



EDWARD JENKS

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1861-1939

EDWARD JENKS was born at Stockwell in South London on 20 February 1861. I have heard him say that his family came from North Wales, and he liked to claim, or suppose, a connexion with Francis Jenkes of *Habeas Corpus* fame. As to this *ex ingenio suo quisque demat vel addat fidem*. His immediate ancestors were settled in the City of London. They lived, as the custom was, over their place of business. Edward's grandfather, Robert Isaac, born in 1787, had one child Robert, born in 1820 in Salisbury Court, Fleet Street. The firm to which he belonged dealt in household furniture and had a valuable business connexion with Warrington and other provincial towns. In the early 'seventies great things were expected from the recent opening of the Holborn Viaduct, and the firm removed to this site. The speculation turned out badly, and when, on Robert Jenks's death in 1891, the business was wound up the assets were barely sufficient to clear the mortgages. Robert Jenks was twice married, and was the father of six sons. The two sons of the first marriage went into the business. The elder, named Robert Isaac after his grandfather, was the father of Mr. Robert Leonard Jenks who adopted the profession of analytical chemist and went out to India in the service of Government, retiring on pension in 1928, and of Sir Maurice Jenks, Bt., Lord Mayor of London in 1931-2. Edward was the eldest son of the second marriage. His mother was the daughter of a Mr. Edward Jones, a manufacturer of furniture in Nottingham.

Edward Jenks was sent to a school at Margate and from there to the Upper School of Alleyn's College of God's Gift at Dulwich, commonly known as Dulwich College, the Master being at the time the Rev. Alfred James Carver. He was elected to a Scholarship in 1874, and left in 1877, having attained to the sixth form. His school career ended

at an early age before his intellectual powers were fully developed.

During the next five years (1877-82) Jenks qualified as a solicitor. He served his articles with J. F. Robinson of Coleman Street, and was second in the first class in the Final Honours Examination. He took out a practising certificate, but did not join a firm and it may be supposed that his energies were concentrated upon preparation for the University career, upon which his mind was now set. The death of his mother in 1883 put a sum of money at his disposal which made this course more feasible. By this time his father's financial position had considerably declined.

In October of this year Jenks entered King's College, Cambridge, as a pensioner, and before the academic year was out was awarded a £40 exhibition in Law. He read for the Law Tripos and was placed first in the first class in 1886, in which year he took the degrees of B.A. and LL.B. His College rewarded his success with a scholarship. A year later he was bracketed second in the first class in the History Tripos. Concurrently, he had been reading for the Bar. He was admitted as a Student at the Middle Temple in January 1884, having taken the necessary steps to dissociate himself from the other branch of the profession, and was called to the Bar in Michaelmas Term, 1887. In the interval he had placed to his credit a studentship in Jurisprudence and Roman Law (1886) and the Barstow Scholarship (1887). At Cambridge he took the Chancellor's Gold Medal for Legal Studies in 1886.

Such a distinguished scholastic record in law might have encouraged Jenks to challenge fortune at the Bar. But perhaps rather by accident than design he was drawn into the academic career for which he was better suited and from which he never afterwards sought or desired escape. In 1888 he held appointments as Director of Studies in Law and History at Jesus College, and lecturer at Pembroke College, and in the following year was elected to a

fellowship at King's, which he continued to hold until 1895, but from 1891 onwards, at his own desire, without emolument.

While still in residence at Cambridge, Jenks successfully competed for the Le Bas Prize (1888) with an essay on *Thomas Carlyle and John Stuart Mill*, published in the same year, and for the Thirlwall Prize (1889) with an essay on *The Constitutional Experiments of the Commonwealth, 1649-1660*, published by the University Press, 1890. The dedication and preface to the first of these essays throw some light on the use which he made of his vacations at this time. The book is 'dedicated to my friends, the Residents at Toynbee Hall, Whitechapel, who have generously allowed me to share in their good work'. In the preface the writer pleads in extenuation of the paucity of references to other writers that the essay was written in Germany beyond the reach of English libraries. The preface is subscribed '4 Essex Court, Temple, May 1888', which suggests that he may have had his name up in the Temple, but there is no record of his having read in Chambers.

In 1889, shortly after his election at King's, Jenks left England to take up an appointment as Professor of Law and Dean of the Faculty of Law in the University of Melbourne. He was recommended for appointment by a nominating committee presided over by Lord Justice Cotton and selected from twenty candidates for the post.

