I

Family Background and Early Childhood

To 1823

The years of birth of Edmund and Henry Lushington, 1811 and 1812, mark a watershed in English history: the divide between the two periods Sir Arthur Bryant has designated "Years of Victory (1802-1812)" and "The Age of Elegance (1812-1822)." Bonaparte's fortunes had reached their zenith in 1812. On the Iberian Peninsula the two years saw Wellington's forces drive the French out of Portugal and on 6 April 1812, exactly a week before Henry's birth, break through "the gates of Portugal" at Badajos into Spain toward the steady and methodical expelling of the enemy, in 1812, across the Pyrenees into France. In England old George III was declared insane and the regency began. Before 1812 ended the regent was perfecting his plans to transform the West End of London by constructing Regent Street. On 12 May 1812 an insane assassin killed the prime minister, Spencer Perceval, whose successor, Lord Liverpool, would hold the office until 1827.

The lord chief justice of England since 1802 was a great-uncle of Edmund and Henry—Edward Law, first Baron Ellenborough (1750-1818), a formidable personage, learned in the law, blunt and merciless in his rhetoric, rigid on the bench, a man of strictest integrity no less incorruptible than stubbornly impervious to enlightened reform. His career, starting with few material advantages, had exemplified how a man with the requisite intellectual and temperamental endowments might, through unflagging diligence and well-spaced turns of for-
tune, rise to the peak in the so-often-unrewarding profession of the bar. Although his father was a distinguished Cambridge scholar who late in life became bishop of Carlisle, his grandfather (the bishop’s father) had been an obscure Lake Country village curate with no university education. The boy Edward Law attended Charterhouse School as a foundationer (“gownboy”) and worked his way up to become captain of the school, a position attained more than sixty years later by both Edmund and Henry. At Cambridge, where he finished third wrangler, he won the Chancellor’s Medal for highest excellence in classics, gained earlier by his brother John, future bishop of Elphin, later by another brother, George Henry, future bishop of Bath and Wells, and much later by his grandnephews Edmund and Franklin Lushington. In 1788 Law’s earned reputation as an ingenious special pleader and successful barrister brought his appointment to lead the defense in the notorious treason trial of Warren Hastings, former governor-general of India. For seven dreary years the prosecution dragged on at Westminster before the House of Lords. Pitted against such redoubtable orators as Charles James Fox, Richard Brinsley Sheridan, and the obsessed Edmund Burke, Law remained undaunted and tireless. With Hastings’s acquittal in 1795, Law’s fame was assured. By 1812, however, he had passed his peak in health and energy and, despite his reactionary convictions, enjoyed comparatively little influence with the ruling Tory cabinet. Yet in the story of young Edmund and Henry, Lord Ellenborough remains undeniably important. He had been by far the crucial influence in the career of his nephew, their father, Edmund Henry Lushington. In the nephew’s mind the chief justice stood uncomfortably tall: the prototype of public service such as Lushington himself had not managed to achieve but hoped that a brilliant son, given resolute diligence and kindly paternal encouragement, might. But young Edmund would possess neither temperament nor desire for that kind of activity; and Henry throughout his brief adulthood would lack the requisite good health.

At Cambridge before becoming bishop of Carlisle, Ellenborough’s father, Edmund Law (1703–87), had been master of Peterhouse, principal librarian of the university, and professor of casuistical divinity. He was encyclopedically read in metaphysics, theological exegesis, Christian apologetics, and related disciplines. He published several pamphlets and books, some of them important, including an edition of John Locke’s works with a biographical introduction. The bishop, unlike his imposing judicial son, was physically diminutive, temperamentally sweet and placid. Yet in his own quiet scholarly mode, he was no less fearless than his son and, it seems, ultimately more effective in gaining acceptance for his most cherished ideals. Although a devout Christian, he was perhaps the most broadly latitudinarian Anglican bishop of his century. Like
the poet Milton, earlier, and others, he repudiated the doctrine of eternal fiery punishment and taught that souls lie asleep between death and the Judgment. He contended that the sixteenth-century Reformation, the rejection of arbitrary dogmatism, still remained partial, in need of completion. No one could more incisively oppose required subscription to creeds. For his controversial writings, and for his support of more overt movements for broader toleration, he became widely suspected and roundly denounced, even occasionally charged with deliberate subversiveness and near-atheism.

