

COURTNEY STANHOPE KENNY

1847-1930

COURTNEY STANHOPE KENNY was born at Halifax, Yorkshire, on 18 March 1847, the elder son of the late William Fenton Kenny, a solicitor practising in that town, and his wife Agnes Ramsden Ralph of Halifax. On his father's side Kenny came of a family of French Huguenots named Du Quesne who, fleeing to Connaught in the seventeenth century, had soon modified the spelling of their name into that of a familiar Irish name of kindred sound: 'Quesnay' readily became 'Kenny'. Although Kenny's father was himself born in the ancestral home at Ballinrobe, county Mayo, where the Quesnays (Kennys) had settled on their migration from France, his grandfather, a physician of some repute, had already established a practice in Halifax, Yorkshire. Courtney and Stanhope were both traditional family names which were given in each generation to the eldest son of the Kenny family, into which they had been introduced by intermarriage with the Courtneys and the Stanhopes. Kenny's mother came of the Westbys of the Lancashire Fylde. His father retired early from professional life and removed to Ripon. Thenceforward he interested himself mainly in hunting, taking long driving tours throughout England, and giving gratuitous legal advice to the poor. He died in 1878; but his widow survived to a great age.

Kenny spent a lonely and studious childhood. He had no sisters; and his only brother, nine years younger than himself and of very dissimilar tastes, died in early manhood. Originally a strongly passionate child, Kenny obtained that complete self-mastery by which he later gave the constant impression of a singularly even temper. His mother, whose small body contained an iron will and a generous heart, had a rigid sense of discipline and duty; and to her he was a devoted son up to her death in her

ninetieth year. He never once failed to be with her at Christmas and in her last years would leave his own much-loved home and family to spend the festival at her bedside. His parents never erred on the side of indulgence; and in later life he looked back to his uncles as those who were the most sympathetic to his boyish interests and to his maternal grandmother as having formed his mind. She had herself received a most careful education from her uncle, Dr. Richard Ramsden, Deputy Regius Professor of Divinity at Cambridge for the absentee Bishop Watson of Llandaff.

During his early childhood Kenny's parents took him for long visits to the old family home at Ballinrobe. This gave him a love of Ireland which lasted throughout his life; and, even in his later years, he sometimes revisited the land from which he had sprung. As a boy he was known as 'the grandson of Erin'; and among his intimates this appellation clung to him. It is on record in an old family letter that in Ireland at the age of five he was taken out fishing by a gentleman who on returning prophesied to his wife: 'If that boy goes into the Church he will be Archbishop of Canterbury, if he goes into the Law he will be Lord Chancellor of England.'

His native Yorkshire was the scene of Kenny's early education. After spending about six years at the Heath Grammar School, he entered the Hipperholme Grammar School near Halifax in January 1861, shortly before his fourteenth birthday; and there he remained until October 1863. In November 1863 he became articled to a Halifax firm of conveyancing solicitors in which his father was a partner. While at Hipperholme he had passed the Oxford Local Examination: thus he was exempted from the requirement of passing the Solicitors' Preliminary Examination. On his examination in 1869 for admission as a solicitor he received the Clifford's Inn Prize (for the highest total of marks in the Examination of the Hilary Term of that year), the Broderip Gold Medal (for the highest marks of that year in Real Property Law), and a special prize from the

Incorporated Law Society 'as a mark of peculiar distinction' in consequence of his having obtained the highest total of marks that had ever been given at any examination held by the Society. Following his admission to practice as a solicitor, in Hilary Term, 1869, he worked for two years as fourth partner in the firm with whom he had served his articles.

Kenny decided to leave practice and acquire a University education, even though he had passed the usual age of a freshman. In June 1871 he was awarded a *proxime accessit* in the examination for the Whewell Scholarships in International Law at Cambridge; but, having then reached the age of twenty-four, he was disqualified from competing for them again. In October of the same year he became a member of Downing College, having obtained in the preceding April a Minor Scholarship for Roman Law and International Law; and on 14 June 1872 he was elected to a Foundation Scholarship. When he first came into residence John Thomas Abdy was Regius Professor of Civil Law; but in 1873, while Kenny was still an undergraduate, Edwin Charles Clark succeeded to the Chair. Sir William Vernon Harcourt held the Whewell Professorship of International Law, which had been founded in 1867. The Downing Professor of the Laws of England was William Lloyd Birkbeck, and from him Kenny learned much, always remembering his 'skill as an expositor'. Kenny's career as a law student at the University was brilliant. In 1874 he was Senior in the (as yet undivided) Law and History Tripos, and in the same year he won the University's Winchester Reading Prize. In 1875 he obtained the Chancellor's Medal for Legal Studies.

His inclination towards public speaking found expression in the debates of the Union Society; and there he took a definite stand in favour of Liberal views. The Liberal party in the Union were then in a decided minority; and it was a marked tribute to his popularity and influence when, on his election as President in 1874, he received 263 votes

against his Conservative opponent's 57. When Mr. J. G. Swift MacNeill with two other Oxonians visited the Cambridge Union in 1873 to advocate the cause of Irish Home Rule, the result of a two nights' debate was to carry an amendment, moved by Kenny, that 'Some measure for securing local legislation on local affairs is absolutely necessary for the welfare of Ireland'. Mr. Swift MacNeill in his autobiography records this as probably 'the first Home Rule motion ever carried at any meeting at which the vast majority of those present were not Irish but British'. Thus, as an undergraduate at the Union, Kenny not only displayed that liberalism in thought which was ever afterwards one of his marked characteristics, but he also gave evidence of the eloquence which later made him so successful and acceptable both as a lecturer and a public speaker.

During his undergraduate days he formed, moreover, several friendships which proved to be intimate and lasting, notably with H. W. P. Stevens and the late T. J. Lawrence, both members of Downing. Maitland's and Kenny's undergraduate periods overlapped during the academical year 1871-2: Maitland came up to Trinity in 1869 and left in 1872 to enter Lincoln's Inn. During this year the two men became friends, although neither could have then foreseen that their subsequent careers were to be closely intertwined. From the beginning the Union formed a common bond: Kenny's recollections of Maitland as a debater have been preserved in Mr. Fisher's biographical sketch. Dr. Stevens has told me that as an undergraduate Kenny was known for his 'fairness and unselfishness', and, moreover, that even at that early period he was keenly interested in borough and county affairs at Cambridge, perhaps not then dreaming that at a later time he would himself be active in the life of the community.

Kenny took his B.A. degree in 1875; and in the same year he was both elected a Fellow of Downing and appointed by the College to a Lectureship in Law and Moral Science. Devoting himself to legal research, his success in this field

was not less conspicuous than in reading for examinations, debating at the Union, and teaching; for in successive years—1877, 1878, and 1879—he thrice gained the University's Yorke Prize. In the first of these years his Essay on 'The Law of Primogeniture' was bracketed with that of P. M. Laurence, who was later a Judge of the Supreme Court of the Cape Colony; but in the other two years his Essays on 'The Law of Married Women's Property' and 'Property given for Charitable Uses' received the entire Prize. He took his LL.M. in 1878; and nine years later, in 1887, he proceeded to the degree of LL.D. Meanwhile he had become a student of Lincoln's Inn and a pupil in the chambers of Mr. C. H. Anderson, who later took silk; and in 1881 he was called to the Bar by his Inn and joined the South-Eastern Circuit. Writing to me in 1918, he remarked that 'however completely competent a man may be to floor an examination, there is usually a morbid nervousness attending his anticipation of it when it draws near'; and he admitted that he himself had had 'that feeling about the Bar Examination'. Although he engaged in the practice of his profession of barrister during the 'eighties, Kenny had from the beginning resolved to make the teaching of law at Cambridge his chief occupation in life: he regarded his practical work in the Courts as essential to his efficiency as a teacher.

In April 1876, shortly after his appointment to a Lectureship at Downing, Kenny's marriage took place in London, at the Church of St. Peter's, Regent Square, to Emily Gertrude, daughter of Mr. William Wood Wiseman, a doctor practising at Ossett in the West Riding of Yorkshire. She was the sister of a schoolfellow and close friend of his boyhood; and she brought to him the happy and affectionate intimacy of a family of five sisters which enriched all the years of his life into old age. Of a retiring disposition, his wife shared to the full his love of home life and simple living and his distaste for all forms of excitement and ostentation. Those who came closest to Kenny

and his wife have told me that the charm and beauty of her presence, her marked gift of sympathy, and her quaint unconscious humour made the brightness of his home: but beneath her tranquil dignity of demeanour lay a strong personality, resolute in principle, firm in authority.

Their home for the first fourteen years of married life was beyond the outskirts of the town of Cambridge, a charming small house on the Barton Road standing in a large old-world garden full of stately trees. Here Kenny's two daughters, Agnes Mary Ralph and Gertrude Muriel Ralph, were born; and here he delighted to keep the pigeons which had been the hobby of his boyhood and to cultivate the ground in the company of a sturdy countryman who was to be his gardener and friend through forty years. A tiny sanctum over the porch held his typewriter, one of the first to be used in Cambridge, but his books had to be housed in his College rooms. Privacy and quiet, however, were at no time essential to his work. His daughters have told me that he could study, compose, or correct in the unhushed circle of his family following their ordinary avocations, and that he habitually carried on his literary work in the evenings in the same room in which his wife was reading aloud to her children. They have also told me—and this will surprise those who remember the stateliness of his later years—that when they were children he used to romp with them with more than the normal gaiety and boisterousness of a father. By 1890 this first home, much loved by Kenny and his family, had become too confined; and he then built and removed to the house in West Road, to which he gave the family name of 'Westbye', derived from his Lancashire forbears. There he lived until his death forty years later.

Kenny began to lecture for Downing, as already observed, in 1875, the year following his brilliant achievement in the Tripos; and during five academical years (from October 1881 to June 1886) he also held a Law Lectureship at Trinity College. His lecture-class at Downing consisted at first of three members, but increased rapidly in successive

Terms, rising to above one hundred. During the academical years 1886-8 the average number of his class was eighty-five, the highest was one hundred and thirty-eight; and these were very large numbers for that time. Dr. John Perkins, who was Tutor of Downing, has left on record the fact that when Kenny lectured 'the College Hall became crowded to such an extent that adequate accommodation could not be provided'. Dr. Perkins, writing in 1888, added: 'All his pupils who have spoken to me of his lectures have invariably described them in the highest terms; dwelling upon their force and lucidity, and upon the great pains which Dr. Kenny takes to enable his class to secure full and accurate notes.' Before his appointment in 1881 to a Law Lectureship at Trinity, undergraduates of that College had been in the habit of attending Kenny's lectures at Downing as well as his private classes; and the late Mr. Joseph Prior, sometime Senior Tutor of Trinity, once expressed in writing the great regret of the College when in 1886, owing to the claims of public life, Kenny resigned his Trinity post. He continued, however, to hold his Lectureship at Downing, and, true to his progressive leanings, he had placed himself in 1883 under the new College Statutes. During the period from 1875 to 1888 Kenny lectured at Downing on many subjects, including Real Property, Personal Property, Contracts, Torts, Crimes and Criminal Procedure, Constitutional History, Jurisprudence, and Roman Law. When first introduced to the intricacies of the Law of Real Property he found them, as he himself once admitted, 'repellent'. But he had learned that branch of our system in Lincoln's Inn, the home of the law of land; and, throughout his professional and academic career, he was in fact a good Chancery lawyer. One who heard his early lectures on 'Real Property' assures me that they were both learned and most useful to students.

In 1885 Kenny was elected Member of Parliament for the Barnsley Division of Yorkshire, as a follower of Mr. Gladstone, by the substantial majority of 3,983. On the

dissolution of Parliament in 1886 he was again returned by the same constituency; and, in this connexion, it is of some interest to recall that, when Prince Albert Victor opened the new buildings of the Cambridge Union Society in 1886, Kenny, then M.P. for Barnsley, responded to the toast of the Houses of Parliament, proposed by Professor Humphry. In Parliament Kenny's attention was largely devoted to questions of criminal law, education, and charities. A Bill had been introduced with the object of relieving Keble College, Oxford, from the Statute of Mortmain. His speech on the Keble College Bill (19 April 1888), in protest against Anglican restrictions, put the Conservative Government in a minority and caused the rejection of the Bill by two votes. Mr. Gladstone made the occasion memorable by voting with the Conservatives. While in Parliament Kenny also took an active interest in the cause of legal reform, an aspect of his career which will be considered more in detail presently.

