LINES OF COMMUNICATION

By Dr. C. H. Fitts

Delivered at a meeting of the Medico-Legal Society held on Saturday, 27th November, 1954, at 8.30 p.m., at the British Medical Association Hall, Albert Street, East Melbourne.

IT is twenty years since I went to work in a sanatorium in the Swiss canton of Valais. It was springtime, and under the influence of a patient who was an authority, I became a collector of alpine plants. Each Sunday I would set off at dawn, be on the mountains all day, and, returning often after nightfall, would unload my specimens on a table in his room. My search would take me up to the 9,000 feet level, and such became my enthusiasm that I was prepared to take all sorts of risks to gather the seemingly insignificant plants from crevices and ledges on steep rock slopes. In such a fashion I discovered *Androsace rubescens,* a native of the Pyrenees previously unrecorded in the Swiss Alps. After that somewhat hazardous day I bought a pair of climbing boots and had them properly nailed.

Across the valley of the Rhone, which lay below me, I looked each day at the high mountain peaks dominated by the Matterhorn, the Dent Blanche, the Weisshorn, and Zinal Rothorn, surely four of the most beautiful mountains in the world. A month later an English friend and I crossed the valley to Zermatt at the foot of the Matterhorn. There we engaged a guide and spent some days practising and learning the technique of climbing on rock, snow and ice. Then one day we set off at 2 a.m. from a hut beside a desolate moraine to climb the Zinal Rothorn, a peak of just on 14,000 feet. In the early morning we sat on the summit. Circumstances combined to make this one of the most memorable days of my life. There was the perfect companionship of my friend and our guide, whose family has been in that valley for six centuries; there was the dawn spreading over this region of everlasting snow where no vestige of man's contriving is seen; there was the sense of fulfilment or of modest achievement allied to complete physical fitness which I suppose gave the feeling of confident mastery over the obstacles and hazzards encountered. Perhaps there is something else, but those who love mountains will know. I have been back this year and

climbed again with the same guide, and recaptured much, but not all.

What has this to do with my subject? During the long English winter I dreamed and thought of returning the following summer, and it was then that I came upon a book entitled *The Playground of Europe*. Its author was Leslie Stephen, and in the third chapter to my delight he described the first ascent of the Zinal Rothorn. From this book in which a man of letters described his leisure hours, there emerged the figure of one of the cultured and imaginative Englishmen who invented the sport of mountaineering. They were the first rebels against over-organized games and holidays, and against the restrictions that were being imposed upon the spirit of adventure. Many of them of course were athletes in the conventional sense. The Oxford and Cambridge athletic sports are largely due to Leslie Stephen, and he won the first inter-Varsity mile in five minutes four seconds.

Of course, there is much more to find out about a man who writes with restraint about his leisure hours, and my knowledge of him is indirect and fragmentary. He is a key figure in a very remarkable family, whose influence has been felt in the United Kingdom, the West Indies, India, New Zealand and Australia over two hundred years. I propose to speak first of Leslie Stephen, then to give briefly the family history, and finally to seek the reasons for the growth and flowering of the intellectual aristocracy to which the Stephen family belonged.

Leslie Stephen's first wife was Thackeray's younger and less remarkable daughter, and after her death he married a young widow whose ethereal beauty is painted in Burne Jones's Annunciation. She was a wonderful woman by all standards and bore him four children. The elder daughter is Vanessa Bell, the artist, and the younger was Virginia Woolf, the novelist. In her book *To the Lighthouse* she draws portraits of her father and mother as Mr. and Mrs. Ramsay. Mr. Ramsay's limitations are mercilessly shown. He uses the acid test of common sense to judge even his children's plans. He looks at the lighthouse through a telescope while they see it through a magic casement, and he is unaware that the rational view divides him by a gulf from the children, to whom the expedition to the lighthouse means so much.

A man like Stephen is fair game for modern biography. His weaknesses, his failings and his foibles, can be used to make the rest of his character add up to nothing but hypocrisy and hum-

bug. Yet, in the last analysis, that is not the way Virginia Woolf saw him. On the centenary of her father's birth she wrote an article for *The Times* describing the intellectual freedom of their home life. They could read at will in his unexpurgated library. They chose their own careers. They were conscious of his love of clear thinking and his hatred of the stock response. His Life of his brother, Fitzjames, might serve as a model and a lesson. I do not recall anywhere in the book a dissertation on the character or temperament of his brother, but when I had finished I felt that I knew the man, the reasons for his partial success, and the limitations that explained why his accomplishments were not greater.

Leslie Stephen had a Victorian Punch sense of humour as shown when describing his father's eldest brother, William, a country clergyman, making a trip to London, and seeing a steamship for the first time, as "steamships are rare in the Berkshire hills". He had a large circle of friends ranging from alpine guides to Boston intellectuals. Lowell described him as the most lovable of men. His integrity was beyond question, and revenge and malice were beneath him. He despised personal gain, and all devious ways of influence or persuasion. I have dwelt on this member of the Stephen family because I shared an experience with him and because of all this distinguished line he is likely to be longest remembered. He was the first editor of the *Dictionary of National Biography,* a work that Trevelyan describes as the best record of a nation's past any civilization has produced. Whitehead counted among the six books that influenced him Stephen's *History of English Thought in the Eighteenth Century.* He is one of many branches of a noble tree visible against the sky. The family belongs to the intellectual aristocracy which emerged from the structure of Victorian society, and which has profoundly influenced English —and indeed Australian politics, education and literature during the past hundred years.

Family History (Figure 1)

The first recorded member of the family is James Stephen, Provost of Elgin in Gordon in 1640. His son, born in 1670, farmed the land at Ardenbraught in Aberdeenshire. He, too, was christened James, and himself had two sons, James born in 1700 and John born in 1702. John was great-great-grandfather of Bishop Reginald Stephen now living in retirement in

Melbourne. It is, however, upon the family of the elder brother James I wish to concentrate.

James, as well as being a farmer, was engaged in trade, and had no objection to dealing in contraband articles though the term "smuggler", so much more romantic than "black marketeer", was not openly applied to him. He had nine children, of whom seven were sons. William, the second son, studied medicine and finally settled in St. Christopher's in the West Indies, where he was both a physician and a planter. It is alleged that he made his money buying "refuse", that is sickly negroes from slave ships, and after curing them of their diseases selling them at a profit. He died a rich man in 1781 in his fiftieth year. His career, as will be seen, was of great importance to his relations.

The third son (James IV) was born in 1733. After studying law for a short time at Aberdeen he was sent abroad when 18 years old to Holland and afterwards to France, with a view to some mercantile business. He was a man of commanding appearance and of great muscular power. In 1752 he was a supercargo on a ship travelling from Bordeaux to Scotland when they were driven ashore upon the cliffs of Purbeck Island in a storm. James Stephen with four of the crew escaped to the rocks, the rest being drowned. Stephen roped his companions to himself and scaled the cliff in the dark. Next day the outcasts were hospitably received by Mr. Milner, Collector of Customs at Poole. Stephen remained for some time ostensibly to look after the salvaging of the cargo. Mr. Milner had six children, the youngest of whom, Sibella, was 15. It was not long before Stephen secretly married her. Her family eventually became reconciled, and Stephen was taken into partnership by his brother-in-law, a merchant at Poole. Here his two eldest children, William and James (V), were born. Unfortunately the firm became bankrupt, and this led to a lifelong quarrel between James and his elder brother, Dr. William, who had taken a share in the business. James went to London but in 1769 he was confined to prison for debt. The story of this experience is vividly told by his son, James (V), who went to prison with his father. During this period of leasure he rubbed up his old legal knowledge, looked into the law books, and discovered that imprisonment for debt was contrary to Magna Carta. A writ of habeas corpus was obtained and Stephen argued his case before Lord Mansfield without success. However, he eventually