Perhaps the most influential of Law’s books in his time, and later the most esteemed by historians, was Considerations on the State of the World with Regard to the Theory of Religion (1745). In opposition to deism he freshly undertook to justify God’s way with humanity: God has willed that religious truth be progressive, tailoring itself to the naturally developing receptivity of the human mind, as it broadens through the centuries with accumulated experience and new discoveries. As in no other kind of human endeavor—the sciences or the arts of life—can human beings possibly advance in other than natural psychological and historically contextual ways, so it must necessarily be with religious understanding. Truth, although immutable, must grow within each of us organically, as we ourselves grow, through an ever-widening association of ideas, the old slowly developing into the new. Considerations was acclaimed by an eminent intellectual historian in our century as a precursor of David Hartley, Joseph Priestley, and several other later eighteenth-century liberal writers. As the “decisive figure in this whole development,” Law “deserves a prominent place” in the “history of the growing revolt against . . . primitivism and uniformitarianism” in the last half of his century.

When Edmund Law was married, in 1740, he was thirty-seven, vicar of Greystoke in Cumberland, and author of three heavy scholarly works. His bride was Mary Christian, eighteen-year-old daughter of a wealthy Cumbrian barrister and landowner descended from a family prominent for centuries as sturdy local officials (“deemsters”) on the Isle of Man. Mary, whose portrait shows a wide-eyed beauty, came to the gentle little scholar (twice her age) with a dowry of £3,000 and a charming list of self-composed prenuptial resolutions: always to be “frugal”; serve God “more sincerely” than ever before; “never . . . fret or fall into a passion about small matters”; “lay aside all fondness for dress, but . . . be always exactly neat and clean”; and “never . . . contradict my dear husband without it be quite necessary and then with the greatest good nature I am mistress of.” Law had not yet become a bishop when Mary died thirty-two years later, leaving eight sons and four daughters, including two future bishops, a future chief justice, and an enterprising individualist who would make a fortune in India but lose much of it in America, where
he married the granddaughter of Martha Washington. *The Dictionary of National Biography* memorializes the careers of twelve male descendants of the bishop, all named Law. At least two more descendants are there: Edmund Law Lushington and his brother Henry.

Ironically, the one member of the family of Christian now most widely remembered was a nephew of Mary Law: Fletcher Christian, who led the mutiny on the *Bounty* against Captain Bligh. It must have been a galling annoyance to that stout conservative defender of all things legal, Lord Ellenborough, to have for a first cousin such a law-defying rebel.

The Lushingtons, into which another Mary Law—daughter of Edmund and Mary—would marry in 1764, were Kentish landowners with estates at Rodmersham, near Sittingbourne, and Norton Court, near Faversham. The Norton Court property had come into the family through the marriage of Stephen Lushington (1675–1718) into the old Kentish family of Godfrey. One of these was the ill-fated justice of the peace for Westminster Sir Edmund Berry Godfrey (1621–78), whose never-solved murder played such a dramatic part in the sensational happenings surrounding Titus Oates and the alleged “Popish Plot” during the reign of Charles II. By two wives Sir Edmund’s father had sired twenty children, one of whom named Benjamin became an ancestor of our Lushingtons. Benjamin’s only son, John, who predeceased his sister Catherine (wife of Stephen Lushington), left his estate to her. Their son, Thomas Godfrey Lushington (1700–1757), was the first of various Lushingtons who through the years up to the present have proudly borne the christened name of Godfrey.

Through two marriages Stephen Lushington founded the two lines that have since included most, if not all, Lushingtons of any note. The second of these lines produced several notable men, among them a survivor of the Black Hole of Calcutta and his brother, the baronet Sir Stephen Lushington (1744–1807), director and chairman of the East India Company, and Sir Stephen’s descendants, including the eminent reformer and legal authority, Dr. Stephen (1782–1873), judge of the Admiralty Court and dean of the Arches (ecclesiastical court of appeal for the province of Canterbury).