Events took place in the year 1888 which were to have a determining influence on the lives of Maitland and Kenny alike. The Downing Professorship of the Laws of England in the University of Cambridge had been held successively by Edward Christian, of St. John's, 1800-23; Thomas Starkie, of St. John's and St. Catharine's, 1823-49; Andrew Amos, of Trinity, 1849-60; and William Lloyd Birkbeck, of Trinity, 1860-88. When Professor Birkbeck, who from 1885 had also been Master of Downing, died in 1888, both Maitland and Kenny were candidates for the Downing Chair. At that time Kenny had been teaching at Downing for thirteen years and Maitland had held the University Readership in English Law since 1884. On Maitland's election as Downing Professor in 1888 Kenny succeeded him as University Reader. From his call to the Bar in 1881 down to his election as Reader in 1888, including his years in Parliament, he had combined his teaching at Cambridge with attendance at the Courts and some legal practice in London, mostly, it would seem, in the criminal courts. In

a letter written to me in 1919 he mentioned a barrister friend as being 'one of [his] old forensic opponents at South London Sessions thirty years ago'. But, having previously determined to make the teaching of law his life-work, he had not established himself definitely in practice; and on his election as Reader, in order to devote himself exclusively to his new academical duties, he not only retired from Parliamentary life, but also abstained for the future from all professional engagements. He held the Readership until 1907 when, on Maitland's death, he was elected, as Maitland had hoped, his successor as Downing Professor; and, on Kenny's resignation of the Chair in 1918, the University bestowed on him the title of Emeritus Professor of Law, fitting recognition of his long and distinguished service as a University teacher. He was the natural successor of Maitland as Downing Professor; and he fully maintained the high traditions of the Chair. Within his own special province, the criminal law, he was universally recognized, at home and abroad, as the foremost English jurist of his time.

Until the very end of his life Kenny devoted himself whole-heartedly to the interests of his University and College. Annotated Acts of Parliament, Law Reports, and University and College Statutes, as well as masses of memoranda, of which many were found at his death, attest his long and close attention to the legal and practical affairs of Cambridge. The University claimed his services in various capacities. At one time or another he was a member of many Boards and Syndicates; while during the years when he was a member of the Council of the Senate he acted in reality as the legal adviser of the University. Both as teacher and administrator he was one of the leading members of the Cambridge Law School for nearly fifty years. Included among his colleagues were lawyers of eminence. E. C. Clark held the Regius Professorship of Civil Law from 1873 until 1913, when he resigned: in 1914 he was succeeded by Dr. Buckland. Sir Henry Sumner Maine, Whewell

Professor of International Law in 1887-8, was followed by John Westlake (1888-1908), Lassa F. L. Oppenheim (1908-20), and Dr. Pearce Higgins, the present holder of the Chair. Returning to Cambridge from Lincoln's Inn in 1884, through Henry Sidgwick's generous action in helping to found the Readership in English Law, Maitland during the rest of his life was also Kenny's colleague. As a teacher Kenny was easily the most accomplished and effective of all the Professors who predeceased him. Mr. H. A. Hollond, the present Chairman of the Board of Law, wrote of him at his death: 'Kenny was the admired teacher both of our undergraduate and of our later years, and at the same time made himself felt by each one whom he taught to be in a particular sense a friend. He held up for half a century a standard which all teachers of Law might strive to attain without hope of surpassing. No one did more than he to raise the Cambridge Law School to its present position in English legal education.' As late as 1924, when he was Emeritus Professor of Law, he reappeared as a teacher in the place of a colleague who was ill, giving a short but brilliant course of lectures on the Constitution of the Imperial Commonwealth which was subsequently published in the *Cambridge Law Journal*. He took an active and influential part in the work of the Special Board for Law (now known, under the University Statutes of 1926, as the 'Board of the Faculty of Law'); and on many occasions he served as an Examiner for the Law Tripos and the Yorke Prize. As a member of the Board he always concerned himself with details as well as lines of policy; and, while he was frank in differing from the views of others, he was ever courteous in expressing that difference. He followed Professor Clark as Chairman of the Board; and, until he resigned the office, fulfilled its duties with conspicuous success. Presiding as Chairman, he was considerate and urbane; in his own conciliatory way he knew how to guide discussion and to lead it to decision. Nor, when he retired as Downing Professor in 1918, did his services to the School cease. He remained a

member of the Special Board for Law, taking an effective share in its deliberations until he felt compelled to retire, owing to growing deafness, at the end of the Michaelmas Term, 1925; and even after he had ceased to be a member of the Board he continued for a time, at their request, to perform the duties of treasurer, characteristically regarding himself (to use his own words) 'as a *servant* of the Board'. From a letter sent to me as Chairman of the Board at the time of his retirement, I may quote one characteristic sentence: 'Nothing', he wrote, 'can be more gratifying than to know that, after some forty years' service on the Board, my colleagues on it are willing to take so undeservedly indulgent a retrospect of my connexion with it.' His colleagues regarded him as in truth the *doyen* of the Law Faculty; and they valued his mature and reasoned judgment on all important questions. As Dr. Pearce Higgins has remarked to me, 'C. S. K. was so essentially the "reasonable" man of the law of Negligence'. It is worthy of record that in 1926 a group of past and present colleagues and of former pupils presented to Kenny, Dr. Henry Bond, and Professor Buckland, 'as a mark of gratitude, affection, and esteem', a volume of original contributions entitled *Cambridge Legal Essays*. It was the first legal *Festschrift* ever produced at the University.

Only those who stood in close relationship with him fully realized the depth of Kenny's interest in everything which concerned the welfare of his College. Downing had, in truth, no more devoted son. From his first election as a Fellow until his death he never ceased to be a member of its Governing Body either as Fellow or as Downing Professor in the University. Under the old Statutes of the College, it is to be remembered, he was a member of the Governing Body, during his tenure of the Chair, not as 'professorial fellow', in the strict sense, but by virtue of his office of Downing Professor: on his resignation of the Chair he was elected a Supernumerary Fellow. From February 1878 till his death he was Secretary of the Governing Body

and wrote the minutes of College meetings in his own legible and artistic hand; and on occasion he acted, in his capacity of Downing Professor, as the Vice-Master of the College. Sitting next to him at College meetings, over many years, I had occasion to observe his method of writing the minutes, which were always read and signed before the Master, Professors, and Fellows dispersed. As the meeting progressed he made memoranda of the decisions and other items of business on large sheets of paper; and these notes, corrected and improved, he one by one transcribed, as the meeting wore on, in the Minute Book. The writings on his sheets of paper, legible only to himself, bore a close resemblance to the most intricate and difficult jig-saw puzzles. Each sheet contained a great variety of separate sets of notes which, written at all conceivable angles up and down the page and from corner to corner, were enclosed in squares or in circles and linked one to another by lines, cross-lines, and symbols in shorthand; but, once these tangled and complicated memoranda had been transferred to the Minute Book, they were order and lucidity of the highest degree. Kenny's legal knowledge and skill in conveyancing were at all times of great help to the College, particularly in connexion with its estates; while his exceptional ability as a draftsman resulted in his taking a prominent part in the framing of the new College Statutes of 1926. His finely balanced judgment, generally sound, was, moreover, of guiding influence in the solution of many difficult questions of policy. Although his views were not always adopted by his colleagues, they at no time failed to realize that his position was founded on reasonable grounds and dictated by his concern for the present and future prosperity of the College.

In 1910 past and present members of Downing presented to the College a portrait of Kenny, painted in oils by Mr. Clegg Wilkinson, which was hung in the College Hall; and there it still hangs, not far from the portraits of Lord Cranworth, Maitland, and other members of the College who had devoted their lives to the Law. In the unavoidable

absence of Lord Collins, Lord of Appeal in Ordinary, who had been a Fellow and was then an Honorary Fellow of the College, the presentation of the portrait was made by the Rev. J. C. Saunders, Senior Fellow and formerly Tutor, who said that the dominant note in Dr. Kenny's character was loyalty—'loyalty to his friends, his College, his University, and his principles'. The portrait was accepted on behalf of the College by Professor Howard Marsh, the Master, in terms expressive of the affection and respect in which Kenny was held by Downing men; and in his own speech thanking the subscribers Kenny himself spoke of the pleasure he felt in having his portrait hung in perpetuity on the walls of 'the dear little College in which he had spent so much of his life and where he had done so much of his work'. For twenty more years he continued to do much of his work in a College which at the time of his death in 1930 had grown in numbers and was filling a larger place in the life of Cambridge. His portrait is a constant reminder of the conspicuous part which he himself played in the life not only of Downing, but of the University. Wearing his flowing Doctor's scarlet over black morning dress, he sits at a table in the act of writing; but, although his pen rests on his manuscript, he has looked up from his work. The forehead is high, the brow of unusual prominence; and he has the fresh ruddy complexion of a man who has love of free life in the open air. His hair, and not less his close-clipped beard and moustache, which he had worn from early manhood, are now iron-grey; his collar, with the ends turned back, is held by a white cravat, of the kind which he habitually wore. Behind the gold-rimmed spectacles his eyes, blue-grey in colour, betray that mingling of serious reflection and the lightness of pleasantry which was always one of his chief characteristics. Since Kenny's death a photograph, the one which shows his smile and the merry twinkle in his eyes, has been placed on the East wall of the Combination Room close to the fire-place. It is not far from the water-colour of Thomas Starkie, who was the

second Downing Professor of Law, the engraving of Serjeant Lens, and the 'Spy' caricature of Dr. Perkins; and it is next to photographs of Lord Collins, Maitland, and Kenny's old friend, Dr. T. J. Lawrence. On the opposite wall is the oil painting of Professor Birkbeck, Kenny's teacher.

From his undergraduate days until his death Kenny had rooms in College. At an early time these were on the East side of the spacious grass Court and later still at the end of the West range of buildings, overlooking the Fellows' Garden; but for well over forty years he had a set on the first floor of Staircase G, next to 'The West Lodge', where Maitland lived. On his election as Downing Professor he preferred to live at 'Westbye' and to retain his College rooms; and, characteristically, he placed 'The West Lodge', the official residence of the Downing Professors of Law, at the disposal of the College gratuitously, even though he was entitled *virtute officii* to receive the rent. It was characteristic of him that in College he always used candles to work by, never permitting the introduction of electricity. Installed on the south side of the keeping-room in his College set, and covering nearly the entire wall, was the beautiful mahogany bookcase which Wilkins, the architect of the College, had designed; and on its spacious shelves, protected by doors with brass grilles, Kenny kept many of his books through forty years. On his death this bookcase, which had figured so prominently in his life, was presented to the College by his daughters in memory of their father. Now bearing on a brass plate a record of the gift, it still remains in its accustomed place; and there, for such is the intention of the College, it will continue to stand.

Kenny often dined in Hall and on the occasion of Feasts he was in demand as a speaker. His informed, quietly humorous, and brilliant talk, which ranged widely over history, literature, law, and life, added much to the enjoyment of the colleagues and friends who met him at dinner in Hall and afterwards in the Combination Room. From time to time he brought distinguished lawyers into Hall;

and whenever some prominent Downing man was dining, such as the late W. P. Schreiner, Prime Minister of South Africa and later High Commissioner, he usually invited friends to meet him. In his later years Kenny was, in a sense, the 'Father of the College'; and it has long been an open secret, which should now be recorded, that on more than one occasion he could have become, had he been willing to follow the wishes of the Fellows, the Master of the College. One of his last acts was to put in his will a bequest of £500 to the Downing Building Fund. Speaking of this the present Master, Professor Seward, has written: 'He left little to chance. There never was a more punctilious man or one more willing to undertake to do anything, and to do it in the shortest possible time.'

On Kenny's retirement from Parliamentary life in 1888 he did not lose his great interest in public affairs. Although he always followed national and international politics with the closest thought, more and more the welfare of the Borough and County of Cambridge claimed his attention. In 1890 he was appointed a Justice of the Peace for the Borough; and he also became in 1896 a Justice for the County. He took his seat, as University representative, in the Borough Council; and he long served as an Alderman. For several years he held the Vice-Chairmanship of the Cambridgeshire County Council and over a long period he was Chairman of the Cambridgeshire Quarter Sessions. At the time of his death he was a member of the Cambridgeshire Divisional Bench, regularly attending its sittings in spite of his great age. During a very long period he was often a member of the Grand Jury at the Cambridgeshire Assizes. In speaking of Kenny, a writer has said: 'His presence on a Grand Jury was an inspiration to all associated with the administration of justice, and he has been described as the perpetual grand jurymen.' He took a keen interest in the distressing social problem connected with the work of discharged prisoners; and of the Managing Committee of the Cambridge Discharged Prisoners' Aid Society

he was an attentive member, rarely missing a meeting, from 1896 to the time of his death.

Combining practical experience with the authority of a great lawyer, Kenny was a magistrate who showed not only reasoned judgment, but also moderation and justice. Professor Winfield, who followed closely the public aspect of his life, has remarked that 'his profound knowledge of criminal law, combined with his experience as a man of affairs, made his work as a magistrate free from amateurism on the one hand and pedantry on the other'; his knowledge of the criminal law was 'not any more remarkable than his wisdom in administering it'. His Honour Judge Farrant, who was Kenny's colleague, has drawn attention to his 'remarkable and exceptional qualities' as a magistrate and his 'eminent services' in that capacity.

No Chairman [Judge Farrant states] ever conducted the business of a Court of Quarter Sessions with greater efficiency than did Kenny. . . . Not only was he a thorough master of the Common Law and of the rules of evidence, but he was also the leading authority on that branch of the law which it is the special function of magistrates to administer, namely, the Criminal Law. . . . Not only was he the leading authority of his day on the principles of the Criminal Law, but he had in addition the ability to express his views in the clearest terms to the juries whom it was his duty to direct. . . . He was endowed with the gift of clear and accurate expression to a remarkable degree, which enabled him to state the most complicated propositions of law in terms at once concise and clear. . . . It may be that those who did not know him intimately may not have realized the full extent of his powers, for he had a genius for self-effacement. But to those who knew him well he revealed himself as a man of altogether exceptional attainments; and I am convinced in my own mind that had he not preferred an academic and literary career to the turmoil of life at the Bar, he would, in all probability, have become a most successful High Court Judge.