Jenks was now in his 29th year. He had had only a brief experience as a teacher and found himself in unfamiliar surroundings. The conditions of law teaching in the Dominions then were (and still are) similar to those which exist in the provincial Universities in England. The principal object which the students set before them is to qualify for the practice of the law. The educational value of legal studies is too often regarded as of secondary, or no, importance. But Jenks's predecessor, W. E. Hearn, was a man of vivid personality and wide culture. He had been connected with the Faculty since its foundation in 1873. An

immigrant to Australia—for he was of Irish birth, and had held the position of Professor of Greek at Queen's College, Galway—he had won for himself a distinguished place in the life of the colony, and his work on *The Government of England* remains to this day a classic. He was not a man to be satisfied with a low standard of work in himself or in his pupils. The Board of the Faculty consisted of one professor and a number of judges and others connected with the practice of the profession. Carefully handled an element of this nature is not necessarily antagonistic to the academic point of view. Professor Hearn had been the occasion of fierce newspaper controversy in connexion with his candidature for a seat in the Legislative Assembly, an office which was thought in some quarters to be inconsistent with his position as a University professor. Ultimately he triumphed, and was for many years a valued member of the Legislative Council. Jenks in his turn became a storm centre. He had the misfortune to fall out with the Vice-Chancellor of the University, Dr. John Madden, afterwards Sir John Madden and Chief Justice of Victoria.<sup>1</sup> The questions at issue related to matters of University administration. Jenks was a man who knew what he wanted and was impatient of control. The proceedings of the University were reported in the press and every little squabble assumed an exaggerated importance. The result was to attach to Jenks a reputation for pugnacity which remains to this day a tradition at the scene of conflict. But these homeric contests so little affected his indefatigable industry that he found time to collect materials for *The Government of Victoria (Australia)*, published in 1891, a pioneer work of signal merit, as well as to prepare for the press his *Constitutional Experiments of the Commonwealth* and to write for the Yorke Prize (1891) which was awarded him for an essay on *The History of the Doctrine of Considera-*

<sup>1</sup> Details are given in *A History of the University of Melbourne*, by Ernest Scott, Professor of History in the University, Melbourne, University Press, 1936, pp. 160 ff.

*tion in English Law*. This was published in the following year by the Cambridge University Press and is dedicated to the Hon. George Higinbotham, Chief Justice of Victoria, by his 'affectionate and admiring friend, Edward Jenks'.

On 7 November 1891 Jenks resigned his chair at Melbourne and early in the new year returned to England. Before leaving Melbourne he wrote a letter to the London *Athenaeum*, published in its issue of 5 March 1892, setting forth temperately, but with emphasis, his grounds of complaint against the University authorities. This provoked a reply published in the issue of 11 June, from another Melbourne professor, Mr. T. G. Tucker, who did not consider the reasons alleged to justify the course which Jenks had taken.

Jenks was married in 1890 to his first wife, Annie Ingham of Leeds. She had followed him from England and they were married in the Queen's College chapel immediately upon her arrival. She died next year having given birth to a son. It may well be that the shock of this bereavement and the charge of an infant child contributed to Jenks's decision to return to England.

In the Cambridge University Calendar for 1892-3 Jenks is entered as Lecturer in Law at King's College. But he did not retain the appointment, as shortly after his return to England he was appointed professor in the recently instituted Faculty of Law at University College, Liverpool. Three years later he was offered and accepted the newly created Queen Victoria Chair of Law in Victoria University, Manchester, an appointment which implied some increase in dignity and emolument, but otherwise left his situation unaltered.

At the time of which we are speaking, University College, Liverpool, was a constituent body in the University of Manchester, enjoying a *de facto* independence. The Liverpool Board of Legal Studies had been established in 1886, but it was not until November 1892 that the Law Faculty

was formally inaugurated. In a Memorandum issued at the time it was said:

It is proposed to establish a Law Faculty in University College, Liverpool, in order to carry out [the objects of the Board] more systematically and completely, by bringing the study of Law into close connection with the other studies of the College, and by affording opportunities for the study of Jurisprudence and kindred subjects, thus enabling students to qualify themselves for the LL.B. examinations of the London and Victoria Universities.

The proposed course of study was to include three practical courses upon subjects selected from each of the following main divisions of law: namely (*a*) Real and Personal Property and Conveyancing, (*b*) Common Law and the Procedure in the Queen's Bench Division, (*c*) Equity and the Procedure in the Chancery Division. In addition, lectures and classes were to be provided in Jurisprudence, Roman Law, International Law, and Constitutional Law.

One notices the almost apologetic inclusion in the curriculum of subjects of specifically educational value. Jenks was chiefly responsible for all the non-professional subjects, and for one of the professional subjects. In the first year he is found to be lecturing on Real Property, Jurisprudence, Roman Law, and Constitutional Law (an intolerable burden to place on any one pair of shoulders). For the first of these subjects 55 students entered, for the others 10, 5, 7. The great majority of the students were preparing for the practice of the law, principally in the solicitors' branch of the profession. A small minority aspired to the LL.B. degree of Manchester or London. Some of them were older men who had already qualified as barristers or solicitors. In the year 1893-4 seven students entered for the course of study provided by the Board with a view to graduation. There was no considerable increase during the remainder of Jenks's time at Liverpool. His task was a difficult one. Burke has said that the study of law is more apt 'to quicken and invigorate the understanding' than 'to

open and to liberalize the mind'.<sup>1</sup> It is the business of a professor of law both to quicken and to liberalize. *Mens agitat molem*. But what if *moles non vult agitari*? Jenks's attitude towards the problem and the measure of success which attended his efforts is reflected in the following extracts from annual reports on the work of the session.

