officers and men of the Gamecock fleet from Hull. As visitors to the Court passed through one of the magnificent ante-rooms of the Foreign Office they saw these English trawlers sitting on gilded chairs awaiting their turn to give evidence, and looking as much like fish out of water as well could be—and many a weary day's wait they had. The first witness, Captain Wood of the *Zero*, was called and took the oath, and was asked to give a complete account of his experience: this he did admirably and with great precision, despite the constant interruption, as phrase by phrase his words had to be translated into French, not always without difficulty when it came to such terms as 'donkey-engine boiler', at which every one laughed. Captain Wood having given his account with extreme accuracy and straightforwardness, he was further examined by Mr. Pickford, and then the Court adjourned that this evidence might be translated and transcribed for the Russians before they cross-examined the witness. While this translation was proceeding a general buzz of conversation in French, Russian, and English took place. At last Admiral Dubasoff was ready with a few questions. 'How did the Captain take his bearings?' 'By astronomical observation' was the reply, coupled with the prompt offer to let the Russian Admiral see the observations which he had in his pocket. This was declined, but 'When was your chronometer last regulated?' asked the Admiral. 'On October 19th, two days previously,' came the answer.

In the afternoon Mr. Beeching, the master of the Gamecock fleet, was examined. He brought types of the different lights and models of the boats to show, and was very clear and exact. Day after day different versions of the same story were given, and belief in the possibility of the presence of torpedoes grew fainter and fainter—revived, however, for an instant by the narrative of Costelloe, an Irish sailor, who told how he saw what he first took to be a torpedo-boat, but afterwards was convinced was a neighbouring fishing-boat which had put out her lights to hide from the Russian fire. On the 31st January the Russian evidence was begun and Captain Klado was examined: the anticipation of this had brought the largest crowd of smart ladies and gentlemen that had been seen in the Court, for Klado was a great favourite with the French and Russian ladies.

His examination by Mr. Pickford lasted two hours: he answered in French, sometimes asking for the French equivalent of a Russian word, and his replies were always long, wordy, and extremely plausible, the witness turning occasionally for approval to the admiring audience behind him. Nothing could have been a greater contrast to the blunt 'yes' or 'no' with which many of the English witnesses met most of their questions.

I find a noteworthy incident mentioned in the English press: 'During one of the preparatory sittings, when the regulations as to the taking of evidence were under discussion, Baron Taube, the Russian Agent, wanted to know what guarantee the Commission would have of the veracity of the English witnesses who might decline to take the oath. "The Russian officers", he said, "might be believed upon their word of honour, but it was different with the fishermen, regarding whom they (the Russians) knew nothing." This brought Sir Edward Fry to his feet with an indignant protest. "The English fisherman's guernsey", he said, "covers as honest and true a man as any Russian uniform," and he added that the distinction drawn by Baron Taube was one that should never have been made. "It would have been a high privilege to have seen Sir Edward on the occasion of these proposals," remarked his friend, Sir Richard Paget.

Some mischief-loving spirit was abroad in the French press at the time, desiring to magnify any small difference of opinion between the legal advisers of the two countries, and prophesying an open quarrel; but such prophets little knew the large reserve of patience and self-control of the English Assessor. He wrote the following letters home during the course of the inquiry:

'29 Jan. 1905.
Hôtel Bristol, Paris.

. . . I confess that I often long for a stroll in the fields or in the Batch, for I have not seen a moss or a myxie or a fungus since I left Failand, and we see very little even of the sky, either by night or day—for our rooms here have no direct sunlight, and the flowers which one sees are all shop flowers and quite frenchified before they reach us, or at least they seem so to me; but beautiful flowers are not rare in the shops.[1]

The *Matin* published a very nasty article, which was reproduced in some of the English papers, about our Commission. We have had no acute differences. Of course, we do not always take the same view, but our friendly relations with the Russians have never been disturbed. The Russian Assessor is a trial, for he is frightfully fluent and frightfully long in his discourses. The President, Fournier, is quick and fair, but has too great a desire to make things smooth all round.

We hope to get through the English evidence to-morrow (I am to be presented to the President at 9.30 a.m., before we sit), and then to begin the Russian evidence on Tuesday—which will probably take two days or so; then to adjourn for a few days for the Counsel on both sides to present their conclusions and observations, and then to let the Admirals get to work on their conclusions and report. Whether there will be a grand public sitting for the reading of the report or not is still uncertain. The English fishermen have, I think, produced quite an impression; they stick to their story like honest men, and two or three of them have been complimented by Admiral Fournier on their medals and their brave conduct. It is a curious sight to see these Hull fishermen sitting about (as they are allowed to do) on the gilded chairs in the great anterooms of the Palais d'Orsay, smoking their pipes and reading their papers. They say, I hear, "It's as fine a place as Hull."

I find abundant exercise for patience: of course, it is very difficult to organize a whole system of procedure—when you start, as we did, with a clean slate, and when each nation would like to write on it its own ideas of what to do, the Russians hating publicity, the French wanting the judges to do all the examining, and then, besides, a body of five Admirals who know nothing of procedure, except in Courts Martial and that kind of thing, and so they will discuss by the hour a matter that I should settle in two minutes, and this makes things slow —*ma pur si muove.* As far as I can guess, I think we ought to finish in another fortnight.'

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[1] My Father had almost a horror of shop flowers: flowers that had been bought lost more than half their charm for him.

' 4th Feb. 1905.
Hôtel Bristol, Paris.

. . . Last week at the Académie des Sciences there was given, as I learned from one of the papers, by M. Bonnier an account of some curious results of cutting off the stem of various plants, which drives them to produce buds of abnormal kind, and this variation has in many instances proved hereditary. And the Admiral (Sir Lewis Beaumont) tells me that the young of the salmon taken from Europe to Australian rivers have produced a very distinct novel variety. I must try to find Bonnier's paper in the *Comptes Rendus* some time when I am in London.

This week has been rather an exciting one in the Commission. The Russian officers, and especially Klado, are very popular with the French papers and the French ladies ; and one or two afternoon sittings have been very largely attended. The evidence on all sides, and perhaps most strongly on the English, goes to show how almost impossible it is to make out the character of a vessel at night—small vessels near being taken for large vessels far off, and Sir John Fisher and all his staff once ordered fire to be opened on a cruiser, one of their own fleet, as a torpedo boat—i. e. in manœuvres, not in actual warfare.

To-day we have had no sitting, and I do not suppose that there will be any public sitting before Monday week, when both sides are to present their " conclusions et observations ", so I expect that next week I shall only occasionally be busy. These international affairs are very protracted. We are expecting Von Taube and his other Russians to tea this afternoon, and we all dine at the great dinner to be given by the Minister of Foreign Affairs this evening.'

What a magnificent banquet the Palais d'Orsay could give his daughter's journal faithfully records. Madame Delcassé received about a hundred guests, who sat at a table decorated with flowers by a lady artist who had been taken to Russia by M. Delcassé for the sake of her skill in this special line. There was a bouquet for every lady, and on the table stood, not flowers only, but also an exquisite set of figures of Sèvres biscuit china, the property of the State, and made for the Exhibition of 1900. These may only be used by the President or the Ministers of Foreign Affairs, or of the Fine Arts; and special workmen convey them from Sèvres. The dinner was served on plates valued at 120 francs each—a series of the Villes de France, each one representing a different place and the celebrities it claims.

The evidence on both sides having been taken, and the legal procedure terminated, the five Admirals withdrew into secret conclave to consider their award, and my Father, having played his part and having no share in those secret deliberations, would gladly have returned to England, had not the English Admiral still desired his presence in Paris. There followed days of anxious waiting, but throughout this visit to Paris he had much enjoyment in the people he met and the places he was able to visit.

'Perhaps the most interesting of my visits was the first of my two visits to M. Loubet, the President, who received me one morning at 9.30 a.m. at the Élysée. He was quite alone in his cabinet, bade me sit down, and turned his writing-chair round for a talk. This naturally turned on the Commission, and he said, with evident reference to the sorrow which had lately fallen on him by the death of his old mother, to whom he was devotedly attached, that amidst the sorrows of life it is a great thing to be able to hope that one has done a little good. As he went with me to the door he opened the subject of the Centenary of the Code, and we had a little talk about that; he shook hands with me most warmly on parting, and I never met with a better expositor of "fraternité et égalité" than the President. His genuine kindliness and simplicity left on me, as they seem to do on all who come across him, a deep impression; and by some mysterious process the Demos seemed to have called to the place of honour a really good man.'

My Father much enjoyed some of the sermons at the Église Libre, where M. Roberty and M. Monod were preaching at that time, and notably M. Wagner, whose books *La Vie Simple* and *L'Ami* made my Father desirous to hear him.

'The room—for it was rather a hall or room than an ordinary chapel—was in a quite distant part of Paris. It was very crowded, but we were well rewarded for going by hearing a very fine sermon on the necessity for religion to go back from time to time to the primitive ideas of religion—the ideas of the prophet and not of the priest—" les idées sauvages ", as he called them. I think that he is Swiss, and spoke French not at all like a Parisian, and was less refined in appearance than you would expect from his books—but one became aware of his power as he went on.'

The following marks the state of aviation in 1905 :

'On Saturday afternoon we went to a kind of agricultural hall on the other side of the river to see the experiments on " aviation "—flying bird-fashion, for which M. Renard very kindly sent us a ticket. There were all sorts of machines for flying, with wings and flaps and wheels and what not, and certain of them were sent off from the top of a high scaffolding ; but the results were very much what you would expect—they flopped about, and generally ended by banging against the iron framework of the gallery. There were some formed apparently on the model of sycamore seeds, which came down much in the same fashion.'

Throughout the inquiry the most friendly relations prevailed between the individual members of the different nations represented. In the afternoon, especially on Sundays, the Admirals, the diplomats, and their *entourage*, were frequently entertained at the Hôtel Bristol—occasions which my Father used to call 'International Days' or 'Peace Meetings', for he valued these opportunities of social intercourse as a means of oiling the diplomatic machinery.

It was at length made known that the five Admirals were ready to give their decision, and the spirit of mischief which had appeared before in the press but had failed to cause strife once more put up its head : on what appeared excellent authority a rumour was circulated, and found credence in some English papers, that the finding was all in favour of the Russians, and that the Commission justified Admiral Rojdestvensky in firing upon vessels which he regarded as suspicious. There was immediate disappointment and considerable indignation at this news, tempered by the reflection that at least arbitration had averted the danger of war: but on the docks at Hull the fishermen quietly refused to believe in any such preposterous finding. Meantime in Paris Sir Lewis Beaumont, being released from his obligation to secrecy on the signing of the report, kindly put an end to my Father's anxiety by telling him the drift of it. It was, however, with tense feelings that some people went to the great hall of the Palais d'Orsay in the afternoon of the 25th February, 1905. Paris had at last awakened to the importance of the occasion, and instead of the usual scattered audience a crowd took possession of the seats hours before the appointed time, and the hall was thronged with diplomats, smart ladies, Russians, French, and English, while a large number of disappointed people found themselves outside. At last, rather late, the Admirals arrived, and amid silence Fournier read the report, which found, as England had always asserted, that there were no torpedo boats on the Dogger Bank on the night in question, and that the fire opened by the Russians was not justifiable; at the same time there was something of a compromise, as there was held to be a justification for the action of the Russian Admiral; but all the British contention was fully upheld by the finding.

The report having been read, Admiral Fournier pronounced a rather formal allocution, including thanks to the Assessors, Agents, and so forth. The Russian Assessor, Baron Taube, who was hurrying back to his duties at the University of Petersburg, though the revolution had deprived him of pupils, had taken a friendly farewell of Sir Edward Fry shortly before, and had asked him to reply to Fournier's thanks on behalf of both Assessors. Accordingly my Father delivered this speech:

'Monsieur le Président,—Ayant entendu les mots si complaisants et amicaux que vous venez de dire, je m'empresse au nom de mon ami M. le Baron de Taube et de moi-même de vous offrir nos remerciements très sincères de la bienveillance et de la courtoisie que nous avons reçues de toutes parts pendant cette enquête.

Quant à nous, nous sommes jurisconsultes et nous aimons voir les idées et les règlements juridiques se faire prévaloir dans la sphère diplomatique; nous sommes amis de la paix et nous sommes fiers de voir cinq amiraux illustres, choisis par cinq des plus grandes nations du monde, se dévouer avec enthousiasme au service, non pas de la guerre, mais de la paix. Un poète de mon pays, et des plus grands, a dit :

" Peace hath her victories
No less renown'd than war."

" La paix a ses victoires aussi renommées que celles de la guerre," et il me semble—peut-être n'est-ce qu'un rêve—mais il me semble que dans les travaux de votre Commission je vois le commencement d'une de ces grandes victoires de la paix dans l'avenir.'

To my Father's surprise—and, let me add, to his great gratification—this little speech was an amazing success : it must have touched a chord that was waiting to be struck in many minds, for it pleased every one and was received with most flattering approbation. It was praised by Admirals, by Secretaries, M. Loubet not merely praised it to Fournier, who repeated his opinion to Sir Edward, but next day personally expressed to him his warm sympathy with what he had said, while M. Delcassé sent one of his secretaries to obtain a copy of it for him, and when a few days later the travellers reached Bristol station on their way home, the porter who took their luggage was overflowing with the same theme.

Before he had been a week at home the Legal Assessor received a summons to visit King Edward at Buckingham Palace, where he was received in private audience. The King shook hands with him and bade him be seated, and during an informal and very friendly conversation discussed the Commission and some of the actors in it, and expressed himself as particularly glad that England had not assumed a hostile attitude towards Russia on a view of her Admiral's conduct which turned out to be erroneous. He said he understood that Sir Edward was very good at French (which was hardly correct), also that he supposed he had nothing to do now. To which my Father replied that he had only just finished the Hospital Report and the Water Arbitration. The King then said that he meant that he had retired, and asked his opinion as to an age limit for judges, adding that he understood the average age of Scotch judges was sixty-nine. Finally the King congratulated him very warmly on the result of the work in Paris, with which he expressed his entire satisfaction.

It was suggested in some friendly quarters that Sir Edward

Fry's work would be rewarded by a peerage, but no such offer was made at this time. Had it been, it would probably have met the same refusal as an earlier and a later offer of like honour. It was not that he was wholly disdainful of such a proposal, but he was sufficiently indifferent to it to weigh it in the balance, and in view of the demands which its acceptance would have made on his resources and on his family, to find it wanting.

CHAPTER XIII

THE SECOND HAGUE CONFERENCE, 1907

‘In the spring of the year 1906 the Emperor of Russia addressed an invitation to the British Government, as well as to other Governments, to attend a Second Peace Conference to be held at The Hague. He at the same time indicated the subjects which he thought might conveniently be discussed at it, which may be summarized as follows :

I. Improvements to be made in the provisions of the Convention respecting the pacific settlement of international disputes regarding both the Court of Arbitration and the International Commissions of Inquiry.

II. Additions to be made to the provisions of the Convention of 1899 respecting the Laws and Practices of Land Warfare, among others the opening of hostilities, the rights of neutrals on land, &c., consideration of the declarations of 1899, and the question of the renewal of the one which had lapsed.

III. Elaboration of a Convention respecting the Laws and Practices of Naval Warfare concerning—

(A) The special operations of naval warfare, such as the bombardment of ports, towns, and villages by a naval force, the laying of mines, &c.

(B) The transformation of commercial ships into warships.

(C) The private property of belligerents at sea.

(D) The period to be accorded to commercial ships in leaving neutral ports or those of the enemy after the outbreak of hostilities.

(E) The rights and duties of neutrals at sea, among other questions that of contraband, the treatment to which the ships of belligerents should be subjected in neutral ports, destruction by *force majeure* of neutral ships of commerce, as prizes.

(F) Arrangements relative to land warfare, which should be made equally applicable to naval warfare.

IV. Additions to be made to the Convention of 1899 for the adaptation to naval service of the principles of the Geneva Convention of 1864.

It will be seen that these subjects are by no means confined to the immediate promotion of peace, but include considerations intended to lessen the horrors and to regulate the operations of war—in fact, matters connected with what we usually call the laws of war.

My attendance at this Second Peace Conference at The Hague in the character of Ambassador Extraordinary and first Plenipotentiary Delegate for Great Britain was an event of great interest to me. I suppose that it was in the winter of 1906–7 that I called on Sir Edward Grey, our Foreign Minister, at his request, to discuss the appointments to be made on the judicial list for the Hague Tribunal, and I then for the first time made his acquaintance—Lord Lansdowne having been the Foreign Minister with whom I had previously had dealings. I have since thought that perhaps Sir Edward Grey wished for the interview partly to see whether I was the kind of man to be sent to the Peace Conference.

On the 8th March, 1907, I received from the Premier, Sir Henry Campbell-Bannerman, a request that I would act as chief delegate of this country at the forthcoming Conference at The Hague. I replied that I was willing to take part in the Conference, but desired that some other delegate should hold the chief place and that I should act as his assistant; and in support of this I put forward my ignorance of International Law, of diplomatic forms, and of the French language. At Sir Henry Campbell-Bannerman's request I went to London and had a full and free talk with Sir Edward Grey, in which I again urged my objection to being first delegate, but in vain, and at last I yielded and accepted the post. Then I learned that my colleagues were to be Sir Ernest Satow, of Japanese and Chinese fame; Lord Reay, whom I had known for years, and with whom I had worked on the Council of University College, London; and Sir Henry Howard, whose acquaintance I had made at The Hague when there on the Mexican Arbitration. I need hardly say that I felt the duty thus laid upon me, and accepted by me, a very heavy burden, and one which I would gladly have escaped; but I have always recognized that, unless there be some cogent reason to the contrary, one is bound to fill any office which the Government call upon one to undertake.'

My Father was well on in his eightieth year when this call came to him: it is no wonder that such a duty was reluctantly accepted, though he was still hale and upright, with very fair eyesight, with keen hearing, and, above all, with mental faculties alert and balanced as ever. It was hardly three years before that the *Westminster Gazette* had described his appearance at the Palais d'Orsay as 'very white, rather decrepit, most distinguished'. 'Most unfair,' commented Sir Lewis Beaumont, his colleague at the time; 'he 's jaunty, if any one ever was.'

'So soon as I had accepted the appointment papers began to come in from the Foreign Office, and I set myself to work to study the several subjects for discussion indicated in the Russian circular to the Powers which invited their presence at the Second Hague Conference. I cannot profess that I was ever a student of International Law, except very casually, and I believe that at that moment my whole library on the subject consisted of a Grotius, *De Iure Belli ac Pacis,* and a Hall's *International Law.* But my business at The Hague and at Paris had already given me some acquaintance with diplomats, and perhaps even a smattering of their learning. But I was and am no authority on International Law.

I worked pretty hard at these several subjects during the spring, and on many of them drew up papers in French for my own guidance. The subjects that perhaps interested me most were first the proposed amendments in the scheme for International Arbitration and International Inquiries; and secondly, the proposal to enlarge the scope of the Court of Arbitration so as to make it an International Court of Appeal in Prize Cases from the Prize Courts of the several countries—a proposal which afterwards took the form, not of an enlargement of the existing court, but of the constitution of a new court.

On the first of these subjects I had some experience from what I had seen and known at The Hague and Paris: to the second I was attracted not only because Sir Edward Grey urged it as a most important matter to England, seeing how ill our ships had fared in the Courts of Russia and Japan, but also because I was struck by the greatness of the idea of really constituting a Court above all national courts, thus making a great stride forward in the conquest of law over force. I accordingly drew up a "projet d'une convention" on this subject, and presented it to Sir Edward Grey, and it was made a subject of discussion at the meeting at the Foreign Office after the meeting was over. Some of us were introduced to M. Renault, who happened to be in London and was named as a delegate for France, and we mentioned the project to him. He received it with distinct disfavour, and evidently thought that you could have no Court until you had a code of law to administer, and shook his head at the suggestion that law should be developed by the judges. In the later stages of the history we shall find him a zealous advocate of the Court.

But my preliminary studies underwent some revision before I went to The Hague. Madame Evanno, who had years ago been French governess to my children, came over from her home in France and spent two or three weeks with us, and not only talked French to me, but went over all my papers on the different subjects to come before us, and of course made many corrections in them. Amongst other papers she revised the draft as it then stood of my speech on the limitation of armaments, which I afterwards delivered to a "séance plénière" at The Hague.'

On an earlier occasion preliminary to an international task Sir Edward Fry had rubbed up his French by the help of a young French student, who stayed at Failand House to coach him. In these unusual relations the teacher found the pupil's assiduity almost too great. 'Il travaille comme un nègre :—no need to use the whip,' was the young man's exclamation. But in spite of this application, in spite of the King's compliment, his French was *not* the language of France or of diplomacy. 'Of course your Father does not speak *French*,' said a delegate (I think Portuguese) to my sister at The Hague. But he added that his language was so perfectly lucid that it was all comprehensible : he had, in fact, invented a *lingua franca*. He read French fiction of the older school with ease and pleasure, and ranked Hugo's *Notre-Dame* as one of the two greatest novels he had read. The other was *The Heart of Midlothian.*

Early in June 1907 Sir Edward Fry left home, breaking his journey to Holland by a few days at Cambridge, where, in company of Sir Henry Campbell-Bannerman, Lord Haldane, and others, he received the honorary degree of LL.D. from the Duke of Devonshire as Chancellor. At the same time the King conferred on him the honorary rank of Ambassador Extraordinary—the G.C.B. having been bestowed on him at an investiture earlier in the same month.

Leaving Cambridge, he made his way with various delays and mistakes to Parkstone, near Harwich, where he was met by his wife and one of his daughters, his faithful butler Bedell, and

> 'a great and miscellaneous party bound for The Hague. We reached The Hague in the early and rather dreary morning, and spent some time in shaking ourselves into our new quarters in the Hôtel des Indes, and in presenting ourselves *en bloc* to M. Van Tets, the Dutch Minister for Foreign Affairs. Crowe had preceded us by some days, and done all he could to make things comfortable.
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> Here gradually I began to get to know the whole of my company, the men with whom I had to work, and over whom in the last resort I had to preside. My plenipotentiary colleagues were, as I have already said, Sir Ernest Satow, Lord Reay, and Sir Henry Howard. Our naval delegates were Captain (now Admiral Sir Charles) Ottley and Commander Segrave; our military men were General Sir Edmond Elles, Colonel the Hon. H. Yarde-Buller, and Major Cockerill; our legal delegate was Mr. Hurst. Mr. Crowe (now Sir Eyre) was our chief secretary, and really the pivot on which the daily work revolved; the Hon. Charles Tufton our archivist, and Joseph Addison our assistant secretary. Ottley, Elles, Crowe, and Hurst were all delegates, though not plenipotentiaries, and as such were entitled to take part in the business of the Conference, and they sat on many of the "Commissions" and "Sous-Commissions", "Commissions d'examen", and "Commissions de Rédaction", to our great benefit. As I thus write the names of my colleagues in the four months' work, I renew my feelings of gratitude towards them all—though in varying

degrees—for the whole-hearted way in which they worked with me, and for their kindness and consideration towards me and those of my family who were with me. Some of them might easily have felt hurt at my position on the Delegation—a man with no diplomatic experience placed over men who had spent their lives in such business, and a man ignorant of many things which I had to learn. I cannot say that there were no little rubs between some members of our body, though I myself escaped all friction; but they were all allayed, and when the time came for us to part we parted, I believe, every one with kindly and even affectionate remembrances.

Our party was from time to time enlivened by the presence of the ladies of some of the men kind. My wife and my daughters Joan and Margery were with me at various parts of the time, never leaving me quite alone.

Sir Henry Howard and Colonel Yarde-Buller had their own houses at The Hague, but with those exceptions the whole of the British company was during nearly the whole time accommodated on the second floor of the big Hôtel des Indes and an adjoining house—the Americans having anticipated our Government and secured the first floor. Besides the bedroom accommodation, each plenipotentiary had his own sitting-room: there were, besides, the Chancellory and another room assigned to the naval and military men, and often these rooms were hardly adequate to accommodate the various consultations and meetings that were going on. The view from our rooms was towny, with the trees of the Scheveningen Bosch on the horizon. There was a separate room adjoining the *table d'hôte* assigned to our company for their meals. But on the whole our quarters were not very pleasant, and we were heartily tired of them before we left.'

The Hôtel des Indes housed not only the British and American delegations, but also those of Italy, Spain, and Japan. The Germans were at Scheveningen, some miles from The Hague. The consequence was that communications between the first four were frequent and easy, while with the Germans the opportunities for meeting and interchange of views were few and far between. But whether such opportunity would have greatly facilitated the work of the Conference may well be doubted ; the difficulties were due not to misunderstandings, but to Germany's resolute attitude of obstruction.

'Of so large an assembly as was gathered together on this occasion from all the civilized world[1] I, of course, only knew a small part with any definiteness—notwithstanding the frequent meetings, both for business and pleasure.

The President of the Conference, M. Nelidoff, the Russian Ambassador at Paris, was a very cultivated man, fond of Greek antiquities, and so capable of maintaining a conversation outside "shop", and I came into frequent close intercourse with him, especially with reference to the arrangements for my speech on the limitation of armaments and for the calling of the next Conference ; and I always found him most courteous and pleasant, and we got on perfectly together. De Martens was, of course, an old friend.

Baron Marschall von Bieberstein, the German ambassador—usually filling that post at Constantinople—was a prominent figure at The Hague, not only by reason of his elephantine figure, but by reason of his ability and activity, and his desire, if not to mar the whole plot, to limit the operations of the whole Conference. In the tactics of opposition he was perpetually assisted by the Austrian delegation. As we had not met him or received any cards from him, three of us on the first Sunday afternoon drove down to Scheveningen and called on him. I do not know that we quite got over a feeling that there was shyness on both sides. My intercourse with him was always friendly, and we duly dined with him and toasted each other, and we were working together on the project for an International Prize Court ; but we were sharply opposed on the question of submarine mines, and throughout I think each felt that the aims and ideals of the other were different.

The French team were very good men. M. Léon Bourgeois, the ambassador, was a man to whom I grew much attached. He had been Premier of France, President of the Senate, and filled other high offices there—a man of a ready and fine eloquence, who conducted the business of the First Commission well, in the French and chaotic way in which such things were done at The Hague. During the rather stormy days which immediately preceded the close of the sittings of the First Commission I acted a good deal with M. Bourgeois, and when it was ended he (with De Constant) called on me and expressed his thanks and his regards for me in a way which I shall not easily forget.

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[1] Forty-four nations were represented.

Baron d'Estournelles de Constant had lived as a diplomat in England, and contracted a warm friendship for our country, and so assumed the rôle of a pacifist. He was a fine speaker.

M. Léon Renault represented, perhaps, more perfectly than any one else at the Conference the ideal pure jurist. The legal adviser to the French Foreign Office and a professor at l'École de Droit, he was admirable as a speaker (though without eloquence) and as a writer, and he gave a signal proof of how open he was to argument in the report which he prepared on the project for an International Court—which he had at first entirely disapproved of, and which he defended with great power in his report. Perhaps if I were to confess the whole truth, I felt as if I had a share in this notable conversion. As a " rédacteur " he had great skill, and abundant practice at the Conference; and the Conventions in which it resulted owe their form very largely to his pen.

Of the Americans, Choate was foremost both by position and ability : he is what is called a remarkable personality : large and handsome—eloquent (sometimes even when eloquence was not wanted)—full of fun, capable of excellent nonsense : he was firm in his own opinions, and impatient of the ways of some of our foreign colleagues. He, like all his American colleagues, was very deficient in the power of " rédaction " or exact and brief expression, either in English or French ; and in truth I drew for him several papers. He got to rely upon me a good deal, and many were the discussions we had together. I found him an easy man to work with, and we got on very well together. He did not understand a word of French, and made his speeches in English. An interview between Choate, who understood no French, and Bourgeois, who understood no English, and myself at a very critical moment in the proceedings of the Conference remains in my mind as one of the most difficult quarters of an hour of my life.'