To these sentences, taken from Judge Farrant's observations at sittings of the Cambridgeshire Quarter Sessions and the Divisional Bench shortly after Kenny's death, I may add a comment made by the late T. Musgrave Francis, long a

leading and respected solicitor in Cambridge. 'Kenny's addresses to the jury', said Mr. Francis, 'were what I might describe as mercilessly clear.' He was, in fact, the model magistrate. 'Uniting, as he did,' a writer in the *Cambridge Chronicle* has observed, 'the profound legal mind with that of the man of affairs, he was the magistrate that the wise man acquainted with police courts would have wished to have seen on the Bench when he stepped into the dock if he were innocent, and would have feared to have seen there if he were guilty.'

Kenny's share in the education of working men demands notice. In 1874 Maitland had given lectures to classes of workmen in the Artizans' Institute, Upper St. Martin's Lane, London, as one may learn from H. Solly's *These Eighty Years*. At Cambridge Kenny took a similar interest in the education of men who worked with their hands; and, as in the case of Maitland, his contribution took a practical form. Throughout many years he took an active part in the work of the Y.M.C.A., and from 1889 to 1905 he was President of its Cambridge branch.

For over thirty years [his daughters have informed me] he gave several addresses annually at the Friends' Adult School for working men held in Barnwell on Sunday mornings. To these addresses he gave the most careful thought and preparation. His subject was often a striking historic character or some great man or woman of his own day, sometimes it was drawn from the world of nature or science, as for example a fascinating and thoughtful discourse on the topic of 'Dust'. They were invariably couched in the very simplest language, illuminated by graphic illustration and telling anecdote, and carried surely home the clearest moral teaching. They were listened to with breathless attention and regarded as landmarks in the hearers' year. 'Here comes our favourite!' ran the murmured welcome on his appearance in their midst. With several of these simple and humble workers he formed ties of lasting friendship and chatted with them always with pleasure if he met them engaged on their week-day labour.

Writing on behalf of the former members of this Adult School, one of them said that many had been 'inspired and

uplifted' by Kenny's 'sincere addresses on what one may term everyday and practical Christianity'; and he added that many a working man 'owed his present decent position' to the Professor's teaching. Some of Dicey's legal lectures to working men in London are to be found in the files of the *Working Men's College Journal*: it is a pity that Kenny's lectures, 'drawn from the world of nature or science', have not been preserved.

The outstanding feature of Kenny's professional life was his service in the cause of legal education. Although he taught, at one time or another, many branches of the law, to Cambridge men his name will always be linked with Jurisprudence, Torts, and Criminal Law, the subjects to which he devoted most of his attention and of which he was universally recognized as master; and he was unquestionably the most successful of all the Cambridge law teachers of his time. Nor was his interest in legal education restricted to Cambridge; for he took part in the deliberations of the Society of Public Teachers of Law of England and Wales and studied the problems of Continental and American legal teaching. His own marked success as a teacher was due in part to his thorough grasp of the subject-matter, acquired by patient research, his unerring emphasis upon the rules and principles that were really important, and his remarkable power of illustrating principles by the consideration of decided cases. His clear and forceful manner of oral delivery was also a prominent factor in arresting the attention of his pupils. His devotion to truth and justice, his intellectual precision and moral rectitude, his quiet humour and dramatic sense, were all qualities which helped him easily to transmit his learning to others, to train their minds in the processes of legal thought, and to awaken in them an abiding appreciation of the nobility of the law.

His keen insight into human nature, ever one of his chief characteristics as a man among men, was of great assistance to him in lecturing on such subjects as the law of crimes and torts; and it helped him, furthermore, in his own study

of the problems of criminology. Also in lecturing upon the rules of evidence, especially as they were applied to criminal causes, his knowledge of the frailties of mankind gave him a ready mastery of intricate and difficult cases; and his power in this respect may be illustrated by his treatment, preserved for us to read in one of his published essays, of the 'two vast masses' of conflicting evidence in the mysterious case of Elizabeth Canning. Added to this power there was his dramatic sense. He had, to an extraordinary degree, the gift of the great actor: the capacity to make real before his hearers, as if he were on the stage, the play of social and anti-social forces contained in the reports of criminal cases. Throughout his whole teaching career, and even in his latest years, he paid frequent visits to the Courts in London, especially the Central Criminal Court; and, had he so wished, he might have written a book equal in human interest to the *Mornings at Bow Street* by J. Wight. A day at the Old Bailey, dinner and the theatre with a friend, and then back to the Reform Club for the night, was a frequent experience; and often the better part of a week was spent in this way. By his attendance in Court, where he took copious notes of the arguments of counsel and observed the actual processes of the law, he kept abreast of the latest application of the principles of criminal law; and thereby he was able to enrich both his oral teaching and his writings. His lectures on criminal law, so I am told by Dr. Pearce Higgins, who heard them, were marked by a skilful intermingling of the substantive and the adjective law: the principles of the substantive law were brought into close relation to the rules of procedure and evidence. It was in fact the criminal law in action, the law as it was enforced daily in the courts, which Kenny expounded; and it was his first-hand familiarity with cases at the Old Bailey and Quarter Sessions which gave him this power to present the criminal law as a part of life itself. His discourse was not purely academic; in part it was professional and practical. It was the masterly combination of theory and practice, at

one and the same moment, wherein one secret of his success in teaching lay.

Kenny's lecture-room was never a dull place; it was enlivened by the teaching of a man who knew intimately the student mind and who focused his exceptional powers upon the pleasant task of leading his hearers into what Coke described as 'the gladsome light of jurisprudence'. In speaking and in writing, he had always as his aim the fixing of legal topics in the mind of his hearers and readers, and, as he himself said in the preface to his *Outlines of Criminal Law*, 'the susceptibility of memory' must depend upon the extent to which an interest is aroused. Professor Winfield, one of his colleagues who had been at an earlier time his pupil, has written: 'His lectures flame like a beacon in the memories of those who have attended them and have been the altar at which younger instructors have sought to kindle their own more humble torches. Their excellent substance, lucid form, and resonant delivery mark in the highest degree the scholar, teacher, and orator. *Omne tulit punctum qui miscuit utile dulci.*' From Kenny's lecture-room the student always carried away the thought, so happily phrased by the late American Ambassador, Joseph H. Choate, that 'law is not a thing of quibbles and crotchets, but a body of truth as broad and well defined as human right'. Nor was Kenny's teaching restricted to the lecture-room. He was a firm believer in the value of class discussion of leading cases; and some of his most effective work was accomplished in conversation-classes. He was ever ready, moreover, to give his time most generously to the individual student who wished to talk over with him some of the darker problems in the law. At least several times in each academical year he accepted the invitation of students' law societies to read before them papers on *causes célèbres* and other legal topics; and he also frequently presided at students' moots and mock trials. The dramatic reading of his thrilling papers on famous trials, especially the Tichborne Case, the Calas Case, and the mystery of Elizabeth Canning, is still vividly

in the recollection of many Cambridge men who are now old or growing old.

In lecturing, so I am told by one who heard him many times, Kenny 'stood well up without a desk': possibly his experience in the House of Commons had shown him the value of this position in gaining command of his audience. It is related that sometimes even after an hour's lecture the members of his class would urge him to continue his discourse. In an article on Kenny, written for *The Gownsmen* (1910) by 'W.D.A.', who was none other than the late W. D. Aston, Fellow and Law Lecturer of Downing, it is reported that 'his students used to quote with glee a favourite remark often made in lecture, "Shall I say—Dash"; it was not, however, suggested that the lecturer intended to be profane'. 'Dash' is explained by the fact that when in lecturing he had occasion to dictate a note, he was in the habit of including punctuation marks: it is an illustration of his literary precision. I have been told by his old friend, Dr. Stevens, that once each term Kenny's 'lecturees' signed a book which has been preserved; and I am glad to record Dr. Stevens's view, which I share, that a perusal of this book would show how many men, later distinguished at home and throughout the Empire as lawyers and statesmen, such as Schreiner and General Smuts in South Africa, have 'translated Kenny's ideas into history'. From a letter recently written to the Master of Downing by an Honorary Fellow of the College, the Rt. Hon. Sir J. W. Wessels, Chief Justice of South Africa, I am permitted to quote the following lines: 'I fully realize that Downing and Cambridge laid the foundations of my success as a lawyer and are largely responsible for my holding the office [of Chief Justice] lately conferred on me. When I look back there are two men I have to thank for a lot: the one is Kenny and the other Bond of the Hall.'

To Dr. Winfield's comments on the brilliance of Kenny's lectures, which have already been quoted, I am privileged to add the testimony of two of his other colleagues at the

Cambridge Law School, who, when undergraduates, had similarly attended his courses. Dr. Buckland, Regius Professor of Civil Law, has told me how well he remembers, even after more than fifty years have passed, that 'from notes which looked at a distance like the contents of a waste-paper basket, Kenny produced discourses of a lucidity and "finish" which no lecturer or speaker whom [he has] since heard has approached'. Dr. Buckland has added:

He had large classes, for those days very large classes, and he succeeded in interesting the best and the worst. There was a course on Constitutional History, a subject which was then regarded, *semper ubique et ab omnibus*, as the dullest subject in the curriculum, worse even than Roman Law. Yet he interested the class. His period was the reign of George III and he enlivened his discourse by citations from Goldsmith's 'Traveller', and I still remember his admirable declamation of the passage ending with the lines: 'Till half a patriot, half a coward grown, I fly from petty tyrants to the throne.'

From written reminiscences of Kenny which Dr. Pearce Higgins, Whewell Professor of International Law, has sent to me, I take the following sentences:

As a lecturer he was easily the most effective of any whose lectures I attended. He had an extraordinary collection of notes which were written on backs of envelopes and odd bits of paper. On many occasions after I had begun to lecture he asked me to take one of his lectures on Jurisprudence when public business, such as Quarter Sessions, prevented him. I had considerable difficulty in piecing together these scattered notes so that my lecture might follow his course, as often they were interspersed with shorthand notes. His delivery was clear and impressive, but slow enough to enable the class to take good and consecutive notes. I think I heard his lectures on Jurisprudence, Criminal Law, and Torts. I remember he concluded a lecture on 'Sanctions' with the words: 'And so, gentlemen, we see that Force is the nation's physic—not its food.' This was greeted with roars of laughter and applause, for just then there were everywhere advertisements of 'Force' as a breakfast food.

Kenny's contributions to legal literature cover a wide range of subject-matter and are distinguished by the same

fine qualities of style—lucidity, force, and terseness—which made his oral teaching so attractive. His early essays deal chiefly with English legal history and the problems of law reform. He contributed many articles to legal periodicals, including the *Law Quarterly Review* and the *Cambridge Law Journal*, which, if they were reprinted in collected form, as they should be, would indicate the breadth of his intellectual interests. Professor Goodhart, editor of the *Law Quarterly Review*, has said: 'As a contributor Professor Kenny had one delightful idiosyncrasy which pleased the editor but reduced the compositor to despair. His articles were written on the backs of any scraps of paper which might be handy—we remember one which included an election address, a few old examination papers, an advertisement, and a dozen envelopes.' He was a skilful editor of collections of judicial decisions. His *Cases on Criminal Law* and *Cases on the Law of Torts* have long been recognized as models of judicious selection of precedents for the use of students, while his third collection, *Cases on the Law of Contract*, is also of much value. Unfortunately his illuminating lectures on Jurisprudence have never been published; and undoubtedly his most important work is his *Outlines of Criminal Law*.

Although it is impossible within narrow limits to give a critical and just appreciation of Kenny's published contributions to learning, attention may be directed to the main fields of inquiry which occupied his mind. In brief, his writings are concerned chiefly with legal history, recent legal and constitutional developments, famous trials, law reform, legal education, aspects of the law of torts and contracts, and, above all, criminal law, evidence, the procedure of criminal courts, and the problems of criminology. Not alone in his *Outlines of Criminal Law*, which is a legal classic, but in all his other writings, his main characteristics as a writer are his lucidity, careful scholarship, and intellectual integrity. He never glosses over an uncertain point; nor does he hide a doubt behind verbiage.