It would be well, I think, if those who are in a position to advise and direct the studies of law students would remember that the question is not merely one of taking a degree [he might have added 'or of passing the professional examinations'], but the far more important question of whether a man shall look upon his life's work merely as a trade, or as a high calling, to which the best energies of his mind may worthily be devoted.

This was written in 1895. In the following year Jenks resigned his chair in the University of Manchester on appointment to the Readership in English Law in the University of Oxford.

In his last report to the Board he wrote:

It would be idle to deny that the four years which I have spent in Liverpool have been years of much trial and occasional despondency. The apathy of the Englishman towards educational as distinct from merely technical studies is, perhaps, nowhere more clearly manifest than in the legal profession. Within two years of the time at which I write, a prominent member of the profession in Liverpool expressed his opinion that the Board of Legal Studies and the Law School might very well disappear in less than three months. I doubt if any person with a reputation for sanity would make such a statement now. For, during the last twelve months especially, it has been slowly but surely borne in upon my mind that the Law School is an accomplished, if modest, fact, resting on the sure foundations of the devotion and energy of certain members of the Board and its most earnest supporters, on the friendly sympathy of University College, on the enthusiasm and self-sacrifice of its degree students, on the perseverance of its teachers, present and future, and last, but not least, on the reluctant but growing recognition of its existence by the profession and the public. With these guarantees I have no fear for its stability. That the Law School should have arrived at such a stage during my tenure of office is at once my reward for four years of service and my consolation in

<sup>1</sup> Speech on American Taxation.



severing myself from it. For to have taken even a modest part in founding an institution which has for its object, not merely the sharpening of technical faculties, but the production of wise and public-spirited men, is, and must always be, a source of unmixed gratification.

Jenks was succeeded in the Chair at Liverpool by Mr. George H. Emmott of Trinity Hall, Cambridge, who had been Professor of Roman Law and Comparative Jurisprudence in the Johns Hopkins University, Baltimore, U.S.A.

In Oxford Jenks found life more placid. His predecessor as Reader was Thomas Raleigh, who had been appointed Registrar of the Privy Council and subsequently was Legal Member of the Viceroy's Council in India. Jenks stepped also into Raleigh's position as Law Tutor at Balliol, of which College he became a member. His appointment as Reader took effect from the first day of the Michaelmas Term, 1896. In the first year he gave lectures on 'The Modern Law of Real Property' which laid the foundation for his *Modern Land Law* published in 1899. In subsequent years he lectured on 'The History of Institutions'; 'The History of English Law'; 'The General Principles of the Constitution'; 'Real Property'; and 'The Principles of the English Law of Contract'.

In the calm atmosphere of Oxford Jenks found nothing to fight for or against. The records of the Board of the Faculty show him inactive. The Board consisted of Professors Goudy, Pollock, and Holland, Sir William Anson (Warden of All Souls), Prankerdt, Wilson, Duff, Burnham, Moyle, and Jenks with one or two others. It was during Jenks's time at Oxford that the University was offered and refused a large endowment under the will of Miss Rebecca Flower Squire for exhibitions, scholarships, or fellowships in Divinity and Law and for a Law Library or for books for such a library. Objection was made to certain conditions attached to the gift. The upshot of the matter was

that the Law endowment went to Cambridge to the great advantage of Law studies in that University. Jenks must share with Dicey the responsibility for this incident, since they promoted the opposition in Convocation, an unfortunate exhibition of doctrinaire liberalism.

The conditions of academic work at Oxford were naturally very different from what Jenks had experienced in Melbourne and Liverpool. His pupils were not distracted by the claims of office attendance. He could command the whole of their attention, or so much of it as they chose to spare him. He numbered amongst them men of outstanding ability, many of whom have been greatly distinguished in after life, Sir William Beveridge, Raymond Asquith, C. R. Dunlop, K.C., Mr. Justice Uthwatt, R. C. R. Ensor, and others. One who was in those days a member of the Balliol governing body has supplied a note of his recollections of Jenks which deserves record since it indicates in a critical, but not unfriendly way, some external aspects of his character.

Jenks was not everybody's man, but I liked him personally. He was a very efficient tutor and lecturer, but he did not make Law a soft option and not many but the best men and those with some special reason were ready to face it. He kept up to the high level of conversation in Common Room which my memory associates with the days of Strachan-Davidson, Abbott, Forbes and J. A. Smith, and he was much more human than his rather formal and precise manner would suggest, though he was not the man to adapt his views or the expression of them to the weaknesses and ignorance of other people, and I used to be sometimes at a loss because he assumed that every one of course knew the things which he did, whereas I usually did not, but he could stand chaffing for his superiority.

During his time at Oxford Jenks sent to the press a number of works on subjects which from time to time engaged his attention. These were *Law and Politics in the Middle Ages* (1898) (this was twice reprinted and went into a second edition in 1913), *Modern Land Law* (1899), *A History of Politics* (Dent's Temple Primers), 1900, *Edward*

*Plantagenet (Edward I)* (Heroes of the Nations Series) (1902), and *Parliamentary England: The Evolution of the Cabinet System* (The Story of the Nations Series), 1903.