The first British plenipotentiary having thus described his colleagues, I may here insert an extract from *Gil Blas* (October 2, 1907), showing the impression which he made on observers at The Hague:

'Le doyen du Congrès est Sir Edward Fry, P.C., Plénipotentiaire, premier délégué de la Grande-Bretagne. Quel charmant vieillard! Je dis charmant, car il n'est personne à la Conférence qui, plus que lui, attire la sympathie respectueuse.

'A quatre-vingts ans sonnés Sir E. Fry est un des plus alertes et des plus clairvoyants hommes de la Conférence. Les cheveux tout blancs, les yeux vifs, le menton absolument rasé, énergique, la démarche encore souple, l'ambassadeur anglais est le type très pur de cette "gentry" anglaise qui a donné à son pays tant de penseurs et tant de savants. Encore lui-même cache-t-il sous des abords d'une politesse exquise sa science exacte et documentée des hommes et des choses. Ce juris-consulte éminent—il débuta comme avocat en 1854—cet universitaire remarquable—agrégé de l'Université de Londres, de l'Académie britannique—ce philosophe—n'écrivit-il pas en 1857 cet "Essai sur les accords du Christianisme avec la nature de l'homme?"—est l'homme du monde et le gentilhomme le plus parfait.'

The First Hague Conference had met in the House in the Wood, but that being too small for the greatly enlarged numbers of the Second Conference, the Hall of the Knights in the Binnenhof was prepared for their reception—this being the usual place of the joint sessions of the States-General. From without the towers and gables and Gothic windows give this thirteenth-century building almost the appearance of a church, but within is an ample hall, which was specially prepared for the Conference, electric light and telephones being installed and all the seats upholstered. Above the hall smaller rooms were prepared for the various Commissions. In these precincts it was that the numerous delegates from the forty-four nations met and toiled during four months of the wet, uncomfortable summer of 1907. Two terrible wars had been waged since the former Peace Conference—the Boer war and the Russo-Japanese war; nevertheless 'The moment of our assembling was most propitious for our work', wrote the distinguished American delegate, Mr. Joseph H. Choate, 'for at that time, as hardly ever, for centuries before, absolute peace prevailed among all the nations of the earth.

"No war or battle sound
Was heard the world around."

It was a thrilling moment when, as the representatives of all the organized and civilized communities of the world, for the first time in human history, we assembled from all quarters of the globe, speaking all the languages, personating all the races, religions, creeds, and customs, to work together for the cause of Peace, and however the results of our labours may come to be valued by posterity, they were honestly, earnestly, and conscientiously performed, with the resolute purpose on all hands to advance the cause of civilization and of peace.'[1]

I doubt how many of the British delegates would have assented to the view that there was resolute purpose on all hands. Germany's attitude was throughout one of lip-service only. What of the rest?

> 'How far were the nations represented by the Delegates at the Conference actuated by a real desire to promote the peace of the world? This would be a difficult question to answer with certainty. But I think that I should do no wrong to many if I said that they were more anxious to put their existence and their greatness in evidence before the world than influenced by any motives of wide philanthropy. To meet in the eyes of the world on equal terms with the greatest nations of the earth flattered their self-esteem; and when, on more than one occasion, Switzerland intervened on questions of naval warfare with an equal vote with England, there was an unpleasant approach to the absurd.'

In a great gathering where many able men are present it must always be impossible to disentangle the results of their different actions and characters and say how much of the net result is due to each, and it would not be possible to assign exact weight to Sir Edward Fry's activities. But it is clear that he made himself felt.

Some fears were expressed at the beginning that an octogenarian Quaker would be but an ill match against the wiles of foreign diplomacy, but as the Conference proceeded it was discovered that 'Sir Edward Fry was always listened to with marked attention, not merely because he worthily represented Great Britain, the mother of constitutional liberty, nor because of the simplicity, sincerity, and absolute straightforwardness of his views and his speech, but because, as an able lawyer and distinguished judge of the highest Courts of his country, his utterances in matters of law were as convincing as they were authoritative '.[1]

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[1] See *The Two Hague Conferences*, by Jos. H. Choate, Princeton University Press, 1913.

His colleague, Sir Ernest Satow, writes: 'In the debates on these subjects (i. e. extension of arbitration, right of capture, prize court, &c.) Sir Edward Fry took a leading part, as became the First Plenipotentiary of a Great Power, and as befitted his eminence as an authority on law. It was a great satisfaction to him to be able to announce at an early period of the proceedings that he had been instructed to propose the establishment of an International Prize Court, and to submit a scheme, and also that his Government accepted the declaration of 1899, prohibiting the use of projectiles, the object of which was the diffusion of asphyxiating gases, a practice which Germany was the first to adopt in the war of 1914–1919.' The British Government, moreover, had much at heart the limitation of armaments, and their chief representative

> 'was entrusted by the Government with the duty of touching on the limitation of armaments, and of offering that Great Britain would exchange information with any other nation on the subject of naval constructions. This was a duty of some delicacy, as there had been a rather uncivil rebuff to Sir Henry Campbell-Bannerman administered by Prince Bülow, the German Chancellor, and I was instructed so to conduct the matter as not to offend Germany, an event which would probably have broken up the Conference. I had some very confidential communications with M. de Nelidoff and Baron Marschall before I delivered my speech. The speech and the subsequent discussion passed off without irritation; my address was spread over the world, translated into many languages, but I fear has had as yet no considerable results.'

On the occasion of this speech, said *The Times* (Aug. 19, 1907), 'The body of the Knights' Hall was crowded with the delegates of all nations and the galleries were crowded with spectators, who included many ladies.... It was about 4.15 when Sir Edward Fry rose and proceeded to a reading-desk on the right of the chair. The sight of "the good grey head that all men know" is always, when Sir Edward Fry rises, the signal for profound silence in the committees and the plenary sittings, and it has been remarked that although the first British delegate may not be so versed in the niceties of French pronunciation as many members of the Conference, he always commands the absolute attention and the willing respect of the illustrious assembly.'

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[1] See Scott, *Hague Peace Conferences*, vol. i, p. 367.

After announcing that he was about to submit on behalf of His Britannic Majesty's Government a proposal of the highest imporance, the speaker quoted the words of Count Muravieff's memorandum of August 1898, which was addressed to Europe in the name of the Emperor of Russia, as follows :

'The financial charges, following an ascending scale, strike public prosperity at its source ; the intellectual and physical forces of the peoples, and labour and capital, are for the most part diverted from their natural application and consumed in an unproductive manner. Hundreds of millions are used in acquiring terrible engines of destruction which, looked upon to-day as the last word in science, are destined to-morrow to lose all value, following on some fresh discovery in that field of knowledge. National culture, economic progress, and the production of riches find themselves paralysed or stunted in their development. Furthermore, as the armaments of each Power increase, so do they answer less and less to the goal which the Governments had set before themselves. Economic crises, due in a large measure to the system of armaments *à outrance*, and the continual danger which lies hidden in this massing of war material, transform the armed peace of our days to a crushing burden which the peoples find more and more difficult to bear. It appears evident, therefore, that if this situation were prolonged, it would lead irresistibly to the cataclysm which we are anxious to avoid, the very thought of whose horrors sends a shudder through every mind.'

Those words, eloquent and true when they were uttered, had become, Sir Edward Fry declared, still more forcible and true, on account of the great increase of expenditure on armaments in the interval between the two Hague Conferences, and after furnishing figures to emphasize this increase he continued :

'Such is the excessive expenditure which could serve to a better end ; such is, M. le Président, the weight under which our populations groan ; such is the Christian peace of the civilized world in the twentieth century. I will not address you on the economic side of the question, or on the subject of the great mass of men who are forced by these preparations for war to leave their occupations, or of the prejudice created by this state of affairs against the general prosperity.

You know better than I this side of the question. I am therefore quite certain that you will find yourself in agreement with me when I say that the realization of the wish expressed by the Emperor of Russia and by the first Conference would be a great benefit to all humanity. Is this wish realizable? That is a question to which I cannot give you a categorical answer. I can only assure you that my Government is a convinced partisan of these exalted aspirations, and that it instructs me to invite you to work together to realize this noble wish. Formerly, M. le Président, in ancient times, men dreamed of a golden age, which was believed to have existed on earth in far-off past ages, but in all centuries, among all nations, poets, prophets, and all noble and inspired minds have always cherished the hope of the return of that golden age, in the form of the reign of universal peace.

> Ultima Cumaei venit iam carminis aetas:
> magnus ab integro saeclorum nascitur ordo.
> iam redit et virgo: redeunt Saturnia regna.

Such was the dream of the Latin poet for his own time; but to-day the sentiment of the solidarity of the human race is more than ever spread over the whole earth. It is this sentiment which has rendered possible the convocation of the present Conference, and it is on behalf of this sentiment that I beg you not to separate without having asked the Governments of the world to devote themselves very seriously to the question of the limitation of military charges. My Government recognizes that it is the duty of each country to protect itself against its enemies and against the dangers which may threaten it, and that each Government has the right and the duty to decide what its country ought to do to this end. It is, therefore, solely by the goodwill, the free will of each Government, acting on what it thinks best for the good of its country, that the object of our desires can be realized.

His Britannic Majesty's Government, recognizing that several Powers are desirous of restricting their military expenditure, and that this aim can only be realized by the independent action of each Power, has deemed it its duty to see if there be no means of satisfying these aspirations. My

Government has, therefore, authorized us to make the following declaration:

"The Government of Great Britain would be prepared annually to communicate to the Powers, who would do the same, the programme of construction for new vessels of war and the expenditure entailed by that programme. This exchange of information would facilitate an exchange of views between the Governments as to the reductions which might be effected by mutual agreement.

"The British Government believes that in this way an understanding might be reached as to the expenditure which the States who agree to follow this course would be justified in providing for in their Budgets."

In conclusion, therefore, M. le Président, I have the honour to propose to you the adoption of the following resolution:

"The Conference confirms the resolution adopted by the Conference of 1899 with regard to the limitation of military charges, and, seeing that military charges have considerably increased in nearly every country since that year, the Conference declares it highly desirable that the Governments should resume the serious study of this question."'

The British delegate bowed and returned to his seat amid general applause, and shortly afterwards an apparently unexpected incident took place when M. Bourgeois, the first French delegate, rose and declared the French support of the proposal formulated by Great Britain and upheld by the United States. But, as all the world knows to its cost, nothing came of this proposal—the time, so M. Nelidoff declared, was not ripe. Germany, who had wrecked a similar scheme in 1899, again opposed all her influence to the motion in question, and left to the other Powers the melancholy satisfaction of having at least done what in them lay on this occasion to avert the world-wide conflagration. It must be understood that the limitation of armaments was never really discussed at the Conference; and in the delicate situation which Germany's obstruction created, a speech declaring the aspiration of Great Britain—'un vœu', in the language of the Conference,—was all that was possible.[1]

[1] 'It was said at the time, and it has no doubt been repeated wherever the question of armanents has been discussed, that the proceedings of

Sir Edward Fry was, of course, taking frequent part in the debates in the several 'Commissions' and 'Sous-Commissions'. Those in the Sous-Commissions, where much of the best work was done, are not reported, even in those bulky volumes of the acts of the Conference published by the Dutch Government. Amongst the more interesting of his speeches—all short—are the following: a speech on the subject of compulsory arbitration, in answer to Baron Marschall, who opposed a scheme for compulsory arbitration as not being sufficiently binding to be of any value. He professed to be in favour of compulsory arbitration, but opposed every measure brought forward to effectuate it.

Sir Edward Fry, as the 'doyen d'âge' of the Conference, begged that the scheme should not be rejected for reasons merely technical and juridical, and urged that the nations of the world were not guided solely by legal theories, nor bound by the *vincula iuris* to which Baron Marschall von Bieberstein showed such respect. He added:

> 'I consider that the Convention, however weak it may be from a legal standpoint, will nevertheless have a great moral value as an expression of the conscience of the civilized world. . . . It is certain that, just as a law which is not supported by universal consent can be of no utility, a moral idea gains by being embodied in a law.'

Another speech of some importance was made, after interminable discussion concerning the new Court of Arbitration, proposing to retain for future use the results of the discussion—a proposal which was effective. In the vexed question of right of capture at sea Sir Edward's private judgement was in consonance with the instructions given by the Home Government.

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the Conference on this occasion were farcical, and that the limitation of armaments was quietly, promptly—the proceedings lasted but twenty-five minutes—and impressively laid to rest. The reverse, however, is true. The admirable address of Sir Edward Fry is included in the proceedings of the Conference, the resolution which he proposed appears in the Final Act of the Conference, and the question is again re-submitted to the further consideration and judgement of enlightened and progressive public opinion. The question was not buried, as the advocates of armament had proposed; it goes forth with the approval of two Conferences, and there can be no doubt that it will be reconsidered in future Conferences if public opinion insists that it be reconsidered.' J. B. Scott, *The Hague Peace Conferences*, p. 669.

Speaking against the American proposal to abolish this right, he said:

'I ask to be allowed to speak on one subject of our debates. The American Delegation, to whom we have just listened with so much interest, has said a great deal about the cruelty of exercising the right of capturing private property. That is a mistaken idea, in my opinion. It is true that there is something barbarous in all warlike operations, but of them all there is none so humane as the exercise of this right. Consider, I beg you, these two cases: one, the capture of a merchant ship at sea; the other, the operations of an enemy army. In the first case, you see a stronger force which cannot be resisted. In the other, what do you see? You see the land devastated, cattle destroyed, houses burnt, women and children fleeing before the soldiers of the enemy, and, perhaps, horrors on which I prefer to be silent. To complain, then, of the capture of merchant ships at sea, and not to prohibit war on land, is to choose the greater of two evils.'

The want of unanimity among the Great Powers, the majority of whom were opposed to the proposed innovation, prevented the success of the American proposal. Great Britain, through the mouth of her delegates, offered to reconsider her attitude on this question, if it appeared that an agreement to abolish the right of capture would be likely to dispose nations to reduce their naval and military forces. This offer, however, met with no encouragement from the advocates of such a change in the laws of maritime war as was calculated to deprive Great Britain of her principal weapon of offence and defence, which had proved so efficacious in past times.

'Of course, I was in daily, sometimes hourly, consultation with my colleagues as to the business of the other commissions, and the meetings and interviews with the delegates of other countries were very frequent. The matters which from day to day required consideration and decision were very numerous, and it was not always easy to arrange for the needful discussions with my colleagues. Then there was the correspondence, both written and telegraphic, with the Foreign Office, and the decisions at home do not always seem the wisest to the agents abroad. Of course, the business was not always equally pressing, and I think that some of the most anxious days were towards the close of the sittings of the first Commission, when things were rather strained, and a good deal of feeling was excited as it became more and more apparent that the scheme for the new Court could not be carried through. In the end, on my motion, the scheme for the Court, so far as we could agree upon it, was presented as an appendix to the *acte final* of the Conference for the future consideration of the signatory Powers.

In addition to the actual business of the Conference there were the social engagements which took up a good deal of our time: first, there were the diplomatic dinners and balls given by the several delegations to the Conference: we gave several large dinners at our hotel, and all the larger countries extended hospitality of the same kind. Then there was the Queen's Palace—she received first all the first delegates, and later on all the delegates; and entertained at dinner at Amsterdam all the first delegates, and towards the end of our sittings again received all the delegates at Court. To me the Queen always behaved very graciously, and at the first introduction claimed me "as an old acquaintance", referring to my previous visit to The Hague and my then presentation to her. Then there were the resident Ministers at The Hague, and certain Dutch and English families who extended hospitality to us—so there was a good deal going on. At nearly all the dinner-parties the ladies of the delegations and of the Foreign Ministers at The Hague were to be found. I ought to add that the Chaplain at the Hague, Mr. Radford, was a friendly element of our society there, and the services of the little church were simple and often refreshing as pauses in the din and turmoil of a Peace Conference.'

The lessons at Morning Service at the English Church were read alternately by my Father and his friend and colleague, Sir Ernest Satow.

The Conference grew, indeed, to be a weary business, and my Father hardly dared to let himself think of home lest his longing to return should grow too great. He wrote at one time that he felt as if he had paced the dreary hotel corridors all his life, and only as a child lived elsewhere: at another time that he felt he should pace them for the rest of his days. One cause of delay was the very imperfect preparation for the work expected.

‘The fact is’, he wrote to one of his daughters, ‘that the machinery of the Conference is most clumsy—say forty-seven nations meeting to discuss questions of vital interest with scarcely any settled method of procedure, many with no notions of business, as we understand it—and some of our chairmen managing to confuse together all sorts of questions. So that though the business is very trying indeed to my patience, I can hardly be surprised that things do not go faster. Many of the deputies are clever men, and a chaos of clever men is not likely to get on fast.'

‘The meetings had naturally their moments of critical interest—of tension and anxiety. One such moment occurred at the second plenary sitting, when Baron Marschall, on behalf of Germany, announced his intention of submitting a scheme for an International Court of Appeal in matters of naval prizes, and I at once rose and expressed the desire of the British Delegation to co-operate with him, and our intention to propose a scheme for the like purpose. There followed a moment of intense silence in that great assembly which seemed to express surprise. Have Germany and England settled their differences and sworn friendship? Is the Entente Cordiale between England and France at an end? These were, I believe, the thoughts of the assembled delegates, but, of course, they were idle.

Another moment of some excitement was when Sir Ernest Satow had in a short speech stated the British views about submarine mines, and had saved our right to treat them as illegitimate, and Baron Marschall somewhat indignantly declared that the Germans were as humane as other nations—a proposition which we had never denied.

The last *séance plénière* was again an occasion of some feeling, but entirely of a friendly character, and many a hearty adieu passed between those who were never to meet again.'

At this *séance de clôture* the British Plenipotentiary, as the oldest member of the Conference, made a speech, of which the following is an extract :

'Je n'ai pas l'intention de passer en revue les travaux de cette Conférence. Je me bornerai à faire remarquer, que de tous les projets que nous avons adoptés le plus remarquable à mon avis est celui de la Cour des Prises, parce que c'est la première fois dans l'histoire du monde qu'on a organisé une Cour vraiment internationale. La loi internationale d'aujourd'hui n'est guère autre chose qu'un chaos d'opinions qui souvent se contredisent et de décisions des cours nationales basées sur les lois nationales. Nous espérons voir, peu à peu, se former dans l'avenir, autour de cette Cour, un système de lois vraiment internationales qui ne devra son existence qu'aux principes de justice et d'équité, et qui, par conséquent, aura droit, non seulement à l'admiration du monde, mais au respect et à l'obéissance des nations civilisées.

Encore un seul mot. Nous allons nous séparer tout à l'heure: et je suis bien sûr que chacun de nous souhaite pour tous les autres et pour leurs pays les bénédictions du ciel.

Enfin, je vous dis de mon cœur, et en me rappellant tout ce que le mot implique : Adieu.'

As the wished-for end of the long months of discussion drew near Sir Edward Fry felt that he desired to indicate to his colleagues and staff his great sense of obligation to them for all that they had done to support and aid him and to bring about good results at the Conference. After due consideration there seemed nothing for it but a dinner, and accordingly he and his daughter gave a dinner at Pyle's Restaurant at The Hague, and had a very pleasant and cordial party, at which nearly all the members of the delegation were present.

There is always a special poignancy in farewells when they occur on the break up of a group of men and women who met as scattered units, and have been welded into a company by weeks of common interest, toil, and pleasure, and who know that, however they may chance to meet again as individuals, the old crew will never find itself afloat again. From none of his company did my Father feel the parting more than from Sir Henry Howard, with whom much of his work had been done, and whose constant and thoughtful kindness and warmth of friendship he never forgot.

A biographer must be concerned not only to chronicle the events of a life, but also to show how the subject of it impressed those with whom he came in contact, and it lies within my province to inquire: What effect did the British Plenipotentiary make on the men with whom he was thus thrown in contact? In civil life there can be few severer tests of a man's real character than strenuous and anxious work for many weeks with colleagues hitherto mostly unknown, of most varying dispositions, and from all nations of the world; and the test must be the more exacting in the case of one whose nurture and early associations were in a much narrower sphere.

Sir Edward Fry's relations with his staff were certainly of the happiest: they agreed that they had never had such a chief, and wrote to the Foreign Secretary to tell him so. On the occasion of the dinner just mentioned, a most humorous and flattering speech was made by Mr. Joseph Addison, the youngest member of the British Delegation, who spoke of the admiration and respect entertained for him by his whole staff, and of the pleasure it had been to hear on all sides that their Ambassador was the most respected and 'le plus écouté' member of the Conference. But their chief's honours and position were not, he added, the reason for their sentiments towards him. 'We are grateful to you, Sir, for your kindliness, your unfailing courtesy and tact, which have made the work accomplished under your orders the most pleasant of tasks. You have inspired in us the most warm feelings of affection towards you.'

On his colleagues Sir Edward Fry seems to have made a like impression, to judge by the way they consulted him at different crises and tendered their thanks for his judgement. Commander Segrave, of the British Delegation, reported to my sister that the Greek representative, M. Streit, had declared to him that Sir Edward Fry was *the* man who had made himself absolutely trusted and believed in by everybody at The Hague, adding that he would himself trust his dearest interests without hesitation to his justice and impartiality. On a par with this was the announcement of another delegate, that if he were condemned to death he would wish it to be by the British Plenipotentiary; and a kindly affection seemed to find expression in the quaint exclamation of a Turk to my sister: 'Que votre papa est joli.' But the best evidence of the regard in which he was held comes from one of the most distinguished men at the Second Hague Conference, M. Léon Bourgeois, who wrote as follows on receiving the announcement of his colleague's death eleven years later :

'Sénat, Paris : 11 : 9^{me} '18.

'Vous avez eu raison de penser que j'éprouverais une peine très vive de cette perte d'un des hommes pour lesquels je préférais la plus respectueuse estime, la plus véritable admiration. J'avais appris à La Haye à connaître la haute valeur de Sir Edward Fry, sa connaissance incomparable de la science du droit, son expérience, sa puissance de travail et l'invariable justice de son jugement. Et je me rappellerai toute ma vie la terrible réponse qu'en qualité de doyen des juris-consultes de la Conférence il fit, en quelques mots décisifs, au long discours du baron de Marschall contre l'arbitrage, reproche prophétique que la victoire définitive des soldats du droit vient, aujourd'hui même, de confirmer et de conquérir pour tous les siècles à venir.

'Mais j'avais, plus encore s'il est possible, admiré la conscience si haute et si pure de l'homme de bien qu'avait votre père, cette droiture inflexible, cette passion pour le bien, cette observation rigoureuse de tous les devoirs,—tout cela joint à tant de simplicité, de bienveillance et de bonté. J'étais fier de la confiance qu'il avait bien voulu me témoigner, et je considère comme un grand honneur ce souvenir qu'il avait, dîtes-vous, gardé de nos entretiens de notre collaboration en 1907. Ai-je besoin de vous dire combien de mon côté j'étais resté—et je resterai toujours—fidèle à ce souvenir ?

'Léon Bourgeois.'

It cannot be said that the Second Hague Conference had a very good press in England, or excited general interest beyond avowedly pacific circles.

'For some mysterious reason which I cannot explain,' wrote Mr. Choate, 'but which probably grew out of the then very recent political upheaval in Great Britain, by which the party that had been in power during the First Conference had become His Majesty's Opposition, consisting of a powerless minority, the English press, particularly the Conservative press, was very much disinclined to favour the work of the Conference. The London *Times,* which continued at that time to be the great organ of British public opinion, especially on foreign affairs, was especially hostile to the whole performance, constantly uttering severe criticisms upon what was done or not done, and finally setting us down as largely composed of a group of second-class diplomatists, who were trying to see how we could best dupe each other. To take its own words, on the 17th of October it said:

'"They, the members, have negotiated and compromised and tried to dupe each other, and resorted to all the little tricks and devices of second-class diplomacy;" and again on the 19th of October at the close of our deliberations it said, in plain English:

'"The Conference was a sham and has brought forth a progeny of shams, because it was founded on a sham. We do not believe that any progress whatever in the cause of peace, or in the mitigation of the evils of war, can be accomplished by a repetition of the strange and humiliating performance which has just ended."

'But, in truth, the Conference was composed of as able and earnest a body of public men as ever had assembled for any similar purpose. Its deliberations were conducted in the spirit of true conciliation, with uniform dignity, and without resort to any of the low arts suggested by *The Times*.

'The work which it accomplished was of the greatest utility for the advancement of the cause of arbitration and peace, and the value of that work, like that of the First Conference, has in the lapse of years come to be regarded as greater and greater, in the estimation of all those who believe that some better means than war can be found for the settlement of international disputes.' [1]

If *The Times* at one end of the journalistic scale was throwing cold water, Mr. W. T. Stead was breathing fire at the other. International Peace was one of his dearest schemes, and he was one of the foremost English reporters to present himself at The Hague. Before the proceedings commenced, however, a little incident occurred which is still remembered against the First British Delegate. At the time of his death more than eleven years later the following remarks were all that appeared concerning him in *The Nation* (October 20, 1918):

'Sir Edward Fry will be remembered for one mark of a fine and just, but not expansive character. That was his dislike of reporters. At the Hague Convention he assembled the chief representatives of our Press, and informed them, with rather frigid courtesy, that he had nothing to say to them. The journalists accepted their fate and did not trouble Sir Edward Fry again. They resorted instead to Marschall von Bieberstein, and that astute gentleman always told them everything they wanted to know. The result was that our case got something less than justice, the German one rather more.'

The incident was more or less as given above, for the proceedings of the Conference, apart from public sittings, being secret, could not be divulged to reporters, and Sir Edward Fry preferred plain dealing and plain speaking to diplomatic finesse. But it is dangerous to give offence to journalists, and undoubtedly this proceeding gave offence not to English pressmen only, but to sympathetic Americans. I do not wish to state that Mr. Stead's continual attacks on the Conference were due to wounded vanity, but certainly during the sittings of the Conference a stream of misrepresentations and fault-finding with the proceedings of the Foreign Office and the doings of the British delegation proceeded from his organs, though I do not think he found worse words for its chief personally than that he was 'the oldest man of the Conference' and that his appointment was a 'fatal mistake'. Sir Edward Fry was not the man to defend himself from attacks on his actions, but if the matter had been raised in the House of Commons Sir Edward Grey was in readiness to defend him there, while the Premier's allusion at the Mansion House banquet to the honourable part played by the British Delegation at the Conference was a notice of the Government's satisfaction in their representative. One of his French colleagues, M. Estornelles de Constant, wrote to Sir Edward Fry: 'M. Bourgeois a dit récemment et cordialement à Sir H. Campbell-Bannerman toute sa haute estime, sa confiance et son affection pour vous. Votre seul tort est d'être trop modeste et de ne pas expliquer vous-même, dans votre pays, tout le bien que vous avez fait, et qu'il faut continuer. Mais nous l'expliquerons pour vous.'

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[1] J. H. Choate, *Two Hague Conferences*, pp. 55–57.

In the opinion also of Mr. Choate a single one of the proposals adopted—that forbidding the recourse to armed force for recovery of contract debts—was worth all the trouble and cost of the Conference,[1] and though Mr. Stead had fulminated against all that was British at The Hague he pointed with pride to the actual achievements of the meeting. But it may well be said: All these satisfactory views were expressed before the war: what is now left of all those labours? If they laid a foundation stone for the peace and good of the world, it is a foundation stone that has been deeply, irrecoverably submerged under a devastating torrent. Does it not add a poignancy even to the miseries of the war to think that this Conference half pledged itself to a renewed peace gathering in June 1914, that it declared against poison gases, against the bombardment of defenceless villages, against missiles from the air,—that it extended to naval warfare the provisions of the Geneva Conference? If this was a prophecy of peace it was a strange prophecy. Indeed, Coleridge's words on the heavenly announcement of Peace on earth may almost apply here:

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[1] *Two Hague Conferences*, p. 59.