To English legal history Kenny made a contribution of

permanent value. His two principal writings in this field made their appearance before 1880, when Maitland began to write. In *The History of the Law of Primogeniture in England and its Effect upon Landed Property* (1878), dedicated to Richard Davis Craig, Esq., Q.C., 'in record of admiration for his juridical and historical learning', Kenny gave a sketch of the influences under which the Law of Primogeniture, originating in medieval times, had gradually assumed its modern form. The book is an excellent example of the combination of jural and historical with economic inquiry; and, moreover, it is also concerned with the social and political aspects of the subject. Written in a clear and terse style, it embodies much learning treated from what was in 1878 a novel standpoint. Surveying a long development, Kenny combined with the purely legal aspects of his subject other historical factors which had produced the modern problem of primogeniture. While this breadth of his historical vision needs to be emphasized, it is not less important to stress his familiarity with the sources and literature of English legal history; and, indeed, his book is proof that as a writer on the history of law he possessed qualities which were exceptional. By the publication of *The History of the Law of England as to the Effects of Marriage on Property and on the Wife's Legal Capacity* (1879), dedicated to Birkbeck, 'in tribute to his zeal as an investigator, in grateful remembrance of his skill as an expositor, of the Laws of England', Kenny still further increased his reputation as a legal historian. The main lines of his treatment were similar to those which he had employed in writing his earlier work. It is clear that he was under the influence of Sir Henry Maine and of Nichols, the editor of *Britton*. He drew attention to Maine's statement in *Early Institutions* that 'an account of the origin and growth of our legal system, founded on the examination of new materials and the re-examination of old ones, is perhaps the most urgently needed of all additions to English knowledge'; and he also cited Nichols's view that 'after the labours of Selden, Coke,

Spelman, Hale, and others, an adequate history of English law is still to be written'. Kenny hoped by his new work to make a contribution 'towards the accomplishment of that great task'. The book bears the evidence of his first-hand examination of the original authorities, including Bracton and the Year Books; and, moreover, in addition to many printed materials he had consulted and used a considerable number of manuscripts. He was, therefore, a predecessor of Maitland in demanding that the history of English law should be written on the basis of original sources; and, within the range of his limited field of inquiry, he showed an independence of judgment which led him to some results that were at variance with the views of legal history then commonly accepted. It was an erudite and scholarly production; and it marked him out as a legal historian of great promise. In *The True Principles of Legislation with regard to Property given for Charitable or other Public Uses* (1880) Kenny attempted, by a study of sixty years of Blue-books and an examination of other scattered materials, to illustrate 'the broad theoretical generalities' of his subject by 'the practical details of actual experience'. He dealt with the recent historical aspects of his subject; but he had the reform of the law chiefly in mind. Indeed, in all these three early works his bent towards the role of law reformer is evident.

Kenny's gifts as an historian of English Law, represented in part by his essays on the history of primogeniture and married women's property, were never used at a later time in the writing of a longer work. But nearly all his writings, including his *Outlines of Criminal Law*, show a marked appreciation of the value of history in the explanation of modern law; and several of his later articles and essays deal expressly with aspects of legal development, such as his 'Bonus Jurista Malus Christa', 'Lawless Court of Essex', 'Wife-Selling in England', and 'Evolution of the Law of Blasphemy'. It is possible that his growing interest in public life at the time of his membership of Parliament, and also

the emergence of Maitland as a great master of legal history, caused him to turn his attention, more and more, to jurisprudence and the modern law. He was, furthermore, rapidly rising as a great oral teacher of law; and to perfecting himself in this role he devoted a large part of his time. Up to the very last years, however, he continued to entertain his early ideas of the large place which history should hold in legal learning and education. He was long a member of the Selden Society, which Maitland had formed to further the study of English legal history, and towards the end of his life he was one of its Vice-Presidents.

As I have ventured to remark in another place, by means of his collections of cases on the law of crimes, torts, and contracts, Kenny, more than any other English jurist of our time, brought home to the student the truth of Coke's view, expressed in the Preface to the Ninth Part of his Reports, that 'a substantial and compendious Report of a Case rightly adjudged . . . doth set open the Window of the Laws, to let in the gladsome Light, whereby the right Reason of the Rule (the Beauty of the Law) may be clearly discerned'. Speaking at a meeting of the Cambridge Law Club in 1901, shortly after the appearance of Kenny's *Select Cases in Criminal Law* (1901), Maitland expressed the view, in Kenny's presence, that beginners in law are 'too ignorant of life'. 'If,' he said, 'I could have quite my own way with them I would plunge them at once into Dr. Kenny's *Case Book on Criminal Law*.' He could not, he added, imagine a book 'better fitted to give a freshman his first ideas about law'. Kenny's interest in legal case-books was aroused, or quickened, by the success of the 'case-method' of study inaugurated by Dean Langdell at the Harvard Law School; and, while he realized fully the great importance of retaining lectures in the English system of legal education, he did more than any other teacher of our time to introduce the study of cases as an illuminating supplement to the lecturer's discourse. In his books he wisely presented the cases to the student in the original

words of the reports or in an accurate summary of them; and he had an eye to those cases wherein not only questions of law, but the facts also, were of interest. His ideas as to the value of case-study fitted neatly into his general conception of English legal education, academical and professional, as expressed in the paper which he read at the annual meeting of the Society of Public Teachers of Law in July 1913. Some of his ideas are embodied in the case-books themselves; and there they may be studied. To him the practising lawyer's art was the 'art of interpreting judiciary law'; and to that he applied what had been said of military strategy by Marshal Foch, 'It cannot be acquired from abstract rules, but only from studying the concrete details of recorded instances.' The peculiar advantage of case-study, in Kenny's view, is that it presents to the mind both sides of a dispute in litigation that had been begun because there was a doubt. 'It is', he said, 'by actively thinking out the proverbial "competition of opposite analogies", which created this doubt, that a legal habit of mind is formed—a possession still more valuable to the busy practitioner than even legal erudition itself.' Writing to me from Dartmoor in September 1921 he drew a comparison between Caporn's 'successful' *Selected Cases illustrating the Law of Contracts* and his own projected and at that time partly completed case-book, based on Finch's. '[My collection] will have,' he remarked, 'much fewer cases than his [Caporn's] book; but it will have the advantage of giving the student the arguments for the *losing* side in each litigation. Without knowing *both* sides of each case, I don't think a reader's perusal of a summary of it deserves to be called "Case Study".' Kenny's case-books are valuable not only as aids to the student's grasp of important branches of English Law, but as the embodiment, in his notes, of some of the results of his own long study of the problems raised by the cases.

Generations of Cambridge men gained their knowledge of the principles of Jurisprudence from Kenny's lectures;

and it is a great loss to legal literature that they have never been published. One of the several reasons for their value has been expressed by Dr. Winfield who, as an undergraduate, heard the lectures delivered. 'The policeman and the hangman', he has remarked, 'rather obscure one's view in the Austinian system. Professor Kenny got these functionaries properly focussed in a picture of the law without eliminating them altogether, as appears to be the tendency in some quarters at the present day [1926].' Kenny's own lecture notes on Jurisprudence have been dispersed: before his death he himself presented many of them to former colleagues who were lecturing upon that subject. Many elaborate sets of the notes taken by his pupils are said to exist. It is possible that at some future time Kenny's 'Jurisprudence' may be recovered from the available materials: Maitland's *Equity* was rescued in this way from oblivion. In the meantime it is to be observed that some of Kenny's published writings deal with principles of Jurisprudence, as, for example, the article on 'Intention and Purpose'; and by a study of these contributions at least some of his views on jurisprudential subjects are disclosed. It is to be remembered, moreover, that in his *Criminal Law* he embodied some of his own doctrines: he himself regarded the law of crime as 'a branch of jurisprudence peculiarly capable of being rendered interesting'. Not only was his mind stored with legal ideas derived from his long and continuous study of the writings of great jurists, past and present, but he possessed a considerable knowledge of foreign law. In two of his published essays he showed his interest in foreign juridical thought by tracing Bentham's Spanish influence and in studying the career of Toribio Nuñez (1776-1834), a Spanish apostle of Bentham. In his examination of Continental criminal law Kenny's mind was chiefly focused on jurisprudential problems; and in his criticism of foreign writers on jurisprudence he showed his usual independence of judgment, agreeing or differing, however, only for reasons that were solidly based. It was his command of

foreign languages, as spoken and written, which enabled him not only to profit from his foreign travel, but to master the works of Continental jurists. With the legal science of some countries, such as France, Germany, and Italy, he was thoroughly at home; and this familiarity both enlivened his conversation and enriched the thought contained in his writings. He spoke or wrote of Montesquieu and Pothier, Ihering and Gierke, Beccaria and Lombroso, with ease and understanding; and, although his learning in foreign Jurisprudence may not have possessed the same depth as his grasp of English and American legal ideas, it was nevertheless sufficiently profound to mark him out as a legal thinker who, far from being insular, had a vision that was cosmopolitan and catholic. Equipped as he was with the learning and intellectual outlook of a great jurist, he was eminently qualified to write a treatise on comparative jurisprudence which should take its place beside the works of the masters. But while regretting the absence of his 'Jurisprudence', one may at the same time be thankful that in other fields he has left a permanent record of his methodical, penetrating, and constructive work as a lawyer.

The breadth of Kenny's general reading is noticeable. Among the subjects which specially attracted him were legal biography, trials, and the 'curiosities' of judicial and legal history. Such a book as Warée's *Curiosités Judiciaires Historiques et Anecdotiques recueillies et mises en Ordre* (1877) fascinated him. His love of legal oddities was awakened at an early age. In an essay, 'The Lawless Court of Essex', published in 1905, he writes: 'Forty years ago, when first introduced to the repellent intricacies of real-property law, I used to find a relaxation from them in digressing into the cognate but eccentric lore of old Blount's seventeenth-century "Fragmenta Antiquitatis: ancient tenures of land and jocular customs of manors".' This bent of his mind towards the 'eccentric' and 'jocular' features of law and its history was lasting. Among the foreign pamphlets on Law

and Jurisprudence which he had collected and annotated, sometimes in shorthand, Gierke's *Humor im deutschen Recht* (2nd ed., 1886) deserves mention. Not only was he interested in this particular essay because it was 'a curious work on "the humorous element in German law"', but he had also taken pains to note the appearance of a similar book, Konrad Borchling's *Poesie und Humor im friesischen Recht* (1908). His fondness for what one may describe as the dramatic aspects of Law may be illustrated by his study of Ihering's views on the legal character of *Trinkgeld*; and the keenness with which he followed the *minutiae* of procedure connected with the holding of an Assize is another out of many examples. The nooks and corners of the Law, past and present, cast a spell over him. Even *bizarrierie* held him. He had collected several portraits of that strange figure, the gipsy woman, in the case of Elizabeth Canning; and these he displayed to those who heard him speak on that mysterious trial. He wanted them to see for themselves the hideous and enormous nose and underlip of a being described by Henry Fielding, who had seen her, as 'perhaps the most remarkable person in the whole world'. He also showed his liking for oddities by making a collection of old engravings and woodcuts in caricature of legal figures, accompanied by doggerel verse. There is 'The Judge'—

Thou sage expounder of the 'Law';
And blest with skill to lay it down;
We gaze upon thy wig with awe,
And bow with reverence to thy gown.
Upon thy tongue *conviction* dwells,
The wrong from right 'tis thine to wrench;
And every bright decision tells,
A second Blackstone on the Bench.

These 'Law Phisogs', depicting the 'Barrister' and the 'Attorney', the 'Plaintiff' and the 'Defendant', the 'Witnesses', the 'Foreman of the Jury', and even the 'Crier of the Court' and 'The Bailiff', had a fascination for Kenny; and upon two lines of the verses on 'The Lawyer' he wrote,

in his 'Bonus Jurista Malus Christa', a learned historical essay.

Professions will abuse each other,
The Priest won't call the Lawyer brother.

Kenny always took a lively interest in the human side of the law, a characteristic still further illustrated by his series of delightful papers entitled 'What an Old Reporter Told Me'. The reporter was Richard Davis Craig, whose surname is familiar to Equity lawyers through the Reports of Chancery cases by Mylne and Craig and by Craig and Phillips. In 1878, it will be remembered, Kenny had dedicated his work on the Law of Primogeniture to Craig. From 1873 to 1884, when Craig died, he knew this 'old reporter' intimately; and in these papers he wrote entertainingly of the history of Bench and Bar in Craig's time, interspersing his account with a great variety of excellent legal anecdotes. He was much attracted by the subject of seals and documents, to the study of which he devoted considerable time. Among the unpublished papers which he left there is a short article on 'Seals', typed (with annotations in pencil) on the backs of students' answers to Tripos questions. It is in the 'all capital' type of his own ancient typewriter.

The *Outlines of Criminal Law* is Kenny's most valuable contribution to literature. To have put the criminal law into a form both comely and accurate, bringing into clarity the principles contained in a mass of decided cases, was his great achievement. In the annals of legal literature during the last century and a half such a presentation remains unique, for, with all their virtues, which have been briefly mentioned by Lord Birkenhead in his *Fourteen English Judges*, the works of Sir James Fitzjames Stephen cannot be regarded as equal to Kenny's treatise in analytical and constructive qualities. In taking his place in the literary history of English criminal law as the successor of Staunford, Coke, Hawkins, Hale, Blackstone, and Stephen, Kenny's fame is assured; and in his possession of the wide

outlook of a scientific jurist he is the superior of his predecessors. Criticism has been directed to some aspects of his work. Thus, in his careful search for a legal distinction between crime and tort, he gave a definition of crime which has not been fully accepted by later writers: Dr. Winfield, for example, in his *Province of the Law of Tort* (1931), declines to adopt it in its entirety. But criticism of some details in what must be regarded as in many aspects a pioneer work in modern criminal jurisprudence was to be expected; and the important thing is to stress, as many have done, the value of Kenny's book as a masterly exposition of fundamental principles. It is primarily a summary of the principles of English criminal law; but at the same time it embodies a philosophical discussion of those which underlie the criminal law of all civilized countries. In Kenny's hands illustrative examples give vividness and reality to abstract principles. It is this feature of the book, added to many of those characteristic touches of humour which mark all Kenny's writings, that has made it especially attractive to students and Justices of the Peace, for whom it was chiefly intended. In his treatment of the criminal law, moreover, its connexion with the past is so traced as to explain the historical anomalies which still encumber it. Nor, since Kenny was a reformer as well as an expositor of existing law, are there absent from his pages frequent suggestions of some of the most important controversies, psychological, social, and juridical, which the law as it is may well arouse in the future; and upon such difficult but important questions as *mens rea*, insanity, and intoxication, his exposition is illuminating to the legislator who desires to improve the existing law. Comparison with foreign law has not been neglected. A French legal writer has observed: 'M. Kenny sait rendre attrayantes les questions dont il traite. Il aime aussi à établir des rapprochements fréquents entre le droit de son pays et celui du nôtre. Il montre en quoi celui-ci est supérieur ou inférieur à celui-là; tout en ne cachant pas que, d'une manière générale—ce en quoi il a, peut-être,

raison—l'instruction criminelle anglaise offre plus de garanties pour les droits des particuliers que celle de nos codes.' Coming to a branch of our law which, in his own words, still retained a 'chaotic form', Kenny did more than any writer since Blackstone's time to bring the diverse and scattered materials into a symmetrical body of doctrine. Of the *Outlines* Professor A. V. Dicey, of Oxford, wrote that it 'proves conclusively that the art of treating legal topics with the literary skill which makes a legal text-book a work full, not only of instruction, but of interest may be displayed to-day quite as markedly as in the time of Blackstone'. Dicey's successor in the Vinerian Professorship, Sir William Holdsworth, has said: 'Life, logic, and literary ability have combined to make the *Outlines of Criminal Law* a perfect text-book.'