Another activity of far-reaching importance dates from this period, *A Digest of English Civil Law*. In 1902 Jenks was approached by the late Dr. Felix Meyer, President of *Die Internationale Vereinigung für Vergleichende Rechtswissenschaft und Volkswirtschaftslehre*, with a proposition for the preparation of a statement of English Law modelled upon the *Bürgerliches Gesetzbuch* which became law for the whole of Germany on 1 January 1900. The proposal was accepted, and Jenks engaged the co-operation of four of his colleagues in the Law Faculty. The work was taken in hand before Jenks left Oxford and resumed at intervals during the following years. A special portion was assigned to each member of the Committee—to Jenks the Preliminary Book corresponding with the German *Allgemeiner Theil* and the *Law of Property*, to the author of this notice *Contract*, to Miles *Quasi Contract* and *Torts*, to Geldart *Family Law*, to Holdsworth *Succession*. The person primarily responsible prepared his draft, which was passed in review at meetings of the Committee, and the revised draft was again reconsidered. Our method was to meet three or four times in the year for two or three days at a time, usually in vacation. In these circumstances progress was necessarily slow. The work was published in eleven instalments extending over the years 1905-17. A revised and consolidated edition was issued in two volumes in 1921, and a third edition in 1938. In the interval Geldart had died. His place was supplied by Mr. William Lacey of the Middle Temple. The original intention was that the whole work should be published in German, but the editor retained the right to publish an English version. Several parts did in fact appear in German under the title *Das Bürgerliche Recht Englands*. This version, begun by Dr. jur. Gustav Schirrmeyer and continued by Dr. jur. Wilhelm Prochownik, was accompanied by a needlessly laborious com-

mentary. I have a *siebente Lieferung*, dated 1927, which carries the subject to the end of the Law of Contract. Whether any further progress was made I cannot say. A French translation by M. Paul Goulet was published in 1923.

As a contributor to this work I find it difficult to insist upon its merits. It is, as Jenks points out, in his preface to the Consolidated Edition of 1921, not a Code, but a Digest.

A Digest differs from a Code, mainly in that it professes merely to state the rules which are covered by existing authority. It claims—at least when it is the work of purely private authors—no other respect than that which is derived from a belief that it represents an honest, intelligent, and industrious attempt to reduce the chaos of existing materials to simplicity and order. But no one who is at all acquainted with the condition in which the materials of English Law have been left by the course of history will doubt that, if such an attempt has been, in regard to it, even to a moderate extent successful, that attempt will have rendered both to scientific inquirers and to busy practitioners no small service.

Another difference between a Code and a Digest is that a Code is intended—or at least should be fit—to be enacted as law. Every sentence, every word, must have its place in the general scheme. There must be no inconsistencies. The whole thing must hang together, and there must be no *lacunae*. No known Code has attained this perfection. But the nature of his task puts upon the codifier the burden of aiming at it. The case is different with a Digest. The author may allow himself some latitude. If each article taken by itself conveys a precise meaning it does not so much matter that another article taken by itself may not be entirely consistent with it. But he must be meticulously careful that each several proposition is fully established by the authorities cited in support of it. This in itself demands an alert and critical appreciation of the material and of the principle which it is sought to derive from it. Jenks was admirable as an editor, and, above all, as a colleague. We used to think that he was sometimes too obstinate in

maintaining a thesis, but it is pleasant to recall his encyclopaedic knowledge of the law and his skilful direction of the whole project.

The *Jenkische Kodifikation*, as it was sometimes called, was warmly welcomed abroad. It spoke in terms familiar to the continental lawyer. In this country and in the other common law jurisdictions its merits have hardly been recognized. Jenks himself regarded the Digest as his principal literary achievement.

In 1903 Jenks left Oxford on his appointment as Principal and Director of Legal Studies to the Law Society. In the solicitors' profession legal education consisted then, as now, on its technical side, in serving articles for a term of five years, reduced to three in the case of University graduates. But there were examinations to be passed and the Solicitors Act, 1877, had charged the Law Society with the legal education of the future solicitor. Lectures were provided in Bell Yard for such as chose to attend them. Attendance was not compulsory, and the classes were not much frequented, though Jenks had himself taken advantage of them while serving articles before going up to Cambridge. In 1903 it was resolved to introduce more system into the education of students. A permanent staff was appointed with Jenks at its head, and this may be said to be the beginning of the Law Society's School of Law. Early in its history the Council took the wise step of appointing a permanent Chairman of the Legal Education Committee, who is virtually the President of the School. In 1927 Jenks contributed to the first number of *Bell Yard*, the organ of the Law School, an account of its early days.

'When the writer took over' [he says] 'there were in various ways 76 students loosely attached to the less systematic forms of teaching then maintained by the Society. In three years these numbers had risen to 235, and a year later to the verge of 300.'