> 'Strange prophecy! if all the screams
> Of all the men who since have died
> To realize war's kingly dreams,
> Had risen at once in one vast tide,
> The chorus of that heavenly multitude
> Had been o'erpowered and lost amid that torrent wild
> and rude.'

It will not be supposed that such considerations did not occur to my Father in the last weary years of his life, when old age and thoughts of the war combined to overcast his sky. Nevertheless, as he had never permitted himself extravagant expectations, so he refused to part from a sober hope, and reviewing in those dark years his labours in the past he could still write:

> 'And yet I refuse to despair, and still cling to the hope that the very horrors of the war may force the nations of Europe to a firmer peace than has ever existed before,'

and he was wont to remind those about him that God is *Patiens quia aeternus.*

CHAPTER XIV

THE CASA BLANCA CONFERENCE AND PROJECT FOR INTERNATIONAL LAW LIBRARY, 1909

It was quite shortly before his eightieth birthday that my Father thankfully returned from The Hague to his home, and it need hardly be said that his family celebrated this double event, the birthday congratulations being graced by the presence of a pet robin, whose instinct prompted him to join the family at an unusual hour of the morning. For three or four years he was a frequent visitor to the library, and would perch on its owner's back or on his knees with the confidence of perfect friendship. Family congratulations might be expected, but a presentation of plate and of handsome garden vases from his Somerset neighbours was a great surprise to him and touched him greatly.

'I feel that I have done nothing for the County which deserves such acknowledgement', he wrote, 'and that it rather behoves me to thank those with whom I have worked than to receive thanks from them. I shall, as long as I live, remember the kindness shown to me to-day.'

It was his friends Mr. Hobhouse and the Dean of Wells (T. W. Jex-Blake) who had taken upon themselves the trouble of this presentation, and if one may judge at all from the letters that Mr. Hobhouse received, people of very varied ranks and classes did feel a genuine pleasure in thus greeting my Father. But if old age had its honour it had also its toil: once more a demand came—this time from the French Government—for his services, and once more his plea of imperfect French was overruled by those who sought his help.

Casa Blanca

'As the result of the Convention of Algeciras, France and Spain undertook on behalf of themselves and other European Powers to establish order in certain parts of Morocco: the two Powers divided between them the sphere of their operations, and accordingly the duty of maintaining order in Casa Blanca, a port on the Atlantic seaboard of Morocco, fell to the French Government. In due course they occupied the town militarily with a portion of their Foreign Legion, which included men of many various nationalities. Desertions from this legion were not uncommon, and it is probable that some of these desertions were assisted by persons connected with the German Consulate at the port. However that may be, it is certain that about midday of the 25th September, 1908, two French corporals discovered that the Secretary of the German Consulate was endeavouring to send off, in a boat bound for a German steamer moored in the harbour, some deserters from the French garrison, two Germans, one Swiss, one Austrian, and one native of Strasburg, who was a naturalized Frenchman. The corporals interfered, and summoned other Frenchmen to their aid ; the boat was upset, its passengers thrown into the water, and when they had recovered the land a scrimmage ensued, which ended in the capture by the French of the deserters, and the broken head of Abdul Kerim, the Moorish servant of the German Consulate. Hence bitter recriminations between Germany and France : arbitration was proposed, but Prince Bülow insisted on apologies by France as a condition precedent to arbitration. France (after consulting the English Government, I believe) refused to apologize before arbitration. Bülow at last yielded, and a quarrel which had threatened a European war was relegated to the Hague Tribunal and oblivion. On the 24th November, 1908, the "Compromis" was signed at Berlin which submitted to arbitration the whole of the questions of fact and of law raised by the events of the 25th September, and the disposition of the deserters, then prisoners in the hands of the French. On the 29th November, 1908, I received a letter from M. Paul Cambon, the French Ambassador in London, requesting me to act as one of the Arbitrators, and after some correspondence I accepted.

On the 30th April we (that is, my wife, my daughter Ruth, and myself and two servants) left London and crossed by day to Flushing, arriving at The Hague in the late evening, and taking up our quarters, not at our old hotel, but at the Hôtel des Deux-Villes. The little Princess Juliana, the long-desired royal child, was born at 7 a.m. on the morning of that day—we read of the birth before leaving London at 9.30 a.m., and in the middle of the North Sea heard by wireless telegraphy of the welfare of mother and child.'

My Father had dreaded another summer at The Hague, and without the presence of his friends the Howards and Sir Ernest Satow; but he wrote very cheerfully on his arrival of the different condition of things from when he left it last. The spring green was at its freshest, but the great difference was—the Baby; and he delighted to find a whole people rejoicing not over a victory, but over so simple and natural an event.

'The people at The Hague were almost mad with joy on that day and for a week afterwards, and we were able heartily to share in their joy at an event which all the world recognized as of great importance to Holland and to all Europe. A thanksgiving service in the English Church, attended in state by Lord Acton as Chargé d'Affaires and myself, and also by the Dutch Foreign Minister, was a recognition of this sympathy. This visit to The Hague was in many ways very pleasant: every one was happy and hopeful: my labours were not over-severe: my colleagues were pleasant: the awkward places in the course of the arbitration were passed through safely; some new acquaintances gave us pleasure or amusement: and, above all, we were received by our friends at The Hague—both the English and the Dutch—in the most cordial manner. We held a sort of levée in the yard of the church on the first Sunday of our visit.

On Saturday, 1st May, I signed at the Foreign Office, and in the presence of M. Swinderer, the Dutch Minister of Foreign Affairs, the Convention for the establishment of an International Prize Court; and in the afternoon attended at the first meeting of the arbitrators at the Court House in the Prinsengracht.

On the Sunday following, M. Hammerskiold fell on the platform of the railway station, and for a long while was barely able to move: so that all our sittings until the last public one were held in his salon—which was in our hotel. Our sittings were terminated by the public audience on the 22nd May, when the "arbitration sentence" in French and German was publicly read, and the proceedings terminated. The two nations in controversy at once acted on the award, and exchanged apologies according to the sentence of the Court.

Questions of some nicety were raised in this arbitration: on the one hand, Morocco, like many other non-Christian countries, had made concession of jurisdiction to European states, and amongst others to Germany; on the other hand, France had garrisoned Casa Blanca in the execution of a European mandate, and the right claimed by Germany to assist her own subjects, and that claimed by France to prevent desertion from her ranks, obviously involved the adjustment of two conflicting jurisdictions. The fact that the German official had sought to embark not only German subjects, but men of other nationalities, complicated the question. In the result the Court left the deserters in the hands of the French military authorities to be dealt with by them; subsequently they were tried and convicted of desertion, and condemned to various terms of imprisonment: but later still they were pardoned.'

The following reflections are the outcome of Sir Edward Fry's experience of International Tribunals:

'A question of much interest as to the constitution of the Courts, whether of inquiry or of arbitration, under the Hague Convention, is this—is it desirable that the litigant Powers should place on the Court nominees of their own, or is it better that all the members should be chosen from neutral Powers?

It is difficult to find men of a nation who are perfectly neutral, as between that nation and another, on some matter in conflict between them: probably they have heard much more what can be said on the side of their own nation than of the other; and if chosen, as they are likely to be, from amongst the servants of the State, they are likely to share strongly the views of their Government. Even in cases where they have no such bias, they will almost inevitably be considered by their colleagues as representatives of their own nation, and when they incline towards the views of that nation their opinion will have too little weight given to it; when they incline on the opposite side, their opinion will be received as an unwilling admission of a right which cannot be resisted. In my opinion, therefore, it is safer that international tribunals should be constituted exclusively from neutral nations.

That the future of international arbitration and of international commissions of inquiry is free from difficulties would be a serious delusion. To some of these difficulties I have already adverted in what I have before said; but the greatest of all these difficulties is probably to be found in the selection of the members of the tribunals. In the case of commissions of inquiry the choice is unlimited; but, of course, in the case of arbitrations under the Hague Convention the choice must be made from men named on the panel: and, with all respect be it said, I think that there will be found on that list names of men to whom for various reasons any country might be unwilling to leave the decision of questions of importance.

The past history of international arbitration has not been without its discouragements—we have heard of unjust awards pronounced: we have known awards repudiated by the Powers against whom they have been given: and it is not likely that the future will be without like disappointments. But history, if it impose sobriety on our hopes, teaches us also the folly of despair.

Another difficulty which, without doubt, stands in the way of success in international tribunals is the diversity of speech. French has been hitherto in most, or at least in many cases, the language of the tribunals, and probably in many cases it is the best, as it is so generally understood. But many men can read and even understand spoken French pretty well, and yet are unable to speak it with sufficient freedom to take their full part easily in discussions round a table; and where, as in a recent case, commissioners, assessors, counsel, and witnesses naturally speak no less than five separate languages, one learns to appreciate the magnitude of the disaster at the tower of Babel.'

During one of my Father's visits to The Hague Queen Wilhelmina entertained the delegates, and entered pleasantly into conversation with him. She said she supposed he had studied International Law deeply: he frankly replied that this was not so. Naturally, however, his late experience of International

Tribunals and Conferences had drawn his attention to this subject, and he referred to it in the words he addressed to the *séance de clôture* in October 1907. Speaking of the establishment of the International Prize Court he said :

'International Law is nothing more than a chaos of the contradictory opinions and decisions of national courts based on national laws. We hope to see little by little in the future a system of really International Law formed around this Court, which will owe its existence only to the principles of justice and equity, and which consequently will be entitled not only to the admiration of the world, but also to the respect and obedience of the civilized nations.'

After his last visit to The Hague,

'Two projects arose in my mind—one the publication of a series of reports of the several awards of international arbitration, with the necessary statements of facts and arguments, by which I hoped that a step might be made towards the establishment of a true International Law common to all civilized nations ; the other project was for the formation by Lincoln's Inn of a complete library of International Law, to be followed perhaps by the establishment of Lectureships—a step which I urged on the ground of the probability that in future International Law will occupy a more prominent part than it has hitherto done, and that it is the function of the Inns of Court to supply the State with men qualified for its needs in all the branches of Jurisprudence.'

The Memorandum which Sir Edward Fry laid before the Benchers of Lincoln's Inn will be found in an Appendix :[1] as a result of it a Committee which was appointed to report on the proposal recommended 'That a Library of International Law be established and maintained by the Inn, and that it should be housed in the Great Hall', and suggested the building of class-rooms and lecture-rooms elsewhere. Nothing, however, came of this project during Sir Edward Fry's lifetime, but since his death his widow and family have desired to found in his memory a Library such as he schemed, which shall be open to all students of International Law, whether attached to any of the Inns of Court or otherwise ; and it having been found impracticable for various reasons to lodge this Library in my Father's old Inn, as he and we should have desired, it has now found accommodation in the London School of Economics. During the necessary preliminaries for the foundation of the Edward Fry Library of International Law, as it is called, Mr. E. A. Whittuck has been unfailing in kindness and resource, and has undertaken its trusteeship, together with Lord Haldane, Sir Erle Richards, Professor Pearce Higgins, Sir Cecil Hurst, and Mr. C. P. Sanger. The late Professor Goudy was also one of the original trustees.

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[1] See p. 287.

CHAPTER XV

LECTURES AND STUDIES

The Casa Blanca Arbitration was the last international affair on which Sir Edward Fry was engaged, and the remaining ten years of his life were naturally years of lessened activity and gradually declining physical powers. I must now gather up, somewhat unchronologically, some of the various incidents, not of these last ten years only, but of his smaller interests and home life in his mature years. Of many of these varied activities it is unnecessary to speak in detail: I need only allude to his village addresses at the time of the passing of the Parish Council Act in 1894, when he visited one small hamlet after another at the request of its inhabitants to instruct them in their new rights and duties: to his somewhat critical interest in the Bishop of Chester's schemes of public-house reform, and the resulting correspondence, both private and in *The Times*: and to his protests on behalf of the lost freedom of Finland; but to reveal him as a student, I may deal rather more fully with some of the many, and various, addresses which he gave on different occasions.

'In the giving of lectures I have been more or less busy nearly all my life. I began with a lecture in the theatre of the Bristol Institution, I believe, before I was of age, and have gone on even down to the present time.

The subjects of these lectures have been very miscellaneous, and that leads me to observe that I am fully conscious of the discursive nature of my studies. So many things have interested me and given me pleasure, that I have not confined my attention to one class of subject only. If I had pursued Law only I dare say I should have been thought a greater lawyer than I have been; if I had stuck to Science and Literature I might possibly have made some little name in these walks of life. Though I have been thus discursive, and perhaps might be said to have squandered my intellect on too many subjects, I have endeavoured, on each subject which I have dealt with, to be as thorough as I could. I have endeavoured to be careful and to be accurate. Whether by greater concentration of thought and pursuit, I should have made myself a wiser, or a happier, or a better, or more useful man, I am not sure. I think, on reflection, that in acting as I have done, I have been living according to my nature; and that the variety of my pursuits has greatly conduced to my physical and mental health.'

Concerning one of the addresses Lord Selborne wrote to him from Blackmoor, Petersfield, January 24, 1886:

'I have been reading with no little pleasure and satisfaction your "Inaugural Address" at the Birkbeck Institution, which you have so kindly sent me, and for which I now thank you. It is not, I think, always perceived, how much of a man's best and deepest thoughts may be condensed into what is said on these occasions; the form being so fugitive.'

Sir Edward Fry's life was a varied one beyond most men's in its activities, but in his heart he was always the patient student. This gave special point to his addresses to students, and the more so that his introspection of the working of his own mind enabled him to point out the habits which conduce to fruitful study, and the difficulties, and even the temptations, of the student's life. Of himself it may be said that he was a student so long as he could hold a book or handle a pen: when, in his old age, he read Dante with one of his daughters, he would write down the unfamiliar words and make her catechize him on them with the docility of a child at school.

Loving knowledge as he did for its own sake, and finding therein an exceeding great reward, Sir Edward dreaded the effect of examinations on study, and even set his face, so far as possible, against the extension of the system: his reasons for this mistrust were frankly given to Bristol Medical Students when he distributed prizes in October 1893.

'I confess that I never take part in gatherings of this description without a certain amount of hesitation and doubt. I am fully alive to the value of the capacity of rapidly acquiring a great mass of information, and of reproducing it in a clear and concise form, which is promoted by competitive examinations; and I know that the extension of such examinations has been coincident with a great advance in education in this country in almost all branches of learning, and not least in those which are connected with medical science. But, nevertheless, I feel strongly the evils which are incident to competitive examinations.

By some mysterious quality of our nature the object with which knowledge is acquired affects the knowledge itself: the purpose which is present in the will operates in some way on the intellect, so that, on the one hand, information acquired for the purpose of being used on some particular occasion is wont to vanish from the mind so soon as that occasion is passed; and, on the other hand, knowledge acquired for its own sake—for the sake of really knowing—is fixed into the mind as it were by a mordant.

So soon as the looked-for examination is over, the mind is apt to suffer a severe collapse, and this occurs not only on particular occasions, but often affects the whole habit of the intellect, and thus many men who have had a conspicuous success in the schools, so soon as they have come to the end of their educational curriculum, feel as if all motive for learning were withdrawn, and live thereafter as men with no curiosity to satisfy, with little or no real thirst for knowledge. They find too late the fact that they have put the desire for success in examinations, which is a temporary and limited motive, into the place of the desire to know, which is a permanent and infinite motive for the mind.

I am aware that examinations are imposed upon you, and I therefore allude to these incidental evils in the hope that you may be on your guard against them, and may cultivate as far as possible that eagerness for truth for its own sake which will go far to counteract them.'

To Yorkshire students he said: 'Knowledge is divine: cram is a demon.'

In illustration of the manner in which the object for which knowledge is obtained affects its permanency or otherwise in the mind, my Father used to remark that cases which he had prepared as a barrister with the greatest care and detail, having been prepared for a temporary purpose only, passed from his mind so completely as to leave hardly a trace behind.

In his addresses to students one point appears with frequency—the need for clear thinking, and in association with this the value of difficulties as indications of the incompleteness of any theory. 'A methodless mind weighted with a mass of undigested learning is as bad an instrument for work as you can conceive of,' he told the Law students at Liverpool; and to students at the Birkbeck Institution he urged:

'Another habit which I desire to suggest to you is this: that you should never leave a difficulty behind you without an honest effort to overcome it; and even if that effort prove abortive at first, you should note the difficulty, and note that it is not solved, and in due time return to the contest. One of the most efficient ways of fighting a difficulty is to endeavour to state it to yourself clearly and in words, to put so far as possible the two sides of the difficulty in the simplest and the most nearly corresponding terms—such as that *A* is *B* and *A* is not *B*—and the chances are ten to one that when you have done so you will find that the difficulty has vanished into thin air, and only arose from some imperfect apprehension or some rash assumption of the mind. When you have made this effort, and not till then, consult your friends or your teacher about your unconquered difficulty.

And here let me say how much in matters of difficulty I believe in the virtue of what the physiologists call unconscious cerebration, i. e. the action of the brain on a given subject without consciousness accompanying that action. You will therefore, if you are like me, often find it wise to turn definitely away from a question which perplexes you, to think nothing more of it till, say, the next morning, and then, by as definite a return of the mind, to apply your fresh thoughts to the subject. Your second attack will often be victorious.'

But a difficulty which was irresolvable by clear thought might have a very high value for the student:

'But if it remain, carefully dwell upon it until it either disappears, or, as is sometimes the case, destroys or subverts the whole structure of argument or inference or conclusion in which at first it appeared only like an insignificant flaw. A difficulty is sometimes of more value than the thing in which it thus seems a mere incident; just as in science a residual phenomenon will sometimes pull down the hypothesis which has explained everything else, or as in manufactures the waste product sometimes in the end proves of more value than the product to which it was thought to be mere refuse. The elder naturalists had framed a complete theory of genera and species but neglected variations; and yet these despised variations became in the hands of Mr. Darwin the key to the history of creation. The old gas-workers threw away their gas-tar, but in the hands of the modern chemist this is a product perhaps more valuable than gas itself. The little difficulty that Socrates felt, after he had listened to the eloquent speech of Protagoras on the nature of virtue, grew into an attack on the whole position of the great sophist. And so with you in the investigation of facts, and in the drawing of inferences from them, there must be no little fact left inconsistent with your inferences; in the statement of a principle of law there must be no possible application of that principle which leads to an impossible or inadmissible conclusion.'[1]

On logic—even the old formal logic—my Father set great store, not only as a discipline for the mind but as of practical value. Much scientific speculation was vitiated, he considered, by ignorance and disregard of the laws of probability,—well known as they are to every logician; he protested against the accumulation of hypotheses, each of which might be probable, but the ultimate conclusions of which might nevertheless be quite improbable.

'It was the remark of Leibnitz that in his day the art of judging of probable reasons was scarcely founded, and that logic was confined to the art of judging of demonstrative reasoning (*Discours de la Conformité de la Foi*, sect. 28). And, in spite of the labours of logicians since his time, the remark is still nearly true. How few of those writers who deal with probabilities, whether in history or science, clearly perceive or bear in mind the distinction between a series of dependent and of independent probabilities, and recollect that in the former case the value of the successive conclusions is diminishing in a geometric proportion, and that in the latter case it is increasing in a similar manner! There is nothing, as it seems to me, in which our modern writers, on a great variety of subjects, are more deficient than an adequate appreciation of the value of probable and inferential evidence, and the difference between it and positive or direct testimony. If there be three propositions, each of which has six to four in its favour, and of these propositions the second depends on the first in such sort that it does not arise unless the first be true, and the third depends in like manner on the second, the odds will be ninety-eight to twenty-seven against the truth of the last proposition. If, on the other hand, the three probabilities (each of six to four) be independent and all lead to the same conclusion, the odds in favour of that conclusion will be 117 to eight.

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[1] See *Law Quarterly Review*, April, 1893.

So great is the difference between dependent and independent probabilities, a difference not always duly noticed.'

In cases where the evidence is only inferential and probable he warned the students that

> ' here you will need great forbearance and often great self-denial, not to deal with such inferential or probable evidence in a way to favour that side of the inquiry towards which your mind may at the time be inclining ; and nothing but the high moral quality of perfect fairness and much intellectual acumen will preserve you from an undue use of such evidence '.[1]

The two addresses given to the Birkbeck Institution — one in October 1885 and one twenty years later—consider the ideals of the student and oppose these to the haste, the carelessness, and the vulgarity of life. ' The Student ' was the title of the first, and ' Abeunt studia in mores ' was the motto of the second, in which he looked to habits of study for help in the redemption of life : the motto was an old favourite of his, and is inscribed on a book-shelf given him on his marriage. A few quotations must be given from these two addresses. Addressing his audience as *students*, he reminded them first that to every one who had assumed a profession or business the relevant studies were plain duties, but

> ' the position of the man who studies with no reference to his business or calling is different—he owes no such clear duty to himself or his fellow men as he who studies for perfection in the art which he professes. But, nevertheless, his pursuits have their origin, according to my notion, in one of the deepest cravings of human nature—the desire, the appetite to know, for

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[1] Inaugural Address, Birkbeck Institution, October 1885.

the sake of knowledge itself, and without regard to any fruits which that knowledge may bear either to the mental or physical life of the student himself or his fellow men. Each of the natural appetites of the soul may be elevated or degraded, and it may be the subject of control, direction, and education. It is, if you will think it over, a very remarkable fact that our minds are, so to speak, of such an imperfect construction that they require at every step and in every stage some correction, or training, or support. We see, but our perceptions often deceive us. We observe, but often our observations are full of error. We reason, but our fallacies are so various and so numerous that the study and classification of them have risen to the dignity of a science. Our whole mental being seems like a mirror held up to the universe; every faculty of the mind seems to have its counterpart in the nature of things; and yet the mirror is so ill-made and uneven, has such dark spots and such distorting imperfections, that the reflection is a blurred and misleading one.

But if it be a remarkable fact that the several faculties of the mind are imperfect and liable to error, it is perhaps yet more remarkable that our own minds furnish the correction for these imperfections: and hence arises the fact of self-discipline, a fact to be set over against the other strange fact of self-deception. We are, from our own study of ourselves, able to correct our errors of perception and observation, and to discover and avoid the fallacies of our own logic. The soul thus plays a dual part. With a passionate longing for what is holy, just, and true, the soul tends towards error and baseness: she has a capacity for self-deception and a power of self-correction. She is at once her own standard, her own law; herself at once the teacher and the taught, the accuser and the accused, the witness, the culprit, and the judge. "Omnis anima," says Tertullian, "et rea et testis est: in tantum et rea erroris in quantum et testis veritatis." "Every soul is at once the culprit and the witness; she is convicted of error in so far forth as she is the witness of truth."

And thus it is with knowledge. Most marvellous is the relation of the human mind towards knowledge. It desires it, hungers after it in a vague, crude, careless kind of way. It wants to know something about a great many things, but is comparatively careless whether what it learns be true or false, exact or inexact, the outcome of prejudice or of truth, and whether the evidence on which it rests be certain or only probable—nay, more, whether it be good, bad, or indifferent. It finds gossip, and vague opinion, and hasty conclusions pleasant and satisfying. It finds steady attention wearisome, exact and careful investigation of more trouble than worth, prolonged thought irksome and disappointing.

Now the self-discipline of study is directed to change all this, and if it be thorough it will change all this. It will make mind careful, sceptical, critical; it will make the twilight of half-knowledge unbearable; it will make the painful, toilsome investigation after truth a pleasure in itself, and the means of some of the highest pleasures of which man is capable.

Whether, then, the object of study be knowledge for its own sake, or knowledge to be used for any ulterior purpose, one desire and one passion, and one only, must occupy the mind of the true student. He must love truth, and seek after not wealth, nor reputation, nor fame, nor money, nor power, but truth, and it alone; he must prefer it to the fame and authority even of the most illustrious teachers. "Amicus Plato, amicitior Socrates, sed magis amica veritas" must be his motto. He must pursue it with a perfect indifference as to whither it may lead him, indifferent whether it may crown or crush his most favourite prejudices, or his most cherished hopes; he must pray for it as ~~Orestes~~ prayed for light—*ἐν φάει καὶ ὄλεσσον* Ajax ("Give light even though I die"); he must long for it, and trust in it, as the patient Job and many a devout soul has trusted in a God of Truth. "Though He slay me, yet will I trust in Him" (Job xiii. 15).

. . . .

To convert the flickering and variable desire for truth, which is more or less existing in all minds, into a permanent and habitual state of mind, into a frame of mind, this, it appears to me, is the first and great thing to be done in order to convert the natural man into the true student. And how is it to be accomplished? It must plainly be done by self-discipline, that marvellous power which our wills possess of moulding and framing our minds according to the dictates of the will.

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Having given you this invitation to the deep study of a small subject, I must add one warning. Let the subject chosen for your investigation be a worthy one, however small. It is possible to be a trifler even in learning and in science. M. About, the brilliant French writer, recently dead, in one of his works described an archaeologist whose first study (which was crowned by some provincial academy) was on the price of paper in the time of Orpheus ; and charmed with his success, he then visited Greece to investigate the profound question of the quantity of oil consumed in the lamp of Demosthenes during his composition of the first Philippic. I do not recommend you to adopt either of these trivial themes as your special study.

But to return from this digression to the precepts with which I am venturing to address you, I recommend as great practical aids to study two alternative things, the one for solitude, the other for society. The first is, to cultivate a habit in your solitary moments, especially in those which cannot well be otherwise occupied, and too often run to waste—in such times as those taken up in going to and from between your places of rest and of business—to cultivate, I say, in these moments the practice of thinking over the subjects of your study. The habit of mind that dwells on its subjects, that as it were broods over them, is one well worth cultivating. It will often enable you to get deep down into your subject, to see its relations with other things ; and matters that at first sight were obscure will become clear by the mere result of steady contemplation. I have often in my own mind compared this steady mental looking at a deep subject with gazing into the depth of the sky in twilight ; at first you see nothing but space, but gradually specks of light appear one after the other to the patient eye, till at last all is bright with stars. Archimedes is not the only man who, as the result of his brooding state of mind, has had to cry "εὕρηκα" in the streets. In a word, it is only in this contemplative state of mind that the imagination can ever take up and act upon the deliveries of the sense or of the reason, and thus, and thus only, can the highest products of the mind be reached.

Another habit which I venture to recommend to you, is to make the subject of your studies the subject of conversation with your fellows and your companions. To say nothing of the moral and intellectual advantage of having some profitable subject for discussion always at hand, you will find that conversation, like solitary brooding though in a different way, has a great tendency to clear your thoughts. "Talk to a pump-handle if you can get no one else to talk to," was the advice of an old friend of mine, who neither thought nor talked in vain.'

Such habits, he urged, once formed would be manifest in every department of the student's life—in philanthropy as a protection against feverish desires to do something, resulting in ill-begotten schemes : on holidays they would distinguish the student from the heedless Philistine : they would enrich a walk in the heart of London.

But perhaps most of all in politics are the discipline and habits of the true student indispensable.