To those who began their legal studies towards the close of the last century Anson's *Law of Contract* and Sir Frederick Pollock's *Law of Torts* came as a surprise; they were a revelation of the method and style in which law books could be written by masters of their subject. Then, in further illustration of the new tendency in legal literature for students, there appeared two other works of like brilliance, Kenny's *Criminal Law* and Maitland's *Equity*. These four writings, in their illumination of the law, astonished many who were not students. The value of Kenny's treatise to teachers and practitioners as well as to students, not only in this country but also in America and the Dominions, is evidenced by the fact that in thirty-one years it has passed through fourteen editions; and, moreover, it is well known that many magistrates as well as some of His Majesty's judges at Assizes have long been accustomed to keep Kenny's book by them as a true guide in the dispensing of criminal justice. In his own handwriting Kenny left a record of remarks made to him personally by the late Lord Alverstone, Lord Chief Justice, in January 1908, when presiding at a tea given to the Cambridge Police. 'I always take your *Outlines* into Court', said Alverstone, 'in any

difficult criminal case: it is often cited before me, and I have just ordered it into the King's Bench Library. The other criminal books are mere heaps of cases; but you bring everything to *Principle*.' Lord Alverstone also wrote: 'I often refer to it . . . I think it is an admirable book and ought to be most useful, not only to students, but to practising barristers and judges.' I am told that the late Mr. Justice R. S. Wright, who had written a criminal code for Jamaica and *The Law of Criminal Conspiracies*, 'praised Kenny's *Outlines* highly'. In the words of one of his former pupils, it is a work 'characterized both by exact knowledge and broad philosophical and historical treatment'; and it is, in fact, one of the classics of our legal literature. The book is based not alone on extensive and scholarly research among the published authorities, for there is in it much that the author derived from his frequent attendance at the sittings of the Central Criminal Court in London and his own experience as a magistrate; and it represents the long workings of a mind trained to exactitude of thought and expression. It was founded on a quarter of a century's experience as an oral teacher; and its later editions were revisions made in the light provided by a continuation of the work of teaching the criminal law. In its precision and balance of thought Kenny's work is comparable with Thayer's *Preliminary Treatise on Evidence* and Dicey's *Introduction to the Law of the Constitution*. Indeed, as teachers and writers, Kenny, Thayer and Dicey all possessed in common at least one striking characteristic—they never allowed the tongue or the pen to proceed faster than their thought. Within the natural limitations of language, the words which they employed were an exact reproduction of the certainty or the doubt in the mind.

The *Criminal Law* contains four parts: (1) general considerations, such as the nature of a crime, the purpose of criminal punishment, and the mental element in crime; (2) the definitions of particular crimes; (3) the modes of proof, in which not only general rules of evidence, but also

such rules as are peculiar to criminal law, are considered; and, finally, (4) criminal procedure. In the first two parts Kenny is concerned with the substantive law; in the last two he deals with the adjective law. Upon certain aspects of the wide field covered by these four main topics some of his shorter writings, such as those upon evidence and famous trials, supplement the treatise; and to gain a complete understanding of his contribution to the literature of criminal law his articles and essays, and even some of his book reviews, must be perused. As a writer on evidence Kenny was a successor of Edward Christian, the first Downing Professor of the Laws of England; for Christian, in his dispute with Burke, wrote a 'Dissertation on Evidence', a part of which, concerned with the 'Best Evidence' Rule, found its way into Christian's notes to Blackstone's *Commentaries*. Christian's observations on this Rule have won the praise of a high authority, James Bradley Thayer, who speaks of them in his *Preliminary Treatise on Evidence at the Common Law*, as 'keen' and 'sagacious'. These words aptly apply to Kenny's treatment of the law of evidence as invoked in criminal causes. But a just appreciation of his keenness and sagacity in the handling of problems of evidence can be gained only by supplementing the reading of the *Outlines* by an examination of his papers on famous trials, such as 'The Mystery of Elizabeth Canning'.

Kenny's essays on 'The Law of the Air' (1910) and 'The Dominions and their Mother Country' (1925-6) attest his lively sense for the value and attractiveness of novel legal and constitutional problems. Realizing at an early day the legal importance of aviation, he was one of the pioneer contributors to the literature on the law of the air. On its appearance his essay had special value as an early attempt to delimit the sphere of a new branch of the law; and it inspired the writing of works by other lawyers. In the other essay he made a useful contribution to the study of 'Dominion status' and other aspects of the Constitution of the British Commonwealth of Nations; and in so doing he

illuminated problems of a legal and constitutional nature by dealing with those historical and political considerations which were ever present in his mind.

Of Kenny's legal ideas, such as his theory of crime, I have said nothing, fearing that a study of this character would take me from my main purpose, which is to sketch his career and present the main features of his character. An analysis of his ideas, which would serve a useful end, should be undertaken by some competent jurist. In the meantime it is worthy of remembrance that both by his oral teaching and by the spread of his writings he has left a substantial imprint on the legal thought of our time. In the practice of Courts, and not less in the literature of the law, his ideas in regard to civil and criminal jurisprudence figure prominently. One marked feature of his legal thought is its close connexion with life: he always remembers that juridical ideas are not merely the result of professional tradition. He sees clearly that in large measure they are an outgrowth of movement in the social life of the community; and hence he envisages them in their relation to economic, political, and theological theories. In the historical, social, and theoretical background of the law he seeks the explanation of the ideas which the law itself, as a system of justice, has perpetuated; and because he sees the present futility or the present injustice of some of these ideas he urges, as a legal reformer, their abolition or modification. Joseph Conrad observed that 'the changing wisdom of successive generations discards ideas, questions facts, demolishes theories'. By helping to mould the jurisprudential conceptions of our own time Kenny made a notable contribution to this ever-changing wisdom of mankind.

Kenny's interest in law reform, which was awakened in his youth, continued unabated throughout his life. On the title-page of his Prize Essay, *The Disuse of the Athanasian Creed* (1875), he set out these words of the Bishop of London (1858): 'The strength of the Church of England lies in its ability to adapt itself to the wants of the age in which we

live.' Kenny applied to the Law this same doctrine of adaptation. There can be little doubt that in his undergraduate days he had been influenced to concern himself with law reform by the teaching of his Downing Professor; for Birkbeck, as we may see from his *Historical Sketch of the Distribution of Land in England*, made suggestions for 'the improvement of the Law'. One of the earliest of Kenny's writings—*Property given for Charitable or Other Public Uses* (1880)—was devoted to a particular aspect of legal reform. Ever since the time of George II the policy had prevailed, in English Law, of forbidding testators to give landed property to charities. When Kenny was in Parliament (1885–8) his book, which contained an elaborate argument against this prohibition, led to his being placed on the Parliamentary Committee which sat in 1886 and 1887 to inquire into the operation of the Endowed Schools Acts. His book, moreover, obtained currency in official circles and exercised a direct influence in bringing about the introduction in 1891 of the Mortmain and Charitable Uses Bill, which Lord Herschell piloted through Parliament. Under the terms of the Act, which embodied some of Kenny's ideas, any land might be given by will to any charitable use, but must be sold within one year after the death of the testator for the benefit of the charity; and, as the late Lord Lindley once remarked, the Act produced 'a total revolution in the law, a total departure from anterior legislation, and a wholly new direction of thought'. When Kenny was in the House of Commons he also urged the necessity for legal reform in other directions. On more than one occasion he introduced Bills for the abolition of primogeniture and the amendment of the law relating to blasphemy; and, in taking a bold stand against the continuance of one of the most persistent incidents of feudalism, as well as in demanding a repeal of the laws restricting the expression of religious opinion, Kenny was in advance of his times, as law reformers have nearly always been. He lived long enough, however, to see some of his ideas adopted

by Parliament; at least one of his measures of reform, the abolition of primogeniture, was incorporated in the Administration of Estates Act, 1925.

Throughout his life Kenny was a close and keen student of the art of oratory, past and present, Greek, Latin, English, Irish, French, American; and he was himself an accomplished and effective public speaker, as many who were privileged to hear his occasional speeches and addresses will recall. Gifted with a naturally musical voice, which he had spared no pains to train and strengthen, he was equally remarkable for his mastery of diction, whether of the spoken word or the written word. He loved the study of words and their origins. He hated all slang and anything stilted, far-fetched, or of doubtful derivation. Kenny used his own exceptional powers not only in Parliament, in the Cambridge Senate, and in the lecture-room, but on many special occasions; and he was equally effective before a learned and an unlearned audience. As an orator he could draw on a wide vocabulary, which enabled him to be all things to all men—telling and incisive in debate, brilliant and epigrammatic as an after-dinner speaker, clarity personified to a class of law-students, and to an audience of working-men uttering nothing but the simplest and raciest Anglo-Saxon. Even when he 'read a paper' he was still the 'public speaker'. He was a prominent figure at the meetings of the Cambridge Law Club, a society composed of teachers and legal practitioners; and past and present members will never forget his papers, such as 'A College Murder' and 'The Air at Law', which were not only marked by learning and pleasantries, but read in a quietly oratorical manner. The late Lord Curzon drew attention, in his *Modern Parliamentary Eloquence*, to the decay of oratory at the Universities; and, while this is no doubt true in general, the speeches of Maitland and Kenny are proof of the fact that the art of persuasion has been practised, with subtle and telling brilliance, by University professors of our own day.

Ever since his undergraduate days at the Union Kenny was not only fascinated by his reading of the orations of great men, statesmen and advocates of the past and present, but he examined as a matter of the highest importance their methods of persuasion and not less the development of their thought. As an undergraduate he travelled all the way to Birmingham, so Dr. Stevens has told me, to hear an address given by John Bright. Up to the end his interest in oratory never flagged; and there can be no doubt that by this constant study he was ever trying to perfect himself in the art of public speaking, of which he was so conspicuous a master. I well recall the light in his eyes as he spoke of orators, such as Cicero, or Burke, or Webster; and I do not forget the evening when I told him of a North American Indian of our own day who had marked gifts as a speaker before large audiences. In 1927, at the age of eighty, Kenny published an edition of the *Parliamentary Logic* by William Gerard Hamilton, 'Single-Speech Hamilton'; and in his Introduction and notes to this small classic of the eighteenth century some of Kenny's own maxims on oratory may be found. Thus, for example, he quotes Gladstone's remark—'To sway an audience you must watch them all along'—with approval; and, in referring to the atmosphere of an occasion, he mentions 'that mighty orator, Berryer', who said to the French chamber, 'I bring here my ideas but *you* create my speech for me.' Speaking of Hamilton's observation of Parliament during forty years, Kenny remarks: 'My own far briefer experience, as a member of only two Parliaments, was at any rate long enough to enable me to realize the value of [Hamilton's record of "the arts and artifices of debaters"].'

To these comments on Kenny's study of oratory I may add, as a supplement, two or three extracts from the letters which he wrote to me shortly after the War. Speaking of the Cambridge Summer Meeting in 1920, the subject of which was 'Spain', he remarked that, although the lectures were mostly dull, 'the inaugural address by the Spanish

Ambassador was really a treat; a more stately and handsome man I never saw, and a nobler voice I have hardly ever listened to'. In another letter he referred with enthusiasm to an address which had been given one evening in the Cambridge Guildhall; and he drew attention to the fact that the speaker was 'not only fully possessed of his subject, but also fully possessed by it'. 'Lord Lytton, in his poem on Oratory', he continued, 'answers the inquiry why Plunket surpassed all other speakers in the Catholic Emancipation debates—

"Wherefore?" you ask. I can but guide your guess;

Man has no majesty like Earnestness.

It was this quality, he added, which made Sohm's law lectures at Leipzig so impressive. 'I shall never be able', he concluded, 'to give any lecturer higher praise than this reminiscence.'