THE STEPHEN FAMILY

James I of Elgin, 1640

James II of Ardenbraught, 1670-1724

- James III, 1700-1770, Ardenbraught
  - William I, M.D. St. Kitts, West Indies
  - James IV, 1733-1779 m. Sibella Milner
- John I, 1702
  - Bishop Stephen of Melbourne, great-great-grandson

FIGURE 1

James IV, b. 1733, d. 1779
Lawyer

- William II, M.D. 1756-1807 St. Kitts
- James V b. 1758 d. 1832 Lawyer
- John II b. 1771 d. 1833 Lawyer
- o x m. W. Morison
- o x m. W. Farish
- o x m. G. Milner

FIGURE 2

James V, b. 1758, d. 1832
Master in Chancery
m. Nancy Stent

- William III Clergyman 1781-1867
- Henry John 1787-1864 Author Stephen's Commentaries
- James VI 1789-1859 Under Secretary for Colonies
- George 1794-1879 Lawyer
- Sibella m. Garrett
- Anne-Mary m. Dicey

FIGURE 3

James VI, b. 1789, d. 1859
Under Secretary of State for Colonies and Professor Modern History, Cambridge
m. Jane Venn

- James FitzJames b. 1829, d. 1894
  - Harry Judge, Supreme Court, Calcutta
  - J. K. Stephen 1859-1892
  - Katherine Principal, Newham College
- Leslie b. 1832, d. 1903
- Caroline Emilia b. 1834

FIGURE 6

George, b. 1794, d. 1879
m. Henrietta Ravenscroft

- Wilberforce 4th Wrangler, Judge, Supreme Court, Victoria
- Ravenscroft
  - Wilberforce
  - Herbert
  - Harry
  - James
  - Clare Violet m. Hibbert Henry Newton
    - Hibbert Alan Stephen Newton
    - Cecil John Stephen Newton
    - Wilberforce Stephen Newton
- Elmslie
- 2 daughters

FIGURE 7

John II, b. 1771, d. 1833
Judge, Supreme Court, New South Wales

- Sidney 1796-1857 Judge, Supreme Court, N.Z.
- John III
- Alfred Judge, Supreme Court, N.S.W.
- George
- Francis Lawyer
- Sibella
- Mary Anne
- George Milner Lawyer Geologist Painter Healer 1812-1894
- Clara

FIGURE 4

Alfred, b. 1802, d. 1894
Judge, Supreme Court, N.S.W.

- Montagu Consett Founder of Law Firm, Stephen, Jacques & Stephen
- Henry, 1828-1920 Judge, Supreme Court, N.S.W.
- Edward Milner 1834-1894
  - Edward Milner 1870-1939 Judge, Supreme Court, N.S.W.

FIGURE 5

got out of prison, having in the meantime led an unsuccessful riot. To make a living he resolved to be called to the Bar. He entered at the Middle Temple, but the Benchers informed him that they would not call him to the Bar, giving as their reasons his want of birth, want of fortune, want of education and want of temper. Thus rejected, Stephen entered the legal profession by the back door. He entered into a kind of partnership with a solicitor who was the ostensible manager of the business and could be put forward when appearance was necessary. He had, however, to undertake such business as did not commend itself to the reputable members of the profession. He had to frequent London taverns in order to meet clients, and took to smoking tobacco and possibly other indulgences. His wife died in 1775, having born him six children, three sons and three daughters, the eldest of whom was 19 and the youngest still under four. (Figure 2.)

The third son, John, was thirteen years younger than James (V) and later played a prominent part in the history of New South Wales. The three sisters married respectively William Morison, a lawyer, William Farish, senior wrangler and Jacksonian Professor at Cambridge, and the third married her cousin, George Milner, rector of Cumberton, Cambridge. The eldest son, William, begged a passage to St. Kitt's and was hospitably received by his uncle, Dr. William, who sent him back to Aberdeen to do his medical course with the promise of a partnership. William took with him to Aberdeen his second brother, James (V) to study law, but his Uncle William refused to foot the bills for the latter. James's education had been of the most meagre kind, for he had gone to the debtor's prison with his father, and had no schooling of any kind from the ages of ten to fourteen. He studied at Aberdeen for two years (1775-1777) and then had to return to London to take part of his father's dwindling practice. James (V) wrote a memoir covering the first twenty-five years of his life for the edification of his own children. Leslie Stephen had access to it when he wrote the life of his brother, Fitzjames, but, although he wrote a brief history of the family in the introduction to this biography, there were parts of this memoir that he deemed it wiser to suppress. The manuscript is in the British Museum, and has been published for the first time this year. It is a most remarkable document and has been compared with good reason to James Hogg's *Private Confessions of a Justified Sinner.*

As a young man James (V) led a hand to mouth existence for some years. He did what he could with his father's disreputable practice, and when this petered out he obtained employment reporting parliamentary debates for *The Morning Post* at two guineas per week. It was not permitted to take notes in the Houses of Parliament, and the speeches had to be reported after leaving the House, entirely from memory. Stephen's reports were apparently of a very high order.

His limited means did not deter him from some very complicated love affairs. "I have been told," he said, "that no man can love two women at once, but I am confident that this is an error." In his memoir James (V) gives a full and frank description of the reasons that led him to this conclusion. He was engaged to Nancy Stent but at the same time he was responsible for the pregnancy of her close friend, Maria. In this desperate situation James never lost his faith in what he called the workings of Providence. Not only did Nancy continue her engagement through this troublesome period, but after the birth of the child she and James were married and went to St. Kitts. Nancy adopted Maria's illegitimate child and, as the Reverend William Stephen, he lived a blameless life as the vicar of the Berkshire Hills and ostensibly the rightful male heir of James (V). It is small wonder that in his old age James should think that all is for the best in the best of all possible worlds.

In 1781, Dr. William Stephen of St. Kitts died, and left all his property to his nephew Dr. William. The latter sent home money and James was able to finish his training and be called to the Bar in January 1782. The following year he went to St. Kitts. James had at this time democratic tendencies. He had sympathized with the rebellious American colonists, and he had once covered himself with glory by a speech against slavery in the presence of the two women with whom he was in love. He had prepared the speech for the occasion, but when he went to St. Kitts he carried precept into practice. His servants were free, or if he had slaves he obtained for them their freedom.

A lawyer's practice at St. Kitts was profitable, and Stephen earned enough to visit England in 1788. He sought the acquaintance of Wilberforce, who was beginning his crusade against slavery. Stephen supplied him with facts and kept in touch with him after returning. During 1793-4 the harbour of St. Kitts was crowded with American prizes, and Stephen was employed to defend most of them in court. By the end of 1794

he had saved enough to return to England. He then obtained employment in the Prize Appeal Court of the Privy Council, generally known as The Cockpit. In 1811 he was appointed to a Mastership in Chancery. Stephen by this time, next to Zachary Macaulay, was Wilberforce's most trusted supporter. Stephen's wife died in December 1796, and four years later he married Wilberforce's sister, the widow of an Evangelical clergyman. This marriage marked Stephen's final adherence to the Evangelical party. The family names of Wilberforce, Milner and Farish are to be found frequently in the Australian branches of the family. Stephen wrote a pamphlet called *War in Disguise* which is of some importance in the history of maritime blockade of enemy countries. Moreover, it brought him in contact with Percival, the Chancellor of the Exchequer, who shared Stephen's friendship with Wilberforce, his views on slavery, and his religious beliefs. Stephen was elected to Parliament, but it is said that his defective education, his want of tact and his fiery temper prevented him from rising to a conspicuous position. It is obvious that he was before his time. After seven years he resigned because in his view the Government did not pursue the abolition of slavery with sufficient vigour. He held the office of Master in Chancery from 1811 to 1831. He died at Bath a year later.