'There are home politics, and there are foreign politics, and each of these involves a knowledge of men, of the passions, desires, and habits of thought or feeling of mankind. It involves an appreciation of the relations of men to the soil on which they walk, to the air they breathe, to the fruits of the earth which they consume, to all objects of desire for use or luxury. Each raises the most difficult questions of morals and of casuistry, the rights of capital and of labour, the incidence of taxation, the relation of man to woman, of children to parents, of the individual to the State, and of one State to another State. Nor can we with any wisdom approach these subjects without a knowledge of the past, without an appreciation of the evil and the good of the institutions which our forefathers have delivered to us. For the due solution of the great questions of politics we need history, geography, political economy, and morals as our helpers. And the difficulties of the subject increase, if not year by year, yet at least century by century, as society grows more complicated, and the original elements of which it is composed are more concealed by the complexity of their relations.

Now, under what conditions do men for the most part solve or attempt to solve these momentous problems—problems on the right solution of which depends the happiness or the misery of unborn generations, the rise or fall of empires or republics, the progress or the retrogression of our race ? They apply themselves to the work too often with empty heads and light hearts—with eager passions, stimulated by public meetings or hasty newspaper articles, under a shower of telegrams, and amidst the din of contending orators. I deny not that the great voice of the people often speaks aright, and that it generally does so on broad and simple issues which it can understand, and which demand only a sound heart and an unsophisticated head. But, believe me, that fact will not exonerate you from the need of patient and laborious thought, for

" Evil is wrought by want of thought
As well as want of heart."

Believe me, that any of you who will thoughtfully, carefully, and impartially study any one political question, or any of the great branches of learning which are the handmaids of politics, may render a great service to yourselves, and to all who come in contact with you—a service far greater than that of many a noisy speaker at a public meeting, or in a mock Parliament. The calm, philosophic spirit in which such a thinker deals even with the heated questions of the day—the power to lift the discussion from the vulgar dust of passion to the purer regions of thought and reason and morals—these are of incalculable value, and never were more needed than at the present hour.'

The second address dealt with study as an antidote to vulgarity in all walks of life—for riches, he held, were perhaps more productive of this evil than any form of poverty.

'From all such vulgarities, true, real, earnest study has a tendency to deliver its disciple ; his pursuit of truth, whilst it will make him humble, will fill him with a consciousness of a high purpose, will make him self-respecting ; the possession of real wealth in his mind will destroy any desire to shine in tinsel and false jewels ; he will say with the poet—

" My mind to me a kingdom is,"

and he will feel as careless about the approbation or disapprobation of his casual companions as a king in real incognito.

To him who engages in continued contemplation of truth, there comes something of this grave and steady joy that rejects all affectation, all unreality, and all the vulgarity that comes with them as absolutely alien to itself.'[1]

He liked to remind students of the necessity of marking clearly the line between things known and unknown.

'The habit of study, however acquired, will have taught the student the difference between knowing and not knowing. This is so broad a distinction that it may seem absurd to treat it as a matter of importance, but in fact it is of the last importance, and it is much more rare than you might suppose. In many minds knowledge, belief, expectation, hope, prejudice, are all muddled up in a mixture which one might call a hasty pudding, and are all thought to be adequate food for the mind.'[2]

Again, he exhorted medical students at Bristol:

'Be careful to know the limits of your knowledge; for depend upon it, that whilst the best thing is to know, the next best is to know that you do not know. Cultivate an absolute sincerity with yourself in this matter, and never pretend to yourselves, nor to any one else—not even to a patient—to know what you do not know. I am not saying a word against half-knowledge; rather I would say cultivate it, for it is impossible that you can thoroughly know the whole area open to you; and it is a great thing to know something about subjects which you have not thoroughly studied, a great thing to know so much of the means of knowledge on many subjects as that when the need arises you may be able to pursue the thread. But take care to draw, strong and clear to yourselves, the line between a thorough knowledge and a half-knowledge.'

This habit of demanding the utmost possible clarity of thought made the speaker distrustful of much modern metaphysical writing: he recognized more than a grain of truth in the remark of the schoolboy that the Romans produced no great philosophers because their language was too clear.

But strong as was Sir Edward Fry's passion for clear thought, and firmly as he held that it was a true and sufficient end in itself, he would yet quote Knight-Bruce to the effect that even Truth may be bought too dear. He was keenly alive to the limitations of the narrowly scientific outlook, and no man could be more aware than he was that ‘ They see not clearliest who see all things clear ’. Of Archbishop Whately he said that he demanded clearness beyond the limits of human possibility. For my Father Science was ‘ Exact measurement in matters where measurement is possible ’—and he was well aware that this was but a small domain of life and thought. In this spirit he told the students at Birkbeck :

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[1] Address, Birkbeck College, October 1905.

[2] Ibid.

‘ I have encouraged you to the pursuit of facts, of exactitude in your study, of rigour in your proofs ; and from such encouragement I will not retract a single word. But this I am bound to add. You may study one class of facts till the mental eye loses its capacity to see others, and disbelieves in all it does not see. You may use one method of investigation till you believe that nothing is a fact which cannot be dealt with by such a method. You may measure and weigh and dissect till you believe nothing to be real or true, or worthy of credit or of study, which cannot be weighed, measured, or dissected. And thus, in the too exclusive pursuit of one department of truth you may lose your capacity to take in the appropriate evidence of truths of another kind, and perhaps of a far more transcendent value. I believe (and though this be no fit place for a discussion of religion or of metaphysics, I cannot but express my belief) that he who so studies things seen as to lose all belief in things that are not seen has purchased his knowledge at a ruinous price ; and that whilst Sight is good, and Knowledge is better, Faith is best.’

Again, when speaking to boys at Giggleswick School in July, 1909, after begging them to avoid muddle-headed thinking, he continued :

‘ Of all things he would wish they should retain through life, not particularly health or wealth, but a strong and clear conscience. There was nothing more remarkable in the constitution of man than the existence of the moral sense. All true greatness, whether in the individual or the nation, depended upon obedience to that moral law. He did not say for a moment that strict regard for conscience would make them popular either in the school-room, the cricket field, or the world at large. Very likely it would not, but it would enable them to put a just value on popularity, and that probably would not be very high. It might even make them an object of ridicule, but it would tell them that ridicule was no criterion of truth, and brave men in all times had had to endure it. Such a conscience would not necessarily give them worldly possessions, but if such things fell to their lot it would enable them to use such possessions with honour to themselves and benefit to their fellow men, and while it would not give them a dogmatic theology, it would strengthen in them a sense of that unseen and righteous Presence which was at the root of all true religion.'

If any reader, remarking the frequent insistence on rightness in thought and righteousness in action, imagines that Sir Edward Fry was for ever harping on such subjects, he would have a most false idea of his character. Largely as they occupied his thoughts, it was but seldom that he alluded to them, and it was this pruning of his words and control of his thoughts which gave them when uttered a direct force. He did not shrink from familiar truths, but on his lips they were never platitudes, for the adequate reason that they were always the fruit of his own inward toil and never mere repetitions: and so the very simplest words from him sometimes had the effect of a revelation.

I must now touch on the political views of the subject of this memoir. In earlier life they were strongly Liberal, but years before the Home Rule split in 1886 he had become very critical of Mr. Gladstone's policy: he voted with the Liberal Unionists after it, and though I do not remember that he ever voted for a Conservative candidate, his party allegiance sat light upon him. He was, indeed, never a party man, and though he at one time gave some entertainment to the suggestion of a friend that he should stand as a Liberal for a Scottish University, he described his attitude accurately when in reply to a question, 'Why have you never stood for Parliament?' he said, 'Because I could never represent any one but myself.' In one article of the Liberal creed he was firm from the time when as a boy he wrote to Walter Bagehot, 'Decidedly I am a Free Trader', to the end of his life. In reply to an invitation to be present at a Free Trade meeting in support of Lord Hugh Cecil in 1905 he replied to Mr. Pickford Smith:

'I shall not be present at your meeting on the 18th inst., but

I cannot refrain from expressing my hope that Lord Hugh Cecil will receive a very hearty greeting from the West.

I regard the crisis which has been provoked by Mr. Chamberlain as of the very last moment to the financial, but even more to the moral, condition of the country.

Our common knowledge of human nature, and the experience of other countries, alike tell us that to give to Parliament the power to favour one trade and not to favour another would be to turn the home of the " august mother of Parliaments " into a place where the potsherds of the earth would strive together. The extent to which the brewers, the railway people, and the labour members confessedly put trade interests before the good of the nation as a whole, ought to serve as a significant warning.

If protection were ever re-enacted, it would, I am sure, be an evil day for the public morals of the nation ; but I trust and believe that that day will never come.'

And almost at the end of his life, when peace conditions were beginning to be discussed, he declared :

' I am entirely opposed to any provision to continue a war of tariffs after peace has been reached in the war of arms. The experience of mankind of tariff wars is only less disastrous to both sides than the conflict of armaments.'[1]

Since it touches on Sir Edward Fry as a student this may be a fit place to insert an appreciation of his character by Lord Haldane :

' My first acquaintance with Sir Edward Fry arose when he was a Lord Justice of Appeal and I was a junior at the Chancery Bar. I was arguing my first real case, that of the Scottish Petroleum Company, reported in the Chancery Law Reports for 1883, and I was arguing a point of difficulty, after long preparation and with all the energy of youth. The argument of the youthful advocate attracted the attention of the Court of Appeal, and Lord Justice Fry sent me a note inviting me to dine with him. After this incident, in which his kindness and appreciative sympathy were characteristic, I got to know him well. Later on I argued many cases before him, and my admiration for his capacity as a lawyer grew with successive experience. It was delightful to have to present to him a good point, however difficult and subtle. He was quick as lightning in apprehension, and was equally full of learning.

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[1] *Common Sense*, January 27, 1917. His cautious and philosophic—but not hopeless—view of some modern questions is well shown in an address, printed in the Appendix (p. 289), which he gave in 1894 as President of the Social and Political Education League, an address given twenty years before the outbreak of the great war, but which recent events have almost endowed with the nature of prophecy.

'Few judges have excelled him in rapidity of apprehension, or in command of the requisite knowledge. Not only was he a learned and scientific equity lawyer, as his great treatise on *Specific Performance* shows, but he was also a highly-trained jurist: a rare combination in this country, or in any country. But that was not all. He had an intense sense of the necessity of uprightness, and a strong conviction that no result could be just in which morality and law appeared to become divorced.

'So strong was this sense in him that I think it would have actually stood in his way had he sought to exercise his powers in the arena of political life. In that field a certain giving is as essential to success as the most justifiable taking. There was one Bill of which Fry was the real author, and which, though outside it, he was strong enough to press on Parliament—the Bill which was passed, by his influence, for the prevention of corrupt commissions to agents and others in confidential relationships. The Act only strengthened a principle which the Law had already recognized. But, although accepted, it was not received by the general public with the cordiality that so righteous a measure deserved. The reason was that Sir Edward Fry's standards for conduct were here, as in other things, in advance of the ordinary public opinion of his time. I was struck with this in another case of quite a different kind. When he was representing Britain at an International Conference at The Hague Sir Edward Fry would not allow journalists to ask him questions about the cases on which he was engaged. The work was of a judicial character, and he thought it wrong to take what would have been a popular course. An eminent journalist complained to me of the contrast between the reception accorded to him by Fry, and that which he had from a distinguished German diplomatist who was Fry's colleague, and who made profession of freely giving information as to progress. This method of conducting the business led to popularity, but one could not help contrasting the conduct of the two distinguished jurists. Fry thought first of righteousness. The other thought first of how he might influence opinion for the country he represented by conciliating British journalists.

'The range of Sir Edward Fry's interests was great. The last time I saw him was when I went over from Bristol—where I had been officiating as Chancellor of the University—to Failand. I found him in his library, surrounded by books which he was reading, and which dealt, not with one subject, but with half a dozen. His purpose was to see the meanings of life in all its most important aspects, and this made him wish always to give that thinking consideration to its problems which alone could lead to a settled speculative outlook. It was an example of the best kind of old age, the kind in which the experiences of an active and energetic life are prized because of the materials they afford for reaching a settled point of view.

'Sir Edward Fry's was not a personality that desired to appeal to the mob or sought the limelight. Its passion was truth, alike in theory and in practice. His was one of those rare natures that has nothing common in it. He hated all that fell short of truth.

'Like Browning's Grammarian we may

> "Leave him—still loftier than the world suspects,
> Living and dying."'

CHAPTER XVI

LATER YEARS AND INTERESTS

> Still rings the passing chime :—
> Youth, manhood, old age past,
> Come to thy God at last.
>
> R. S. HAWKER of Morwenstowe.

I MAY introduce here some of the other scientific interests and correspondences of my Father's later years, and this is perhaps a fitting place to explain that it was not his scientific studies which procured him admission to the Royal Society: as a member of the Privy Council he was entitled to apply for special admission, and though this was not a usual step, he did not hesitate to avail himself of the privilege, seeing that his election under such circumstances would in no way bar any man of science from admission.

I have mentioned his studies of Mosses in an earlier chapter: during his retirement the publication of Mr. Arthur Lister's studies on the Mycetozoa incited my Father to examine these strange organisms, and great was his interest when, helped by his daughters, specimens were discovered and examined. Partly through this interest Mr. Lister and his daughter became his friends, and through their inspiration and generous willingness to communicate their stores of knowledge to any real student he came to have a fair knowledge of this group of organisms. If the Mosses had excited in him admiration, for the Mycetozoa —the Myxies, as he used to call them—he felt something like amazement. Their position in the scheme of Nature, neither indisputably animal nor vegetable, their non-cellular structure, the fusion of the amoeboid bodies to form the plasmodium—all these aroused deep questions, and seemed almost to promise clues to yet other questions; and of the marvellous movement of the structureless plasmodium, his amazement found expression in Dante's words—

> 'Io dirò cosa incredibile e vera.'

In these later years he followed up his study of the Mosses by that of the Liverworts ; and on this subject too he produced a small volume, prefixing to it a line from Aristotle's *De Partibus Animalium* (of all classical writers Aristotle was the one to whom he most frequently referred) : *ἐν πᾶσι γὰρ τοῖς φυτικοῖς ἐνεστί τι θαυμαστόν* ('In all natural things there dwells somewhat of the marvellous ').

'In the *Monthly Magazine* for December 1902 and January 1903 I published in two parts a paper "On the Age of the Inhabited Earth and the Pace of Organic Change". For many years I have entertained the view that organisms are subject not only to small but to large heritable variations, and that this fact, as fact I thought it, might shorten the period which biology ought to demand for the existence of the earth as a home of life. The subject received a great impetus in my mind from the receipt of some specimens of the peloric form of Antirrhinum, and I accordingly put my thoughts together in the paper I have mentioned.

When Lord Kelvin came over here for an afternoon after the meeting of the British Association in Bristol we talked of this matter ; and in consequence I sent him a proof of my paper, to which he replied :

"Netherhall,
Largs, Ayrshire,
October 26, 1902.

"Many thanks for the advance copy of your forthcoming paper on the Age of the Inhabited World, which I duly received with your letter of the 20th, and which I have read with great interest. I am glad to see you tackling so strongly the question of gradual changes not promoted by Natural Selection. I have always felt that Darwin over-estimated Natural Selection, and under-estimated the efficiency of environment in causing changes—sometimes very rapid changes, as when a smooth-skinned horse is sent to live out of doors in Shetland or other cold places, when I believe it quite quickly grows a shaggy coat.

"I am much interested in what you tell of great changes in progeny or offshoots, without manifest determining cause in the environment, and *certainly* without any guiding influences in Natural Selection. I feel very much with you in your whole argument."'

On the same question Mr. Beddard, the anatomical expert of the Zoological Society, wrote to Sir Edward:

'Zoological Society's Gardens,
Regent's Park, London, N.W.,
March 16th.

'I have read your article with much interest. I am greatly impressed by the fact that you also decline to believe that Natural Selection is the only key to evolution; for you have the experience of summing up and deciding upon matters of evidence in a totally unbiassed way. I am inclined to think that in my particular friends, the earth-worms, there has been much evolution *per saltum* and much progress that cannot be put down to Natural Selection. I do not know whether you have considered the enormous anatomical variety which those animals show, coupled with highly similar modes of life and very fairly similar exteriors.

And Dr. Merz, author of *European Thought in the Nineteenth Century*, expressed himself thus:

'The Quarries, Newcastle-on-Tyne,
August 9th, 1905.

'I have more and more come to the conclusion that the outstanding great scientific and philosophical problem at the end of the nineteenth century is "discontinuity", as, indeed, even in Mathematics, discontinuous functions are now being studied.

'Ever since Leibnitz emphasized "Continuity" as a fundamental principle in development, the saying "Natura non facit saltum" has become a kind of "fable convenue", like the Baconian philosophy among philosophers, especially scientific thinkers.

'But it is quite evident that this principle "won't work", except in restricted areas and regions of thought.

'Whoever believes in the underlying Unity of all must reconcile himself to the conviction that the great differences in natural as well as in mental life cannot be smoothed over by any formula accessible to the human mind.

'Human knowledge in its highest form of Science (if this be its highest form) depends upon three postulates: viz. Regularity, Uniformity, Continuity; but it seems that we are more and more advancing towards a recognition of the fact that these three properties are not necessarily the fundamental forms of existence and reality, but only the indispensable conditions of scientific knowledge, and that where they are not fulfilled in our human conception, accurate knowledge is impossible.'

'Having read with much interest the first volume of Dr. Merz's book, *The History of European Thought in the Nineteenth Century*, and seeing that he had not noticed, where it would have been appropriate, Grew's remarkable passage about the conservation of matter and energy, I sent it to him. It is as follows: "In the Corruption of Bodies there is no Annihilation, so much as of one single Atom: but the Stock of Matter is always the same. For if there were, then in every Generation of Bodies, there would also be a New Creation. And so, the Deity would be employed in Infinite Places at once, and every Moment, in the doing of that, which needed not to have been done, more than once. And for the same reason, the Stock of Motion in the World, is likewise, without diminution always the same." Grew's *Cosmologia Sacra*, p. 115.[1]

The passage is as remarkable for the anticipation of modern views as it is for the badness of the reason given for the conclusions. Dr. Merz replied:

"The Quarries, Newcastle-on-Tyne,
May 30, 1904.

"Thank you very much for your note of 21st inst. and the interest you take in my volume.

"The anticipation by Nehemiah Grew of the conservation of matter and energy in Nature is interesting and remarkable. I am not aware that the passage has been noticed by any of the historians of the subject, though some of them, notably Ruhlmann, have gone back and noted anticipation in the ancient writers.

"The reason why these anticipations bore no fruit of any importance before the middle of the nineteenth century was this: that whenever they spoke of force or energy they had, certainly not outside of mechanics, no clear conception how this force was to be measured, and if they identified it with quantity of motion (as Grew apparently does) they had no measure for the ' imponderables ', notably ' heat ', in terms of motion.

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[1] Published 1701.

" One of the outcomes of my historical records is that only to the extent that theorems are expressed in mathematically measurable and calculable terms can they become fruitful in the progress of science." '

A greatly valued friendship of many years was that with Lord and Lady Hobhouse, who for seven successive autumns took Charlton House in Wraxall parish—about half an hour's walk or drive from Failand. My Father had recommended the house to them, and their yearly advent was always a great event and the renewal of most pleasant intercourse between the two families. The two heads of the households used to oscillate between their respective domains: if one came to lunch with the other the host might return to tea with his guest, and the second host would be inclined to walk at least part of the way back with guest number two.

After Lord Hobhouse's death a Life of him was given to the public which my Father felt in some ways inadequate, and so for himself and his family he gathered together letters received by them at various times from Lord and Lady Hobhouse, and prefixed some remarks to the collection.

'As we all remember Lord Hobhouse, how much he enjoyed the small pleasures and graces of life: he greatly loved the plants of his immediate neighbourhood: . . . he was observant of the birds, noting every year the migration of the swallows; his knowledge of the topography of his immediate neighbourhood . . . was exhaustive; and he was always delighted to point out every spot in the landscape on which he was looking: and many a time we discussed, sometimes in my library, points of literary or classical interest. And again, no one can forget how by little acts of kindness and thoughtfulness to rich and poor alike, but above all to the cottage children, he created around himself an atmosphere of respect and affection.'

I quote the above to show that a mere business or political memoir did not satisfy my Father, but no one could accuse him of a desire for gossipy biography. For much that passes under that name at the present day his aversion was great, as the following words testify:

> 'Gossip has invaded not only our papers, but it threatens to lay waste a fair field of literature—I mean Biography. It threatens to add a new terror to death, and a new foulness to decay. It used to be thought that death gave something of a sacred character even to the commonest of men; that it made fitting something of delicacy and forbearance in speaking of their words and actions. But nowadays near relations do not think it unbecoming to fill large volumes with gossip, which can never elevate the character or promote the fair fame of the dead; and men of letters think it fitting, in volume after volume, to give us the details of the state of the digestive organs, or the family discords of their deceased brethren. I am no advocate for the false and stately panegyrical style of biography; but it is possible to unite perfect truth with something of dignity, with a certain sense of proportion, with a certain power of repression and condensation. But all these things are being swept away in the universal greed for gossip.
>
> But if the dead are not spared by the pen of modern biographers, the living are not suffered to escape; and details are perpetually finding their way into books of biography about the living which are often idle, often untrue, often calculated to create pain, and are only published at all to satisfy this universal demand for personalities.'

Another friend who was a yearly visitor at Failand was Miss E. M. Caillard, a frequent writer on scientific and metaphysical subjects in the *Contemporary Review*. My Father met this lady, shortly after his retirement, at the house of his friend Lord Justice Lopes, and discussed with her a volume on Electricity which she had written not long before, and which he had read. He pointed out that there was no satisfactory definition of electricity, and, after some argument, she had to admit that none that she could furnish was adequate. This searching criticism was the beginning of a long friendship and of many discussions on abstract questions, some memories of which may here find place.

'It may have been on the occasion of the Hague Conference,' writes Miss Caillard, 'but more probably, I think, on that of the Boer War, that I ventured to ask him whether he agreed with those members of the Society of Friends who regarded all war as unjustifiable. He answered that he had never been able to take up that position, but that he felt most of the wars which had occurred *were* unjustifiable and ought not to have been fought. He added that that was rather his opinion in regard to the Boer War. I think his exact words were, "I am not sure if that is not the case now".

'He only seldom touched directly in intimate conversation on deeply spiritual matters, but occasionally this happened, and from one or two expressions that dropped from him, I am under the impression that he realized very vividly and constantly the Divine Presence—immanence—in natural phenomena, especially in any connected with organic life.

'I was always struck by his invariable determination to understand *fundamentally* any subject on which his opinion was asked, or about which he was himself inquiring. The most striking instance I recall of this characteristic was that afforded by reading his notes taken during the hearing of the famous Lane-Fox Patent case, in which he was judge, and which had been the indirect cause of my first introduction to him. Very delicate points of electrical technology were involved, many of them dependent on electrical principles which it took students of the science the best part of a lifetime to master with any thoroughness. Sir Edward's questions to the various expert witnesses showed an appreciation of their importance, and a resolution to get at their true significance, which seemed to me quite wonderful in view of the fact which I had learned from himself, that previously to this trial he had known nothing whatever of electrical science. I think I nearly always came away from any visit to him with a much humbled sense of my own too-easily-arrived-at conclusions, and a resolve to *approfondir* more deeply any subject that I happened to be studying. On several different occasions I accompanied him to evening service at the village church, where, though belonging himself to the Society of Friends, he read the lessons very beautifully and impressively. He was an excellent reader, and evidently enjoyed doing what he did so well. It was his custom to spend a good part of every evening in reading aloud to members of his family and any guests who were part of the home circle at the time, and even on the last visit I paid to Failand he still endeavoured to keep up this habit, though his eyesight was then somewhat failing, and the persistent use of his voice was an evident effort. It struck me then that he very reluctantly gave up any exertion to which he was used, and that the fact that his physical powers were not what they had been was a real, and perhaps a great, trial to him. His keen and varied mental interests would almost inevitably make the advancing feebleness of age harder to him than to those less intellectually alert and energetic.'

This friend noted also as specially attractive 'the beautiful, old-world courtesy, so seldom seen now, and so infinitely winning, especially when allied with a gently reserved manner and speech, which at times became almost diffident, surely a remarkable trait in a man so distinguished. Again, another, and one specially attractive, the wide-minded and wide-hearted spiritual tolerance, which never permitted a harsh word or narrow judgement of those from whom he might differ. I have no recollection of even the faintest approach to such a thing, and yet one could not be admitted to any degree of intimacy without feeling that religion, in its truest sense, was the ruling principle of a life so full of engrossing occupations that, in one less earnest and sincere, it might have fallen into the second place.'

Miss Caillard was right in saying that my Father was an excellent reader and that he enjoyed the practice of it. He not only read well himself, but required clear speech and good reading in his family. His reading of the lessons in the Failand Church on Sunday evenings was much appreciated by the country folk. 'When you do hear him read St. Paul it be like hearing St. Paul himself' was the comment of one hearer—justly, perhaps, for St. Paul's life, writings, and character were of the greatest interest to him. It was throughout life his habit to read a passage of the Bible, followed by a hymn, every morning to his assembled household.

Mr. Melville Bigelow, the well-known American lawyer, was a welcome guest at Failand when on visits to this country, and he contributes the following recollection:

'In my acquaintance I cannot think of any one who knew so well how to turn from learning's "ample page" as means to an end—from work with a further purpose—to learning for its own comfort and delight. How much that means! To give a full man's life to the welfare of others, while meantime and always storing up against later years as well as for the present—such was one side of Sir Edward's life. Some glimpse of this—some special glimpse I cherish—he was good enough to give to me, for instance, in his own library, as he took, from the well-stocked shelves, records of the past, of ancient wills of great men, of Aristotle and Epicurus, and read them in fine words of translation by himself, following all with informing comment.'

What a resource this keen mental activity was to him in his old age the following paper, dictated by Sir Edward Fry when far on in the eighties of life, at a time when his crippled hands could but ill guide a pen, will show:

'METAPHYSICS AND SCIENCE

I doubt whether we quite appreciate the extent to which metaphysical conceptions form an integrally constituent part of modern science. I will give two illustrations, only premising that by metaphysical conceptions I mean affirmations or creations of the intellect which are not supported by any direct physical evidence.

Let me first take the modern doctrine of ether: it is, I believe, based on the inconceivability of action at a distance; that is to say, it is impossible to think that one body can act upon another at a distance without the presence between them of some intervening medium: that, for instance, it is impossible for the light of a star to reach us if there were, intervening between us and the star, nothing but the void inane. But suppose it be inconceivable, what of that? The proposition is quite useless, unless we assume that what man cannot think, God can neither create nor do. In other words, we believe that our minds are so constituted that we can rely upon them as indications of what really exists, and that we believe that what the intellect of man affirms represents objective truth; we tacitly maintain that objective and subjective truth are set one over against the other; that "God will not put us to permanent intellectual confusion".

Now these two propositions, first that the interaction of bodies upon one another through void space is unthinkable; and secondly, that what is unthinkable is impossible, cannot, I conceive, be supported by any direct physical evidence. They are purely affirmations of the intellect, and yet they are both, unless I be greatly mistaken, essential terms in the main argument for the existence of the ether.

I will now turn to classificatory science, and I will take botany as an example.

Linnaeus, I believe, somewhere said or wrote that God made species and man made genera.[1] He might, I think, have gone further, and have said that God made individuals, and man made species. For what does Nature present to us? Individuals, and not species. If we see two violets, we say they are of the same species, but that is not involved in what Nature has given us through the senses: nobody ever saw, smelt, or felt a species, still less a genus, and it is an intellectual act to affirm that two violets belong to a metaphysical something which we call a species. But perhaps it may be suggested that there are certain physical facts, such as descent and inheritance, which warrant the notion of species. They may warrant the notion, but they do not give it. All that Nature has given us are reports from the senses: the intellect has added the idea of species.