Jenks was a firm and efficient administrator and was able to command the assistance as members of his staff of many

men who have since attained to positions of distinguished eminence, including Lord Wright, Mr. Burgin, who succeeded Jenks as Director of the Law School, Dr. McNair, Sir Maurice Gwyer, and others. During most of this time attendance at lectures was optional. It was the solicitors Act of 1922 which for the first time made attendance compulsory by enacting that a person articled to a solicitor after 31 December 1922 should not be admitted to the final examination unless he satisfied the Law Society that he had during the period of one year complied with the requirements of the Society as to attendance at a course of legal education at a law school provided or approved by the Society. A regulation introduced later allowed students by taking a course before articles to reduce their service from five years to four. These changes initiated by the Council naturally had Jenks's approval and support. The result has been to bring a new spirit into the education of the articled clerk not only in London but in the provinces. When Jenks retired from his post of Director, a legal journal paid him a deserved tribute. After remarking that his editions of Stephen's *Commentaries* 'converted that work from antiquarian lumber into an extremely up to date treatise on the whole of the law of England' it continued:

He built up the law school entrusted to his guidance out of an extremely doubtful experiment into a great and successful institution. He was largely instrumental in making the arrangements by which all the provincial Universities in England now unite with the local Law Societies to provide approved Law Schools for the articled pupils of solicitors.

A legal correspondent in another publication of the time wrote:

Twenty years ago . . . the education of solicitors was often a byword for narrowness. Today . . . in every one of the score of English Universities there has been established a school of legal studies, governed and financed by a joint committee of the University and the local society of solicitors, which must be attended by every articled pupil of a solicitor during part of his five years'

apprenticeship. This is the effect of the Solicitors Act of 1922. . . . It cannot fail to have immense consequences on the character and mentality of solicitors.

Principal Jenks, by twenty years of patient effort, has been mainly responsible for this elevation of the educational standard required from solicitors. He has constantly impressed the necessity of a broad academic and civic outlook on the pupils of the Society's school. Now these pupils have passed into the high places of the profession and are carrying out his ideals. The result has shown itself in many ancillary ways. Solicitors advocate legal reforms and are not afraid to push advanced ideas even against the opposition of the more conservative Bar. It was the support of the Law Society which alone made it possible for Lord Birkenhead to push through his far-reaching reform of Real Property Law.

It must have been shortly before leaving Oxford that Jenks assumed a new responsibility by joining the editorial board of the *Independent Review*. This was a monthly magazine which was launched by a number of Cambridge men with a view of restating the principles of liberal policy, particularly in relation to the fiscal questions raised by Joseph Chamberlain. Though Jenks's name does not appear as editor, he did in fact for some years occupy this position. The magazine under this name had a life of a few years. In March 1907 it was announced that the review would be known in future as 'The Albany Review (late the Independent Review)'. Mr. Charles Roden Buxton was the editor of the *Albany Review*, which continued to exist for some time longer.

Jenks succeeded in getting a number of distinguished people to write for him. The first number contained *A German's Appeal to the English* by Theodor Mommsen, who had something to say on the Boer War. This must have been one of the last things he wrote. In the December number Dr. Pelham writes an Obituary Notice. Mr. Hilaire Belloc's *Mr. Burden* appeared as a serial in this Review, and it was the means of making known the work of the late Mr. Lascelles Abercrombie. Jenks himself contributed a few signed articles, one of which made a great

stir. This was 'The Myth of Magna Carta' published in the November number, 1904. Jenks's declared object was to challenge the orthodox doctrine associated with Bishop Stubbs, which represents Magna Carta as the foundation-stone of civil liberty. He set out to show 'that Magna Carta was not (a) the work of the "nation" or the "people" in any reasonable sense of the term, nor (b) a landmark in constitutional progress, but (c) a positive nuisance and stumbling block to the generation which came after it'. The real author of 'The Myth of Magna Carta' was Sir Edward Coke, who made it serve the purpose of political controversy. Magna Carta was, in short, nothing better than 'a melodramatic and somewhat tawdry scene in a turgid and unwholesome drama'. It may safely be said that no article published by *The Independent Review* has found more readers. The well-thumbed copy in the Bodleian Library is evidence of the fact. Jenks was not the only begetter of this heresy. Much the same arguments were being advanced on the Continent by M. Charles Petit Dutailis,<sup>1</sup> and reaction against the orthodox doctrine was gathering strength. Jenks's iconoclastic zeal challenged attention. Certainly, his article emphasized some aspects of the question which in England had been overlooked. It cannot be entirely dismissed as a spirited and irreverent piece of journalism. But the considered verdict of historians is that Jenks was wrong in seeing in Magna Carta nothing but a move in the game between King and Barons. Its claim to be regarded as a fundamental document of national liberty has resisted the assaults which have been made upon it. Vinogradoff has well said: 'The principle of legality as formulated in Magna Carta is one of the elements of England's constitutional growth, and it has certainly exerted an influence on the destinies of the nation which is not lessened by the fact