The Master and his elder brother had retrieved the family fortune. William returned to England and died about 1807. His son went into the Army, and his daughter married a clergyman, and became the mother of Hodson of Hodson's Horse.

The third brother, John, also emigrated to St. Kitts. He was thirteen years younger than James, and became Solicitor-General to St. Kitts, and in 1824 was appointed Solicitor-General of New South Wales and Commissioner of Court of Requests. He arrived in Sydney in August 1824, accompanied by his wife and two sons and three daughters. In 1825 he was appointed to the Bench of the Supreme Court where the Chief Justice was then the only Judge. His position was confirmed by Royal Warrant in 1826. He resigned from the Bench in 1832. John had nine children, whose descendants have played a considerable part in the legal history of Australia. (Figure 3.) The eldest son, Sidney, became Acting Chief Justice of the Supreme Court of New Zealand. The latter had five sons and five daughters, and from this line two sons practised as solicitors in Melbourne, Francis Sidney and Sidney James Henry. The

daughter of the first became the wife of Mr. William Weigall of the legal firm, Weigall and Crowther. A son of the second is Dr. Clive Stephen, a physician and sculptor in this city. Gertrude Frances Stephen, the granddaughter of the Chief Justice of New Zealand, became the wife of Sir John Madden, Chief Justice of Victoria.

The fourth son, Alfred, was Crown Solicitor for Tasmania (1825-32), Attorney-General Tasmania (1832-38), Judge of the Supreme Court of New South Wales (1839-44), Chief Justice (1844-73) and many times acted as Lieutenant-Governor of New South Wales. He had nine children by his first wife, remarried and had nine children by his second wife. I have come upon a poem written by Sir Alfred Stephen which he called *Judicial Impartiality*:

"Of children this Knight had no less than eighteen,
Two batches of nine with a marriage between;
Nine born when a barrister, nine when a judge,
And since from strict justice he never would budge,
Half precisely were girls, the other half boys,
An equal division 'twixt quiet and noise,
While if by marriage the number be reckoned,
There were nine of the first and nine of the second,
Nine born in Tasmania, nine in New South Wales,
Then to show with what justice he still held the scales
Since nine it is certain he could not divide,
A third sex as yet having never been tried,
Five sons and four daughters in Hobart were born,
While four sons with five daughters to Sydney attorn.
So just in proportion in each case assigned,
For very impartial indeed was his mind,
Twin daughters and twin sons complete this strange story
Of this patron of Wigs the constant old Tory."

Alfred Stephen had a difficult time in Tasmania during the governorship of Sir John Franklin, but was Attorney-General when he came to New South Wales in 1838. (Fitzpatrick.) When offered a puisne judgeship in 1839 he was, it is said, in the most extensive practice ever enjoyed in these colonies, his income exceeding three thousand pounds a year. Of the eighteen children (Figure 4), the second son, Montagu Consett, M.L.A., founded the Sydney legal firm now known as Stephen, Jacques and Stephen. This firm celebrated its centenary in 1949. Mr. Alistair

and Mr. Leslie Consett Stephen are the third generation in the firm, and the fifth generation in law practice in Australia.

The third son of Alfred, Sir Henry Stephen, Q.C., M.L.A., became Judge of the Supreme Court of New South Wales, acting Chief Justice, and Acting Governor in 1903. The fourth son, Edward Milner, became official assignee of New South Wales, and his second son, Edward Milner, also became Judge of the Supreme Court of New South Wales from 1929 until his death in 1939. Thus four generations of the Stephen family became Judges of the Supreme Court of New South Wales. In fact the Stephen family have produced ten judges—two in England, four in New South Wales, two in Victoria, one in India, and one in New Zealand. Sir Alfred, let me remind you, was the fourth son of the pioneer, John, who became the first in the line of Supreme Court Judges. John was the younger brother of the Master in Chancery. John's fifth son, Francis, became Clerk of the Court of Requests, Clerk of the Legislative Council, and a Barrister at Law.

The sixth son of John (Figure 4), George Milner, Barrister at Law of the Middle Temple, is a fabulous character. My information about him comes from a pamphlet published by his son, Harold Wilberforce Hindmarsh Stephen, M.L.A., about 1880, and entitled *George Milner Stephen and his Marvellous Cures.* It is truly a work of filial piety. George was born at St. Kitts in 1812 and came to Australia with his father. At the age of 18 he was appointed Clerk of the Supreme Court at Hobart, Tasmania. At the age of 26 he is to be found in Adelaide as Advocate-General, and in that year acted as Governor of South Australia during the absence in England of Sir John Hindmarsh. He followed this up by marrying the Governor's daughter, and in 1840 he returned to England, where after some time passed as Secretary to the Government of Heligoland, he kept his terms at the Middle Temple and was duly called to the Bar. At this time he also studied miniature painting, being undecided whether or not to adopt the career of an artist. He painted the portraits of the King of Denmark and other European notabilities from whom he received many compliments and rich gifts.

After being called to the Bar he soon left for Australia, having refused Lord Stanley's offer of the Colonial Secretaryship of New Zealand, and settled in Adelaide. There he practised his profession until he heard of the discovery of gold in Victoria, when he removed to Melbourne. There for a time he made a

very large income, being engaged in nearly every important case. He established a Society of Fine Arts, of which he was elected Chairman, and also the Geological Society, of which he was the first Vice-President. These societies later became merged into our present Royal Society, of which he may be said virtually to be the founder.

In 1853 he again left Australia and settled in London, where he remained two years, occupying himself with metallurgy of which he had made a special study. He contributed papers on this subject to the Geological Society of London, of which he was a Fellow, and was made an honorary member of the Natural History Society of Dresden and the Geological Society of Berlin. At the request of the Secretary of State he also prepared an elaborate report with drawings upon the resources of Heligoland with a view to its occupation as a training depot for the German legion during the Crimean war. For his services, the Secretary for War permitted him to nominate several gentlemen for commissions in that Corps. Meanwhile, his wife had not been idle, for she had borne ten of their twelve children. In 1856 he returned to Melbourne, and at once took a high place in his profession, although for some years he was engaged in warfare with *The Argus* and another journal. He sat in Parliament for some time as member for Collingwood, then the largest constituency in Victoria. But finally, after a year or two spent in Beechworth, he elected to settle in Sydney.

During the early part of his career in this city, Mr. Stephen was engaged in mining operations on an extensive scale, and did not attempt to practise his profession until after the panic which completely destroyed the public confidence in every description of mining enterprise. For over two years he acted as parliamentary draftsman but, owing, it is said, to the enmity of the Attorney-General, the permanent post was given to another barrister.

As instances of Mr. Stephen's versatility, his son mentions that he was an accomplished flautist, and an excellent carpenter and mechanic, of which last he gave proof by the invention of a gold-washing machine which met with much favour from those who understood its working. The foregoing particulars, his son suggests, show that Mr. Stephen possessed more than average ability, and that neither by the associations of a long life, by his training, or inheritance, is he likely to be either a charlatan or the subject of hallucination.