What I have said of species is yet more obviously true of genera, families, orders, and sub-kingdoms. These are all ideal conceptions, to which we refer the phenomena reported to us by the senses. Thus if we abstract from botany the affirmations of the intellect, the whole vast structure of systematic botany will crumble to pieces, and we shall be left with nothing but the unending multitude of individuals, and the chaotic mass of reports from the senses. Nor would morphological botany fare any better than her systematic sister.

My morphological guide shows me a plant of the common harebell, and, comparing the leaves that are growing round the stem, he refers them to the category of leaf. Then, descending to the root leaves, he does the same, notwithstanding the marked difference in form, because there is in his mind some idea of a leaf, which comprehends equally the lanceolate leaves of the stem, and the round leaves of the root. Then he leads me to a plant of Butcher's-broom, and, to my surprise, tells me that what I thought were leaves are nothing of the kind, although he assures me that they perform the functions of a leaf—they breathe like leaves, they produce chlorophyll like leaves, and yet, to him, they are not leaves, because they do not fall under the conception in his mind by reason of their position and place of origin, and of the flowers which they bear. I am still more surprised when he takes me to the open blossom of a buttercup and assures me that not only the petals, but also the stamens and the carpels, are in fact metamorphosed leaves. He then takes me to a forget-me-not, and assures me that the form of its inflorescence involves the doctrine of many suppressed flowers, and that the same is true of the buttercup and Herb-Robert. But when I inquire where the suppressed parts are to be seen, he answers, " Don't talk nonsense ". When I have listened to all this teaching, I feel that I have been dwelling in a region of somewhat transcendental metaphysics.

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[1] See *Philosophia Botanica*, p. 101, par. 162.

Some one will perhaps say, " Of course, we are not so foolish as to abstain from reasoning upon the facts given us by observation ". I agree. But the remarkable thing is that you believe that the results of your reasoning represent actual facts in Nature, that your subjective affirmations have objective reality, that, as Schiller says :

" Mit dem Genius steht die Natur in ewigem Bunde "—

that we hold that there is a correspondence between our individual reason and that Reason which pervades and dominates all nature, that *κοινὸν λόγον ὃς διὰ πάντων φοιτᾷ μιγνύμενος.*'[1]

In my Father's old age it fell to him to make a stand for that uprightness in social matters for which he had always contended, under circumstances which caused him—on many accounts—deep pain. This matter distressed him in a way that I do not remember any other incident in his life to have done ; but when it became known to him that some very influential and well-known members of the Quaker body had acquired and were conducting a paper in which betting news had a prominent place he felt he had no choice but to utter a protest. When the matter was made known to him he endeavoured to call attention to it in *The Friend* and the *British Friend*—two papers widely circulated in Quaker circles; but the editors were unwilling to open their columns to this discussion. Anything like sectarian partisanship was intensely distasteful to Sir Edward, and rather than suffer himself to be silenced in a moral question which was to him of vital importance, he printed a letter on the subject and circulated it to a very large number of Friends. The Quaker body has always kept watch over the moral conduct of its members, and this matter seemed to him vital: silence involved the shame of complicity in a great moral evil. The *Spectator*, which had first drawn public attention to the matter, had accused the Friends concerned of 'cant and hypocrisy'; that a similar charge should be taken up by a member of the Society of Friends was not unnaturally resented by many members of the body, and my Father's action no doubt gave pain. It produced no effect on those most concerned: betting tips continued to appear in papers owned and managed by Friends, and my Father continued to deplore the great evil wrought day by day in the incentive to betting—an evil which he believed was equal to that produced by drink. 'When I think of the harm those people are doing every day, I *can't* understand it,' he would say, deeply moved between sorrow and indignation.

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[1] Cleanthes.

Old age came so gradually to my Father, and sat for so long lightly upon him, that it was difficult for those who marked his upright carriage, his senses still keen—a certain failure in sight alone excepted—and, above all, the alertness of his mind and exactitude of his memory, to realize his great age. To some about him, this regular and peaceful life seemed like a living illustration of the blessing of the first psalm—the tree planted by the rivers of water.

One summer evening in his long old age, as he paced up and down a northern lawn and watched the evening light, he said how strange it was that the nearer approach to death brought no nearer knowledge of what lay beyond it, and this remark was one not infrequent with him. It seems, indeed, that a special calm courage is required in those who, with mental activity almost as keen as in youth, must walk for many years along the brink of life—daily facing the unknown, and daily realizing its nearness but receiving no answers to all their longing questioning. His thoughts dwelt much on this matter, often hovering on the words ὁ κύριος ὁ ζωοποιῶν,—for he had an intense longing to be assured of another life, though he shrank with distaste and aversion from any of the modern ways of supposed communication with the departed. He was much struck by Wordsworth's acknowledgement that

‘ ’Tis a thing impossible to frame
Conceptions equal to the soul's desires ’ :

and he liked to recall that while most Greek wills commenced with the formula ‘ May it be well with the Testator ’, Aristotle's, with a significant variation, began ‘ It *will* be well ’. His thoughts found issue in a short paper, first published in the *Contemporary Review*, and afterwards in 1913 enlarged as a pamphlet, entitled ‘ Some Intimations of Immortality from the Physical and Psychical Nature of Man ’.[1] This paper keeps strictly to its title, and, in spite of his strong feelings, is throughout dominated by a calm logic. After quoting Cicero's dictum that the soul is nothing mixed or compounded, he asks :

> ‘ Was Cicero right in this passage ? Is there in the constitution of man the proof of the existence of an immaterial and non-physical something, or, on the other hand, are not all those phenomena of human life which we commonly attribute to mind or soul merely parts of, or the effects of, the physical constitution of man ? If we find evidence of such an immaterial element in man, it will go far to support the hope of an immortality of some sort : if, on the other hand, we find no good evidence of such an element, then, so far as physical science goes, we must leave the hope a mere hope, the aspiration a mere aspiration.’

That life is not *matter* is shown by the fact that the dead body consists of the same chemical matter as the living one : that it is not energy may be shown by the balance of the energy received and expended by a living being. Life thus presents itself to us, not as matter nor energy, but as—

‘ an artificer whose guiding hand presides over the origin, the continued reparation, and the hourly work of every living organism. . . .

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[1] Published by Williams & Norgate.

Life is thus seen, not as one amongst many chemical or physical forces or forms of energy, or chemical and physical laws—not as adding to them or counteracting them ; but as something standing on a quite different plane of being, and yet controlling and guiding all these forces to determined ends, to ends which these forces never would have reached without this determination and control.

Ramble where you will, through the whole realm of organic nature and the world of life, nowhere can you find a physical or chemical act as an ἀρχή, as a source or origin of life or motion. Everywhere you will find physical and chemical activities as the instruments and servants of an invisible master.

Now I pause here to observe that, unless I greatly err, the animate world, viewed from a purely physical standpoint, has proclaimed its inadequacy to account for the phenomena of this world without the assumption of an unseen and immaterial something—or, in other words, that it has conclusively proved the existence of something spiritual which governs and rules that which is material. This proof, drawn not from the spiritual nature of man, his hopes and aspirations, but solely from his physical nature, dispels for ever the notion that matter alone can adequately account for the facts of the animate world, and refutes beyond dispute the suggestion that in matter we find " the promise and potency " of all things. If physics thus proclaims that there is a non-physical existence—may I say, world of existence ?—then, though it has not shown that the human spirit is immortal, it has proved that there is a region where it may exist beyond and outside of matter. That is something.'

After dwelling on John Hunter's dictum that ' Life is the cause and not the consequence of organization ' as enforced by the study of the lowliest organisms, the writer seeks for an expression of the opposite view, and finds it in Huxley's essay on *The Physical Basis of Life*. Huxley argued that when hydrogen and oxygen are formed into water, a completely new compound, under the action of electricity, we do not summon an alleged 'aquosity' to explain the matter, but attribute it to the qualities inherent in the constituent gases, and asked, 'Is the case in any way changed when carbonic acid, water, and ammonia disappear, and in their place, under the influence of pre-existing living protoplasm, an equivalent weight of the matter of life makes its appearance? If the properties of water may be properly said to result from the nature and disposition of its component molecules, I can find no intelligent ground for refusing to say that the properties of protoplasm result from the nature and disposition of its molecules.'[1]

'To my mind, the facts mentioned by Huxley present a very close analogy to the facts of life, but lead to a different conclusion from that at which he arrived. Surely we must attribute the event in question, not to the nature and disposition of the component molecules of water alone, but to that nature and disposition plus the electric spark. To attribute to elements alone that which never happens without the electric spark is surely an obvious error.

In like manner, if we find that the chemical constituents of protoplasm exhibit certain phenomena before they are touched by the vital spark, and certain other phenomena after they are so touched, we are not at liberty to assign all these latter phenomena to the chemical constituents of protoplasm alone, but to them plus Life. The processes seem exactly parallel. In each case a certain new something—in one case electricity, in the other life—supervenes on certain existing matter, and produces in it a change, creating a new set of phenomena; and in each case it is impossible to leave out of consideration this new something—the electric spark in one case, the vital spark in the other. The curious point in Huxley's argument is that having introduced the electric spark as the cause of the condition of a notable change in the chemical constituents, he forthwith drops it as a negligible item, and then invites you in like manner to neglect Life in the account of living things. To deny the reality of Life as a something in the one case would be paralleled by the denial of electricity as an element in the problem in the other case. If, as the professor says, there is as much reason to invoke aquosity in the one case as vitality in the other, there is as little reason to omit from our consideration Life in the one case as electricity in the other.'

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[1] Op. cit., in *Lay Sermons*, 1891, pp. 118 and 119.

He then comments on Huxley's statements that when the chemical constituents of protoplasm 'are brought together under certain conditions, they give rise to the still more complex body, protoplasm, and this protoplasm exhibits the phenomena of life', and shows that among the 'certain conditions' demanded, one is 'the influence of pre-existing living protoplasm'.

'So that, perhaps to our surprise, we find that the thing to be accounted for by the properties of the molecules, viz. Life, is itself the condition under which it is to arise. Surely we are here in a hopeless circle. Life has its origin in the properties of molecules; but only on condition of pre-existing life. . . .

I have thus dwelt upon the fact that, so far as our knowledge goes, all life is derived from antecedent life, because it is an impressive fact in the constitution of the world. But it is not essential to my argument, which will remain intact whatever may be the conditions under which life may seem to arise, provided that life still remains outside the balance sheets of matter and energy. Whether life had its sole origin in the immeasurable past or is still from time to time arising has no effect upon the nature of the union.'

Further on the writer turns to the consideration of the subjection, in animate beings, of the matter of the body to the idea of the species or the personality, which remains steadfast while the actual matter is in continual change: also to memory, which assures a man

'that, spite of years, spite of the change of his bodily companion, spite of the lapse of consciousness night after night, and spite of changes of thought and feeling, he is conscious beyond dispute or debate of the same personality all through.

Now, here I pause to consider the point at which we have arrived, and that from physical evidence only. We have found, first, that living matter proclaims that life is not a material thing at all, but something not material; secondly, that the human body declares that mind and thought are not excretions of the brain, or in any sense products of the material body; and thirdly, that the perpetual flux of the body does not affect the existence of memory or the consciousness of personal identity. These considerations seem to me to amount, not to a presumption, but to an absolute proof of the existence of an immaterial world, and that this something of which Life, Thought, and Consciousness are all manifestations is part of that non-material order of existence. To put the whole matter in an old-fashioned way—the body declares that there is a soul, and that that soul is something non-material, and so the decay of the body need cause no fear of the loss or decay of the soul.

The conclusion which I ask my reader to draw with me from a consideration of the whole matter is that, instead of the evidence from the material world opposing in any way the aspiration of our spirits, it is strictly in accordance with, that it positively asserts, the existence of a realm of unseen realities, and furnishes strong reason to believe that amongst those realities are the souls of men.'

Across this peaceful and vigorous old age, with its varied intellectual interests, fell the terrible shadow of the war. My Father's nature was never buoyant, and the miseries and anxieties of the world in the last years did much to depress and dishearten him. He used to allude to the death of his brother-in-law, Dr. Thomas Hodgkin, who died more than a year before the great cataclysm, and say, half-enviously, 'Felix opportunitate mortis', and though he was under no keen anxiety for any near relative the thoughts of the evil and distress of the world were as a heavy cloud that awaits the sun in the west, after a long day of varied weather. He used to refer to all the days of special public anxiety that he had lived through—the Crimean War, the Indian Mutiny, the Boer War—and say that in all his long life there had been nothing to compare with *this* war, that he felt as if he had never known anxiety before. His increasing feebleness and powerlessness to help no doubt increased his depression, but the positions he had held, and his venerable age, seemed to give him the right to utter warnings, or urge wisdom in national, as well as in sectarian affairs, and on August 3, 1914, the following brief letter appeared from him in *The Times*:

'Sir,—For God's sake, before England joins in this horrible war, let her be sure that she does so only in case of dire or absolute necessity.'

About a month later, when the victory at the Marne had given temporary hope of a rapid Allied victory, and demands for retaliation were making themselves heard, *The Times* printed this appeal:

'Sir,—The official adoption by the German army in Belgium of the methods of barbarism has raised a sincere outcry of horror throughout the civilized world. The people of England as a whole have, I think, shown a praiseworthy absence of anything like lust for revenge, and will applaud Mr. Churchill's admirable plea that we should fight like gentlemen; but there is already evidence that in some quarters a clamour for reprisals may arise. From Russia comes the utterance, "God help them when we get into Berlin", and from a learned English historian the hope that "shrieking professors . . . will intercede in vain for their beloved Germans when the facts are published to the world".

If we are to make good our claim of fighting in defence of civilization against a militarism to which nothing is sacred, it is essential that the people and the press of England, of France and of Russia, should alike show stern self-control in the repression of any desire to "get even" with our adversaries by adopting their practices. It would be well if public expression could be given to this resolve on the part of the allied nations; it would be still better if their Governments would write instructions to their troops expressly forbidding acts of imitative vengeance, and so leave, in the smouldering and desecrated towns of Belgium, an isolated monument of the ethics of Prussian militarism.'

His postbag for the few days following the publication of this letter brought him an unusual number of comments, which would not be without value to the historian of the future, interested in accurate diagnosis of the state of England in those early months of strain and excitement. These comments fell into two classes ; those of sympathy and thanks for what the writers considered the courage of the letter, on the one hand ; on the other and larger side, letters of bitter scorn and abuse. Some writers told him he must have a ' foul mind ' to imagine English soldiers capable of imitating German atrocities ; others supposed that he was condoning these atrocities himself : many, with fine inconsequence, poured violent abuse on German doings, and immediately manifested a burning wish that our armies should act in like manner. In many of these vituperations the underlying force of fear, 'What if the Germans came here?' manifested itself.

My Father was at this time in feeble health and with failing eyesight, so that he liked to have his letters read by his bedside : it was not pleasant work to read such missives to him. But he was quite unperturbed, even sometimes amused by them, having been so long accustomed to work according to his own judgement and to let the world have its say. But he was not thick-skinned in this or any other matter—he was aloof. A deeply intellectual life must of necessity carve its own route, it does not walk on the common highway with merchandise or with pleasure. That he himself was very sensible of this aloofness—sometimes even painfully so, and in spite of the deep affection which he both gave and received—is evident in the following self-revealing passage written in old age and leading up to a general retrospect:

' In looking back upon life, I find myself touched by thoughts and emotions too deep for words : and the sense of mystery and wonder is not dispelled by long years of the experience of life and of the world. For the present I am speaking only on one point—one conclusion from my recollections. I have had much and abounding love from those dearest and nearest to me, and to them I am not now referring. I have besides had many friends—some very dear ones, and some of many years' standing, and I have had many acquaintances in various walks in life, and for the most part I have received kindness, even understanding kindness, from my fellow men : indeed, I have often felt that I have been rather over- than under-estimated by my fellows, and often I have used for myself those words of Wordsworth—

> " I've heard of hearts unkind, kind deeds
> With coldness still returning,
> Alas ! the gratitude of men
> Hath oftener left me mourning."

and I do not regard mankind as ungrateful or unkind. But in spite of all this, there is a sense of solitude—aloofness from my fellows, which has clung to me through life, and which in looking back has, I feel, coloured my intercourse with my fellow men as a whole. How few of those with whom I have associated have really understood me ! One may think of me as a lawyer, another as a botanist, and another as this or that, and how few feel one's real self. Mankind are, for the most part, too much occupied with themselves and their own affairs, to care to appreciate with any precision the intellectual and moral character of those with whom they come in contact : they assume your views and your position to be either their own or some other with which perhaps you have no sympathy ; and, above all, they scarcely ever allow for the possibility of your possessing independent ideas of your own, or any combination either of qualities or notions which are generally dissociated from one another.

I cannot but reckon it amongst the blessings of my old age, that some of the things which were the dreams, and the dreams only, of youth, have come to pass in old age. I have always longed for leisure for the pursuits which I love, and in old age I have had more such leisure than I deserve. In youth I had planned, but in vain, an expedition to Greece,[1] and in old age I was able to perform it, and that in society which made it all the more delightful. In youth I had longed for a residence in the University of Oxford, and in my old age both the University and many of its distinguished residents have been kind to me beyond what I could have expected—and I count amongst some of the happiest hours of social intercourse those with Oxford friends.

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[1] Among his early papers is a manuscript book entitled, 'Notes for a Journey in Greece, 1848', which is nothing less than a brief guide-book, with constant references to classical authors.

And when I look back over many years of a long life, how shall I gather together in one the pictures which my memory presents? Life has had its bitter sorrows, but it has had its enduring joys; and I still reckon that joy and not sorrow is the real essence of man's life. It has not been all vexation of spirit, it has not been all dust and ashes. That my ideals of goodness and usefulness in life, of knowledge and the advancement of knowledge, have not been realized as I would they had been, is only too true. And there are actions and states of feeling in my life, on which I can only look back with sorrow and regret: there are many, many things which, if I were to live my life over again with my present knowledge of life, I should do differently. But, in spite of all these things, I feel that I have had great enjoyment, great blessings in life, and I cannot believe that I have been left entirely without the Divine guidance. Things do not seem to me to have come by chance; rather I love to trace, as I believe, the guiding hand of my God: and now that I have come so near the end of my days, I feel that hope and not fear, faith and not dread, are the feelings with which my heart is filled for the future.

Thus, as I look back through the long vista, I cannot but be touched with a sense of God's great goodness—a goodness which has bestowed on me blessings to which I have no claim, and has saved me from ills which I have oftentimes forecast with fear. The early years of my life were beset with many fears, fears of sin, fears of loneliness and sadness, fears of poverty and want fears for myself and fears for those whom I love; and yet God has dealt tenderly with me, and bestowed on me more than I could desire.

Life has not been without its sadness and its sorrows: the illness and death of our dear little Alice comes back oftentimes on my mind and ever touches a very tender chord : often have we tried to picture her to our minds in her other state of being, and as years went by, thought of her as growing in stature and in wisdom under the nearer eye of God. I think that the intense longing for the bodily and spiritual welfare, for the happiness and joy of all my children has been through my middle and later life the most emphatic note of pathos in my mind. "As a father pities his children," are words that ever abide in my heart, and express one of its deepest and most constant feelings.'

When those wistful words were written my Father was vigorous for a man of his age, and it was not until he was well on in his ninetieth year that he was really incapacitated for some share of ordinary life. In the April of 1916 a sudden attack of illness gave his family great anxiety, and though he partially recovered he was from that time forward, for the remaining thirty months of his life, quite helpless physically, and if it was painful for those who loved him to see the utter dependence of one on whose strength they had leaned, they could measure in some degree what this child-like feebleness must have meant for himself : for in all the weariness and weakness of the body, and with some difficulty of speech, his mind still retained its old independence, and almost all its power. And yet to those of his own home, and to some who visited it, it seemed that never had he been more full of dignity than in these days. And very precious to them is the memory of those last months, his continual loving interest in the affairs of his family, his watchfulness over any weaker members, his unbroken calm, and the 'infinite patience'—to use a niece's words—of these months of daily and hourly weariness. Without these last months, shadowed as they were in the home and in the warring world, it seems to them that the last development of his character would have remained imperfect. His ever-active brain still occasionally dictated thoughts, or letters ; and for many hours every day he listened to reading by his wife or one of his daughters. But old books were now his preference, such as Lockhart's *Life of Scott*—to all the ten volumes of which he listened in the last winter of his life. His power of prolonged attention to reading was remarkable : he sometimes thought his pleasure in this was due to the practice he had had on the Bench, when all information reached him through the ear; and to the last he listened with care and attention, allowing no word to escape him, nor suffering himself to pass things half understood. 'Explain to me,' he would say with patient humility to the reader, if some sentence did not immediately convey its full meaning to him.

But the tender and sacred memories of those last months are largely of things too personal and intimate for the printed page, and on which his own vigorous sense of fitness would bid me be silent. It suffices if I have given some hint of courtesy, gentleness, and long-suffering manifested in a worn-out body and a mind that had lost the capacity for joy.

He followed the varying fortunes of the war with interest, and he longed to see peace. One of the saddest reflections pressed upon his mind was the vast extent to which the discoveries of modern science had added to the horrors of war: it seemed to him another example of the necessity of subordinating the intellectual to the moral education of mankind, and he greatly hoped that the future development of science might lean toward utility and mercy rather than destruction. When in December 1916 it had seemed possible that America might intervene as peacemaker, and the idea of this intervention was hotly resented in some quarters as a piece of interference, Sir Edward Fry wrote to the *Manchester Guardian* to point out that just such intervention had been contemplated by both Hague Conferences as a 'not unfriendly act'; and when, later on, the Pope appeared in the guise of a possible mediator, he was equally anxious that any terms suggested by him should have a fair hearing. But he was not to see the peace he longed for.

After a few days of extra weakness and weariness the end came with merciful swiftness and unconsciousness on October 18, 1918. It seemed to those who watched in the last half-hour that the calm dignity of his days was unbroken to the very end.

The funeral took place in the Failand churchyard, at that time a rough field of unconsecrated ground where he wished to be laid. The ceremony was of the simplest, but the church, which on ordinary occasions has but a scattered congregation, was crowded that afternoon by sympathetic neighbours, while in Bristol the half-mast flags marked the respect of her citizens. The following day a service was held in Lincoln's Inn Chapel in memory of two recently-departed Benchers, Sir Edward Fry and Sir Ralph Neville.

A stone of Pentelic marble in the Failand churchyard bears the inscription:

HERE LIES THE BODY OF

EDWARD · FRY · P.C · G.C.B·

LORD JUSTICE OF THE SUPREME COURT OF
APPEAL, PLENIPOTENTIARY TO THE PEACE
CONFERENCE AT THE HAGUE 1907
BORN 4 NOV. 1827 DIED 18 OCT. 1918

HE WAS A MAN OF NOBLE MIND
GRAVE VIRTUE AND HONEST FAITH
AN UNFAILING DEVOTION TO JUSTICE
GAVE WEIGHT TO HIS PUBLIC ACTS
AND HIS PATIENT LOVE OF KNOWLEDGE
ENRICHED THE PEACEFUL SECLUSION
OF HIS LIFE AT HOME

THE MEMORY OF THE JUST IS BLESSED

CHAPTER XVII

PERSONALIA

Of Sir Edward Fry's style as an author the extracts given in this book are evidence: they show the lucidity and terseness of his writing. He always preferred a concrete word, or form of a word, to one more abstract; and he did not shrink from repetition. He not only called a spade a spade, but would call it so again, for he held that if an idea was to be repeated its symbol should recur also. He hated pretentiousness, as the following may show:

'Every profession has a tendency towards a pedantry of its own, towards a preference of technical to popular language. The rule on which one should act in this matter I conceive to be this: that when the technical word has a more precise and exact meaning than the popular one, then it should be used freely and courageously. But when the popular and the technical expressions have an equal fullness and exactitude of meaning, there the popular language should be preferred. There may be reasons for it; but I never quite understand why in some people's mouths a bleeding is always a haemorrhage, a bruise a contusion, a gathering an abscess, and a cut an incised wound. I know that juries are often enough puzzled by language which might be more simple, without, I think, much injury to the precision required.'

Similarly, in his little paper on the use of 'Somerset' or 'Somersetshire', he protested against what seemed to him a pedantic insistence on the former on the ground that the latter was etymologically incorrect, and having traced the longer form back through many centuries, he concluded:

'The quotations, it will be observed, establish a long-continued usage of the inculpated word for more than eight centuries. They show its use by men of the county, and men unconnected with the county; by the literate and illiterate; by antiquaries, historians, and geographers. He must, I think, be an excessive stickler for antiquity who is scandalized by the novelty of a word used by the Domesday Commissioners of the Conqueror; he must be a purist or a pedant who is offended by a word used by such writers as Clarendon, Coleridge, Macaulay, and Froude.'

In his earlier years my Father wrote a great deal of verse: it need not be reproduced, but I may give two specimens of later writing—one a translation from Anacreon, and one suggested by an Egyptian legend, to show that he could handle metre with not less skill than most men:

THE GRASSHOPPER

Attributed to Anacreon

Greetings warm we bring to thee,
Grasshopper upon the tree,
Sipping drops of dew for wine,
Singing like a king divine.
Thine are all things thou canst see
In the grove or on the lea,
All the buds and all the flowers,
All the wealth of woodland bowers.
To the dwellers on the farm
Gifts thou givest, free from harm:
Honour to thee mortals bring,
Thou sweet prophet of the spring;
Favourite art thou of the nine,
Even Phoebus' love is thine,—
Thy shrill voice he gave to thee,
Grasshopper upon the tree.
Age to thee can come not near,
Thou canst never shed a tear;
Wise and full of song thou art,
Knows no pain thy bloodless heart;
Like a god thou livest free,
Grasshopper upon the tree.

Horus and Sekhet, so old legends tell,
Once sat in sorrow on their heavenly thrones,
And from their steadfast eyes great tear-drops fell,
And from their mighty breasts came mighty groans.

The briny shower descended thick and fast,
And rolled along the heaven's marble floor:
And through the blue ethereal region passed,
And paused on earth, for it could flow no more.

Paused on the earth, a wide unpeopled place,
And sank unseen amidst the burning sand,
When lo!—strange sight—up sprang a new-born race
And men and women peopled all the land.

Thus from the tears of gods arose mankind;
From tears is moulded every vital part,
Tears in the merriest eye a home can find,
And tears lie hid within the gladdest heart.

In his judgement of modern literature he was greatly influenced by his love of lucidity. This made Browning a sealed book to him, though he sometimes regretted his inability to read him, feeling that to others he was something of an inspiration.

For a somewhat similar reason he was intolerant of Ruskin, whose obliteration of the line between art and ethics seemed to him wilful confusion. He had his generation's love of Tennyson, and celebrated the advent of many recurring springs by reading or hearing the much-admired poem:

> 'Once more the Heavenly Power
> Makes all things new.'

Of Tennyson's *Life* he said that it was a book that no one could read without being the better for it.

Matthew Arnold's poetry was dear to him, and consonant with his inmost feelings were the lines entitled 'Morality', which contrast the freedom of Nature with the labourings of Morality, but attribute to the latter a heavenly birth. Longfellow's simplicity appealed to him, and when tired or weary he would ask to hear his poems, quoting the poet's own lines in request:

> 'Read from some humbler poet,
> Whose songs gushed from his heart.'

But of all short poems in modern English Blanco White's sonnet on Night was perhaps his favourite. It need scarcely be said how congenial to his mind were the works of Chaucer, Milton, and Wordsworth, for he had a wide knowledge of English literature, and some acquaintance with Anglo-Saxon.