While it would be superfluous to mention in the present place all the honours bestowed on Kenny in the course of a legal and public career marked by so much success, it is nevertheless fitting to place on record one distinction which gave him special pleasure at the time and of which he was always proud. In 1909, after he had held the Downing Professorship of the Laws of England for two years, he was elected a Fellow of the British Academy, later serving as a member of its Council. He took a great interest in the work of the Academy, associating himself chiefly with activities concerning Jurisprudence; and, while his frequent attendance at meetings of the Academy attested his appreciation of the importance of learning and scholarship, it was also evidence of the value he placed on personal touch with friends, such as Lord Bryce, Lord Haldane, and Sir Frederick Pollock, men who were devoted to the same studies that were foremost in his own life.

Kenny always remained faithful to those principles of political liberalism which he had defended with so much skill and eloquence in his undergraduate days at the Union Society and later in Parliament. Although he retired from Parliamentary life in 1888, he continued to take a constant

and deep interest in the fortunes of the Liberal Party; and at a meeting of the Cambridge Borough Liberal Association, held shortly after his death, the Chairman referred to his example and character as a heritage of which they were all proud. His liberalism in political thought found a practical outlet in his work as a law reformer; and it also coloured the suggestions which he made in his writings for the improvement of the law.

From its early days Kenny was a firm advocate of the higher education of women, and he welcomed with pleasure the women students of law who attended his lectures. He was in favour of permitting women to enter all professions, not excepting the Church. He set a high value on their services in municipal and local affairs. But he was consistently opposed to female suffrage, holding that if women were spared the necessity of risking life in national defence, they could not fairly claim by right of greater number to dictate national policy.

In matters of religion, as generally in politics, Kenny held broad and liberal views. Of an intensely religious nature he was brought up as an Anglican. But in his boyhood he was deeply impressed by his schoolmaster who said to him in a discussion on theology that he himself dare not follow a line of investigation further lest it should alter his religious views and thus bring about the loss of his post. This remark created such a horror of authority in matters of conscience in Kenny's mind as to bend it towards nonconformity. He never joined any religious body; and, though he worshipped regularly at the Emmanuel Congregational Church, Cambridge, from the time of his marriage till his death, he was Unitarian in his views and sometimes attended the services of the Unitarian Church in Cambridge. It is, therefore, a striking testimony to his tolerance that, although a Unitarian, he associated himself for more than fifty years with a Trinitarian congregation, where he sometimes led in prayer at the Communion service. But, as he was wont to say, he had a 'hatred of labels'. Away

from Cambridge he liked to seek out the Friends' Meeting; and he would worship whole-heartedly with any congregation of liberal views, even gladly attending, when abroad, the Roman Catholic Benediction, though he had a horror of the Mass. He took special pains to hear sermons by Spurgeon, 'Woodbine Willie', and other well-known preachers. He never let anything keep him away from Church; and he often said that throughout the week he looked forward to Sunday and its public worship. He kept Sunday always as a free day and would never allow its happy hours to be encroached on either by week-day work or by social engagements. Heredity probably accounted for the intensity and breadth of his religious feeling. The Kennys, as already observed, were exiled French Huguenots established in county Mayo in the seventeenth century, while his mother's family, the Westbys of the Lancashire Fylde, had clung to their Catholic faith in a persecuting Protestant world. He also traced his descent from John Rogers, the first Protestant martyr of Mary's reign, and used to show as a great treasure the licence authorizing his great-grandfather, John Ralph, a friend of Priestley, to hold a dissenting meeting in his house.

Miss Kenny, his elder daughter, remembers that at a very early age, when lying awake in her crib one evening, he came in and said to her: 'The first thing I can ever remember my grandfather teaching me was never to laugh at any one on account of his religion, and I should like it to be the first thing I teach you.' The words, she tells me, hardly conveyed any definite idea to her at the time, but they clung to her memory. It was, in fact, his passion for liberty of conscience that led him to uphold in his campaign against the Parliamentary Oath a man who openly disavowed all religious belief. For Mr. Charles Bradlaugh Kenny took the chair at a public meeting in Cambridge when such an act required considerable moral courage in defiance of the then prevailing state of authoritative opinion. By this he forfeited the esteem and friendship of the Master

of his own College, Dr. Worsley. This gentleman even insisted that his wife, a gentle old friend who had known four generations of Kenny's family, should break off the ties of tender intimacy which bound her to Mrs. Kenny and her young children.

It is of some interest to recall that on an early occasion, before he became an undergraduate, Kenny had preached; and that in the latter part of his life he gave two sermons in the Chapel of Downing College. At one time he held a Bible class: a Mayor of Cambridge once reminded him that he, as a lad, had attended it. As an undergraduate Kenny won a prize for an essay on the disuse of the Athanasian Creed; and, in the form in which it was published in 1875, the year he became Fellow and Lecturer of Downing, this production represents considerable research and learning. He was a serious student of Theology up to his death, eagerly looking in the University Library for each new work on the subject and often contributing articles, mostly unsigned, to religious weekly papers. He took an exceptional interest in Mansfield College, Oxford; and since his death it has been disclosed that he was 'A Fellow of a College' who frequently sent handsome donations to the College funds. He favoured the sending of men to German universities for advanced theological studies; and on one occasion he spent some time with a Mansfield 'travelling scholar' in Germany, investigating actual conditions and methods.

One marked influence on Kenny's religious life deserves special mention. A Unitarian in creed, he sat in early manhood under the teaching of Dr. James Martineau, who, like himself, had inherited the dignity and reserve, the keen and vivid intellect, and the picturesque imagination of the French Huguenot. When a law student in London he went regularly to hear Martineau preach and was greatly influenced by his thought; he became in fact a disciple of this great thinker and always spoke of him with the utmost reverence. Like Martineau, moreover, he was under the

influence of French thinkers, such as Renan. Ruskin, Newman, and Martineau he regarded as the finest prose writers of the Victorian age; and over the fire-place of the keeping-room in his College set he had hung the portraits of Erasmus, Jowett, and Martineau.

A keen traveller, Kenny explored many parts of Europe. Like his grandfather, who had been in America in Madison's and also in Monroe's time, he twice visited the United States, in the history and institutions of which he took a lively interest; and his daughters tell me that he was wont to say he had never met an American he did not like. In the beauties of American scenery, of which he often spoke in conversation with friends from the States, he found a pleasure. He owned two pictures in oils of the Schuylkill Valley near Philadelphia, which his grandfather had brought back from America; and these he presented to a friend who had himself explored that romantic region. One particular subject which always fascinated him was the history of the North American Indians and the survival of their tribal customs; and American usage was also a matter of his frequent inquiry. He wanted to know, for example, the precise meaning of the word 'Publica' in the inscription 'Schola Publica Prima' over the entrance of the school near Boston which the grandfather of the founder of Downing College and later Mr. Choate, the American Ambassador, had attended. He was especially interested in American 'tips' to waiters, railway porters, and cabmen. 'Socially obligatory in Europe', are they in the United States, he asked, '(1) equally obligatory, or (2) more a matter of option, or (3) an actual insult?' The European usages furnished him with material for his delightful essay, 'Thering on Trinkgeld and Tips'; and in this he referred briefly to American practice. He was accustomed to have at hand 'working copies' of his published books and articles; and upon each of his subjects he gathered fresh materials with a view, no doubt, to new editions. A newspaper account of a Clerkenwell County Court case, headed 'The West-End

Hair Cut', is among the materials which he had collected after the publication of his essay on Ihering's legal problem.

To the history of the American Bench and Bar he devoted much learned research. Two of the works in his library were Van Santvoord's *Lives and Judicial Services of the Chief-Justices of the Supreme Court of the United States* (1854) and the *Life and Letters of Joseph Story*, edited by William W. Story, his son (1851). These volumes contain a considerable number of Kenny's comments in pencil; and it is of some interest to note his opinion of American judges and law professors. Thus, on one page he had written: 'Bradley, J., was the greatest judge of the Supreme Federal Court in his generation; and, after Marshall, the greatest it ever had. Marshall had (unlike Story) little case-learning; but had a genius for grasping the main *point*. Story and Jay were eminent; Fuller and Harland were good. At present (1920) White and Holmes are the best.' Kenny also took a deep interest in the careers of American statesmen and men of letters; and in conversation he frequently came back to Daniel Webster, dwelling particularly on his qualities in oratory. He once gave, in Cambridge, a discourse on 'Daniel Webster'. 'You will be amused to hear', he wrote afterwards, 'that many of my audience had come expecting to hear a lecture on the author of "Webster's Dictionary".'

French made a special appeal to Kenny. The late Professor E. C. Clark used to say: 'Kenny, an Englishman should be ashamed to speak French as well as you do.' The holidays that gave him most delight were passed in Paris on the *rive gauche*. It was always his habit when abroad, even for a few days, to have conversation lessons in French, German, or Spanish, as the case might be; and the learning of a new derivation was always a particular joy. When abroad he was also accustomed to witness plays at the Comedie Française and other theatres in Paris and elsewhere. His love of the theatre endured to the last: few new plays came out in London that he did not see, but in the later years he would go quietly back to bed at the

Reform Club after the first act. When travelling on the Continent he often spent time in the courts of justice and the galleries of legislative chambers, particularly the Chamber of Deputies in Paris and the Reichstag in Berlin. His intimate friend, the Rev. Dr. H. W. P. Stevens, who often accompanied him on his trips abroad, tells me that as a former Member of Parliament Kenny noted 'the value of members having no desks, so that there was no slamming of the tops as in Paris and Berlin'. During his travels he invariably attended religious services on Sunday; and he also made it a point to hear the addresses and lectures of eminent scholars. In Paris he listened to addresses by Renan, the philosopher; and at Berlin he attended lectures given by Harnack, the Church historian, at 7 o'clock in the morning. At Leipzig he heard, as we have seen, the 'impressive' law lectures of Sohm. His interest was not restricted to the subject-matter of the lectures which he heard at various universities. He also observed, as a student of public speaking, the *technique* of the lecturer's delivery and his method of presentation; and these matters he was accustomed to talk over with friends at a later time.

To foreigners in Cambridge he always gave a courteous welcome and spared himself no trouble to show kindness to casual tourists in the street. He especially inculcated the duty of extending sympathetic hospitality to Oriental students. In the eighties some middle-aged Indian undergraduates were frequent and valued guests at his home, and he lived to welcome in more than one instance a member of the second generation. Again, the Belgian University professors and their families who were sheltered in Cambridge during the War experienced time after time his hospitality and generosity, and up to his death no year passed without his receiving evidence of their gratitude.

Yorkshire and Devon were his favourite English counties. He was very proud of being a Yorkshireman; but, although he often visited his native county, spending time in its hills, Devon was where in later years he liked best to pass his

vacations. While he enjoyed being by the sea, he took a peculiar delight in high inland places, especially Dartmoor, where he found bracing air and extensive views. He sought out 'restful nooks'. In a letter written in September 1921 he remarked: 'We are in a pleasant and pretty—though very lonely—bungalow on Dartmoor. We are eight hundred feet above sea, so the air is very different from that of Cambridge! And from one window we can count five successive lines of hills, one beyond the other; which makes another great contrast with Cantabrigian existence!' He was fond of exploring the places which he visited, such as 'the great earthworks between Dorchester and Weymouth'. In a letter written to me during the War he said: 'My sole bit of literary history was in finding the tombstone of a Mr. *Samuel Weller*, who died three years before "*Pickwick*" was published: which made me wonder if Dickens had visited Eastbourne and had had the name suggested to him by that epitaph.'

When his mind was tired he would take up with ardour a volume of Dickens or of Scott, but his reading of contemporary fiction stopped with *Middlemarch*. In the same way he had a wide and profound knowledge of English poetry, but it seemed to come to an abrupt close with Byron's death; and his interest in pictorial art also ended at about the same period. He had no understanding of or inclination for music, with the exception of songs sung by his wife. He took delight in the beauties of Nature: it is said that his main objection to the sale to the University, as a site for laboratories, of a part of the Downing *domus* property was the fact that this meant the demolition of a good many fine and stately trees. He had a curious physical shrinking from the actual handling of any animal, horse, dog, or cat, but he often expressed decided views as to the 'rights' of animals, encouraged his daughters in their fondness for them, and was always interested in the characters and actions of the household pets, particularly remarking 'the sense of property' shown by the cats. He had

amassed a collection of cuttings and manuscripts on the 'Immortality of Animals'. He had a great love of children, who were always immensely attracted by him. Any child in a railway carriage was sure to be on his knee before many minutes had passed. One of his cousins, speaking of his great kindness to her as a child, tells a story of a small girl, bored at a London theatre, who begged him to let her sit on his knees and who went to sleep in his arms, he being a total stranger.

One cause of Kenny's capacity for hard and continuous work was that, having a sound constitution, he enjoyed into old age a singular degree of steady good health. He had no minor ailments and hardly knew the meaning of a cold or a headache. Throughout life he adhered to the practice of 'early to bed and early to rise' and never lost the faculty of sound sleep. He did not smoke and, although he liked wine, he was abstemious in the use of it. He was fond of what he once described, in a letter to me, as a 'cheery party'. On another occasion, in inviting me to be his guest at the Quarterly Dinner of the County Club, which always coincided in time with Quarter Sessions, he added: 'If you already are familiar with the Club, you will know that they have a cellar not inferior to those of Downing and Emmanuel.' He was of a sociable nature and frequently invited his friends to dinner in Hall at Downing or in his Clubs. He was long a member of the Reform Club and often stayed there on his visits to London. He played no games even in his young days, but from youth to age he was an ardent and inveterate walker. When over eighty he still walked never less than six miles a day; and he would turn out at night to complete the tale if his public duties had cut it short by day. For over a quarter of a century he never missed, if in Cambridge, his Sunday afternoon walk with his close friend, the late William Mollison, Tutor and subsequently Master of Clare.