In about the year 1878 Mr. Stephen, whilst on a visit to Melbourne, received through mediums messages from spirits to the effect that he had been selected to do a great work for the cause of Spiritualism. The work was not specified, and he was enjoined not to trouble himself about it, but to pursue the even tenor of his way and, when the time came, his mission would be unfolded to him. He had not long to wait. Soon after this, Mr. Max Kreitmayer of the Melbourne Wax Works wrote to the Melbourne *Argus*:

"Shortly after entering a saloon carriage at Spencer Street on a trip to Sandhurst, a man was carried in by a clergyman and another gentleman and laid on the seat. After his friends left him I entered into a conversation with him concerning his malady. He informed me that he had been thrown out of a buggy some two months before and had his spine injured; that a week previously he took a Turkish bath and, in walking afterwards in Collins Street, staggered and fell, and from that time had lost the use of his legs; that he was going to Castlemaine to get buried or cured as his friends lived there. I gave one of his legs a good pinch, and he assured me that he did not feel it; consequently I put his case down as a decided case of paralysis. I noticed that when he wished to raise himself a little he had to hold on to the rack above, and on several occasions I lifted his legs off the couch to change his position.

"At Gisborne Mr. George Milner Stephen (whom I knew by sight many years ago) entered the carriage and had to sit close to the sick man for want of room. He offered his rug to insure more comfort, and naturally asked what was the matter. The man repeated his story and Mr. Stephen, in a decided tone, said, 'I can cure you'. My curiosity was roused to fever heat, and I watched events. Mr. Stephen asked the patient to lie on his face, and after making a few passages and breathing on the supposed injured spot he told him to rise, which summons he obeyed with slight success, then dropped on the seat again, saying that the pain seemed considerably less. He then rose and walked. After the lapse of some minutes and after undergoing a similar process as before, the command was given by Mr. Stephen to rise and walk across the carriage, which he instantly did, and returned to his place again without any support. In thirty-four minutes after leaving Gisborne, at Kyneton, I left the carriage for a few minutes, and on returning, to my astonishment the patient had gone. Looking out, I found him on the

platform, walking about very carefully, and on arrival at Castlemaine he took his luggage and walked away."

In June 1880, Captain Broomfield wrote to the *Sydney Morning Herald* lauding Mr. Stephen's "instantaneous cure of my attack of gout, from which I had been suffering ever since laying the foundation stone of the new lighthouse at South Head on the 18th April last. This he did by breathing into each of my knees and then making a pass across them (as if driving away the disease) saying 'gone'. I instantly rose from my chair without the slightest difficulty, and to the astonishment of myself and friends I sat down again and got up from several chairs in succession, and then sat down on the ground and got up without assistance. After lunch the same day I raced Mr. Pope down the stairs and back again, taking two stairs at a bound."

The Gundagai *Times* reports that Mr. G. Milner Stephen while attending the quarter sessions in that town was visited by a number of people suffering from various disorders. Among these was Peter Linnane of Yammatree, who had been totally blind of one eye for fourteen years. Mr. Stephen made a few passes on his face, gave him a bottle of water, in which he had previously washed his hands, to apply to his eyes assiduously, which he did. Linnane assures us that he can at present see with the diseased optic as well as ever he could. Mr. Stubbs wrote to the Sydney papers in gratitude for his wife's recovery from a long swoon consequent upon an attack of hemicrania. Mr. Stephen kindly came and, placing his hands for some time upon her forehead, she appeared to feel, though quite unconscious, a decided benefit. She then pointed to the top of her head, his hands following; and after resting there were guided over the closed eyelids, when there was also a short pause, upon which the patient awoke from her insensibility and said that the pain had entirely ceased.

A little later I find a satisfied client writing, at Mr. Stephen's request, to attest the cure of his deafness. Completely deaf in one ear and affected in the other so that he could only hear loud speaking by the use of a long telephone tube, "after Mr. Stephen's operation" upon both ears (breathing and washing) he was enabled to enjoy the softest tones of the harp when played by his daughter. Mr. Russom, J.P., was present at the time, and the well-known solicitors, Messrs. Want and Allen, were also witnesses. No doctors seem to have been invited. This client

also mentioned in passing that his asthma, a lifelong disability, had ceased since Mr. Stephen breathed into his chest.

Mr. Stephen was free from the irksome restraints that hamper a doctor. He was on circuit again travelling from Wagga to Albury in the coach. Mr. Martin, a fellow passenger, had internal injuries to his eye and chest as a result of three kicks from a horse in a stable in the dark. His eye was awfully swelled, and his chest in such agony that he could not lift his arms. Mr. Stephen made a few passes over the eye which instantly discharged copiously, then breathed into Martin's chest, and the latter then declared that all pain had left him. The next morning Stephen brought him into the barristers' room at the hotel and made him tell the story of his cure to Messrs. G. B. Simpson, Fitzhardinge and Fraser.

Mr. Raleigh wrote to Mr. Stephen in July 1880, and somehow the letter reached the *Daily Telegraph*. Mr. Raleigh writes "that it is little short of a miracle. His wife almost crawled from her home to Mr. Stephen's chambers on Tuesday last, and returned with the almost perfect use of her limbs. She has also been suffering from bronchitis for the past few years, and was almost prostrated with it the day before she visited you. It has almost completely disappeared. I may say that she has been under the most eminent doctors in this colony, and also in Victoria, and not one of them ever did the slightest good. The only result, as far as we are concerned, is being several hundred pounds poorer."

Time passes, and it seems that the barrister no longer has to solicit. "No one passing down Phillip Street can now fail to notice the place in which Mr. Stephen practises. Publicity has been given through the columns of the Sydney *Daily Telegraph* to the wonderful cures he has effected, and the result is that the crowds which our reports recently described as permeating the rooms, halls and passages of No. 98 have extended themselves to the pavement, and the footpath outside is occupied by a number of people waiting for their turn to come to pass under the hands of Mr. Stephen. Cabs and carriages, too, which have conveyed those unable to move of their own accord are plentiful in waiting by the kerbside. On one of these occasions Mr. Stephen was faced with what might be termed a barrister's dilemma. He had just finished the exhausting task of breathing upon a man's joints who was afflicted with painful rheumatism. He had chased the pain from the hip and it escaped into the

knee joint from where Mr. Stephen blew it away altogether. The client tendered a guinea, but immediately Mr. Stephen's daughter-in-law wrote with incredible rapidity, 'Please don't take money, a poor man'. Mr. Stephen, observing the writing, said he must obey the spirits, and returned the money remarking that the patient should have stated his circumstances."

Mr. Stephen used to have what he called "free days" at the Temperance Hall in Pitt Street when he would attend to the poor. These must have been fearful occasions. The reports would state that it was obvious that Mr. Stephen would not have time to operate on half those who presented themselves. There were women hobbling along in great pain upon crutches, children with paralysed legs, men groaning in agony, deaf and blind persons, young men in the last stages of consumption. A more horrible sight could scarcely be imagined. Mr. Stephen was undismayed. His hands, what he called "magnetised" water in which his hands had been washed, his breath, a piece of red flannel and his voice counting up to sixty and bidding symptoms be gone were sufficient for his purpose. It was reported that on one of these free days Mr. Stephen appeared to be "in great force" as he literally "ordered" pains away right and left. So much of this evidence of these marvellous cures is attested by Justices of the Peace and barristers and solicitors, whether in Sydney or in country hotels, that it is not for a doctor to set himself up in judgment. It can be only an oversight that Mr. Stephen did not found the Medico-Legal Society.

I have left a gap in the family history which I shall now close. James, the Master in Chancery (Figure 3) was survived by six children, four sons and two daughters. The eldest, William, was the quiet country clergyman who had never seen a steamship. The second was Henry John, Serjeant-at-Law and author of *Commentaries on the Laws of England* and a work on Pleading. The third son was Sir James Stephen, P.C., K.C.B., LL.B., Under Secretary of State for the Colonies and Professor of Modern History at the University of Cambridge (James VI). He married Jane Venn, daughter of the Reverend John Venn, rector of Clapham. He had a desultory education and entered Trinity Hall, Cambridge, in 1806. "The three or four years during which I lived on the banks of the Cam," said James Stephen, "were passed in a very pleasant though not a cheap hotel. But had they been passed at the Clarendon in Bond Street I do not think that the exchange would have deprived me of

any aids for intellectual discipline, or for acquiring literacy and scientific knowledge."