He had a soft corner in his heart for Trollope, but he did not read many modern novels, and it may have been this very moderation which made him take a very vivacious interest in those he did read. He banned them on Sundays, and once in an attack of fever composed a Bull in Latin permitting the reading of them on that day. The books that he chose for reading aloud to us in the evenings—a habit which he maintained even in his busiest days—were largely travel, or history, English classics, or translations of Greek plays.

He had almost a countryman's love of sound and pithy sayings. 'Once new, always new,' was a comfortable aphorism of his when household goods had lost their shine. 'You must eat when you can, and not when you can't,' was the advice given at many untimely meals to young fellow travellers; and it was often backed by a quotation from some old man he had known, 'It 's not so much the time of day as when the stomach will take it'. He would sometimes turn a thought over until he could produce it in a succinct form agreeable to his mind, and his thoughts were in general so exactly expressed that it always seemed dangerous to quote him except in his own words. On the question of patronage he would say that it was a thing of no use, unless you could misuse it: and on the conduct of public business it was a maxim of his that you could not be expected to act more meanly in a public capacity than you would in a private one. Science he defined to himself as 'exact knowledge in matters in which exact knowledge is possible'; and on the uniformity of Nature he said, 'the uniform expectation of uniformity is part of the uniformity of Nature'.

More picturesquely his reflection on the upward growth of plants found expression in the words 'Life snubs gravity'; and when considering the potentialities of a vegetable cell, he declared that he 'adored the cell'. He had to the end schemes of books or papers he would like to write: one that he suggested was on the obstruction caused by great thinkers, e.g. Aristotle, Linnaeus, and Newton, to the advance of knowledge after their deaths by the very greatness of their names, and he used also to suggest that it might be well to have professors of ignorance instead of professors of knowledge, to remind us of the vast spaces which our intellect does not touch.

The aim of the preceding chapters has been to present my Father's thoughts, character, and undertakings as far as possible in his own words; but since self-portraiture, however searching, can never be complete, this last chapter will endeavour to portray him as others saw him. I begin by an extract from the press at the time of his death.

'The late Sir Edward Fry was the sternest and [most] uncompromising man deponent ever met' (says the 'Club Window Member' of the *Liverpool Post*). 'There was no softness in his temperament, and none in his hard, lean, long frame. He looked like Don Quixote, or an old-time fanatical Reformer. His decisions on the bench were just, but not tempered with mercy. His writings admitted no opinion but his own, and were framed in sharp, incisive, brief sentences. His career was distinguished, and all his honours were won by his ability.'

It is well to recognize that he appeared thus to some casual observers: not to all men, however. A former neighbour, the Rev. Charles Ramsden, at one time Rector of Chelvey, now of Loftus, Yorks., writes of Sir Edward Fry's 'large-hearted readiness to help and cheer any lonely and disheartened being who came his way. To me he stands as the most generous, inflexibly just, and shrewdest soul I have ever known, and his memory is very clear and bright, and will never fade for me. I was a very hopeless, disconsolate man at Chelvey: . . . I was in revolt. I had only one life, and it was slipping away in hateful repose. ——, who knew the state of affairs, told your father, who at once asked me to come up to lunch. . . . I shall never forget the kindly welcome he gave me, putting me, a stranger, immediately at my ease, and effacing in a moment the reluctance I felt, now that it had come to the point, of proffering any request, though my whole heart was in it, from one for whom I had from my knowledge of his reputation and character such infinite respect. . . . I saw at once that if he was a great man, as I knew he was, his greatness was of that simple elemental sort that left him as simple and downright as a child. I got the impression at once that behind all his intellectual greatness, and his keen shrewdness, and those searching eyes—I have never seen eyes so luminous, that looked you through and sized you up—was a very warm and affectionate heart, and a spirit of quiet goodness. A man with a sincere tale would have nothing to fear, I saw, from that sincere heart. I found myself at once, all awe laid aside, prattling like a three years' child, and telling him all the horror of those quiet uneventful years of unblissful idleness amidst the slumbering fields, and of eagerness to obtain a fuller sphere of work than a parish of one hundred souls provided. I shall never forget—I can hear the tone of his voice now—his quiet remark, "A hundred souls: that is no small charge". The quiet rebuke, if it was a rebuke, went home, and was as valuable a sermon as I have ever heard, and one that I shall never forget. I replied that I hoped I realized this ; . . . but still I felt that at my age it was at least up to me, and I should feel the same if I were happy, to be ready to take on more adequate work. "Well, what do you want me to do?" was the quiet question. "I hardly know," I replied. "—— has suggested that I ought to seek fuller work, and I agree, and he thought that perhaps you might be willing to help me to it by obtaining, if possible, a Lord Chancellor's living." "I don't know," he answered; "I am not very keen on doing these things, and have very rarely, I think only once, interfered in these matters. I shall have to think about it. You would not wish me to decide in one way or the other now." I replied that I certainly should not, . . . and that I did not desire any help unless he could give it *con amore*. With quiet humour, he replied, "You need have no difficulty about it: I shall not do anything unless I am fully convinced that it is the right thing to do". I sent him in due course, and without any delay, you may be sure, the testimonials, and very promptly received a reply that he felt great sympathy with me in the position in which I was placed, and that he had already written to the Lord Chancellor's secretary with a view to obtaining the kind of work I desired. It might, of course, be of no avail; and then he added words which, coming from him, have had the greatest effect upon my life. "You will remember that what a man is is often of far more importance than what he does." They were not intended as a rebuke, but the thought was infinitely helpful, and seemed to take one into the quiet places of inner peace, where I was sure he dwelt, far from noisy, restless activities, which amount to little because the emphasis is not laid on the inner spiritual life, which alone really counts. They were very valuable to me, and he knew they would be, because he saw, with that unerring vision which is the property alone of the unclouded heart of the simply good, where I was likely to go wrong. I cannot say that I have not gone wrong in that direction—nature is not easily expelled—but I am certain that I have not gone as far wrong as I should otherwise have done. Well, through his agency I came here, and with infinite joy, for I would have sooner owed my preferment to him than all the Bench of Bishops. His interest in me was an inspiration. . . . To be believed in by some people is the greatest stimulus one can know. I cannot express the infinite love and admiration I felt for him simply for being what he was. You could not come into contact with him without feeling that life was a great and lofty affair: all that was trivial and poor seemed to fade away. He made one think of life as a temple and not as a market-place where men trick and wrangle. I never came to your home but I went away cheered and refreshed. It was beautiful in its ordered peace, in its quiet gracious ways. I am simply stating the effect it had upon me, and without exaggeration. I must ask you to believe that.'

Mr. Ramsden writes with all the enthusiasm of a warm friendship, but I cannot but be grateful to him for this presentation of my Father, and for the penetration which so quickly pierced his austerity of manner and found the heart beneath. For I am quite sure that to many he did appear somewhat as in the earlier extract which is given in this chapter, though I think that, being himself in reality of a retiring and shy disposition, he had no conception that he was awe-inspiring to others.

'Oh, I expect Father frightened the artist,' said one of his children thoughtlessly when a portrait was voted something of a failure. He was deeply pained at the exclamation, and said in a moved voice, 'I don't know why you should say that'.

My Father was exactly of average height, and strongly and squarely built, with legs slightly bowed. His head was large and massive, his features strong and regular, with fine brow, rather large nose, and mobile lips. But the striking feature of his face was his eyes, which showed as light hazel at close range, but at a short distance were a penetrating dark grey blue, keen and luminous. His almost black hair turned grey so early that to his children he always had a certain look of age. In later years his large head covered with silvery hair gave him a look of great dignity. The judicial wig and gown suited his somewhat austere face well, and Dr. Kenny, of Downing College, writes that many years ago, after conducting his mother round the Law Courts, he asked her what struck her most, and she replied, 'The face of that Quaker judge'. His face and bearing must have been weighty even as a child, for once when as a small boy he went into the shop of a carpenter at Redland, who used to do odd jobs for his grandfather, he heard a man in the shop remark, 'That boy will be a bishop'. 'No,' replied the carpenter, 'he's of the other sort'—meaning he was of Quaker stock. As a young man, his appearance was rather rough and uncomely, and this was due in part at least to some inattention to dress and a curious taste in colours, from which he was happily rescued by his marriage.

He seems to have been aware himself that his manners at that time were not polished or easy, and that his temper was apt to be hasty, but self-knowledge and self-control did their work, and though the slumbering fires still broke out occasionally, this was mostly when rebuke was needed. In going over his papers I have often noted that when he wrote in his private letters that his patience was much tried in some matter—tedious arbitration and the like—those with whom he worked noted only his courtesy and forbearance. He did not suffer fools gladly, and could give sharp retorts to pretentiousness, but he had real pleasure in simple minds. In old age there was a winning gentleness and patience, along with a certain sadness in his demeanour.

His constitution was remarkably strong, and until his ninetieth year he probably never spent fourteen consecutive days in bed, but throughout all his middle life he suffered almost constantly from headaches—frequently severe. For many years it was only when he could escape to mountain air that he was conscious of complete freedom from this trouble, which constituted a real drawback to his pleasure in life, but of which he seldom spoke except in reply to direct inquiry.

In later life he suffered persistently from indigestion, which had at times a most depressing effect upon him but did not greatly curtail his activity. I think it must have been on account of his general good health that the memory of some childish illness, when he felt very ill indeed, remained with him, and also that he was so keenly interested in the effect of fever and of salicin upon his system during his only severe attack of influenza: as soon as he was well enough to make a note he recorded at some length the vivid visions of highly-coloured landscapes and faces which changed and shifted before him, and the music which he heard. All his life he was a good walker, and insisted, even in London, on getting exercise in this way. On journeys with his family he had a great preference for driving over railway travel, and many a day with a long transit by carriage has he planned for his wife and daughters. He was never agile, and had no aptitude for outdoor games of any kind; nor had he manual skill, though he could carve a fowl adroitly while discoursing on high matters; and his beautiful even script was rapidly produced—he had real pleasure in the actual business of quill-driving.

He was rather curiously inapt at mental recreation: his Quaker upbringing had banned all cards, and he had no head for chess: only in his later years he would enjoy evening after evening being beaten at Halma, with a rare win to hearten him. Out of doors he liked to spud the lawn, play bowls, gather flowers or mushrooms, pick up sticks, or hunt for mosses. Of social recreations, garden parties—by their simplicity—always appeared to him among the most agreeable.

In all his habits he was regular and punctual—he dreaded being late for any function as an act of discourtesy to others. In matters of food and drink he was always abstemious, and had disciplined himself severely in early life. He believed in the value of an occasional piece of needless self-denial to test self-control—' as a moral fillip ', as he expressed it. He greatly disliked any conversation about food, and it was not till after several years of married life that my Mother, for all her devotion to his well-being, discovered his great aversion from a certain dish. Only in the matter of fruit would he allow that the flavour might be mentioned : this, as a natural product, came under a different category from other food. In Hawthorne's *Transformation* a certain Italian wine is described as being of so exquisite a flavour that it was almost an intellectual pleasure to taste it, but he smiled at this passage when brought to his notice, as only a skilful excuse for indulgence in the pleasures of the palate.

To the outside world Sir Edward Fry was known as the active man of affairs ; but his family knew how deeply his real life centred in his home, and how largely in return he was its soul and centre. Some hints of this have been given throughout the book ; but I must add a few words here, to rectify an otherwise undue emphasis on his public work. It may be strange to begin by his sense of duty in this respect, but it was a very marked feature of his relation toward us. The duty of a man to do the best he could for the happiness of his wife and children, to educate the latter and to make due provision for their future, was so strong in him that he would speak with warm indignation of any one he knew who, after a comfortable life, died suddenly leaving his nearest dependents without support. He used to remark that the relation of grandparents was a very immoral one—because, in general, it carried with it no duties or responsibilities.

His married life had its anxieties, disappointments, and sorrows, but there is no doubt of its deep happiness, and I cannot believe that he would have done the work he did without it. My Mother's share of his life was so intimate that it is equally difficult for those who knew them to speak of it, or to think of them apart : it must suffice to say that their union was recognized by their friends as one as perfect as such can be, and that looking back over more than fifty years of married life my Father wrote : ' I cannot express the blessings which I have enjoyed, and the thankfulness which I feel to God for giving me such a companion along the journey of life.' His consideration and his forbearance were large factors in the household life.

For some of his children he was 'the theatre of their actions'; nothing serious could be undertaken without his advice, and nothing of importance or interest was complete till it had been communicated to him. Of his care of their early years and great attention to their education, of his tenderness and anxiety in sickness, of his yearning for their welfare, they, child-like, were hardly at that time aware, but as they grew to maturer age the joy of his friendship became for some of them the greatest thing in life. He followed with interest and sympathy many doings of absent members: writing to a daughter who was in a position of much anxiety and difficulty, he repeatedly expressed his appreciation of what she was doing and his sympathy with her. 'You know,' he wrote to her, 'without my saying it, how large a part of my happiness comes from the love of my dear children, and how near to my heart is all that affects their well-being.'

Doubtless young people of the present day would have considered his rule patriarchal, and, though he consciously put restraint upon himself, it is not to be supposed that a character of such weight and force was not at times an almost overwhelming element in the life of young people. Nor can I say that his sympathies covered all our activities, or that he had always the imagination to enter into the wants and aspirations of characters which differed in many elements from his own; or that he had the art of feigning a sympathy which he did not feel; so perhaps it was only those who came to him in trouble or distress who realized the depth of his almost reverent tenderness, and the balm of his comfort. Some outside his immediate family knew this also. 'I can never forget his kindness and tenderness to me when my Father died,' said a niece—who nevertheless had seen but little of him.

One of the few now living who knew my Father in his early manhood, his brother-in-law, Mr. J. B. Hodgkin, of Darlington, says: 'Those who only knew him by his stern rebuke of sin, his strong plea for righteousness, or his clear statement of the arguments on either side of a difficult controversy, might find it hard to recognize him as he entered into the pursuits of his own or other people's children. I can see him now, playing hide-and-seek, or allowing little ones to ride on his back as he went on all fours round the dining-room, sometimes perhaps creeping under the table so as to dispose of his rider in comical fashion, or yet again romping with them in the fields as they pretended to be frightened by imaginary wild beasts. Indeed, his love of children was no less a feature of his character than his love of nature.' I think it was a recognition of the deep simplicity of his character which drew many children to him, even when their elders thought him severe: they certainly often took to him with a freedom which was surprising, even when he made no effort to attract them. Here is a letter from him to his youngest daughter, then a child of five or six, about another child whom he met at the house of a brother judge, which seems to indicate a quickly established sympathy:

> 'There is a little boy here called Johnny—he pretends that I am a horse, and sometimes he rides on my foot like a moujik's child, and sometimes on my shoulder. He has a little garden of his own in which he grows mustard and cress, and he took me to see it and gave me some mustard. Yesterday he fell down in a lane and cut his knee, and he said he thought his horse would be very sorry to hear it.'

Of babies my Father used to say tolerantly, that he 'expected they would improve with keeping'. He used to dwell on the marvellous transition from babyhood to the charm, activity, and interest of an intelligent child of three.

Another characteristic, which would hardly have been suspected by those who knew him only in public or from previous pages of this book, was his sense of humour, rising occasionally to fun, but more generally felt as a pleasant warmth in his intercourse. Frivolity and cynicism, however clever, chilled him—though he may sometimes have indulged in a little private vein of the latter, as when he used to admit that for certain persons his affection was in inverse proportion to their nearness, or when he called a certain town, not small in its own estimation, the sixth city of the Philistines. He had sometimes a ready wit, too. But his sense of humour was perhaps only a part of that larger sense of proportion which dominated his life, and prevented him, for all his conscientiousness, from being conscience-ridden.

I think he would have attributed this sense of proportion largely to his study of Greek philosophy; at any rate he gave to his younger brother-in-law as a motto Aristotle's words, *ἀκρίβεια καθ' ὕλην ὑποκειμένην*, as a help in correcting a tendency to undue concentration on matters of small importance. 'It sounds very well, but it 's quite wrong,' he said, after hearing a sermon of which the drift was that if a thing was worth doing it was worth doing well: for he held there were many things which it was essential to do, but to whose doing it was out of reason to devote much care. And in the same spirit of due proportion he would help his daughters not to worry over trifles even if they had gone wrong. ‘It’s done now, my dear: you must leave it,’ he would say.

He cordially disliked barbed wire near lanes or public places, because, as he said, it was apt to inflict a punishment out of all proportion to the offence, to give a wound for what might be a mere accident: on the other hand, he made no objection to its use in places where the public had no right of approach. The instance is trivial, but shows the man.

This balance and sense of proportion issued in a wisdom which guided him in things great and small. His plans seldom miscarried, and events had a rare way of justifying his prognostications: there was a rightness about them which seemed as if they sprang from a more central point of view than most men attain.

The same qualities kept him from frittering his strength away in hopeless matters, and as, on the one hand, he would never undertake, nor lend his name to, anything in which he could not do his full share of work, so, on the other hand, having done his part, he was quite content to retire and leave the rest to others, and if the matter did not appeal to him on its own merits, but had been undertaken from a sense of duty, he would take little pains to follow it up. He had small sympathy with grandiose schemes for putting the world right, and had a great distrust of democracy, founded on his interpretation of history, but he was always willing carefully to devise modest schemes of practical reform. He so greatly enjoyed quiet study that he had no wish to interfere with either public or private affairs unless urgently called on to do so; and in private matters he used even to say that he was half glad when people who had asked his advice rejected it, as he then felt he had no responsibility for the result. But if he had no liking for interference he yet could, and on occasion did, exercise that rare, almost neglected, Christian duty of admonition,—I do not mean only to his children, whether in youth or mature age, but, when sure of his ground, and of the recipient’s grace to receive it, to others also.

Without the least egotism, my Father had great self-knowledge, for he had followed the workings of his own nature, mental and spiritual, with exact observation from his youth. He certainly knew himself better than he knew most other people, for while he understood from his own experience the conflict of strong emotions, it may be doubted if he realized the listlessness, the restlessness, the want of aim and interest, and the lack of balance and power, which constitute so much of the real difficulties of most men and women; and it need hardly be said that with anything morbid, sentimental, or effusive he had no sympathy whatever. A great simplicity of outline in his whole character made any finesse in life, morals, art, or even games, impossible to him. He had no histrionic art. This directness had guided his whole life, and made it difficult for him to enter into the position of others of weaker will or on whom more subtle influences had played. For instance, though he sympathized largely with the views of Broad Church clergymen, he had little sympathy with their position, holding that there was an initial flaw, which in a matter of such moment was bound to be of importance. Had he been challenged to say what such a man should have done, he would probably have said he had better have remained a layman, for my Father often expressed his belief that a man who desired to serve God and his neighbour might do so almost more efficiently by maintaining his principles in business or a profession than by entering the Church.

'Some men', says Mr. Clutton-Brock, 'are so conscious of the mechanical, the unliving in themselves, that they assert the personality, the life, in all men to be illusion.'[1] The exact opposite was the case with my Father: he was so conscious of will, of personality, and of life, that he expected of others the same intensity of conviction and volition that he felt in himself—and the same self-control.

Connected with this strong will under stern control, and this directness and simplicity of aim, was no doubt a certain want of play in his deportment, a stiffness, or austerity of manner. When he was not interested it was against his nature to feign it, and this may have passed sometimes as pride—a thing of which he was, I may almost say, *physically* incapable. He might have been a happier man had he had more self-complaisance, and been more ready to believe that other people valued and enjoyed his company. As a young man this want of belief in himself added to his anxieties: he never anticipated success, and was haunted by fears of failure and poverty—even in later life something of this diffidence remained with him. His humility and honesty made him never unwilling to own himself ignorant and to seek information. Only a few weeks before his death he asked a daughter to look out the word 'it' in the dictionary, as he desired to know how its usages were defined. This alert challenge of the most commonplace events or phrases was his through life. 'I have been trying to understand why the clouds do not fall,' he would announce: or he would remark that while he could join in the Thanksgiving for preservation, he could not in that for creation, because he did not know what non-creation was like and whether it might not be preferable.

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[1] In *What is the Kingdom of Heaven?*

His memory was remarkable, both for its extent and exactitude. It bore him far back into childhood, and it carried with remarkable ease for reference a copious load of facts of all kinds. It never seemed at fault, and on a disputed point, whether as to the exact limits of the English Channel, the geographical distribution of an animal, or the spelling of a word, reference to books constantly showed him to be in the right, sometimes against others who had made a more recent or special study of the subject, and it was a frequent surprise to people to find what stores of information he had on matters quite outside his beat. 'I began to tell him about Fishguard, as I was living there,' said a nephew after visiting him, 'but I soon found he knew much more about it than I did.' This exactitude of memory seemed less an intellectual gift than a moral quality with him, or at least deeply interwoven with his moral life, his love of truth and justice.

These qualities must surely be already apparent to any reader of this Memoir, nevertheless I may allow myself a few words on them. If the exactitude of his memory was as much moral as intellectual, his love of truth was as much intellectual as moral, as the following note among his papers shows:

Truth

'It is sometimes, very often, one's duty to speak the truth: sometimes and very rarely it is one's duty to lie. It is not always easy to draw the line between these duties: but one thing is clear, that it is never permissible to lie except when it is a duty, and that it is always one's duty to speak the truth unless the contrary duty be made out beyond doubt. The burden of proof is on the lie.

The duty of telling the truth is, I think, partly moral, partly intellectual. Men, even amongst the most untruthful nations, have a certain affinity for truth, without which life would be impossible; and the obligation to speak the truth rests, in part I think, upon this intellectual necessity. If I told a lie to save my wife and children from death, I should feel an intellectual regret.'

Perhaps it was his passion for justice that most impressed those who knew him, from men in public life down to an old village body who, though harbouring some grievance against him, exclaimed, 'But he do be a just man. I do say he do be a just man.' He maintained that justice was an unpopular virtue: it evoked no warmth of feeling like courage or mercy; and I fear he used to think that both the quality and true understanding of it were generally deficient in women. One small home incident will show what his feeling was. When Tom Hughes, author of *Tom Brown's School Days,* died, it was asserted in the papers that his sympathy with the labouring man was so strong that it overrode his impartiality as a Justice of the Peace, and that no employer opposed to a working man had a chance before him. This was mentioned by my Father to his family, and one of his young daughters remarked lightly, 'Well, at least that was a fault on the right side'. She has never forgotten the way he turned to her and said, with something like distress in his tone, 'If you can say that, my dear, I do not think you have any real understanding of the meaning of justice'. Justice was with him not a compromise, not the mere inversion of injustice, neither was it mercy, nor kindness, but the constant effort after an ideal in judgement and action, which would make even mercy and kindness superfluous because unwanted. Consequently the sermons which, as a judge on Circuit, it was sometimes his lot to hear on tempering justice with mercy and so forth, left him cold, as being beside the mark.

Some judicial qualities followed him into private life—or perhaps I should rather say it was the appearance of those inborn qualities which so greatly fitted him for a judge that it is difficult to think of his having ever contemplated any other profession than the law. His fairness was not put on and off with his wig. I have known him refuse to punish a dog at my request because, as he said, he had no evidence, and though this was not said seriously it was characteristic. He would often sit quiet while less wise heads were discussing a matter, and then put some pertinent question which probed so deeply that its relevance might not immediately appear. At the turn of the century the question of when it began was being debated with ardour: when he was appealed to, 'Have you considered', he asked, 'whether Time is discrete or continuous?' A more important instance is furnished by the Provost of Oriel, Mr. Phelps, who, together with my Father, was on one occasion at a meeting of the Governors of Charterhouse when a difficult matter was under discussion. An inaccurate report had been officially circulated that two boys, *A* and *B*, had obtained University scholarships, whereas the real winners were *X* and *Y*. What to do in these embarrassing circumstances was discussed at some length, my Father for a long while saying nothing. At length he rose quietly, and simply said, 'I can imagine no greater hardship for a young man than to start life with a sense of injustice'; after which the Provost declares there was no more to say, and *A* and *B* received scholarships as well as *X* and *Y*.

Another judicial habit of daily life was his power of suspending judgement, of keeping a really open mind on questions of the day until sufficient evidence was forthcoming for a decision. Much scientific writing seemed to him faulty for want of this mental suspension.

> 'Every wise man must often feel that there are matters on which he has not enough information to form a conclusion—matters in respect of which he ought to say to himself, "I do not know". And yet we are not unfrequently invited by scientific writers to accept some conclusion, not because it is proved, but because no better can be offered.'

He practised this suspension of judgement in small matters as in great, and sometimes in family life, when after a discussion some one appealed to him with the question, 'What do you think?' he would reply teasingly, 'I *don't* think'.

His clearness of vision and judicial habit of mind alike made any slurring of moral issues impossible to him: it made forgetfulness and forgiveness harder than they can be to those whose kindly good nature easily blurs distinctions. But I cannot too much insist that this distinctness of mental vision did not involve him in narrowness, or invade regions beyond its scope.

> 'If it would be interesting to trace the parts of human life which have been influenced by the spread of science, it would be not less interesting to notice the regions of thought and the branches of human knowledge which remain unaffected by this advance. For, after all, it is not the greatest things which admit of the most precise knowledge, and which are capable of being weighed or measured or seen through the microscope. Except to those whose mental vision is obscured by a too exclusive devotion to a certain class of investigations, the sense of beauty and sublimity, the emotions and affections of the human soul, the conception of duty, "the thoughts that wander through eternity", all these remain untouched and

untouchable by any advance in science, and we seem to learn that the greatest and not the least of things are those which admit of no exact knowledge.'

To most human beings, as to Abou Ben Adhem, the love of man is probably easier than the love of God: in some schemes the second great commandment even absorbs the first. Nor have the theologians been very insistent in telling us in what the love of God, apart from love of man, consists; but if, as we may suppose, the love of virtue for its own sake is at least a part of it, if 'God of these His attributes is made', and love of truth and justice are indeed love of Him, then one may say that in such a character as my Father's there is a somewhat rare example of the preference of the first commandment over the second.

I have perhaps drawn a preponderatingly moral portrait in this Memoir; no doubt this quality struck others vividly. 'Where principle was in issue Fry was adamant,' said an obituary notice in the *Manchester Guardian*; and Mr. St. Loe Strachey, whose views on many matters were opposed to his, wrote, 'I have always felt that if I had found myself taking a line against him on any moral question, I should, like Felix, have trembled'.

But ethics did not predominate unduly either in his general walk and conversation, which ranged habitually rather on matters of general interest or natural science, or in his theoretic view of life. He never attempted to focus it entirely on this one point, but held steadfastly that Knowledge and Beauty were equally ends in themselves and had underivative claims on man's allegiance.

In looking back in old age upon this long life my Father wrote that it presented itself in remembrance as it did in reality, as hedged round by mystery; and as I conclude this biography, with its long stretch of time and its wide range of activities and interests, my thoughts go back to one of the earliest of his memories, and I see him as a little child walking in his grandfather's garden and visited—he knew not whence—by a great sense of awe. In all his walk through life, that sense, I believe, was never far away from him: that recognition of awe, of mystery, and infinity which uplifted him in places where

'What we see
Is boundless, as we wish our souls to be'.