From Stephen Lushington’s first line descended the subjects of our biography. His son and heir Thomas Godfrey married Dorothy Gisbourne, of an old Derbyshire family; she died in 1748, leaving, with other issue, a thirteen-year-old son, James Stephen (1733–1801), the grandfather of our Edmund and Henry. He graduated in 1756 from Peterhouse, where Edmund Law was master, took M.A. in 1759, and won a fellowship in 1761. It was probably at Peterhouse that he met the master’s daughter, Mary, his future wife. Although heir to the family estates, he entered the church, serving as vicar of the old church at Crosthwaite just outside Keswick (later attended by Robert Southey, his fam-
Family Background and Early Childhood

ily, and that of his brother-in-law Samuel Taylor Coleridge) from 1770 to 1780; rector of Latton, Essex, 1782-87; vicar of Newcastle-upon-Tyne, 1783-1801; and prebendary of Carlisle, 1777-1901. His first wife, Mary, dying in 1768 at the age of twenty-four, left him with two sons and a daughter, the eldest, Thomas Godfrey (1765-1819), only three years old. The second was Edmund Henry (1766-1839), the father of our two men. Thomas would attend Peterhouse for a year, then spend nine years in the Bengal Service, return to England, and eventually suffer a mental collapse and not recover. In 1772 James Stephen had married Mary Christian, his first wife's first cousin, with whom he had a second family. Of some of these we will hear more later.

Edmund Henry began a life course closely patterned upon his distinguished uncle Edward's. Like the future chief justice, he attended Charterhouse School as a "gownboy," then distinguished himself at Cambridge—B.A. as fourth wrangler, the M.A., a fellowship. He proceeded to the Inns of Court in 1893 and studied in the office of the same superb special pleader, George Wood, where twenty years earlier his uncle had launched his career. Special pleaders, lawyers skilled at adapting the law to particular cases, assisted the attorneys in preparing difficult briefs, which were in turn handed to the barristers, who alone were permitted to argue in the courts. Without the patronage of the attorneys, few if any new barristers could dream of succeeding. Edward Law practiced special pleading seven years before attempting an active barristership. By then his reputation stood so high with the attorneys that they gave him all the briefs he could handle.

Concerning Edmund Henry Lushington's life during the middle and later 1790s, up to his thirty-fifth year, very little seems traceable. For at least five years, he practiced as a barrister, going on the Northern Circuit as his uncle had done. By 1801 he was preparing, though reluctantly, to leave England and begin a new life as a judge in faraway Ceylon. So much for what is known. But anyone who would understand his sons must attempt to understand him. He adored them and they him. Both boys, each in his fashion, would model himself upon the father, who was in numerous respects an unexceptionable model. But, basically, he was not at all like his eminent uncle. Lushington would always labor under an ethically admirable but vocationally retarding conscientiousness; an introspective turn of indecisiveness, painful self-doubt; a need for slow undisturbed reflection and hard-won second opinions. He could never have imitated his uncle's gift for quick decision, his tenacious hold upon a principle whether or not it was ultimately tenable, or his overbearing manner when opposed. Without extensive rerouting Law's road could never have been Lushington's road.

Lushington had not enjoyed a happy childhood. He had never really known
his mother, who had died when he was barely two. Evidently his rather rugged
stepmother, coming into his life when he was about six, was never very conge­
nial with him. (In later life they were for most of the time estranged.) She
promptly began bearing her own children, at least five in the first seven years
and seven in all. Her four talented sons would all achieve responsible positions
in public service, the ablest of the quartet, Stephen Rumbold Lushington
(1776–1868), becoming assistant secretary of the treasury and ultimately gover­
nor of Madras. Edmund Henry and his ill-fated older brother would apparently
become rather lost in the shuffle. It must have been a sore affliction to Edmund
Henry when that constant playmate of his childhood fell into mental break­
down.