In 1813 Lord Bathurst, for many years head of the Colonial Department and closely in sympathy with the ideas of the Clapham sect, appointed James Stephen Counsel to the Colonial Office at the age of 24. His duties were to report upon all Acts of Colonial Legislature. He received a fee of three guineas for each Act, and the office at first produced about three hundred pounds a year. After a time the post became more laborious. He was receiving a thousand pounds a year some ten years after his appointment with, of course, a corresponding increase of work. The place, however, was compatible with the pursuit of his profession "and my father in a few years was making three thousand pounds a year and was in a position which gave him as fair a prospect of obtaining professional honours as was enjoyed by any man of his standing" (Leslie Stephen). In his spare time he was an active committee member of the Church Missionary Society.

James Stephen laboured in the Colonial Office for 22 years and in the days of colonial expansion he was one of the great colonial administrators of the age. He came to possess the almost unlimited power of an able civil servant responsible only to the political figure set in office by the changing fortune of elections. Lord Stanley, when Secretary for the Colonies, was determined to keep the permanent official in his place and set about drawing a bill himself. The task proved beyond him, and on a Saturday morning Stephen was summoned to do the job at top speed. He returned home; began to dictate that afternoon; worked for the first and last time in his life on a Sunday, and laid the draft bill in 66 clauses before his chief on the Monday morning. I cannot discover that Stephen ever visited any colony, but an encyclopaedic memory gave him command over the details of the politics, administration and constitution of all the colonies, and the various Secretaries of State who flitted briefly in and out of office, and whom he described as "my birds of passage masters", were forced to rely on his fabulous comprehension. Omniscience and high moral rectitude do not endear a man to his lesser contemporaries. Crabb Robinson described him as a pious sentimentalist and moralist. When he became Under Secretary it was not long before he became known as "Mr. Over Secretary" and "King Stephen". It should be noted that Stephen was, so to say, in

power when the fortunes of the Stephen family were rising in Australia. Nevertheless, Sir James Dowling, with the influence of James Stephen, the Under Secretary, was appointed to the Supreme Court of New South Wales with rank next to Chief Justice Sir Francis Forbes to the embarrassment of John Stephen (uncle of the Under Secretary) who was already sitting on the bench with the Chief Justice. I can find no instance in which the finger of scorn is pointed at the Under Secretary for furthering his family's interests in the colonies. (Currey, 1933.)

Stephen was a man of unusual perception. After setting down a note on the appointment of a new Governor-General for Canada he foretold that the time would come when such an office would be filled by a citizen of the colony itself. Here are some extracts from his official minutes written in 1842.

In 1839, when reviewing the plans for new colonies—New Zealand, the north of Australia, and the Falklands—he remarked "if we thus extend the British Empire, we must enlarge in proportion the British army and navy". He had made much the same remark when Lord John Russell had expressed surprise at the inadequacy of the protection afforded New Zealand. "In this," he wrote, "as in a multitude of other cases, the Government have been compelled to choose between a considerable increase of the Army and Navy, and a very defective protection of the vast trans-marine Empire which we possess, and are extending to every quarter of the globe."

Again, the Company had a scheme for establishing a German colony, but Stephen wrote in 1842, "it appears to me that there is no good reason why we should go out of our way to establish a foreign colony in the neighbourhood of our Australian settlements. If we did so, there would be in the next maritime war a neutral port close at hand from which our trade might suffer the most severe annoyance as well as rivalry. I am for having the Australian world as completely and exclusively English as possible. It will be an accession to our national strength, wealth and glory compared with which every other monument of national greatness established by any European power . . . will be insignificant, and I for one cannot but be jealous of any partnership in it."

It was in connection with this settlement that in 1842 he expressed his views of the extension of territory in Australia: "It seems to be that the occupation and colonization of New Holland and the other islands of Australia is one of those vast

schemes of national policy into which Great Britain has been drawn by the current of events and with little human foresight to direct us, but which, like the peopling of North America and the conquest of India must be regarded as amongst the most impressive movements of Divine Providence in the government of this world. It is a scheme pregnant with such splendid results and even with such early advantages, that according to my estimate, great sacrifices of money would be well made to complete the success of it. I believe that the occupation of the northern shores of New Holland will ultimately be essential to the prosperity of our settlements to the southward. . . . To complete the greatness of the Australian nation it will be necessary that they should have a greater variety than at present of climate, soils, products and exports. It is also necessary that they should secure the great harbours to the north, and to the north-west. A belt of colonies drawn round the coast will give us the absolute and undisputed possession of the interior."

". . . We are recklessly increasing and dispersing our Colonial Empire in all directions and creating a demand for naval and military force which there are no means of meeting, except by weakening the force where its presence is most needed."

The fourth son of the Master in Chancery, Sir George Stephen, Q.C. (Figure 7), Mr. Secretary's youngest brother, arrived in Melbourne in 1855 at the age of 61. He was surrounded by the same influence as his brother James, and was educated at Magdalene College, Cambridge. At one time he was intended for medicine, and spent three years in preliminary study. He was offered a partnership in the famous legal firm of Freshfield, but preferred to set up for himself. He was for a time engaged in the rather unpleasant task of procuring evidence as to the conduct of Queen Caroline on the Continent. He was knighted in 1838 for the part he played along with Zachary Macaulay and Buxton in the final abolition of slavery. He made many excursions into literature. Leslie says that "he wrote in 1837 *Adventures of a Gentleman in Search of a Horse* which became very popular and proved that besides understanding the laws relating to the subject he was the only one of the family who could clearly distinguish a horse from a cow". A very clever but less judicious work, *Adventures of an Attorney in Search of a Practice*, was said to give indiscreet revelations as to some of his clients. An unfortunate catastrophe nearly ruined him, and he then retired from practice as a solicitor, was called to the Bar, and

practised at Liverpool until he emigrated to Melbourne. He found the colonists at least as perverse as the inhabitants of England. He wrote a life of Christ intended to teach them a little Christianity, and a so-called life of his father, the Master in Chancery, which is in the main an exposition of his own services and the ingratitude of mankind. The state of Australian society seemed to justify his worst forebodings, and he held that the world in general was in a very bad way. Such are the comments of his nephew, Leslie, and he went on to write that though the world had not treated him too well, the complaints were not all on one side. He was one of those very able men who have the unfortunate quality of converting any combination into which they enter into an explosive mixture. By his wife, Miss Ravenscroft, he had five children. The eldest son, James Wilberforce, was educated in the traditional atmosphere at St. John's, Cambridge. He was Fourth Wrangler in 1846, and tutored his cousin, Leslie, who was placed twentieth in the list of Wranglers of his year. He came to Melbourne in 1854, and acquired a very large practice in the Equity Court. He became a Judge of the Supreme Court of Victoria in 1874. He was M.L.A. for St. Kilda from 1871 to 1874. His memory is linked with the Act for free, secular and compulsory education which he helped to frame, and which he piloted through Parliament.

Sir George's second son, Ravenscroft, was the grandfather of Sir Hibbert Alan Stephen Newton, and Sir Wilberforce Stephen Newton, both of whom were knighted for their services to medicine and to this State. Sir Alan Newton's son is a member of the Victorian Bar.

I come now to the final object of my quest, which is to seek the reasons for the growth and flowering of an intellectual aristocracy the like of which I do not think exists to-day. It does not exist because the driving forces that made it possible are not present, and are not likely to appear again for possibly two generations.