<sup>1</sup> Whose *Studies and Notes supplementary to Stubbs' Constitutional History down to the Great Charter*, translated by W. E. Rhodes from the French version of Stubbs published in the preceding year, was published by the Manchester University Press in 1908.



that the roots of the Charter were embedded in the soil of feudalism.<sup>1</sup>

Occasion may here be taken to mention an enterprise with which Jenks's name will always be honourably connected, the foundation of the Society of Public Teachers of Law. As usual in such cases, it is impossible to say with whom a fruitful idea began. But Jenks is quite fairly regarded as the father of the Society, which at one time was familiarly known as 'Jenks's Trade Union'. The genesis of the Society may be traced to a circular letter dated 12 October 1900 signed by Goudy, Courtney Kenny, Sir John Macdonell, W. A. Copinger, Sir Blake Odgers, and Edward Jenks. The proposed objects are set out in the following paragraphs.

The increased importance attached in recent years to the teaching of law in England and Wales, and the consequent increase in the number of teachers and students of law, seem to render it advisable that opportunity should be afforded for greater intercourse and the exchange of views among those engaged in carrying on the work of law teaching, whether in the older Universities, or in the various Schools of Law which have recently been founded in connection with the modern Universities and the professional bodies.

The mere fact of an occasional meeting of legal teachers would itself be no small incentive to enthusiasm and improvement in work admittedly difficult. But it may well be that it would be desirable, from time to time, to utter on behalf of what has now really become a special profession, some organized expression of opinion on subjects affecting the teaching of law; and this can best be done through a definite body representing legal teachers.

We may instance as subjects well worthy the consideration of such an organization, the relation of academic to professional teaching of law, and the proper contents and sequence of legal curricula.

We suggest that an association or society of a very simple type would meet the present needs of the case. The main purpose of the society might be, at any rate at first, to meet once a year in

<sup>1</sup> *Magna Carta Commemoration Essays*, Royal Historical Society's Publications, p. 95.

London or some other convenient centre, partly for business discussion and partly for social intercourse.

This appeal met with a ready response and resulted in the foundation of the Society which held its first Annual General Meeting in the Council Room of the Law Society on 1 July 1909.

The Society has continued to meet annually and has proved a valuable means of establishing contacts between persons engaged in legal education at home and abroad and between the theory and the practice of the Law. Originally described as 'the Society of Public Teachers of Law in England and Wales' it has annexed first Northern Ireland and lately Scotland. It met for the first time in Scotland in 1939 at the invitation of the University of Edinburgh. The nucleus of the Society consists of its Ordinary Members, that is persons 'regularly and continuously engaged in teaching law in virtue of appointment or official recognition by any University, University College, the Council of Legal Education, the Law Society', or similar bodies in Northern Ireland and Scotland. The number of members on the books of the Society in October 1939 who fell under this description or having done so had become Associate Members amounted to some 240 persons. Teachers of Law in the Dominions, India, and the United States of America who are elected members of the Society form another class of Associate Members, and eminent persons, British and foreign, are invited to become Honorary Members. Jenks himself was Honorary Secretary of the Society from 1909 to 1919 and President in 1919-20. Since 1924 the Society has published an annual Journal under the able editorship of Prof. Jolowicz. The immense improvement in the status of academic teachers of law and the changed attitude of the profession with regard to them which has taken place in the last thirty years must be attributed in large measure to the existence of this Society, and ultimately to the energy and foresight of its founder.

Jenks resigned his position at the Law Society in 1924 on his appointment to the newly founded Chair of English Law in the University of London, which was attached to the London School of Economics.

The Law Faculty in the University of London had for many years struggled against the handicap of inadequate endowments and other circumstances adverse to the development of a School of Law worthy of its position as the capital of the Empire. Since the turn of the century this has changed. There are now in the Faculty of Law seven fully endowed Chairs and the number of students has greatly increased. Jenks shares with others the credit of this gratifying improvement in the position of the Faculty, in which he held the office of Dean from 1927.

The London Professorship having come to an end in 1929—it was a five years appointment—Jenks retired into the country and spent the remainder of his life at Bishop's Tawton, near Barnstaple, where he continued his literary activity and showed an undiminished interest in public affairs, more particularly in the Workers' Educational Association and in the League of Nations Union. It was his habit each year to visit Geneva about the time of the Meetings of the Assembly of the League. He was one of the original members (and for some years a Vice-President) of the International Academy of Comparative Law founded in 1924 and attended some of its meetings held annually at The Hague in the beginning of August. This brought him into contact with many distinguished foreign lawyers, and in particular, with the members of the Permanent Court of International Justice.

In the years 1927–9 Jenks gave lectures at the Imperial Defence College and was Creighton Lecturer in the University of London for 1931–2. He was elected Fellow of the British Academy in 1930. During this time he revised for later editions many of his earlier works and produced in addition *The New Jurisprudence* (1933) and *The Ship of State* (1939), published shortly before his death. In 1938 he had

the satisfaction of seeing through the press a third edition of *A Digest of English Civil Law*.