With only a few exceptions, Lushington’s closest friends at Cambridge or in
London were thinkers rather than dynamic doers. The chief exception, James
Scarlett (1769–1844), who became one of the most acclaimed barristers of his
period and a tireless opponent of repressive laws, later attorney-general, chief
baron of the exchequer, and the first Baron Abinger, lost touch with Lushing­
ton in their later years. Two of Lushington’s most congenial friends became
respected natural scientists. Smithson Tennant (1761–1815) was a medical doc­
tor and an esteemed experimental chemist and agriculturist who died in an
accident shortly after being appointed professor of chemistry for Cambridge
University. Even more noted was William Hyde Wollaston (1766–1828), Lush­
ington’s Charterhouse schoolfellow and Cambridge friend, whose varied con­
tributions to medicine, chemistry, optics, and other branches of physics fill
nearly nine columns in the Dictionary of National Biography. Lushington himself,
though never more than an amateur, was attracted to the natural sciences, and,
with his speculative bent and sense of reverent wonder at natural phenomena,
might have had a more congenial calling in science than in law. By some ob­
scure indications, during the 1790s Lushington was associating with a stimulat­
ing set of able young Whigs including, among others, Thomas Creevey
(1768–1838), member of parliament and now famed diarist, and John Whishaw
(ca. 1764–1840), chancery barrister and stander–behind–scenes in Whig politics,
sometimes called “the Pope of Holland House,” for his unique place in the
famous Whig society there. Surviving correspondence shows that Whishaw
and Lushington were friends for the rest of their lives. But Lushington’s two
closest intimates were obscure, cerebral country clergymen—Whitehall Da­
vies (d. 1824) and, even closer to Lushington, the tortured Wilfrid Clark
(1766–1825), who suffered a melancholy deterioration involving alcohol. For­
tunately, Lushington’s own middle and later years would be moderately pros­
perous and, with plentiful reasons, signal­ly happy, settled on his own country
estate, retired from competitive strife; surrounded by a large and loving family.
But contentment would follow a heavy portion of earlier agony.
Family Background and Early Childhood

After 1801 Lushington’s story acquires palpable substance, adequately documented for the remainder of his life. For nearly nine years he was under appointment to the Supreme Court of the newly established British colonial government of Ceylon, first as puisne justice and finally as acting chief justice. These were frustrating years, lonely and heartbreaking, undertaken to serve sufficient time (seven years) to qualify for a lifelong pension, then return to England, and rear a family in his hereditary station of country gentleman. The term began, as we shall see, with two deaths, both painful for him to endure, and one of them devastating. And then, emotionally shaken as he was, the peculiar requirements of his office, for one with his brand of idealism and temperamental bent, in association with a particular set of uncongenial persons, proved too much to surmount. Finally, out of considerations of honor and a prudent concern for his own health, he resigned before completing his term, and thereby relinquished his pension. The crisis arrived when the governor of Ceylon, the redoubtable General Sir Thomas Maitland (1759?–1824), ordered him under threat of removal from office to cease dawdling (as the governor saw it) and immediately give a particular verdict that he, still indecisive, had thus far thought improper. When after further reflection he essentially adopted the governor’s position, he gave the verdict demanded, but attached his resignation rather than appear to have compromised his conscience to retain his employment.

By Lushington’s own accounting, out of the “8 years & 8 months” during which the Ceylon position had put him out of circulation for “any other occupation” his “actual residence on the Island” of Ceylon was only about “4 years & a half.” At the very outset in 1801 his sailing was delayed for various reasons not his fault. He was still in England restlessly marking time when his “excellent father,” aged sixty-six, died at Newcastle on 17 June. Among the departed vicar’s papers was a ten-page document carefully admonishing all his children to love and fear God, reverence the Scriptures, and live exemplary Christian lives. They would “meet with sincere friends (for where is the comfort of life without this consolation),” and should always be true to them; “however never imagine that it will be your lot to have more than a few friends.” They should never make themselves “Slaves to Popularity,” but should always “do what is right & just,” as their Saviour had done, seeking “all opportunities of serving all worthy Persons in their different pursuits.” There was more, but what must have echoed in Lushington’s mind most resonantly during the difficulties of his next eight years was an elaborated exhortation always to “meet with the approbation of [his] own conscience” regardless of the cost in popularity. Such upright counsel was unassailable, but perhaps a few ounces too burdensome, a few degrees too perpendicular, for such an already conscience-heeding son to lug across the water into the nothing-if-not-pragmatic position of a newly
established judgeship on Ceylon. On occasions when the letter of a law may come into conflict with the probable intention of the legislators, a judge's nagging conscience may need a sedative more than a stimulant.