In 1869 Francis Galton published *Hereditary Genius,* a study of the inheritance of intelligence. He chose the High Court Judges from the reign of Charles II to 1865 as examples of men of eminence, and then made a search for their relatives who had attained eminence. There were two hundred and eighty-nine High Court Judges, and one hundred and eight had relatives of eminence. His main findings were:

(1) The eminent relations of the Judges are quite out of proportion to the chance distribution of high ability.

(2) The nearer the relationship to the Judge the greater the chance of eminence.

(3) The greater the eminence of the Judge, the larger the number of eminent relatives.

(4) One in nine of the Judges was father, brother or son of another Judge.

(5) But the ability of their eminent relatives was in no way confined to legal ability. He also reached the conclusion that there was little, if any, difference between inheritance through the mother and father.

Bramwell (1948) has followed up the families of nineteen of Galton's Judges who were appointed to the Bench after 1837. He has also studied the families of Lord Chancellors appointed since 1865. They numbered eighteen. Bramwell used the *Dictionary of National Biography* as the test of eminence, and he found that the number of eminent relatives far exceeded the expectation. In Bramwell's list eight Judges out of thirty-seven were father, brother or son of another Judge. So far from being confined to legal ability, the thirty-seven averaged two relatives apiece eminent in other directions.

The Stephen family conform to the pattern found in Galton's eminent families. One would not use the term genius about any one of them, but they are people of outstanding talent. A final glance may now be taken at this genealogical thicket whose ramifications we have seen spread so widely and deeply in British, Colonial and Australian history.

Leslie Stephen's father married Jane Venn (Figure 6). The Venns were Devonshire farmers in the sixteenth century, but from them stemmed an unbroken line of clergymen from Elizabethan to Victorian times. The Venns were the virtual founders of the Clapham sect, the rather slighting term used by Sydney Smith to describe a group of evangelicals who initiated the biggest religious movement in Victorian England. Their missionaries altered the course of Colonial history, their disciples wrote their names into the history of modern India, Florence Nightingale, herself a descendant of a member of the sect, altered the course of health in war and peace.

Leslie's aunt married T. E. Dicey, a school and college friend of his father. He was the proprietor of one of the oldest newspapers in England, *The Northampton Mercury*. It is related that after a year at Oxford he came to Cambridge ignorant of mathematics and in delicate health. Despite this he was senior wrangler in 1811. Of his sons, Edward became the editor of *The Observer,* and Albert Venn Dicey became the Vinerian Professor of Law at Oxford and wrote standard works on Constitutional Law.

James Fitzjames Stephen's children included J. K. Stephen, author of *Lapsus Calami*, whose life that promised so well ended early; Sir Harry Stephen, who married into the Nightingale family and became Judge of the High Court of Calcutta; and Katherine Stephen, Principal of Newnham College. Through Leslie's second wife the Stephen family is related to the Vaughans so that Virginia Woolf had not only a cousin as head of Newnham but, in Dr. Janet Vaughan, a cousin head of Somerville. On this side, too, the Stephen family are related to H. A. L. Fisher, the historian, and to Mrs. F. W. Maitland, wife of the historian who "apprehended the final and dominant object of historical study as no other writer had done" (Young). Leslie's sons married into families that brought connections with Logan Pearsall Smith, Bertrand Russell, Bernard Berenson and James Millington Synge.

Leslie Stephen founded a walking club which he called the "Sunday Tramps". His co-founder, Sir Frederick Pollock, lived into his ninety-second year, and was one of the most distinguished jurists of his time. His great-grandfather was a Scottish saddlemaker who came from Berwick to Charing Cross and married in London the daughter of the Receiver General of Customs. They were not well-to-do, and the education of their children was a problem, yet their eldest son became Chief Justice of the Supreme Court of Bombay; another son, Sir Jonathan Frederick Pollock, was senior wrangler and Smith Prizeman at Cambridge and became Chief Baron of the Exchequer; and a third son became Field Marshal Sir George Pollock. From that modest beginning down to the present day one finds a line of eminent men.

Perhaps for variety of intellectual gifts the descendants of the Reverend J. Alderson, a dissenting minister of Lowestoft, would be hard to equal (Figure 8). Eminence in the Church, law, medicine, literature, mathematics, astronomy, politics and

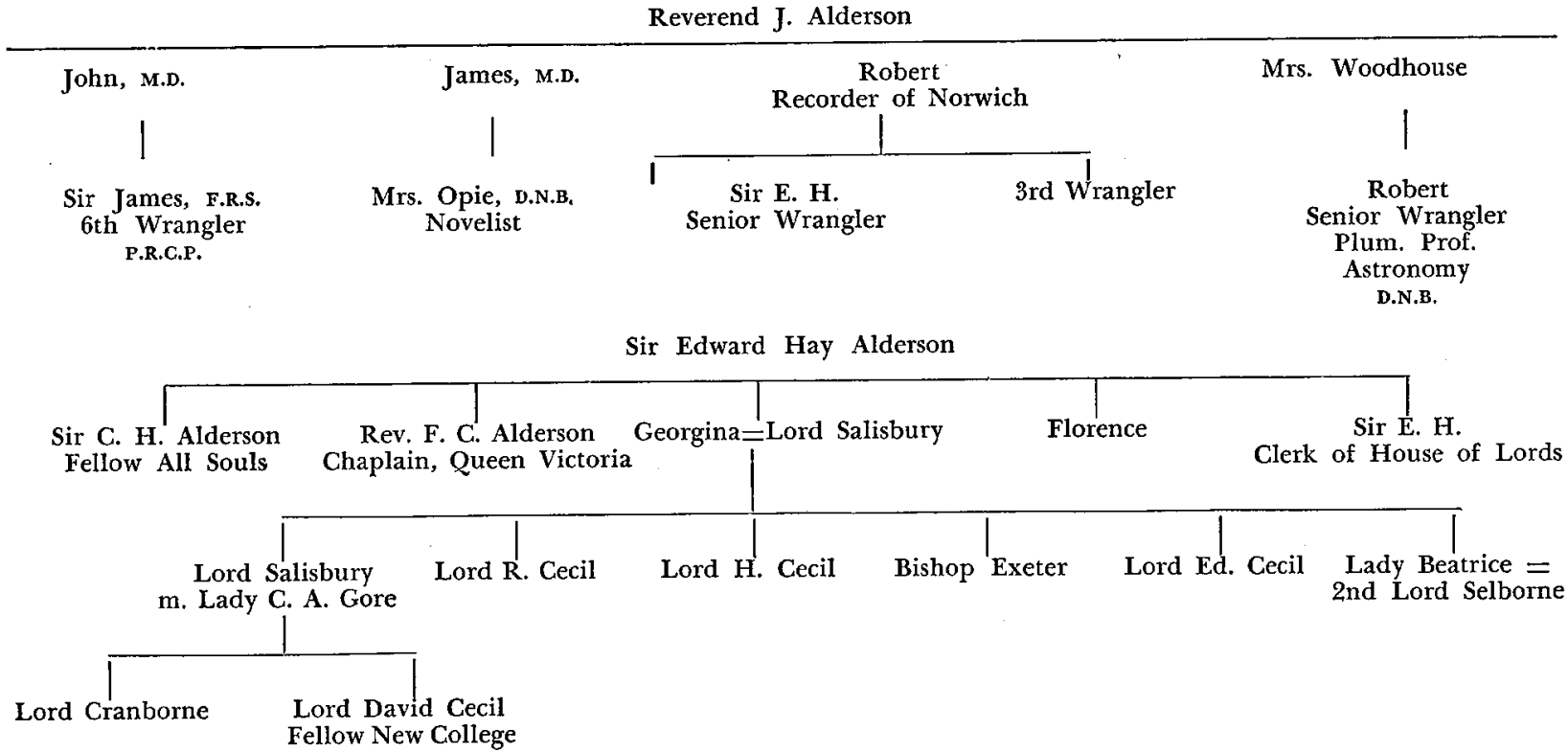
Reverend J. Alderson
John, M.D.
James, M.D.
Robert
Recorder of Norwich
Mrs. Woodhouse
Sir James, F.R.S.
6th Wrangler
P.R.C.P.
Mrs. Opie, D.N.B.
Novelist
Sir E. H.
Senior Wrangler
3rd Wrangler
Robert
Senior Wrangler
Plum. Prof.
Astronomy
D.N.B.
Sir Edward Hay Alderson
Sir C. H. Alderson
Fellow All Souls
Rev. F. C. Alderson
Chaplain, Queen Victoria
Georgina=Lord Salisbury
Florence
Sir E. H.
Clerk of House of Lords
Lord Salisbury
m. Lady C. A. Gore
Lord R. Cecil
Lord H. Cecil
Bishop Exeter
Lord Ed. Cecil
Lady Beatrice =
2nd Lord Selborne
Lord Cranborne
Lord David Cecil
Fellow New College