Some of Kenny's most intimate friendships dated from undergraduate days at Downing; and of his early friends

special mention should be made of the late Rev. Dr. T. J. Lawrence, the well-known authority on International Law, and the Rev. Dr. H. W. P. Stevens, who wrote the *History of Downing College* and has long held as Rector the College living at Tadlow with East Hatley, Cambridgeshire. Until Lawrence's death 'T.J.L.', 'C.S.K.', and 'H.W.P.S.', as they were known to many in Cambridge, formed a Downing group of the closest mutual intimacy based on common tastes and interests. As he entered the Hall at Downing to sit for his Scholarship Examination Kenny met Stevens on the steps; and from that day till Kenny's death the two friends were inseparable. They often stayed in Paris together; and, on his visits to the Courts in London, Kenny was sometimes accompanied by his friend. Another Downing friend deserves remembrance: Dr. John Perkins, Tutor and later Bursar of the College. Dr. Stevens tells me that Perkins, when Tutor, was once asked if he had discipline. 'Discipline! No,' he replied, 'I treat my men as gentlemen and they willingly respond.' This, it seems, must partly account for Kenny's fondness for Perkins and the great respect in which he held the memory of that extraordinary figure in academic life. A portrait of Perkins, painted in oils, was one of Kenny's treasured possessions; it hung in the study of his College set of rooms. Before his death he gave this portrait to the College; it was hung in 'The Palace', a cottage, on one of the College farms, which is always ready as a holiday retreat for the Master or any Fellow. Perkins frequently occupied it; and Maitland sometimes retired to it for days or weeks. Maitland and Kenny, as we have seen, met as undergraduates; and during Maitland's long tenure of the Downing Chair (1888-1906) he and Kenny were not only colleagues in College and in the Law School of the University, but also close friends who mutually recognized and respected each other's fine qualities of mind and heart. The Misses Kenny have told me that their father 'loved Maitland as a man as much as he admired him as a lawyer'.

Some of Kenny's best friends were men who came into touch with him during their student days at Downing or in the Law School; and he was ever ready to give to them, as well as to his many other friends, within and without the University, not only the benefit of his learning and wisdom, but also the richest fruits of his kind and sympathetic nature. Dr. Goodhart has expressed this in other words by remarking that Kenny was 'the most generous and excellent of neighbours'. It often happened that he was asked by friends or others to give, for practical use, his considered answers to legal queries. Invariably he dispatched his solutions, written out neatly and clearly, with promptness; and, when he had any doubts as to the correct answer, he stated them frankly. Frequently some difficult legal problem arose in the course of conversation, which would end without any clear solution emerging. Making no promises, Kenny would depart. But his friends found by experience that he would usually return in a few days with an elaborately reasoned opinion based on his careful research. From time to time he lent or gave to his colleagues and friends not only many of the books in his library, but also his own lecture-notes. On one occasion he carried to a colleague what he described as 'that jumble of heterogeneous scraps on Tort', the notes for his own lectures; and, as already observed, he presented to colleagues his lecture-notes on Jurisprudence. Dr. Pearce Higgins has given me another illustration of neighbourliness. He writes:

Soon after coming into residence in Downing in 1888 Kenny invited me to lunch with him in the rooms in Downing which he occupied till his death. From that time onwards till the end of his life he was always a good friend and a wise counsellor, ever ready to help in any way. I found in him one to whom I could and did go for advice on many occasions and I never had cause to regret acting on it, and on rare occasions when I did not feel able to follow it I had occasion to regret it. In August, 1914, I and my family were in Switzerland when war broke out. Kenny obtained my address and telegraphed offering to send money or do anything he could to facilitate our return. My personal debt

to him is immense and the high standard which he set in human intercourse and in scholarship has always been an inspiration to me.

Kenny had friends in America and elsewhere beyond the seas. On the anniversary of his eightieth birthday in 1927, when Dr. Pearce Higgins was delivering a course of lectures at the Harvard Law School, he and several of Kenny's other friends there, including Dean Roscoe Pound and Professor J. H. Beale, sent him a cable of congratulations which gave him great pleasure; and this, Dr. Pearce Higgins tells me, 'he acknowledged in a charming and characteristic letter'.

In his conversation, as in his correspondence with friends, Kenny showed that peculiar and distinctive charm which was a part of his Victorian courtesy of manner. He was a 'good listener', believing in the maxim, not always followed, that one person alone cannot make a conversation on any topic, grave or light. 'C.S.K.' on post-cards or at the end of letters were welcome initials to all his scattered friends. His letters to me, of which I have preserved a large number, are marked by the same fastidiousness of style which characterized his published writings; and their many passages on law, lawyers, oratory, and similar topics might be printed as they stand. These letters are concerned in part with matters of College and Law School business, but they contain much which has its only source in friendship. Gossip is not absent from them; nor are there missing many sentences framed in the classics and in the modern languages which he commanded. Before I took my Bar Examination he wrote: '*Inter inquisitores in curiae hospitii felix fortunatusque sis*'.

Even with intimate friends Kenny always displayed that quiet reserve which came from native respect for the personalities of those about him; and only on rare occasions did he fully disclose the deep affection which he felt for the friends who stood closest to him. To not a few of his friends, men who knew him well on the legal and official side, his

reserve gave the impression of aloofness; and to some, especially those who never grasped the warmth of his inner nature, it signified a certain coldness. It is no doubt true that, so far as the personal and private aspects of life are concerned, reserve in Kenny's case often meant a barrier which other men, especially those who were shyer and younger than he, rarely, if ever, ventured to penetrate. Combined with this unwillingness, or inability, to give his full and free confidence to others in many of the purely private matters of life was his restraint in respect of the personal affairs of his colleagues and friends. In the relations of friendship the realm of privacy was never invaded by Kenny; but, when a friend voluntarily confided in him his secret thoughts or the intimate facts and problems of his life, he always found Kenny not only responsive but ready with a wealth of sagacious counsel springing from his subtle and discerning knowledge of human nature. The union of habitual reserve with unfailing kindness, whenever a friend had given him his confidence, was one of Kenny's main personal characteristics; and this was combined with his acute insight into the mysteries of the inner life of humanity. On this aspect of his personality Professor Winfield in a letter to me has well said: 'Whether it was the human being or whether it was what the human being had done—no matter how vile or sordid—nothing was to Kenny common or unclean. Here he was humanity itself and a very shrewd expert in humanity, but never to my recollection a moral judge of it.' No doubt deep religious feeling largely explains his attitude to human beings in general. There was in him nothing of the prelate, but he was a priest in the sense in which all Christians are priests, mediating between men and the divinity. In the words of one who knew him well and had profound respect for his personality, Kenny was 'not a saint, but a saintly man; he deserved a halo, but still wore a hat while he was alive'.

Most of Kenny's books on law, history, and oratory were housed in his Downing rooms. It was not a large collection,

nor did it contain many rare volumes; but it had been assembled with close attention to the essentials. Much of his work was done in the libraries of Downing, the Law School, and the University: when in London he made use of the libraries at Lincoln's Inn and the British Museum, where he was a familiar figure. At home he concerned himself mostly with the miscellaneous subjects, such as theology, which appealed to him; in College he devoted himself chiefly to his legal studies. He had the habit of inserting loosely in books, and also in copies of legal journals, masses of clippings from periodicals and memoranda written by himself on scraps of paper. In some cases this was done with a view to the correcting or improvement of his own published works and articles, but in many other instances there was the motive of assembling bits of scattered information on special topics in which he took an interest; and after this fashion he made his library serve the purpose of a filing-cabinet. Over many years he made common-place books. Miss M. Pate, who was long his private secretary, has told me that he himself copied out, sometimes in shorthand, selections from legal writers, judicial opinions, and other sources; and that then she transcribed them in her own hand into these common-place books. Mostly these selections were for ultimate use in his lectures, speeches, or writings; but some things which she copied, such as his own original verses, were not intended for public use. He wrote articles on miscellaneous topics, one of which was entitled 'Green Street, Cambridge'. He was fond of making collections of newspaper reports of legal cases. In 1929 he presented to the Squire Library at the Law School a bound volume of newspaper reports of cases entitled 'Trials and Circumstantial Evidence'. He had written on one page of this unique collection the words: 'From the collections made by Mr. Wills (father of Mr. Justice Wills) as basis for his work on Circumstantial Evidence.' He wrote shorthand fluently and often urged his pupils and friends—with poor success—to learn it. In his own work, writing notes

in Court or preparing his lectures and writings, he always found his practice of shorthand of the greatest usefulness. Kenny's ancient Remington typewriter, which in form and ornamentation always reminded me of a sewing-machine, was one of the first few typewriters brought to England from America soon after their invention by C. Latham Sholes in 1867. In 1877 this particular typewriter belonged to Oscar Browning who, having received it as a gift, had installed it in his rooms at King's College, Cambridge. Browning records in his *Life of George Eliot* that one day in the early summer of 1877, when she and Mr. Lewes lunched with him in College, the authoress was much interested in the typewriter, which was then a great novelty, and tried to use it herself. Having bought this typewriter from Browning in the early eighties, Kenny learned the art of typing upon it and used it a great deal in his work while he was in Parliament (1885-8). Although after this period he does not appear to have typed much upon it himself, it nevertheless played a considerable role in his literary work. He placed it in the study of his College set and there it remained up to within a few weeks of his death. When he was writing his *Outlines of Criminal Law* Miss Pate was his private secretary; and from his manuscript, written upon miscellaneous fragments of paper, she typed the entire work in the 'all capital' type of this early Remington, by the use of which she had herself learned to type. Shortly before he died Kenny presented it to Miss Pate, who placed it as an interesting relic in the University Typewriting Office, where it may now be seen. It is in excellent condition and, if need be, could still be used.

Loyalty to his friends was a dominant note in Kenny's character; and this strong sense for the preservation of ties formed in the past is also illustrated by his life-long and active interest in his old Yorkshire school. Fidelity to the memory of his ancestors was, moreover, deeply implanted in his nature. He treasured the memorials of his family's history and placed a spiritual or moral value on the material

things which had been associated with past generations. It was always a pleasure to him to reflect that his farm in the Lancashire Fylde had come down to him from parent to child since the dissolution of the monasteries, the surviving remnant of the lands then granted to the Westbys, his mother's family. He clung to family names. The Christian names of each of his daughters included 'Ralph', the surname of his mother's brother, who was childless; and his home in West Road was known by the family name of 'Westbye'. To the family circle, composed of his wife and two daughters, he was bound by the closest ties: his domestic life was exceptionally happy. Although he and his wife were always most welcome guests in the homes of their friends, they did not 'entertain' and lived largely in retirement; and, during the later years, Mrs. Kenny's ill health made quiet imperative. They were, however, always glad to see their most intimate friends; and Kenny himself, liking the sociability of College dinner-parties at Cambridge, was frequently host or guest. 'Westbye', set back from the West Road, is approached by a private way; and, surrounded by a garden of charm and distinction, this house formed an ideal retreat from the life of the world outside. No telephone disturbed its peace. In late August 1921 he wrote to a legal friend: 'I have greatly enjoyed the unbrokenly warm dry summer; and have been able to do my work—the recasting of Buckland's Finch's Contract Cases—in the garden, in free air.' The devotion of his wife and daughters was the foundation of Kenny's happiness; and in the tranquil life of his home the affectionate side of his nature found contentment in the response of those who knew him best. His wife once quoted the lines of Wordsworth in 'Tintern Abbey':

that portion of a good man's life,
His little nameless, unremembered acts
Of kindness and of love.

'I can never read that', she said to him, 'without thinking of you.' 'He once described himself', one of his daughters

has told me, 'as a "cheerful pessimist".' She added: 'He went through life uttering perpetual gratitude to all who served him or merely gladdened him by their existence, for the sunshine and for the beauty that surrounded him at Cambridge. Though he suffered from Menier's disease of the ear, which caused dizziness, for the last seventeen years of his life, and during the final year was greatly hampered by the restrictions caused by diabetes, he was never heard to murmur. The day after his wife's stroke in August 1929 he said: "Never bright confident morning again"; and yet, sitting over the fire on a Sunday evening in the March of his death, after the last sad months that had ended the devoted affection of fifty-three years of married life ("of being in love", as he said), he was able to take my hand and say, "I have had a happy winter".'

Kenny's wife died on 27 November 1929 and less than four months later he himself died at a Cambridge nursing home early in the morning of Tuesday, 18 March 1930, his eighty-third birthday, as the result of an accident. On the preceding Saturday he had passed through a gate of Downing College which led into the narrow Tennis Court Road; and, although he usually carried an umbrella or stick to support himself, as his sight was failing, on this occasion he had left his stick in his College rooms. In stepping back to avoid a passing motor car he lost his balance and fell. Striking his head on the wall of Addenbrooke's Hospital, opposite the College, resulted in concussion, which proved to be fatal. At the Coroner's inquest the jury found a verdict of accidental death, due to bronchial pneumonia following a fall. The funeral service was read by his old friend, the Rev. Dr. H. W. P. Stevens, at St. Giles's Cemetery on 20 March; and at the same hour a memorial service was conducted at Emmanuel Congregational Church by the Rev. H. C. Carter, who paid a 'tribute of respect and admiration to a great and good man'.