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APPENDICES

I

CHRONOLOGICAL TABLE OF EVENTS IN SIR EDWARD FRY'S LIFE

1827.	Born at Bristol.
1848.	Studied at University College, London.
1851.	Took B.A. degree.
1854.	Called to the Bar.
1859.	Married Mariabella Hodgkin.
1869.	Became Q.C.
1877.	Judge of High Court, Chancery Division.
1883.	Lord Justice of Appeal.
1892.	Treasurer of Lincoln's Inn. Retired from the Bench.
1897–8.	Presided over Royal Commission on Irish Land Acts.
1898.	Conciliator in South Wales Colliery Dispute.
1900.	Member of Permanent Court of Arbitration at The Hague. Chairman of Departmental Committee on Patent Laws.
1901.	Arbitrator in Grimsby Fishery Dispute.
1902.	Arbitrator between U.S.A. and Mexico in Pious Fund Case. Chairman of Court of Arbitration under Metropolis Water Act.
1904–5.	Legal Assessor to International Commission on North Sea Incident.
1906.	Chairman of University College, London, Transfer Commission. Chairman of Royal Commission on Trinity College, Dublin, and Dublin University.
1907.	Ambassador Extraordinary and First British Plenipotentiary to Second Hague Conference.
1908.	Arbitrator between London and North-Western Railway Company and Employees.
1909.	Arbitrator between France and Germany in Casa Blanca Dispute.
1918.	Died at Failand.

In addition to the offices, &c., mentioned in the Chronological Table, Sir Edward Fry, G.C.B., P.C., B.A., D.C.L., LL.D., F.R.S., F.S.A., F.L.S., was Fellow of the University of London; Fellow of British Academy; Honorary Fellow of Balliol College, Oxford; a Trustee of the Hunterian Museum, College of Surgeons; Member of Historical MSS. Commission; Bencher of Lincoln's Inn; J.P. for Long Ashton Division; Alderman and Chairman of Somerset Quarter Sessions.

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III

MEMORANDUM ON PROPOSED LIBRARY OF INTERNATIONAL LAW PRESENTED TO THE BENCHERS OF LINCOLN'S INN, 1909

International Law, both public and private, has, I think, occupied a much larger space in the attention of Lawyers of late years than before, and it appears probable that this interest in it will increase rather than diminish in the future.

Hitherto International Law in every country has been International Law as understood by that country; but now the practice of referring international disputes to arbitrators chosen from several nations, and the establishment of an International Prize Court, give reason to expect and to hope for the rise and gradual growth of a system of International Law which shall be common to all civilized nations. It is possible that this system, once introduced, may play an important part in the future, and constitute a very remarkable step in the history of Law and civilization. It thus becomes important that there should be a body of men capable of dealing with questions of this kind, and that they should be able to acquire adequate equipment to enable Great Britain to hold her own in the Councils of the World.

The fact that Great Britain has concurred in the project for the holding of another Peace Conference in the course of a few years, and the probability that in the future such conferences will be held from time to time, emphasizes the need of a full equipment in International Law.

Again, the numerous conferences which have been held of late years on subjects of Private International Law, and the Conventions which have thence resulted, are another illustration of the increasing importance of the subject.

Hence, it seems to be desirable, and I hope probable, that more members of the Bar will in the future take up International Law than has hitherto been the case, and that, both from a practical and literary point of view, it is probable that the Government of Great Britain, and even the Governments of her Colonies, will make increasing demands for men skilled in this branch of jurisprudence.

Another consideration which makes me desirous to see a Library of International Law established is the apprehension that in the society of nations, Great Britain, notwithstanding the presence amongst us of a few very distinguished writers, does not hold her own in the literature of the subject. On a particular point of International Law, which recently came before a Court of Arbitration at The Hague, abundant authorities were cited from France and Germany, but not a single one was produced, or, so far as I know, could have been produced, from Great Britain.

I am credibly informed that there does not exist in London any library of International Law of anything like a complete character.

Under these circumstances I conceived the wish that an adequate Library of International Law should be established in London, and my mind recurred to my Inn of Court and the old Hall of that Inn as the home for such a library, and I felt, that if Lincoln's Inn would found a really complete Library of International Law, it would confer a great benefit on the study of jurisprudence and indirectly on the nation. It is, I suppose, the proper function of an Inn of Court to provide the State with men educated and equipped in all those branches of law in which the State is interested.

If such a Library were established further steps might in time be taken; and by the institution of rewards for original work; by the foundation of a lectureship, if this could be established without prejudice to the chairs at the Universities; and by other means, Lincoln's Inn might become an important School of International Law.

These considerations induced me to call the attention of Lord Justice Kennedy to the subject, and I am gratified to find that his action in the matter has received the approval of the Committee appointed to consider the proposal.

EDWARD FRY.

July 2, 1909.

IV

THE STATE AS A PATIENT. AN ADDRESS TO THE SOCIAL AND POLITICAL EDUCATION LEAGUE, 1894[1]

. . . .

We know, on the indubitable authority of Lucian, that when Charon got away from his boat and his oar and came to the upper world, and, as good luck would have it, fell in with his friend Mercury, one of the things which he wanted to see was the great cities of which there was so much talk in the world below—Nineveh and Babylon and Mycenae and Cleonae, and especially Troy, which for ten years kept his ferry so busy that he never got time to clean up his boat. 'Nineveh, my good ferryman,' said Mercury, in reply, 'has already perished, and not a trace of it remains, and you cannot tell where it stood. That little place there is Babylon, once so celebrated for its towers and its size; but you will soon have to search for it as for Nineveh; and as for Mycenae and Cleonae, I should be ashamed to show them to you, and Troy still more so; for I am sure that when you get back to Hades you would chaff Homer to death for the bombast of his epic poetry. But, nevertheless, these cities were once flourishing and prosperous, but now they too are dead. For cities, good Mr. Ferryman, die like men, *ἀποθνήσκουσι γάρ, ὦ πορθμεῦ, καὶ πόλεις ὥσπερ ἄνθρωποι.*

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[1] Reprinted by permission of the Editor of the *Contemporary Review*.

That is a grave word which the scoffing Lucian has uttered—cities die like men. Will it ever come to pass that this mighty London, with her crash and her roar, will be silent as Persepolis and Susa; that no more souls will depart thence to load the boat of Charon; that her palaces will be buried in their own rubbish like the Birs Nimroud and Koyunjik; that antiquaries will discuss the question of her site, and learnedly puzzle over the relation of London to Westminster, or the position of Holborn and the Strand; that the soil of Cheapside and Lombard Street will fetch no more than the desert round the mounds of Babylon and Nineveh?

States, so far as we yet know them, are mortal beings, capable of long life or short life, but, so far as experience yet goes, they are mortal like men. We talk, it is true, of Rome as the Eternal City, and the long continuance of her existence under kings, under consuls, under emperors, under popes, is one of her characters that impress our imagination and make Rome what she is, in one sense, the mistress of the world. But how short is her eternity in point of time! and if from the city we turn to the State, of which she has been the home and the metropolis, then she is only the most striking illustration of the death of States. It is because the great State of Rome, the mightiest empire in some senses which the world has ever seen, has passed away and yet left behind it the physical city of Rome, that that city is so vastly impressive as the funeral monument and epitaph of the mightiest of States, ‘Mundus clamat: ruinae namque illius voces eius sunt’:

Politics I conceive to be the art of physic for the maladies of States; and whereas the physicians of our bodies act and prescribe under a sense of the mortality of their patients—of the possibility of lengthening their life by skill and of hastening their death by malpractice—the physicians of the maladies of the State seem to me too often to forget the mortal character of their patient, and to try the most random experiments, in the full belief that nothing can kill the sick man. Partly this is due to the cheerfulness of general ignorance, partly to the fact that the life of a State, even of a very sickly one, is long in proportion to the life of a single man. You never see a dead donkey, they say, because they live so long; you rarely see a dead State, because the life of the sickliest is long in comparison with that of the healthiest man; and therefore it seems lawful to treat with equal brutality the long-lived donkey and the long-lived State. In the ears of all these careless and cheerful physicians I should like to repeat loud and long the words of warning, *ἀποθνήσκουσι καὶ πόλεις ὥσπερ ἄνθρωποι.*

Gross negligence in a physician is criminal by our laws, and I suppose by all reasonable laws; it may amount to manslaughter and be punished accordingly. And the rules and practice of society impose real penalties even when the law does not. But what about the physicians of the State? about those who ignorantly and carelessly intermeddle in things too high for them and inflame the spots where irritation is getting set up, and aggravate the diseases to which this part and that part of the body politic is particularly liable; or who, ignorant of the constitution of the patient, yet prescribe for him? There has somehow grown up a strange indifference to this presumptuous sin; and whilst the sense of the sacredness of human life has been on the increase, the sense of the sacredness of the life of society has been on the decrease. Men see rebellion without detestation, and I fear that public opinion would nowadays be shocked at the execution of a man for an attempt on the life of the State.

Some years ago going, like everybody else, over the Doge's palace at Venice, I was shown the celebrated dungeons, close against the sea, in which the prisoners were confined ; the upper gallery, consisting of small cells, was dank and dark and bad enough ; the lower gallery was beneath the level of the water and was danker and more miserable still. The first set was reserved for offenders against the person or property of their fellow citizens ; the second was appropriated to those who had committed crimes against the State. I thought that the old republic had judged rightly.

It is strange to observe that whilst knowledge is universally admitted as a requisite for the physician of the natural body, it is thought by some to be a disqualification for the physician of the body corporate. It shows one to what a length prejudice and the desire to please the great and uneducated mass of mankind may lead even men of the highest culture to find that education, cultivation, knowledge—all that distinguishes the few from the many—should be held up to scorn as disqualifications for political power. But your society is, I conceive, established to counteract, so far as in you lies, any such mischievous doctrine, and therefore it is that it has my warm approval. You recognize the fact that political opinion, and therefore political action, is a thing of the greatest importance and of no small difficulty ; that opinion can rightly be formed only on the basis of history, of social science, and of political philosophy. You recognize the serious (I had almost said the solemn) nature of political action, and that opinion ought to be formed on other lines than those of the exigencies of party or the hopes or fears of some individual statesman.

I have spoken of the decay and the death of States. It might form an interesting subject of inquiry to consider the relative longevity of different forms of government. The kingdoms of Egypt and Persia, the empires of China and Byzantium, occur to me as some of the instances of the greatest longevity presented by the States of the World. I can recall no true democracy of any magnitude which has had more than the briefest span of existence. The petty States of Switzerland and the *bunds* which have gone to build up the Grisons may be able to trace their history back into the early Middle Ages, and they present still a prospect of continued life. But Pericles had scarcely carried to its farthest point the development of democracy in Athens when it fell before its aristocratical rival. Cyrene, which had flourished under royal and aristocratic rule, perished as a democracy ; and the Plebs had scarcely acquired a true equality with the Populus in Rome when the whole machinery of government collapsed, or was upborne only by centring all the offices of State in the hands of one man. The century since France declared herself a republic has been varied by fits of royalty and imperialism. And the great Republic of America, a republic in which the will of the people is controlled and checked by barriers of the most stringent kind, has as yet had a short life in comparison with that of some of the older monarchies. Perhaps Aristotle was right when he held that it is difficult to preserve long in life that true democracy which gives a share in the State to every citizen.

Historically, the democratic form of government is often the development of a State in its old age, and is the last of a long series of changes, and it may plausibly be suggested that old age is apt to be short lived.

It is certain that many of the movers in the earlier stages of the French Revolution, and I think also some of the so-called philosophical Radicals of England of fifty years ago, were misled in their enthusiasm for democratic change by a misapprehension of the lessons of history. They conceived of the republics of Greece and Rome as if they had been true democracies, and as if their glories were due to the purity of their structure. But in point of fact they were nothing of the kind. The working classes of Athens in the days of its extremest republicanism were slaves, and so far from being endowed with supreme political power they were not even trusted with personal liberty ; and in Rome the existence of the vast slave population, increasing apparently as Rome approached nearer and nearer to democracy for the free classes of its citizens, is a matter in every one's knowledge. These republics, then, were, as it were, democracies for the upper Ten Thousand ; but for the lower classes they were the rule of cruel masters. 'La cité', says the great student of ancient municipal life, 's'était constituée comme si ces classes n'eussent pas existé.' These States throw, therefore, no light on the great experiment of modern England, and perhaps of modern Europe. To constitute a State in which the supreme power shall be given to the lower orders, in which they shall be clothed with the power to tax and to spend the money raised by taxation, whilst the wealthy class alone shall pay these taxes, this is, so far as I know, an experiment in Statecraft which has never been tried with any other result than one—namely, the determination of the majority to live upon their right of voting. It may be doubted whether there is anything in history—nay more, whether there is anything in the nature of man—to justify the boundless hope and enthusiasm with which the experiment is regarded by many very influential persons.

If, passing away from the mere fact that States die, we proceed to consider the causes of their death, we shall have before us a field of very vast proportions; and in this connexion it has often occurred to me that the decline and fall of the Roman Empire is the precedent most likely to throw light on the dangers which beset our own empire. You will recollect that in the destruction of the middle class of society—the class which formed the mass of the citizens of the provincial towns of the empire—M. Guizot found the principal cause of the destruction of the empire; and later students of the same great problem have not found reason to doubt at least the great, if not the predominant, importance of this cause. That class was destroyed by the systematic fiscal oppression to which it was subjected. The vast demands of the Treasury for the defence of the empire, the ever-increasing extent of the boundaries of that empire, the necessity of appeasing the populace of Rome by perpetual largesses and food, by *panem et circenses*—these causes were perpetually increasing the demands of the empire on its subjects; and as regards the municipal and local expenditure, the notion of civic life, the desire to beautify the locality, the increasing demands made by opinion on the pockets of the wealthier townsfolk, all these things I suppose increased from generation to generation, and ultimately blotted out the class on whom the great burthen of imperial and municipal taxation fell.

Whether any warning is to be gathered from these facts for us of this generation, I leave to your better judgement.

I can fancy that then as now the duty of the State to provide this good thing and the other good thing for its subjects may have often been appealed to. Now, as regards expenditure of money by the State there is one distinction which it often appears to me is too little regarded. Has the State a balance of its own money in its hands independent of taxation, or has it from year to year to make up what would otherwise be a deficit by means of taxation ? If it have such a balance, then the demand that this thing or that thing shall be done by the State is only a suggestion that it is a useful object on which the State may expend its surplus moneys. But if the like demand is made where the money is raised by taxation, then the suggestion is that so much money shall be taken out of the pockets of the taxpayer to be expended for the benefit of some or all of the subjects of the State ; and when one class pays and another class is benefited by the expenditure, the State is only a veil interposed to give decency to the robbery of Peter for the payment of Paul. The word ' free ' is somehow thought peculiarly fit to express this process : a free breakfast table means a table where one man eats and another pays ; free education is where one man begets a child and another man pays for his schooling ; just as a freebooter means a man who is free to take money from one man's pocket and put it into another's. All the applications of the public money above mentioned may be necessary or justifiable, but it often appears to me that the real nature of the transaction is obscured to the popular view by the interposition of the conception of the State.

And not only is the State often spoken and thought of as if it were a being with a full pocket of its own : it is often supposed to have a soul, a character, faculties of its own, and that of so exalted a kind that almost anything may be hoped from an appeal to that soul or from the exercise of those faculties ; whereas, in fact, the State is only an association of men to attain the solution of certain questions of great importance and difficulty.

What is the problem—problem, I say, not theorem—which the State is formed for the solution of ? I conceive that it may be thus stated. How can we men, each of us with passions more or less base, each of us endowed with a conscience—but a conscience which is oftentimes too weak to restrain the worse parts of our natures—how can we form a society which shall tend to promote the better parts of our nature and to repress the worser elements within us ? How shall we form a machine to work for good out of elements each of which, when working alone, too often works for evil ? How shall man in society erect himself—to use the poet's words—above himself, above the average man, or even above the lowest man ? Will not the strength of society be like that of a chain, the strength of its weakest link ? The problem may well seem desperate, and in fact is never solved with more than moderate success ; but when it is solved with any success at all, it seems to establish a claim on every member of the society to protect that society from destruction or contempt. The problem is so difficult that a slight change in the arrangements of a successful society may well absolutely cripple and disable it. The organization of the physical body of man is wonderful and fearful. Not less is that of a body of men, united in a social compact, when that society really attains the high object for which it has been got together.

How difficult is the formation of any successful form of political society we may partly learn from the consideration of savage life. It is quite true that travellers and hasty students of these forms of life are apt to be deceived by the superficial aspects which they present, and to pass over undiscovered the slight traces of law or custom which exist and more or less modify the absolute savagery of their life. But allowing for this, it will be seen that a very large part of humanity—of men whose races are as old or older than those from which we are descended—have never been able to attain to true social or political life ; or even where some organization has arisen in the family or the village it has stopped there, and no step has been taken to enlarge the area of this organization or to widen the bounds of the society. Thus men have lived within sight and hearing of each other for untold generations and never reached the political condition.

What is the particular quality which has been present in the one case and absent in the other; what is the condition the presence or absence of which determines or prevents the onward progress of the race—the step from family to tribe, from tribe to State—I know not. Perhaps, as suggested by a great French scholar, it is a narrow and stunted conception of the Divine Being; perhaps it is some want of brotherly love, some excessive strength of the fetters of habit or of prejudice. But whatever it be, we may, I think, safely conclude that it is something not in the external surroundings of the race, but something in the unseen nature of the man. For as regards society, like human things in general, the seen and outward is regulated and governed by the unseen.

To the death of States I have already alluded; but even where States do not die, but continue to live, there are continually here and there evidences of the strong disintegrating forces which are always at work. Appeals to physical force by the members of an organized society, the injuries of one man upon the person or the property of another, all these things are attempts of the constituent atoms of society to set themselves free from the laws of the organization and to revert to conditions of raw material. They are like the attacks in the physical body of the chemical forces on the matter subjected to the higher forces of life; they are cases of incipient mortification.

And when that which seeks disintegration and a return to the lower form of existence is not a single atom, a single man, but a whole group of atoms, a whole class of men, then the disease is assuming a yet more dangerous form, and the duty of the physician of the State becomes at once more urgent and more anxious, and unless speedy remedy be found, the whole State is in peril.

Again, if we consider the raw materials out of which society is made, it is perhaps wonderful that its high aim is even imperfectly attained. For as the State is built up of men, it can only reproduce in gross what man as an individual displays in the small; and no theory of the State, or of its duties, or its power, can ever be verified in practice which attributes to the State anything beyond the elements out of which it is built.

The society may give prominence to the better parts of man—nay, it can hardly continue to subsist unless it do so—it may reach, but it can never get beyond the highest development of human nature, any more than we can get beyond the solid earth on which we live; and all sober men should bear this in mind, and not form dreams of a State in which men are thought of as angels. I know how commonplace and trite these observations must seem; but, nevertheless, they appear to me worthy of notice in an age when the wildest Utopias, the vainest dreams of a heaven upon earth, are leading many men away from the paths in which they can tread usefully to try to fit on wings to fly in the pathless air in which they can never float.

You recollect the proposition of a philosopher, which expressed the limits of the human intellect: 'Nihil est in intellectu quod non fuerit in sensu.' May I paraphase this to express my thought about political society, and say, 'Nihil est in civitate quod non fuerit in cive'. But as the first maxim was justly amended by a second philosopher by the addition of the clause 'Nisi ipse intellectus', so my sentence must also stand amended by a concession, and it must run 'Nihil est in civitate quod non fuerit in cive nisi ipsa civitas'.

A naked, bisexual biped, with an omnivorous stomach, is the essential element out of which society is built up. But then this biped is something more. He is a being endowed with a conscience—with that mysterious gift, a sense of duty—with 'large discourse of reason, looking before and after'—nay, more, haunted (I had almost said troubled) with 'thoughts that wander through eternity'; and therein lies the possibility of the formation of a political society; for the State, like every other thing in the world that is worthy of admiration, is, as I have said, an outcome from the invisible into the visible world.

Of this human being one of the very deepest facts is his consciousness of individuality—of his personal identity. He knows that he is—that he is separate from all others; that in some senses he is more to himself than any other being can be; that with this awful sense of individuality not the nearest or dearest friend can intermeddle. It has been said by one writer: 'The great vision of our single proper solitary being . . . overshadows our spirits. We have each one this burthen of a separate soul and we must bear it.' And by another writer:

> 'Yes, in the sea of Life enisled,
> With echoing straits between us thrown,
> Dotting the shoreless watery wild,
> We mortal millions live *alone.*'

Now any society which attempts by the exaggerated force which it attributes to the State—by any scheme of collectivism, or socialism, or any other ism—to run counter to this primary fact of the individuality of man attempts, as it appears to me, an impossibility. In one sense, of course, every State subsists, and subsists only, by abstracting something from individual liberty. But as individualism, modified and controlled by the social instincts, produces the highest single man, so a political society in its highest development must rest upon individualism modified by those instincts which might be called socialistic. The social instincts play upon and influence the individual; personal identity is assumed in the conception of the influences of one man upon another; it is prior, therefore, alike in thought and in nature to these influences, and any scheme of society which puts socialism first and individualism second transgresses the nature of the citizen.

The earliest modification of self-love, the first gleam of altruism (to use a now familiar if odious word), arose, one may suspect, from love between the sexes, and, consequent upon that, the love of parent for child; and however much in its earlier forms this relation of man and woman may have been smirched by sensuality and sullied by selfishness, it nevertheless contained in it the germs of some of the noblest and most unselfish developments of human character. It has often appeared to me that nothing is more indicative of the spirituality of the system of the universe, as judged by the end and aim towards which it tends, than the fact of sexuality. In its earliest forms it is a simple physiological fact. But nevertheless it dominates in one mode or another the whole realm of vegetable and animal life. It gives beauty and splendour to the flower, it gives song to the birds, it gives the joys of society to almost all the animal world; in man it becomes not only the foundation of all of our romance and much of our poetry, but the abiding source of the noblest and most self-denying devotion ; and in it St. Paul can find his least inadequate metaphor to express the love and care of the Divine Being for His people upon earth. This great and dominant fact of human nature some modern reformers would wish to neglect or to degrade, and they would subordinate the family life to the life of the State. All schemes to relieve woman from ‘ that dependence on the *individual* man which has been her fate in the past ’, all plans for a ‘ national insurance against motherhood ’, all schemes for nurseries and *crèches* to relieve mothers from the care of their infants, strike me as infringing the sexual and parental relations in their most elevated condition, and as tending to recall us to them in their lowest and most brutal form. They may be taken as illustrations of that species of political philosophy which seeks to perpetuate the raw materials of society in their lowest form ; which takes man on his animal side only, and leaves out all that should be used to curb and correct those elements ; which adopts the natural and not the spiritual man as its type and model.

One of the most manifest limitations on human activity is imposed by space. No man can act at a distance as effectually as he can near at hand. Perhaps we may roughly say that man’s influence on man diminishes as the square of the distance. (Parenthetically let me confess that there are some excellent but tiresome people for whom my affection increases directly as the square of the distance.) This limitation of human activity is the foundation—it is the justification of patriotism as opposed to a universally diffused benevolence, and the apology for the limitations of our political societies. It is not because the men of London are more worthy of my regard than the men of Pekin that I am more interested in the one than the other ; it is because the one set are nearer to me than the other, and because they can therefore influence me more and I can influence them more. A benevolence so diffusive that it wishes to act alike upon those who are far off and those who are near is lost in the space which it attempts to traverse. For practical efficiency we must narrow the bounds at once of our affections and of our activity, and to give the best of these to our family, the next to our neighbours, the next to our country, and last to the world at large, is open to no just rebuke ; it is only to act on the principle of the utilization of energy. Some of the efforts of good people in this country for the benefit of distant foreigners seem to me very much like using up good lamp-oil in London for the purpose of lighting rooms in Pekin.

One of the most important duties of the individual man is the careful study of himself—of his inclinations, his tendencies, his temptations, his easily besetting vices. But if he pause there—and still more if he accept the tendencies of his nature, so ascertained, as indications of what he ought to be and ought to do—it is, I think, abundantly evident that he will go wrong. He will act very much as a physician would if after observing all the symptoms of disease he were to use his observation merely for the sake of intensifying these symptoms and fostering the disease of which they are the evidence. Now, strangely enough, it often seems to me this is exactly what is done by our political physicians. ‘ The scientific attitude ’ of which we sometimes hear in politics consists in the accurate and reverential observation of the tendencies of thought, the shiftings of opinion of the mass of our fellow countrymen. A certain kind of democrat accepts the voice, even the transient uncertain voice, of the masses as if it were the absolute criterion of truth, and as though the whole duty of the statesman consisted in giving effect to the truth thus ascertained. It is too often forgotten that just as in the individual many tendencies of his nature ought to be known only to be corrected and governed by nobler considerations, so in the State the wishes of the majority ought often to be studied and ascertained only that they may be corrected, that the errors on which they repose may be confuted, and that their influence upon the action of the nation may be overborne. The lower man (the natural man in the theological usage of the word) of the individual reappears in larger proportions upon the larger canvas of the State and requires to be subdued by the spiritual man upon the like magnified scale.

And now I will bring to an end these, I fear, somewhat incoherent observations. If I have seemed to dwell too much on the dangers of political society in the present day, you will not forget that I am treating you as the physicians, whose business is to cure the diseases in the body politic, nor that a knowledge of pathology and morbid anatomy is essential to the learned physician, though it may not be the most cheerful or inspiring part of his learning. But if my tone shall have seemed to any of you to be too gloomy, let me assure you that, whilst I am not unconscious of the dangers which beset the State, I yet do not despair of the republic ; and to you in your invaluable work of endeavouring to promote amongst your fellow citizens the spread of true learning and sober thought, I would say most emphatically ' Nil desperandum, auspice Deo '.

V

NOTES ON A VISIT TO LEUCASPIDE

I give one specimen of Sir Edward Fry's travel notes, as they refer to a little-known side of Italian life. In 1897 he and his wife and one of his daughters had the great pleasure of spending a few days with Mr. and Mrs. Charles Lacaita at their home in Leucaspide—their host being a son of the well-known Neapolitan patriot.

' After our visit to Sicily in 1897 we returned to Naples, and thence went through some very interesting mountain country on a visit to Mr. and Mrs. Lacaita, at their *masseria* of Leucaspide, a few miles from Taranto—Leucaspide is so named, it is said, from the white shields of some of the followers of Pyrrhus—and found ourselves in a comparatively unvisited part of the country. The view from the roof of their house was very striking : to the south the town of Taranto and the sea—to the south-west the long line of the mountains of the Basilicata, covered with snow, and all around the level plateaux rising one above the other, covered with the giant olives of great antiquity, and intersected by dry gorges like the Cheddar cliffs on a smaller scale, which are known as *gravine* : here and there amongst these forests of olive stand out the white walls of the mansion of the padrone or of some village. I was much interested in the method of agriculture pursued at Leucaspide, and Mr. Lacaita was exceedingly kind in explaining to me the management of things—so different not only from the English farming, but from the small farming of France, or the metayer system of the north of Italy and in part of Sicily.

The *masseria*, which from a distance looks like a great white palace, includes what in England would be not only the squire's mansion and the home farm house, but the stables, the barns, the granary, the labourers' cottages, and the barton.

It is by no means easy farming in this part of Italy. In the first place there is an entire absence of summer rains, which renders the growth of maize impossible and results in a great want of manure. Another difficulty arises from the thinness of the soil, in many parts the barest sprinkling, above the hard limestone rock, which is constantly showing through the thin layer of vegetation: cross-walls and the growth of bushes and underwood assist it to accumulate in places, and as you descend towards the sea the soil appears deeper and richer.

The principal products are (1) olives, with an indefinite mass of which the whole landscape as seen from Leucaspide seems filled; (2) cheese and *ricotta* (the kind of curd so common in Italy), made exclusively from sheep's milk; (3) horned cattle; and (4) "grano duro", a hard species of wheat from which the macaroni is made. You cannot make it out of our wheat—hence we always have to import it.

The olives are very slow of growth: they are grafted on the wild olives or oleasters, of which there is an abundance about Leucaspide, and which are carefully protected by allowing the underwood to grow around them. In consequence of the want of moisture the olive trees require more space than in many other parts of Italy; they require to have the earth around them left free, and they demand also a three years' course of cultivation—in one year a severe, most cruel-looking, pruning: this process is called "la spurga". This is a matter requiring much skill, and in the large olive plantations, of many thousand trees, occupying much time. The oleaster stock undergoes a curious change in the character of its bark, &c., after the tame olive shoot is grafted on to it.