FIGURE 8

marriage into a great aristocratic family to become the wife of a Prime Minister are all to be found in this family history. Sir Edward Hall Alderson was the son of the Recorder of Norwich. When he took his degree in 1809 it had only once been equalled. He was the Senior Wrangler, Smith Prizeman and first Chancellor's medallist, this last being the highest honour attainable in classical scholarship. He became a Baron of the Exchequer. "He was a man of much religious feeling, a humane judge with a desire to restrict capital punishment. His domestic life was happy, and he was the father of a large family." How often does one read these or similar lines in the *Dictionary of National Biography* of the people about whom I write.

Inherited talent, one sees, is the first ingredient of these lives. The second is a spiritual heritage which I have no doubt was the dominating force behind these remarkable people. The same guiding and driving force is to be found at the same time in the intellectual ferment of New England, and is described by Van Wyck Brooks in *The Flowering of New England.* In that gravely beautiful book, *Earlham,* Percy Lubbock describes the daily life of the Gurneys, the Norfolk Quakers, and all the influences I describe are to be found pervading this family life. In such soil people multiplied their talents and brought into flower and to ripeness the best that lay in them. Life at Earlham and in the Stephen family was not oppressive with the weight of fervid or drab religion, and probably too much has been made of the gloom and harshness of Victorian religion.

Into this world in 1859 came *The Origin of Species,* and in that year Leslie Stephen was ordained as a priest of the Anglican Church. Though he did not renounce Holy Orders until 1875, in 1865 he wrote: "my faith in anything like religion has been gradually growing dimmer. . . . I now believe in nothing to put it shortly, but I do not the less believe in morality." It seems likely that Leslie Stephen's father also lost his faith in Christian dogma, but one cannot find that these grievous blows brought dissension to the tranquil home so wisely governed by Jane Venn Stephen. The reason was that the members of the Stephen family, Christian and agnostic, still shared the philosophy of the good life. The promise of rationalism in the age of Darwin and Huxley must have seemed greater than at the present day, and what has been gained in this search for truth does not seem to compensate for what has been lost in the motive power of Victorian religion and the Victorian con-

science. It must have been the twinging of the latter that caused Leslie's Aunt Sarah to found the "Metropolitan Association for Befriending Young Servants". No doubt this association has long gone into liquidation.

If inherited talent gave them a good start and religious faith and the philosophy of the good life disciplined them to a sense of duty and of purpose, much was added in the home. Around the large family was the family circle of relations, and just beyond that the coterie of friends. Virginia Woolf once wrote: "My impression as a child always was that my father was not very much older than we were, and we knew that his interest was no 'grown-up' pretence; it was as genuine as our own; so there was a perfectly equal companionship between us. Every evening we spent an hour and a half in the drawing room and as far back as I can remember he found some way of amusing us himself. When we were old enough he spent the time in reading aloud to us. At the end of a volume my father always gravely asked our opinion as to its merits, and we were required to say which of the characters we liked best and why. My father always loved reading aloud. He began to read poetry instead of prose on Sunday nights, and the Sunday poetry went on till the very end. His memory for poetry was wonderful. If he could not speak from memory he generally refused to recite at all. As he lay back in his chair we felt that he was speaking not merely the words of Tennyson or Wordsworth but what he himself felt and knew. Thus many of the great English poems now seem to me inseparable from my father; I hear in them not only his own voice, but in some sort his teaching and belief." One can imagine those evenings; the intimate quality of the speaker's voice, the sound of the spoken word vibrating in the memory, the inward eye the sole means of conjuring the vision. Is it any wonder that these children learned to turn a phrase with the skill of the craftsman moulding his clay or wood?

Their minds, too, were fashioned by the talk that went on between Stephen and his friends over the tea table and the dinner table. They talked of abstract questions; they dealt in foreign exchange in Europe and America, but they interchanged ideas, not merchandise. Tennyson was on the fringe of this circle and it has been said of him that "only an historical index to his works could make clear at how many points he touched the passing interests of the day. It might be evolution or personal immortality or the nebular hypothesis. It might be chancery

procedure or company promoting or industrial insurance or provision of coaling stations. *In Memoriam* is one of the cardinal documents of the mid-Victorian mind, and too little credit is given to Tennyson for the range of his speculative imagination, his ardent curiosity and his real understanding of the workings of the new scientific mind" (Young). It is small wonder that there existed that smug Victorian precept "servants talk about people; gentlefolk discuss things".

There is an idea still prevalent that in that sombre age of Queen Victoria people thought and acted according to a rigid code. Yet though that may have been how it ended, nothing could be further from the truth in mid-Victorian England. The youth of this intellectual aristocracy grew up in sturdy independence of mind as one sees over and again in the Stephen family. In a broad sense they were non-conformists, even rebels. This may have come with their inherited talent, for the Master in Chancery openly stated his intention when a youth of going to America to "join Washington and the cause of liberty which it was now pretty clear must be finally decided by the sword". Leslie Stephen in his youth was a republican. "A man should be ashamed rather of not having felt in his youth the generous impulses which make him sympathize with whatever appears to be the cause of progress. . . . A young man ought to become an enthusiast for the newest lights, a partisan of the ideas struggling to remould the ancient order and raise the aspirations of mankind."

The fact is that Victorian England was alive with such people; hotly challenging and questioning, open always to new ideas. In their eagerness they ranged over literature and science, history, philosophy, politics and religion. The rebels, as we have seen, came from middle-class homes, and were nourished in the Christian faith, and brought up in the tradition of industry. It is easy to name the literary and artistic giants of this mid-Victorian world—Ruskin, Browning, George Eliot, Morley, Leslie Stephen, Morris, Meredith and Burne-Jones—but there are men of talent long forgotten who bear out my contention that this was a world peopled by men with vigorous and independent minds. Such a family I found once crossing the path of the Stephen family. They were the three children of that remarkable schoolmaster, Thomas Wright Hill. His son, Rowland, the inventor of penny postage, is still remembered, but there were two other eminent sons in Matthew Davenport

Hill, the reformer of the Criminal Law, and Edwin Hill, the inventor and writer on currency. The intellectuals of this age kept alive numerous reviews and papers. I find Leslie Stephen writing for no fewer than eleven of the type of *The Nineteenth Century, The Fortnightly* and *The Saturday Review,* as well as editing *The Cornhill* at the zenith of its career.

Their education seems like dalliance compared with the present-day education. It would have been difficult to know what career a scholar intended to embrace from a scrutiny of the lines upon which his study was planned. Many spent their schooldays in the study of the classics, went to Cambridge almost ignorant of mathematics, took the Mathematical Tripos and finished up as Wranglers, then turned to the Church or Law or Medicine. This was indeed the last survival of the education in the liberal arts. It is said that the function of society has changed, and that the elite to-day are engaged in the management of trade. It is one of the reasons why I do not believe that we shall build up an intellectual elite or aristocracy again for at least two generations.