Jenks's distinguished services to legal education and literature were recognized by honorary degrees from the University of Wales (1928), of Paris (1929), and of Bristol (1933). The Paris honour is of particular interest as a testimony to the value set upon Jenks's work on the Continent. In presenting him for the degree of *docteur honoris causa* M. Berthélemy, Doyen of the Faculty, said:

En conférant à M. Edward Jenks, Doyen de la Faculté de Droit de l'Université de Londres, le titre de Docteur honoris causa de l'Université de Paris, nous rendrons un légitime hommage à l'un des jurisconsultes les plus estimés de l'Angleterre, à l'éminent auteur des ouvrages qui ont le plus efficacement contribué à rendre pénétrables aux étrangers en général, et à nous Français en particulier, les mystères du droit anglais.

Ancien fellow du King's College, brillant élève de l'Université de Cambridge, M. Jenks a successivement enseigné le droit en Australie — il y a été doyen de l'Université de Melbourne — puis à Liverpool, puis à Oxford.

En 1903, la Law Society, devenant en quelque sorte une institution officielle, le choisit comme principal, c'est-à-dire comme directeur des études juridiques pour la formation des solicitors.

En 1924, une chaire de droit civil anglais est créée pour lui à l'Université de Londres. Il devient en 1927 le doyen de la Faculté de Droit.

Il est en même temps secrétaire général, et en dernier lieu président de la 'Society of Public Teachers of Law'. Il est membre et devient vice-président de l'Académie internationale de droit comparé à La Haye.

Les ouvrages que nous devons à M. Jenks portent principalement sur le droit constitutionnel, l'histoire des institutions, le droit administratif, le droit civil.

*Law and politics in the Middle Ages* (Législation et droit public du moyen âge); *A short history of politics* (Abrégé de l'histoire du droit public); *A short history of English law* (Abrégé de l'histoire de la législation anglaise): trois petits livres qui, plusieurs fois réédités, constituent la meilleure introduction à l'étude, c'est-à-dire la meilleure préparation à l'intelligence, du droit anglais. Un exposé des Principes du Gouvernement Local a quatre éditions. Une étude sur le Gouvernement de l'Empire en a trois.

M. Jenks dirige la rédaction du recueil devenu l'ouvrage fondamental, indispensable, des civilistes anglais: le *Digest of English Civil Law*. Il dirige la réédition des *Commentaries* de Stephen. Il publie enfin tout récemment, sous le titre de *Book of English Law*, un ouvrage que je considère comme un chef-d'œuvre, et l'aperçu le plus large, le plus clair, le plus simple de la législation la plus confuse et la plus touffue qui soit au monde. Quiconque, à quelque titre que ce soit, et dans quelque mesure que ce soit, s'intéresse à la législation de l'Angleterre ne peut plus se passer de prendre M. Jenks pour guide, et quiconque a eu recours à ses lumières ne peut pas ne pas lui savoir un gré infini d'avoir débroussaillé ce qui ressemblait jadis à la plus impénétrable des forêts vierges.

Cet énorme service mérite le titre de docteur honoris causa que nous conférons à notre éminent collègue.

Et nous nous réjouissons à la pensée que notre éminent collègue soit en même temps notre excellent ami. Pouvons-nous oublier qu'aux heures douloureuses que nous avons vécues, le cœur de M. Jenks battait à l'unisson des nôtres?

Il est des souvenirs évocateurs de tristesse qu'on voudrait laisser dans l'ombre. Ils sont trop glorieux pour qu'on omette de les mentionner. A la cause de la civilisation qu'il a si noblement servie par toute sa laborieuse existence, M. Jenks a fait le plus immense des sacrifices: il a donné son fils aîné tombé sur la terre de France pour la défense du droit. Éternel gage d'étroite fraternité que nous sommes fiers de pouvoir cimenter par un lien de plus.

At Oxford Jenks had been admitted to the degree of D.C.L. by decree of Convocation in 1922. He was also LL.B. of London, but this he won by the sweat of his brow. In 1909—no doubt from a wish to connect himself with the University with which he was then in closest contact—he 'sat for' the examination in the Faculty of Law. He was in his 49th year. What this means will be readily understood by anyone who has gone in for an examination after the slap-dash age, or examined those who were doing so. Jenks got a first class. It was rumoured at the time that one of the examiners wanted to plough him. It may well be believed that Jenks's answers were not of the usual type.

Jenks never spared himself. As he grew older the increasing labour of writing new books and revising old ones be-

came too heavy a burden upon his physical powers. He died at his home in Bishop's Tawton on 10 November 1939. A monument to his memory has been set up in the Church.