The treatment of the flocks is quite different from our

English: we look to mutton and wool, they to milk and cheese and wool: the consequence is that mutton is almost unknown—except in the shocking form of "castrato", which every one who has been at Rome knows too well.

The home estate is worked by a large staff: (1) the *fattore* or bailiff, who is over all; then (2) the *massaro*, who is responsible for the horses and cattle; (3) the head shepherd, who attends to the cheese and *ricotta* making; then (4) a forester, who, being appointed a *guardiano*, i.e. what we should call a county policeman, has some of the power of a peace officer, and who looks after the open country and also the holdings of the tenants; then a body of men, the *gualani*, i.e. villains who are hired by the year—like the hinds in Northumberland. They live all together in the stable of the *masseria*—having all their meals in common in a great room off the stables: each one goes home for every other Sunday to wash himself, &c. They have allowances of beans and flour and oil, and certain other perquisites. The shepherd boys are furnished with two bags, which they carry on a belt—one filled in the morning with unshelled beans, the other gradually filled by the boy with the shelled beans as he takes off their skins with his knife: this he does all day as he watches the sheep. The *massara*—the wife of the *massaro*—cooks these beans every day for the men. These *gualani* are a very hard-working set of men, and do the ordinary work about the place.

When the olive crop is ripe, men, women, and children come from one or two of the towns near and help—being accommodated in rooms prepared for them, and having allowances of food, from which they save largely to carry home for the winter. They work a good deal like our hop-pickers.

The part of the estate which is not in hand is let on leases: generally, I think, for six years, which means two prunings of the olive trees. The rent is calculated on the number of olive trees on the holding. The landlord provides the farm stock and plant, and consequently has nothing to distrain on. Hence has grown up an elaborate system of suretyship, and the landlord looks to the solvency of the farmer and his sureties. Then these sureties require, as I gather, a counter-security from the farmer, and so an elaborate tissue of *fidei-iussores*—of whom there is much in the Roman law-books.

The renewing of these leases, the keeping of the tenants up to the proper cultivation and pruning of the olives, the settlement of questions between incoming and outgoing tenants when the properties change hands, all this creates a good deal of business for the *padrone* as well as the *fattore*.

It seemed to me impossible to gauge the wages or ascertain the exact position of the "gualani". They are, I think, neither underfed nor miserable: they suffer a great deal from malaria, due especially to their exposure to the early morning air on empty stomachs—an evil which the good *padrone* strives to lessen. I have mentioned that the men are fed on beans: there are additional allowances, but of so complicated a kind that Professor Villari, who tried to get to the bottom of the matter, seems to have given up his efforts in something like despair: one is an allowance of so much seed-corn, and somehow this is often carried on from year to year—the "gualano", I think, who leaves his seed-corn one year in the hands of the *fattore*, getting the estimated produce of it next year; but of the particulars of the custom I am not sure. The beds of the "gualani" in the great farm stable were nothing but boards with a rug, and the mode of life (though, I have no doubt, better at Leucaspide than on most estates) would displease one of the North Country hinds, or even a Somerset labourer. I have said that the men worked hard. The cheese-making usually begins at 2 a.m., and the head shepherd had the ricotto in Taranto in time for the early market at, I think, between five and six. One incident of my visit may be worth recording. Mr. Lacaita was showing me over the large dairy, with its stores of milk-cheeses, and called my attention to a small curd cheese on a low stool near the door, and explained to me that though the dairy people would explain it as placed there to invite the mice and so save the other eatables, it was really an offering to the gods or spirits of the locality.

Lacaita, who by inheritance as well as education and character is of course a friend of liberal institutions, nevertheless gave a sad account of the condition of the country under the present Government. The taxation of the peasant was heavier than under the Bourbon rule, and the administration of justice still very imperfect, so that he doubted on the whole whether the peasantry are really any better off than before. Early in 1904 (I think) I had again a conversation with Lacaita (in London) on this subject, and he said he thought that the peasantry were still worse off than when I was at Leucaspide. The protectionist policy of the Government, if it had benefited the manufacturers of North Italy, had cruelly injured the peasantry of the south.'

VI

PORTRAITS OF HIS FRIENDS

The following descriptions of his friends were written at various times, for inclusion in Memoirs: they throw so much light, by reflection, on the character of the writer that it seems worth while to present them here, though nearly all the matter included in this appendix has already appeared in print. My thanks are due to the publishers whose names are given at the end of each extract.

Bishop Steere

Missionary Bishop in Central Africa

'It was in the year 1849, or 1850, that I first made the acquaintance of the late Bishop Steere, an acquaintance which before long ripened into a friendship that was only interrupted by his death.

When I first knew him, he had taken the degree of B.A. at the London University, and was studying for the Bar, chiefly, I believe, under the direction of his father.

In every friendship, as Aristotle says, there must be some things ὧν ἕνεκα ἐφίλουν: in our case the pursuit of metaphysical truth, especially perhaps on its religious and moral sides, was the keystone of our friendship.

Upon so much we were agreed. But our points of view, especially on religious matters, were not identical.

He was a decided High Churchman. I had been born and bred in Quakerism: and though not holding to all its doctrines or practices, I had a strong Quaker bent in me. He leaned more on authority, and the voice of the Church as the utterance of a collective conscience: I more on the private reason, and the individual soul.

In our mode of arguing on any given theme I recollect a difference too, which was the subject of discussion between us. He was inclined to gather together all arguments which he thought might lead any one to believe in a conclusion that he held to be true: I inclined to reject all such arguments as did not convince my own individual reason.

We differed therefore in many things, but I cannot remember that any harsh or unkind word ever came from him, and I am sure that the diversity of our sentiments never interfered with our friendship. I recollect that he maintained (whether rightly or wrongly I do not inquire) that the University College, London, was a good school for theologians, because it did not teach theology, but left the mind trained for inquiry, whilst unbiassed as to results. Again, I remember that he always maintained that in Church matters there were two views, and two only—the sacramental and the non-sacramental; and that the one logically resulted in High Church, the other in Quakerism.

Our friendship, which began, I believe, at the Debating Society of the College, was continued at many discussions over the breakfast table, or late into the night, on fate, free-will, and the other questions about which young men, on whose minds are dawning the infinite problems of life, debate, and must debate if they are ever to arrive at a working metaphysic for the rest of their lives. And there was a frequent interchange between us of such papers as we wrote, and a frequent correspondence, both then and in after years. After one long talk with Steere, I find myself adopting words from the *Protagoras* as expressive of the way in which I used him: *Μοῦνος δ' εἴπερ τε νοήσῃ, αὐτίκα περιιὼν ζητεῖ ὅτῳ ἐπιδείξηται καὶ μεθ' ὅτου βεβαιώσηται, ἕως ἂν ἐντύχῃ.*[1]

My recollections of his speeches at the Debating Society is that they were racy, humorous, with no efforts at oratory, and that he rather liked to reduce his opponent to an absurdity than affirmatively to support his own views. I think W. C. Roscoe, who wrote some good poems, was president when I first joined; then Walter Bagehot used to come, and was very striking with his great eyes and epigrams; Alfred Wills, now my colleague, came a good deal, and the Fowlers, one of whom sat afterwards for the Borough of Cambridge, and the other is still member for the City of London.

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[1] *Protagoras*, Steph. p. 348: 'But if a man "sees a thing" when he is alone, he goes about straightway, seeking until he finds some one to whom he may show his discoveries, and who may confirm him in them.'—Jowett's Translation.

Steere did not dislike the law; on the contrary, I believe that he liked it very well, though it was less congenial to him than philosophy, theology, or physiology. Had he continued at the Bar, he would, I believe, have had a great chance of eminence. He took at the University the gold medal for the Degree of LL.D., a safe evidence of considerable legal acquirement; he had great good sense, a quick ready grasp of things, a power of speaking clearly and forcibly, and without any tendency to rhetoric; a strong sense of humour; and above all, his mind naturally ran along the diagonal between reason and authority, a highway very much frequented by the legal intellect. If he had not chosen to take Orders, he might, to use the recent language of a distinguished writer, have ended ignominiously in large practice at the Bar.

He always considered that his legal training was of much value to him in after life. During an evening which he spent at my house in June, 1882, just before his final return to Africa, whilst talking of the mischief done by missionaries assuming jurisdiction over native races, he expressed his opinion that the justice of the chiefs was generally far better than that of the missionaries, unless of course—with a merry twinkle of the eye—" they had been called to the Bar ".

Steere had a more or less accurate knowledge of many languages, and he had a ready power of acquiring this kind of knowledge, a power which largely contributed to his usefulness in Africa. I believe that he read with more or less ease Greek, Latin, French, German, Italian, and Spanish, and that he had some acquaintance with Chinese. His knowledge of literature was very considerable, especially in the favourite regions of theology and philosophy.

But, somehow, he never seemed to me to possess the distinctly literary habits of mind. He thought more of the substance and less of the form than the literary student does; and he had in all he did (so it seemed to me) a certain want of finish or polish, which arose from his carelessness as to form.

He rarely used the accents in writing Greek, and he was careless, beyond most men, of his stops and capitals in writing English.

That his religion was true, and was the deepest feeling and the strongest motive of his life, all that life shows. It was a religion of a masculine type: it never made him soft or sentimental; it never closed his shrewd eyes to the character, or the conduct of those with whom he was working; it never induced him to use enthusiastic or excessive language; it did not conceal from you his strong native humour, which gave a peculiar flavour to even his serious conversation; it scarcely hid a tendency, which would have been cynical, had it not been made Christian. I expect that a casual observer would have thought him slightly dry and hard, and caustic, and would have failed to appreciate how warm and true was his heart. But with those he knew well he was a very delightful companion, cheery, simple, with at times a very arch interrogative smile, and at others a very hearty laugh.

We greatly enjoyed a few days he spent under our roof during his visit to England in 1877, and his last visit, just before he sailed for the last time to Zanzibar, has left a most pleasant recollection behind it. He seemed in good spirits, and was full of anecdote and fun, and I little thought when I said good-bye to him that we should meet no more on earth.'

(See *Memoir of Edward Steere, D.D., LL.D.*, by Rev. R. M. Heanley, pp. 5–9. George Bell & Sons.)

Sir James Paget

My Father had equal affection and admiration for Sir James Paget; the following extract from his autobiography and a contribution which he made to the published life of his friend shows on what a level the friendship stood.

'Sir James Paget was a man of whom I saw a great deal for some years, especially in connexion with the University of London. We had met him and Lady Paget from time to time in society, first I think at the table of Professor Flower, where I recollect we had a very interesting talk on some matters of physiology—and also at Lord Coleridge's. Then Lady Paget called on us at Highgate and a friendship began of which the memory is very pleasant. For some years whilst the Senate of the University was occupied in discussion on the reorganization of the University I saw Sir James Paget very frequently. Often a note arrived asking me to appoint a time to see him on some point, and I as often called on him in Harewood Place on my way to the Courts. He was a most neat and methodical man in mind and in action. But he was far more than that ; he was a man of high calm intellect, great moral character, with a deep sense of religion. He was master of a very refined and beautiful style both in writing and speaking, in which he was excelled by few of his contemporaries : and he had attained the position, I might almost say, of the recognized head of the medical profession in London and in Great Britain. His treatment of biological subjects always struck me as very philosophical, and that impression has been greatly confirmed by reading his memoir composed by his son Stephen Paget since his father's death. Sir James Paget always treated me with such kindness and consideration as to make me feel that the mere transaction of business with him was a pleasure.'

The following characterization appeared in the life of Sir James Paget:

'No one could see so much of Sir James Paget as I did for several years and not be struck with several things in him. First perhaps I should put the gentleness and kindliness of his nature. To do the kind thing seemed to come to him by natural suggestion—not as the result of thought or of a sense of duty. I used sometimes to think that he had this virtue to a fault—that he was too willing to accept any excuse put forward by some examiner who appealed about some irregularity in the proceedings in an examination—too unwilling to close a discussion over which he was presiding lest he should pain some one by cutting him short. I am not sure that I should have trusted Sir James to preside over a Criminal Court. But be that as it may, this gentle and kindly nature was always, as it seemed to me, sweetening his walk amongst men, and it found its natural expression in the courtesy which, mingled with an innate dignity, characterized his manners.

Another thing which was very apparent in Sir James Paget was the openness of his mind and the care with which he studied and thought out any point which came before him. I do not think that he was remarkable for quickness in grasping an idea, or following the shifting points in a discussion; but he had a calm patience about everything, not disturbed by hurry or noise, which enabled him always to be fully master of a matter before he left it: and he was sure to exercise upon it an unbiassed judgement. For the openness and impartiality of his mind were constant, and were a very fair instance of the best scientific ἦθος. When I speak of his openness of mind, I would not be understood as suggesting that all questions were for him open to discussion. No man could have lived and thought so much as he had done when I first knew him without having many matters settled at least for him; and on the great problems of life Sir James had very settled judgements, and it was impossible to see him much and not feel that a reverent sense of dependence on God, and of our obligations towards Him, was a constant motive in his life.

There was one question which we not unfrequently discussed, and on which we were inclined to differ. I felt and feel very strongly the evils of competitive examinations, especially when carried to the extent they now are. He was inclined to dwell on their advantages, and he put a higher value than I did on the mental exercise involved in getting up a great mass of information and reproducing it in a lucid form: and he pointed to the barrister, with his brief, and his speech next morning, as illustrative of the value of the operation. I need not trouble you with telling you how I used to parry this thrust.

I recall to mind a conversation with him, which impressed me much, on the subject of death. He expressed the opinion that death as a natural act is probably not unaccompanied with the kind of sense of ease or satisfaction which generally accompanies such acts: and he said that he had never known (I think he spoke without making any exception) any one who was really afraid of death when it came near.

He was a thorough Englishman and Londoner though not born in the great city. He was fond of saying that taken all round there was no better climate than the English, and of London he always seemed to me to be very fond, and much inclined to minimize the evil of the fogs and smoke.

It is possible to dwell on this or that feature of a man's character, but how hard, how impossible it is to depict the man; and so with regard to Sir James Paget, though his personality seems to me as vivid as if he were here present, yet I cannot reproduce it for others. I cherish the memory of his friendship as very precious: he always treated me with a confidence that made even matters of business a source of pleasure and makes me look back to him with gratitude. It is sometimes said that friendships are made only in early life; but a happy experience tells me that this is not always true.'

(See *Memoirs and Letters of Sir James Paget*, edited by one of his sons, pp. 327 and 328. Published by Longmans & Co.)

LORD BOWEN

'What impressed me almost most of all about him was his intense sense of duty in the discharge of his office. Both intellectually and morally he was keenly sensitive to anything which appeared to him like the enunciation of bad law, or still more to anything like the slightest miscarriage of justice. Either of these things seemed to inflict a personal—almost a physical—wound on him; and the pains which he took both to do his own part in the administration of justice to the very best of his great abilities, and, so far as he could, to secure the very best working of the machinery of the law, were infinite. He never wearied of investigating or discussing a point so long as he thought that anything remained to be got at—or that there was any hope of bringing about an agreement of opinion amongst colleagues who were inclining to differ: and anything like a suggestion to him that he was worrying himself more than was necessary he always gravely put aside. I doubt whether those who listened to or read his brilliant judgements would have the least notion of how much thought and persistent effort he had given to them; and the extreme rapidity of his intellectual operations made this all the more remarkable to those who by daily intercourse saw "the very pulse of the machine". If Bowen had any personal ambition, it was entirely subordinated by him to the sense of duty to which I have referred—so completely that I do not believe that it was an efficient principle to any extent in his actions or his thoughts. Furthermore, I do not believe that he had any vanity. It is a very common characteristic of men of great abilities; but I never detected a trace of it in him.

Intellectually his very excellences were, to some extent, defects, and they were his only defects. The rapidity and subtlety of his mind were so greatly in excess of these qualities in most men, and even of most able men, that they sometimes produced want of harmony in the positions of his mind and of those of the others, whether Judges or Counsel, who were engaged in the discussion; and sometimes his most brilliant judgements were, I believe, hardly appreciated by those who heard them. The rapidity of his mental operations, the suddenness with which he grasped the facts and arguments of a case, were surprising. If, as of course sometimes happened, he had made some omission or error in his apprehension of the case, he was equally rapid in his appreciation of the least suggestion of his error, and in the rearrangement of the whole subject in his mind. It was just the same in a game; he saw, as it were intuitively, the whole position of the board and the relations of the pieces; and I have heard it said that if he were present on any occasion, when some speech or event caused general amusement, a distinct interval of time could be perceived between the first ripples from Bowen and the general roar of laughter. The result of this great rapidity was that the advocate opening a case was often outrun by his hearer; and that, whilst he was laying the foundations of his argument, Bowen was engaged in the critical examination of the details of the ornaments of the top story. So, too, with regard to the subtlety of his mind. Details, distinctions, which seemed to most minds subtle, refined, microscopic, appeared, I believe, to his mental eye to stand out broad and clear as the strong features of the matter. What seemed molecular to most minds seemed massive to him; and this was not without its drawbacks in a world where law is concerned with the common affairs of common men; and I believe that it made him less successful in addressing juries both from the Bar and from the Bench than many men of lesser intellects.

He held the highest possible views of the duties of the judicial office, and he was very jealous of the independence of the individual Judge; very unwilling to lay down or allow the laying down of any rules of practice which should fetter the discretion or limit the power or responsibility of each man in the discharge of that high office.

Bowen was not incapable of just anger. No man of a high and noble nature, such as his, could possibly be so; and he was acutely wounded by anything which he thought to be deliberate unkindness towards himself or others. But of sharpness or unkindness he was as incapable as of stupidity; and I can hardly recall that I ever heard an impatient word from his lips upon the Bench.

To me the recollection of the days in which he and I worked together in the duties of our office—lightened as they were to me by his constant kindness, as well as by the aid of his great powers—will ever remain one of the brightest of my life. But even to the casual observer it must have been apparent that he

> " Hath borne his faculties so meek, hath been
> So clear in his great office,"

that his loss to the country is no ordinary one.'

(See *Lord Bowen*, by Sir H. S. Cunningham, pp. 150–4. Published by John Murray, Albermarle Street.)

JAMES HACK TUKE

James Hack Tuke will be remembered for his careful study of the conditions and distress in Ireland, and his unwearying efforts to alleviate and remove that distress, efforts which largely contributed to the establishment of the Congested Districts Board. After his death my Father complied with the urgent desire of his widow and compiled a Memoir of his friend, from which I extract the following personal note:

'In person, Tuke was somewhat below the average height, was very slight and delicate in his build, and possessed almost to the last great activity of movement—a sort of physical vivacity.

. . . .

Tuke's face was very mobile and expressive, and his eye could show great earnestness and great humour. There was in his manner a delightful mixture of simplicity and refinement, of earnestness and of playfulness: he gave you the notion of a man in whom the spiritual element was in great preponderance over the physical. As a host he was delightful: his greeting and farewell were full of sweet courtesy; the conversation never flagged, and oftentimes it was lighted up by one of his Irish or American stories, told with all the spirit and power of mimicry of which he was a master. But however playful the talk may have been, it never fell below a high level of intelligence and refinement of feeling.

. . . .

If any one had watched James Tuke as he stood by his cabinet, handling one of the dainty bits of china of which his exquisite collection was composed, he might be excused if he fancied some innate fitness and resemblance between the delicate work of art and the refined and almost supersensuous possessor, whose thin fingers passed over it as his gentle voice discoursed of the merits of colour, glaze, and paste. But such an observer would greatly err if he imagined that he had found a mere virtuoso. Tuke's manner curiously belied his powers, and only a closer acquaintance would reveal the keen judgement in business, the great power of organization, and the strong religious feelings which underlay that delicate and fragile exterior.

. . . .

The secret of his success lay not in political or social influence, but in two things—his passionate desire to lessen the sufferings and to increase the happiness of his fellow men; and secondly, his keen, calm intellect, and the application of that intellect and of his business experience to the cause of charity. It has been seen how he laid the foundations of his work in a careful study of the exact facts of the case, and how, foreseeing what had to be done, he set himself to do what was needful. If it was necessary to visit Bellmullet in the dead of winter, or to go to America to see that means existed for the reception of the Irish, thither Tuke went. He was absolutely disinterested in his labours, and worked neither for reward nor for applause, content if he could do good. He had no political end to serve and no party to please. He was kind and tender in his dealings alike with those who helped him and those whom he helped; rarely, if ever, did a harsh or unkind word escape his lips even under provocation, though he knew how to rebuke impertinence or disrespect. His lieutenants, his colleagues, the poor people amongst whom he worked, all soon came to love him.

. . . .

Any portrait of Tuke which did not represent religion as the abiding and dominant motive of his life would be a false one. His diaries as a young man contain abundant traces of the depth of his early religious impressions, and of his aspirations after holiness in life. He was not in the habit of talking much about his own religious feelings; but his whole life was guided and ruled by his sense of his relation to an infinite and unseen Father of spirits: and it was his love for God and man which sustained and animated him through all his labours, whether for his humbler neighbours near his pleasant English home, or for the poor peasants of the sad west of Ireland, whom he served so constantly and well.'

(See *James Hack Tuke*, A Memoir, by Sir Edward Fry, pp. 336–9. Published by Macmillan & Co., Ltd.)

LORD KELVIN

Sir Edward Fry's acquaintance with Lord Kelvin began when the British Association met at Bristol in 1898, when the latter was the guest of the Right Hon. Lewis Fry at Clifton, and attended a garden party given at Failand House. It was an acquaintance which gave great pleasure to my Father, and when he and my Mother were in Scotland with their friends the Rev. J. C. B. Geddes and his wife, he greatly enjoyed seeing Lord Kelvin in his own home and wrote the following account of the intercourse to me:

'Largs, Sept. 10, 1903.

As we have seen a good deal of Lord and Lady Kelvin whilst at Largs, and as Lord Kelvin is a most remarkable man, and as I know you will like to hear about him, I will put down my recollections whilst they are fresh in my mind.

Lord Kelvin's house Netherhall is not a very large place, rather a seaside villa with grounds than a seat, and near him lives Dr. Watson, the Free Church minister of Largs, who married a sister of Lord Kelvin's first wife: and those two old people seem on terms of great intimacy with Lord K.—he was till a few years ago a member of Dr. Watson's congregation—and one afternoon Canon Low came to consult Lord Kelvin as to the vacancy in the Bishopric to which the Largs Episcopalians owe allegiance.

Lady Kelvin evidently devotes herself to the tender care of the precious piece of humanity in her keeping and likes to talk about him. She showed us one of the series of books in which Lord K. works. It is a quarto-sized note-book, which he always carries with him in a pocket made for the purpose, and in which he works away at his mathematical investigations when travelling by railway or at any time—but hardly ever alone, as conversation does not disturb him. Each entry begins with an exact date, day, and hour, and seemed the most extraordinary web of mathematical formulae, sometimes preceded by a statement of the question to be solved. He is now at work on the development of a set of lectures given by him ten years ago in Baltimore, when he went to America under urgent pressure and gave twenty lectures, generally of one and a half hour's length, in seventeen days, and got back in time for his Glasgow course. From that time till a little while ago he had not found time to develop the lectures he then delivered; but when he resigned his professorship Lady K. says that he felt no lack in his life, but went steadily on with his work as if no change had occurred in his life.

She told me that Lord K. had been invited to deliver the Gifford lectures, and he considered the subject but felt that whilst he could have given one lecture on the subject he could not undertake to give two courses. He went back to Paley's

Natural Theology and studied it, and said that he could add nothing to what Paley had said, which rather surprised me, seeing how little Paley's argument is often thought of nowadays.

He is, she told me further, always willing to go anywhere for a definite purpose and has pleasure in scenery, but never really wishes to be away from home.

Lord Kelvin is much interested in the current questions of the day—strongly opposed to the behaviour of the motorists and inclined to be very angry with Balfour for the transgressions of his driver. (He cannot get over it, interjected Lady Kelvin.) He is rather smitten with the idea of a vast empire knit together for all purposes of mutual support and help, feeling, I think, that electrical communication has made this possible which was impossible before, and much wishing that when we gave autonomy to Canada and Australasia we had reserved a right to free trade with them. He wanted to know how the Education Act was working in England, and I told him a little about our, or rather your, experience. (He is a very good listener when you tell him what he likes to hear, which is, I think, almost anything.) He took me into his study, where was a wonderful model, which I cannot explain, to show the supposed structure of atoms and their elasticity, and besides a small globe. This set him off on a denunciation of the great omission in modern education in not teaching the use of the globes, for which, he says, Huxley is partly responsible —no plain map, he says, could give any one a notion of the world, and with our empire every English child, he said, ought to be shown something of its extent. I said I would stir you up for our Failand School. "Tell her", he said, "that I have a conscientious scruple against paying for education in geography without the use of the globes, and shall not pay the proportionate part of the rate!"

Of course he was full of radium—indeed, Dr. Watson said it was engrossing his thoughts and was a real worry to him, as it seemed to him to imperil some of his conclusions as to matter. "The mystery of Radium," Lord Kelvin said to me, "no doubt we shall solve it one day, but the freedom of the will, that is a mystery of another kind." He had two specimens of radium—one impure given him by M. Curie in 1900, in a small glass tube which he carries in his waistcoat pocket; the other much purer given him by Sir William Crookes, which you observe through a magnifying glass; we went successively with him into his safe to see these specimens. It is a very dangerous thing, to judge by the stories we heard from him of M. Curie's fingers and Dr. Waller's arm, on which a wound formed from the inside outwards a month after the application of a paper acted on by radium.

I referred to Oliver Lodge's paper in *Nature* on the collateral position of mental action to the physical action and chemical activities, in order to ask him whether Lodge was correct in his facts. These facts, Lord Kelvin said, are not only true, but are old, having been ascertained or forecast more or less distinctly by Count Rumford, and insisted on by Joule. But the inferences he seemed to think more doubtful, because, if I rightly understood him, even the direction of a force involves energy.

He talked a good deal about the expression "the fortuitous concourse of atoms", which I thought was to be found in Cicero's *De Natura Deorum*. He asked me a question I could not answer, whether Lucretius was edited by Cicero.

From fortuitous concourse of atoms he went on to speak of the whole frame of the universe, and propounded a view which I only inadequately grasped. If, he said, there was a mass of matter—a heap of stones—at rest (i.e. if I understood rightly, operated on by no force but what was inherent in it), it would gather together in a system: and if there were a second mass it would do the same; if they were identical the two would gather together, and if they were in any respect unequal, the effect of attraction would result in rotation. From these simple materials, the whole starry universe might, he said, have been evolved. "I do not often mention it," he said, "for it sounds atheistic, and I am a firm believer in design."

I asked him about the ice caves of the Jura,[1] of which he did not know, and he asked me several questions, but did not offer any solution of the difficulties they present.

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[1] The *glacières* of St. Cergues and other places—holes where ice remains unmelted during the heat of summer, which E. F. had visited not long before.

He asked me whether I believed that other worlds than our own were inhabited. I naturally disclaimed expressing an opinion to him, and I found that he does not believe any other of the sun's planets to be inhabitable by life, but thinks there may be stellar planets in such a condition.

Perhaps you will think the conversations of which I have written these notes not worthy of the trouble of writing or reading this long story. But the conversations with Lord Kelvin were to me very interesting, and I fancied that you might like to hear of them. I shall not now read over what I have written, but hope to do so when I get home.'

(See *Life of William Thomson, Baron Kelvin of Largs,* by Silvanus P. Thompson, pp. 1095–7. Published by Macmillan & Co., Ltd.)

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