Nostalgia can be an insidious and dangerous disease. The weapons and tools with which we are supplied to-day have to be accepted and it is not proper to pine for what has been lost, but we might profit by recalling what the Victorians did with their talents. Before the unity of knowledge the mid-Victorians did not flinch, and they ranged the fields of human thought and action with understanding. We stand dismayed, and specialize so that we may limit ourselves. We have seen that these people came from simple forbears; from the homes of yeomen farmers, country clergy, often dissenters, and non-conformists, or their parents may have been schoolmasters, small tradesmen or craftsmen. They carried with them their spiritual heritage, their ardent convictions, their family life, and they were trained to the discipline of work in a liberal education not directed to utilitarian ends that gave them an attitude of mind rather than a technical training. Goldsworthy Lowes Dickinson has described them "a type unworldly without being saintly, unambitious without being inactive, warm-hearted without being sentimental. Through good report and ill such men work on, following the light of truth as they see it; able to be sceptical without being paralysed; content to know what is knowable, and to reserve judgment on what is not. The world could never be driven by such men, for the springs of action lie deep in ignorance

and madness. But it is they who are the beacon in the tempest, and they are more, not less, needed now than ever before."

It has been my endeavour to show what matched this distinguished family and others with the Victorian hour. The love of mountain climbing introduced me to Leslie Stephen and led me along the pleasant paths that later gave me many delightful conversations with Sir Alan Newton, who knew well his family history. I have followed the lines of communication that link a family, distinguished in their own right in the new world, with their forbears who laid the tradition of service in law and medicine in the old, and who wove the stuff of their lives so that the pattern can be discerned appearing again in the lives of famous men living in far countries.

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Discussion

MR. JUSTICE BARRY said that the paper which the Society had just heard showed a recognition of values all too generally lacking in the modern community.

He said that Alfred Stephen was the first of the family to come to Australia. He was born in 1802, called to the Bar in 1823, and arrived in Tasmania somewhere about 1824. Governor Arthur was then Governor of Tasmania, and was not insensible

to the wisdom of pleasing influential relatives in England, and appointed Alfred Stephen Crown Solicitor and also Solicitor-General. Later Alfred became Attorney-General and held that office up till 1837. He was a man of simple liberality of mind, holding strong views on the defects of the convict system which James Stephen was controlling from England. He favoured trial by jury, and as a result of his efforts it was introduced in 1834.

In 1838 he left Tasmania for New South Wales and became puisne judge and then Chief Justice of the Supreme Court. As the result of some constitutional phenomenon, while Chief Justice he was also a member of the Legislative Council. He retired from the Bench in his early seventies, and then became a nominated member of the Upper House. He alternated between the offices of Lieutenant-Governor and member of the Upper House until his death.

James Stephen, the man who ruled the colonies with a quill pen, was far in advance of the Minister whom he served in his views on the convict system. It was under him that Norfolk Island was abandoned as a penal settlement and improvements were made in some aspects of the Australian administration.

It is difficult to feel any great affection for the members of the Stephen family in those years. They were very able, very forthright, entirely sure of their values, and all honest people as well. The member of the family best known to lawyers was James Fitzjames Stephen, who was born in 1829 and died in 1894. He was thoroughly disliked, and found it at first very difficult to get work at the Bar by reason of his uncompromising manner. While briefless, he undertook journalistic work, at which he showed great ability.

The History of the Criminal Law, which James Fitzjames Stephen published after he was appointed to the Bench as a revision and development of an earlier work, *A General View of the Criminal Law,* is one of the best social chronicles of the British people. It is eloquently and vigorously written without concealment of the author's prejudices. For instance, he was strongly in favour of capital punishment upon the basis that the people who were socially useless should be hanged. He also wrote a little-known book, *Liberty, Fraternity and Equality,* in which he attacked Mill's doctrine of liberty. Disraeli expressed the opinion that Stephen would have made an ideal leader of the Conservative Party, but in fact shortly after 1873

he stood as a Gladstonian Liberal. During the election campaign he found that he was a Conservative and not a Liberal at all, a discovery which dampened his election campaign and may have helped to cause its failure.

James Fitzjames Stephen was appointed a judge in 1879. His two books, *The Digest of Evidence* and *Digest of the Criminal Law,* are first-class works of reference. His two sons have produced various editions of the *Digest of the Criminal Law,* which remains an authority of the first order.

On the Bench, he was uncompromising and often unpleasant. He tried Mrs. Maybrick, and was never forgiven by Sir Charles Russell, who defended her, for his conduct of the trial. In his later years his mind failed, a fact which has probably tended to diminish his fame.

The self-discipline which ran through the Stephen family is not particularly prominent in this community at the present time. In its place a facile and fallacious egaliterianism of the kind denounced by James Fitzjames has grown up.

Galton's work, *Hereditary Genius,* expresses the view that the number of eminent men in the community will be about one in 4,000. In the course of his studies he reviewed the High Court Judges, 289 in number, from Charles II down to 1865. Of these, he found that 108, about 40 per cent, had relatives of eminence. His five ultimate findings were as follows:

(1) The eminent relations of the judges were quite out of proportion to the chance distribution of high ability;
(2) the nearer the relationship to the judge the greater the chance of eminence;
(3) the greater the eminence of the judge, the larger the number of eminent relatives;
(4) one in nine of the judges was father, brother or son of another judge;
(5) the ability of the eminent relatives was in no way confined to legal ability.

Galton's study has been brought up to date by B. S. Bramwell, who made a study of nineteen judges appointed to the Bench after 1837, and of the families of the Lord Chancellors appointed since 1865. His findings were that:

(1) The expectation of eminent relatives for the thirty-seven men—nineteen judges and eighteen Lord Chancellors—would be a fraction of one per cent. In fact, the total of eminent relatives was over 100 persons.

(2) The near relations were more eminent than the more distant.

(3) Approaching the problem from the opposite side, he investigated who were the judges with the greatest number of eminent relations. He found that Lord Chancellor Haldane had fifteen, Baron Alderson and Sir J. T. Coleridge each fourteen, Sir Frederick Pollock and Sir John Vaughan each eleven. All of these men had achieved intellectual distinction at their universities or elsewhere outside the law.

Bramwell concluded that the number of eminent sons had diminished woefully, but this is no doubt due to the fact that the number of sons, eminent or otherwise, has diminished.

MR. P. D. PHILLIPS, Q.C., said that one of the reasons for the outstanding success of some English nineteenth century families was the fact that there seemed to be a coincidence between the characteristics of the family and the well-accepted beliefs of the society in which they lived. The society of the time was uncritical of itself and really satisfied with its own fundamentals, and the universities trained men who readily accepted those fundamental beliefs and were adjusted to them. When at the turn of the century a new spirit of criticism arose, the community became less and less satisfied with its own fundamental beliefs, and the universities tended to produce men who were critical of these beliefs.

An intellectual aristocracy is not found during periods of dissatisfaction and doubt, and this fact explains the disappearance of intellectually dominating families of the kind under discussion.

SIR JOHN LATHAM said that, far from accepting uncritically the beliefs of his time, Leslie Stephen wrote, in the nineteenth century, two works called *Agnostic's Apology* and *History of Rationalism*. These works must have brought him into direct conflict with the social and intellectual convictions of his time.

DR. C. H. FITTS, in reply, said that he agreed with what Mr. Phillips said. It was true that Leslie Stephen was a rebel, but nevertheless he had most of the basic convictions of the age in which he lived, and that is something which seems to have been lost to-day.