Already in grief, Lushington would soon receive a felling blow. On 2 January of that year, he had been married to Louisa Phillips, daughter of Faulkner Phillips, an active member of one of Lancashire's most dominant textile and manufacturing families. Before the September sailing Louisa was in advanced pregnancy; but as Lushington later wrote in his "large family Bible," they had been reassured by what he "deemed the best medical authority" that it was safe to go ahead. From the first Louisa was almost continually seasick. After two weeks they disembarked at Madeira, where on 8 October, in "extreme pain and danger for nearly 24 hours" she gave birth to a daughter. While apparently recovering, she was "attacked by dysentery. After illness for many days, she was so exhausted that she was thought to be dead. She however, revived, and for a few days there was hope. She died on October 27th, 1801." Back to England went the heartbroken widower, taking the child. Louisa had charged him as "one of her last requests, 'Let my child learn her principles from Sophia.' " Sophia Philips (her branch of the wealthy spinning and manufacturing family did not double the "l") was Louisa's second cousin and most intimate friend. Sophia's brother George would later sit in Parliament for most of two decades as the leading spokesman for the Manchester manufacturers and would ultimately receive a baronetcy.

It is hard for us to realize the tedious length of a voyage under sails from Britain to India in those times. Leaving the infant with Sophia, now her godmother, Lushington sailed again at the end of February 1802 and did not arrive in Ceylon until 3 September. He was haunted by the memory of Louisa, and no doubt by his conscience for having risked her life by putting to sea when they did. He needed to talk about her but could hardly do so. On 27 December 1801 he wrote to Clark, "Even now I cannot mention circumstances which must increase your esteem & admiration. At some future period I may collect soft calmness & fortitude to describe the nobleness & generosity which exceeded all that I was capable of conceiving. At present I am unable." To Tennant nearly a year later, he spoke of "a subject upon which I often think & always anxiously." He desired that his good friends would think as he did, that they "should esteem & love the memory of Louisa—that you should value as you ought her generosity & fortitude—who died for me—not once only but three times—and still retained the same unshaken attachment to me the same generous disregard of her own sufferings. . . . It will give me a consolation to know that you think of her as I do. God keep you for the present."

In India and on Ceylon, he found much to outrage his always strong humanitarian conscience: "The Europeans live in palaces, the natives generally in mud
huts.” Reportedly all natives were “very dishonest, but respecting this point I have some doubts excepting those who deal with the ship captains & lower Europeans who treat them like knaves & vile beasts & may well expect to be cheated.” He was shocked by the Europeans’ calling all natives “Black Fellows,” and damning them all as rascals, even in the hearing of their servants “of which half understand English”; and he was appalled at a “vicious” native custom that the British had been unable to overturn, forbidding women of certain castes to cover their breasts.

His official situation presented daunting difficulties. A defect in the charter had left an inadequate demarcation of the relative powers of the governor and the commanding general. Fortunately, the first general was congenial and cooperative, but his successor was individualistic and irascible, setting off conflicts that engendered other conflicts, worsened by overreactions from the Supreme Court, until as one historian has truly put it, “the Government became totally paralyzed and reduced to a position bordering on chaos.”

The basic dilemma was removed by the appointment of a military man, General Maitland, as governor with both civil and military responsibility. But earlier confrontations had fortified the determination of the justices to resist intrusion upon the separation of judicial and executive power. Within the court hearings themselves, another problem was the nearly universal proclivity for perjury by native witnesses on either side of a case. Lushington soon found that “the mind is kept for hours and even days together in painful suspense endeavouring to extract the truth from a mass of falsehood on each side.” The justices had “hardly ventured as yet to convict anybody except the witnesses whom we have several times ordered from the court to the whipping post.” Worse yet, the absence of a jury system left the justices with total responsibility for convicting and sentencing, often to the punishment of death. It was still more agonizing during periods when one judge was absent from the island, leaving a prisoner’s life entirely within the hands of the other judge, unable even to confer with a colleague. This may have been a bearable responsibility for a strong-stomached jurist, but not for the tender-conscienced Lushington, who near the end of his tenure “acted by myself for about 9 months.” In the case precipitating his resignation, he had pled for more time to decide because he was simultaneously trying a man for murder—“a case of life and death.”