After Kenny's death, his daughters presented many of his legal books and pamphlets to the Board of the Cambridge

Faculty of Law, who placed them on the shelves of the Squire Library at the Law School; and they also gave a considerable number to certain of his legal friends and colleagues. At the time of his death Kenny left several of his own writings which had never been published; and these manuscripts are now in the possession of his daughters. They include his famous papers on the Case of the Calas Family and the Tichborne Case: the latter manuscript is difficult but not impossible to decipher and reduce to order in the hands of a competent legal scholar. There are also the manuscripts of two papers which he read to the Cambridge Law Club: 'Judiciary Law' (May 1892) and 'A College Murder in Cambridge' (March 1900). Two of the papers which he read to the Downing Theological Society have been preserved: one of these is entitled 'Molière's Attitude towards Religion'. The lecture on 'Daniel Webster' which he delivered shortly after the War, and which he read as a paper before several societies, is among his manuscripts. Preserved also are the two sermons which he preached in Downing College Chapel on Whit-Sundays, 1921 and 1925. There is, in addition, a short paper on 'Lord Cranworth' which he had prepared for the Cranworth Law Society of Downing College; but this is marked as never delivered. Finally, there are manuscripts of his papers on 'Seals' and 'University Courts': but the latter had been published in Kenny's life-time.

On 3 October 1932 the Lord Chancellor (Lord Sankey), representing the Crown as Visitor of Downing College, opened four new blocks of College rooms and a pair of wrought-iron gates, all designed by Sir Herbert Baker, R.A. On opening these 'Kenny Memorial Gates', which had been presented by the Misses Agnes and Muriel Kenny in memory of their father's long connexion with Downing, the Lord Chancellor said: 'I am glad to open these gates not only on account of their great beauty, but because they commemorate a much loved Fellow of the College and

a great lawyer known and regretted throughout England and throughout the world.' In the course of his speech at the opening of the new College buildings the Lord Chancellor remarked:

No lawyer can visit Downing without the sense that he is in some sort visiting a shrine. It was the home of Maitland who combined the insight of Montesquieu with the learning of Savigny, and who will be remembered by generation after generation of lawyers as one of our greatest jurists and historians. . . . It is the home of Kenny, who has so lately left us and who exhibited mental powers of the first order both as a teacher and a lawyer. Cambridge men will always associate his name with jurisprudence, the law of torts, and criminal law. [As Professor Winfield has said]: 'His lectures flame like a beacon in the memories of those who attended them. . . . Their excellent substance, lucid form, and resonant delivery mark in the highest degree the scholar, teacher, and orator.'

Kenny was a gentleman of the old school. In the truest sense he was a Victorian, which he often said he was proud to be. He moved always, in social relations as in walking, with dignity and grace; he bore himself with a courtliness and modesty born of gentle instincts; and he had a natural tact and a charm of manner which made him everywhere welcome. Upon all alike, the humble as well as the great, he left the enduring impression of being a man who took deep interest in every living creature, and who possessed a native nobility which made it impossible for him to do anything unfair, ungenerous, or dishonourable. To him may be applied the words which Sir Matthew Hale once spoke of another distinguished lawyer: he was 'a person of great learning and experience in the Common Law, profound judgement, singular prudence, great moderation, justice, and integrity'. In his address to the Senate of the University on 1 October 1930 the Vice-Chancellor, Mr. Ramsay, Master of Magdalene College, truly observed that Kenny 'gave distinguished service to his University and to his Country by his untiring work in the field of legal study. In the House of Commons, in the lecture-room, or on the

Bench, his clear exposition and judgment and his great humanity rendered him conspicuous as a man of the noblest character and the most enlightened mind.'

H. D. HAZELTINE.

NOTE

My special thanks are due to the Misses Agnes and Muriel Kenny for their kindness in providing me with materials relating to their father's life: some of their own notes, written for my guidance, have been incorporated in the Memoir. The Rev. Dr. H. W. P. Stevens, Kenny's friend from student days, was also good enough to write for my use some of his own personal recollections; and to Professor Buckland, Professor Pearce Higgins, Professor Winfield, Mr. and Mrs. H. A. Hollond, and the Master of Downing College (Professor Seward) I am similarly obliged. The Editor of *The Times* gave his ready permission to make use of an article, written by myself, which appeared in that newspaper at the time of Kenny's death; while from similar notices published in the *Cambridge Daily News* and the *Cambridge Chronicle* some facts have been gleaned. I have also had the benefit of perusing the following brief accounts of Kenny's life and work: *The Gownsmen*, 18 Nov. 1910 (W. D. A[ston]); *The Brodleian* (Hipperholme Grammar School Magazine), vol. iv, No. 3, 1911, pp. 5-7; *Cambridge Legal Essays*, Cambridge, 1926, pp. 17-20 (Professor Winfield); *Cambridge Review*, 25 April 1930, p. 347 (Professor Winfield); *Law Quarterly Review*, July 1930, pp. 275-6 (Professor Goodhart). A few autobiographical fragments in Kenny's handwriting have been of special value. For much in the Memoir I have drawn upon my own personal knowledge derived from an intimate friendship of twenty-five years.

H. D. H.

LIST OF SOME OF COURTNEY STANHOPE KENNY'S
PUBLISHED WRITINGS

(arranged in chronological order)

ABBREVIATIONS:

L.Q.R. = *Law Quarterly Review*.*C.L.J.* = *Cambridge Law Journal*.*J.S.C.L.* = *Journal of the Society of
Comparative Legislation*.

Two Prize Essays on the Disuse of the Athanasian Creed in the Services of the Church of England. By Charles Pebody and Courtney Stanhope Kenny. London, 1875. Kenny's Essay, pp. 33-79.

The History of the Law of Primogeniture in England and its Effect upon Landed Property. Yorke Prize Essay. Cambridge, 1878.

The History of the Law of England as to the Effects of Marriage on Property and on the Wife's Legal Capacity. Yorke Prize Essay. London, 1879.

The True Principles of Legislation with regard to Property given for Charitable or other Public Uses. Yorke Prize Essay. London, 1880.

The Possibilities of Union in Religious Education. A Paper read at the 'Christian Conference', in the Jerusalem Chamber, Westminster Abbey, June, 1884. London, 1884.

A Spanish View of Bentham's Spanish Influence. *L.Q.R.*, Vol. XI, No. xli, Jan. 1895, pp. 48-63.

A Spanish Apostle of Benthamism. *L.Q.R.*, Vol. XI, No. xlii, April 1895, pp. 175-84.

The Mystery of Elizabeth Canning. *L.Q.R.*, Vol. XIII, No. lii, Oct. 1897, pp. 368-82. Reprinted under separate cover, London, 1897.

Abbreviation of Indictments in India. *J.S.C.L.*, New Series, Vol. I, 1899, pp. 390-4.

A Selection of Cases illustrative of English Criminal Law. First Edition. Cambridge, 1901. The last edition is mentioned below.

Outlines of Criminal Law. First Edition. Cambridge, 1902. Foreign editions and the last two English editions are mentioned below.

Bonus Jurista Malus Christa. *L.Q.R.*, Vol. XIX, No. lxxv, July 1903, pp. 326-34. Reprinted under separate cover, London, 1903.

A Selection of Cases illustrative of the English Law of Tort. First Edition. Cambridge, 1904. The last edition is mentioned below.

- The Lawless Court of Essex. *Columbia Law Review*, Vol. V, No. 7, Nov. 1905, pp. 529-36.
- Outlines of Criminal Law*. American Edition. By James H. Webb. New York, 1907.
- Review: *The Trial of Deacon Brodie*. Edited by William Roughead, W.S. L.Q.R., Vol. XXIII, No. xci, July 1907, p. 340.
- The Law of the Air. A Paper read before the Law Club of the University of Cambridge, 10 Nov. 1909. *Zeitschrift für Völkerrecht und Bundesstaatsrecht* (herausgegeben von Professor Dr. Josef Kohler and Professor Dr. L. Oppenheim), Band IV, Heft 5, Breslau, 1910, pp. 472-89. Reprinted under separate cover, Breslau and Cambridge, 1910.
- The Death of Lombroso. *J.S.C.L.*, New Series, Vol. X, Part 2, 1910, pp. 220-8. Reprinted, under separate cover, with the title 'The Italian Theory of Crime: Cesare Lombroso', Cambridge, 1910.
- A Short History of English Law. *L.Q.R.*, Vol. XXVIII, No. cxii, Oct. 1912, pp. 413-17.
- Lawyers' Merriments. *L.Q.R.*, Vol. XXIX, No. cxiv, April, 1913, pp. 200-5.
- Legal Education: Academical and Professional. A Paper read at a Meeting of the Society of Public Teachers of Law, in July, 1913. *L.Q.R.*, Vol. XXIX, No. cxvi, Oct. 1913, pp. 406-12.
- Intention and Purpose (*Rex v. Ahlers*). *L.Q.R.*, Vol. XXXI, No. cxxiii, July 1915, pp. 299-303.
- Review: *Mens Rea or Imputability under the Law of England*. By Douglas Aikenhead Stroud, LL.D. *L.Q.R.*, Vol. XXXI, No. cxxiv, Oct. 1915, pp. 451-3.
- Ihering on Trinkgeld and Tips. *L.Q.R.*, Vol. XXXII, No. cxxvii, July 1916, pp. 306-21.
- The Case-Method of Teaching Law. *J.S.C.L.*, New Series, Vol. XVI, Part 2, 1916, pp. 182-94.
- University Courts. *Historical Register of the University of Cambridge*, Cambridge, 1917, pp. 62-9.
- Continental Criminal Law. *L.Q.R.*, Vol. XXXIV, No. cxxxiii, Jan. 1918, pp. 101-4.
- Review: *Crime and Criminals*. By Dr. Charles Mercier. *L.Q.R.*, Vol. XXXV, No. cxxxviii, April 1919, pp. 200-2.
- Review: *Criminology*. By Dr. Maurice Parmelee. *L.Q.R.*, Vol. XXXV, No. cxi, Oct. 1919, pp. 352-4.
- Some Recent Writers on Criminal Law. *J.S.C.L.*, Third Series, Vol. II, Part 3, 1920, pp. 244-52.

- Outlines of Criminal Law*. French Edition. *Esquisse du droit criminel anglais*. Traduit par Adrien Paulian. (Bibl. internat. de droit privé et de droit criminel.) Paris, 1921.
- A Selection of Cases illustrative of the Law of Contract (based on the Collection of G. B. Finch)*. With Notes. Cambridge, 1922.
- The Evolution of the Law of Blasphemy. *C.L.J.*, Vol. I, No. ii, 1922, pp. 127-42.
- Review: *Delegated Legislation*. By Cecil T. Carr. *C.L.J.*, Vol. I, No. ii, 1922, pp. 235-7.
- Resemblance as Evidence of Consanguinity. *L.Q.R.*, Vol. XXXIX, No. clv, July 1923, pp. 297-311.
- Review: *Crimes and Misdemeanors*. By Sir William Oldnall Russell, Kt. *L.Q.R.*, Vol. XXXIX, No. clv, July 1923, pp. 372-6.
- Review: *Interpretations of Legal History*. By Roscoe Pound. *C.L.J.*, Vol. I, No. iii, 1923, pp. 378-81.
- Review: *The Justice's Note-Book*. By W. Knox Wigram, J.P. *C.L.J.*, Vol. II, No. i, 1924, pp. 119-20.
- The Dominions and their Mother Country. Part I: *C.L.J.*, Vol. II, No. ii, 1925, pp. 157-68. Part II: *Ibid.*, Vol. II, No. iii, 1926, pp. 297-310.
- What an Old Reporter Told me. Part I: *L.Q.R.*, Vol. XLIII, No. clxx, April 1927, pp. 170-85. Part II: *Ibid.*, No. clxxi, July 1927, pp. 349-65. Part III: *Ibid.*, No. clxxii, Oct. 1927, pp. 479-92.
- Parliamentary Logic*. By the Rt. Hon. William Gerard Hamilton. With an Introduction and Notes by C. S. Kenny. Cambridge, 1927. Introduction, pp. v-xiv.
- A Selection of Cases illustrative of the English Criminal Law*. Seventh (last) Edition. Cambridge, 1928.
- A Selection of Cases illustrative of the English Law of Tort*. Fifth (last) Edition. Cambridge, 1928.
- Review: *The Book of English Law*. By Edward Jenks. *L.Q.R.*, Vol. XLIV, No. clxxv, July 1928, pp. 381-4.
- Review: *History of the Crime of Blasphemy*. By G. D. Nokes, LL.D. *C.L.J.*, Vol. III, No. ii, 1928, pp. 318-21.
- Wife-Selling in England. *L.Q.R.*, Vol. XLV, No. clxxx, Oct. 1929, pp. 494-7.
- Outlines of Criminal Law*. Thirteenth Edition (last revision by the Author). Cambridge, 1929.
- Outlines of Criminal Law*. Fourteenth Edition. By G. Godfrey Phillips. Cambridge, 1932.