In taking a summary view of Edward Jenks's life we shall, I think, be right in regarding him above all as an educator. His literary work, valuable and stimulating as it was, may be properly considered as of subordinate importance. He was not one of those scholars who devote years of their life to the development of a particular theme, or the investigation of a defined field of inquiry. He wrote books on one subject or another as occasion or interest in the subject prompted. This is not to say that his literary output was not of a high order. His book on the *Government of Victoria* has not been replaced, and, despite the numerous constitutional changes which have taken place since its publication nearly half a century ago, remains a work of authority. His *Modern Land Law* is well spoken of by those best competent to judge. If it failed to displace in popular favour such long-established works as Williams and Goode on *Real Property* this says nothing as to its relative value. *A Short History of English Law*, published when Holdsworth's monumental work had reached only its third volume, was a remarkable achievement. The little book on *Politics* in the Temple series has had a large sale and the distinction of translation into Japanese. *The Book of English Law* presents a picture of our legal system in a form attractive to the layman and intelligible to the foreigner.

The article in *Bell Yard*, referred to above, in which Jenks wrote of *The Early Days of the Law Society's School*, contains a passage which may justly be regarded as an *apologia pro vita sua*.

It is one of the few compensations of advancing years, that one is sometimes able to look back with satisfaction on the privilege of having been permitted to take part in movements and efforts which have contributed somewhat to the welfare of one's fellow-men; and that such compensations fall, perhaps, more often than

not, to those whose lives, judged by the standard of worldly success, show little in the way of achievement.

Particularly is this true of the teaching profession. The material rewards of that profession are few, and, judged by the standards of other callings, almost inconsiderable. The great rewards of the teacher are the consciousness that he is, all his life, deliberately spending his time and strength in helping to make smooth the rough places for others, and to lay for them a sure foundation for future success, and the rich satisfaction which an honest and hard-working teacher may count on receiving, in the knowledge that his efforts are remembered with gratitude and affection, by those for whom he has laboured. It is with a full sense of conviction that the writer of these lines records the fact that, whatever may have been his youthful ambitions, no other career which he can imagine could have afforded him, as he draws toward the end of his life's work, greater satisfaction than that to which circumstances, rather than deliberate choice, ultimately led him.

This memoir would be incomplete without some further reference to Jenks's family. There were, it will be remembered, six sons, two by his father's first marriage, four by the second. The second wife made no difference between the two families. Mr. Robert Jenks (to whom I am much indebted for information) writes: 'Your request enables me to pay a tribute to the fine character of Edward's mother. Despite poor health she ruled her family of men for their good—a steel hand in a velvet glove.'

Two of Edward's younger brothers were men of remarkable parts. These were Walter and David. Both took Holy Orders. Walter, who attached himself to the Episcopal Church in Scotland, was the beloved Warden of the Aberdour Orphanage—a British Don Bosco—and afterwards Dean of the United Diocese of Moray, Ross, and Caithness. David was the Archbishop of Canterbury's Missioner to the Assyrian Christians and later Warden of the Theological College, Kelham. In March 1935 the younger brother was dying. Walter went to visit him and contracting pneumonia on the return journey to Scotland died on the 29th, a week after his brother.

After seven years of widowhood Jenks married Dorothy

Mary Forwood, fourth daughter of Sir William B. Forwood, K.B.E., of Liverpool, in whom he found an understanding and helpful partner. With a son and daughter she survives him.

Jenks's son by the first marriage had been trained as an engineer. On the outbreak of war he received a commission as 2nd Lieutenant in the Cornwalls (Duke of Cornwall's Light Infantry) and two months later was transferred to the Royal Engineers. Within two months of going overseas he gained the Military Cross, one of the earliest awards of this newly founded distinction. He rose to the rank of Major and was killed in action in the neighbourhood of Arras on 31 July 1917. After his death his name was for the third time mentioned in dispatches. Jenks's book on *The Government of the British Empire* is dedicated 'To the beloved and gallant memory of Alan (Major Alan Robert Constantine Jenks, B.Sc., M.C., R.E.), who gave his life for the Empire in his twenty-seventh year'.

R. W. LEE

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Jenks was the editor and to a large extent the author of *A Digest of English Civil Law* (Butterworth & Co.), published in parts 1905-17, consolidated edition 1922, 3rd ed. 1938. He edited several editions (14th to 18th) of Stephen's *Commentaries on the Laws of England*.

#### MAGAZINE ARTICLES

Jenks's articles on legal topics are mostly to be found in the *Law Quarterly Review*, to which he was a frequent contributor.

Particular mention may be made of an article on 'English Legal Education' in the Jubilee Number (January 1935). His Creighton Lecture on 'History and the Historical Novel' is printed in *The Hibbert Journal* for January 1932. The *Quarterly Review* for July 1932 has an article by him on 'The Statute of Westminster, 1931'. Other articles are to be found in *The Contemporary Review*, *The Cambridge Law Journal*, and *The Journal of the Society of Public Teachers of Law*. The *Select Essays in Anglo-American Legal History*, Cambridge University Press, 1907-8, contains several reprints of articles and extracts from his works.

[I wish to acknowledge the assistance which members of the family have given me in preparing this memoir; and, in addition, for the Liverpool period Prof. F. Raleigh Batt and for Jenks's work for the Law Society Mr. A. D. Bowers, Secretary to the Director of Legal Studies, have been particularly helpful.]

R. W. L.