Governor Maitland reported that the number of acquittals in capital cases had “led to the most unfortunate of situations—that the Decisions of the Supreme Court have become proverbial among the Natives,” who considered it “more dangerous to steal a Handkerchief as they term it, than to Murder a Man.” Maitland urged that the judicial system be speedily reorganized to provide juries.
In 1805 Lushington had quixotically embarked from Ceylon for England with his first governor's official permission, but not with his actual approval, to set before the Colonial Office various grievances of the Supreme Court against the commanding general. The chief justice, probably unwisely, desired Lushington to make the trip; but undoubtedly another impelling motive was Lushington's desperate desire to visit his little daughter and her godmother, Sophia. Politically the voyage was imprudent. It is doubtful that the mission to the Colonial Office did anything at all to improve the situation on Ceylon. Lushington's time at sea, at his own expense, going and returning was thirteen months. Before he would again land on Ceylon on 5 April 1807, his friend the first chief justice had resigned for health reasons, and the colony had its new civil and military governor, Maitland, who did not welcome Lushington back. Lushington returned as acting chief justice by orders from London, but quite against Maitland's preference. The tragicomedy would play itself out until Lushington's resignation and final departure for England in March of 1809. But two purposes of his 1805 voyage had been happily realized: he had seen little Louisa, and he had visited Sophia and was almost certainly resolved to become her husband soon after his return.

The nightmare of Ceylon behind him, he reached England late in November 1809, after nine long weeks sailing from Ceylon to Bombay, another five and one-half slow months from Bombay. Materially, his homecoming was inauspicious. He was forty-three years old, had little available money and no reliable prospects for soon acquiring more. He had left behind him a few thousand pounds of his painfully earned judicial salary, invested with a firm in Madras. (By the summer of 1812, the company would go into bankruptcy, and not until nine years later would he recover even a fraction of his investment.) He knew that he had at best only a forlorn case for any kind of pension. His late father's substantial estate—lands in Derbyshire, Leicestershire, and Kent—was out of everybody's reach. His elder brother, "poor Thomas," the nominal proprietor, was hopelessly insane, and the four half-brothers were poised to litigate for as large a portion as they could get, as soon as they could do so with a mentally competent heir.

Lushington, of course, was still a barrister, but had neither a following nor a base of operation. As a former judge, and a nephew of the chief justice, he feared he would not be accepted by fellow barristers. Early in his Ceylon years, he had decided that if he ever returned to England without pension and went back to "the painful and murderous contention of the bar," he could at least not "return with propriety of the Sessions." Ellenborough now would attempt to reassure him, writing in May 1811: "I see no objection whatever on the score of the strictest propriety of the resumption of the practice of your profession, &,
except . . . as you may feel a repugnance to practice at the Sessions, I see no reason why you should not even attend them. . . . I think you are prudentially right in not resuming the practice of your profession in town. . . . ” But even back in Lancashire, where Lushington started again, he would painfully feel the awkwardness. In April 1812 Ellenborough wrote, “I am not surprised at what you mention concerning the leprosy,” but surely “any momentary displeasure which any gentmn of the bar may feel at your return to them will soon be removed by more liberal & just consideration on their part, & by the correctness & liberality of your own professional conduct upon every occasion.”

The return to the bar, relatively unsuccessful, would last for no more than about two years. After the first, Lushington reported to Ellenborough that though he had “made some little progress . . . as my juniors are in possession of the business and the public confidence I cannot flatter myself with any hope of considerable success.” He had gained less than £100. More specifically, he told Clark that the expenses of his “professional debut” had been at least £500 and his profit only 40/2 guineas (under £45). A year later, in the spring of 1813, he complained to Clark that he was “without sufficient practice to overcome the disqualifying nervousness which affects most young men in the beginning of their career.” Yet he had done better recently, clearing £89 in the first quarter of 1813.

He and Sophia were married on 12 April 1810. Though thirteen years younger, she was nearing thirty-one.

As her wedding approached, she composed an earnest prayer that survives in the family papers:

O Lord God Almighty, the Creator & preserver of my life, who has hither-to blessed me far beyond my expectations and deserts, assist me with thy heavenly grace in that situation of life which I am now going to enter. O may I make it my constant study & delight to please him, on whom my thoughts and affections are placed. Teach me the several duties of a Wife, & enable me to fulfill them. Do thou abundantly bless my beloved friend. Let our union be in the Lord, that we may be helps meet for each other in reference to both worlds. May our affections be founded upon truly Christian principles, bless O Lord our union let our love be pure & holy, lasting without decay. In any trials or afflictions that thou mayst be pleased to send us, may we support & comfort each other, bearing each other's burthens & lifting up our hearts more & more to thee, who alone knowst what is best for us. Teach us to look beyond this world to that eternal state where sin and sorrow cannot enter. Let us live in a constant state of preparation for death that when we have fulfilled thy will on earth we may be received into thine eternal kingdom. These petitions I ask, O Lord, not
relying on my own merits (for thou who art a God of infinite purity
knowst my unworthiness), but on the merits of my Saviour & Redeemer
Jesus Christ. Amen.

A well-executed water color of Sophia with Lushington’s little Louisa done at
about this time shows a strikingly handsome woman probably of something
more than medium height. During the next fifteen years, she would bear
twelve children, five sons and seven daughters, eight of whom would reach
adulthood.

Despite financial and professional worries and the still-nagging feeling of
too little usefulness in the world, the long-lonely Lushington had finally estab­
lished a setting for lasting happiness. The sons and daughters of their father’s
middle age would begin life in a joyous, love-filled environment. An aunt,
Sophia’s sister Catherine, would live with them much of the time, sharing in the
rearing and educating of the rapidly increasing brood.

The first offspring, and the father’s first son, born at Prestwich, Lancashire,
on 10 January 1811, was christened Edmund Law Lushington, honoring Lush­
ington’s scholarly grandfather, whom his namesake would grow in several sig­
nificant respects to resemble: the retiring and scholarly bent, the gentle other­
worldliness, the freedom from dogmatism, the attraction toward metaphysics.
The choice of name, bespeaking pride in the Law family heritage, was sure to
please the chief justice as well.

Lushington himself could hardly contain his joy. “Even this country,” he
wrote that May, inviting Clark to Lancashire for a visit, “is beautiful now &
will be more so in a fortnight’s time. Quiet rides. Good music & good tempered
females in the house, your god daughter so much the object of your kindness &
her little laughing brother hers and her aunt’s delight will I trust make you stay
with us happily for some time. I am sure that a whole legion of devils would
vanish before them & then I could not care whose herd they seize upon.”

In November of that year came the first apparent upward turn in Lushing­
ton’s material prospects. When Sophia’s father died, she inherited the income
from a substantial sum of money, approximately £10,000, most of the principal
to be retained for her children. At a time of depreciating currency, Lushington
thought it important that the money be invested in real property. From Sophia’s
trustees he could borrow part of the price of a home, supplement it from his
own small funds, and secure the loan with the purchased property. This may
have been how he would acquire their first home, at Hanwell near London, in
1814. Unfortunately, though, the improvement in his 1811 fortune was largely
offset within the year by his losses in the Madras investment.

The second son, Henry, was born at Singleton, Lancashire, on 13 April 1812.
During the latter half of 1812, and all of 1813, Ellenborough was patiently
exploring with the prime minister, Lord Liverpool; the chancellor, Lord Eldon; and other officials what could be done for Lushington, what possibility of a pension or of a position on a board of inquiry, or the like. Liverpool was sympathetic but, after conferring with the colonial secretary, declared that Lushington simply did not qualify under the time rules for a Ceylon pension. The best that could be offered was a pitifully small Civil List pension (little more than "a matter of charity"), which after usual deductions would net no more than £230 a year. Ellenborough reluctantly accepted the offer; but it is virtually certain that Lushington finally never drew upon the pension. Before it came through, he had received adequate public employment.

Already, in June 1813, Ellenborough had appointed him to the lifetime position of master of the Crown Office, a quasi-judicial post paying somewhat more than £500 a year in the Court of the King's Bench, Ellenborough's own court. Lushington would be the chief administrator of the court's office, with responsibilities including collecting and recording fines and impaneling special juries. Now, in July 1814, Ellenborough was assisting him to secure a second appointment, to the Colonial Board of Audit, the committee that examined the accounts of all British colonies. Neither post was a sinecure. The audit board, in particular, entailed close, anxiously demanding work, especially for such a conscientious investigator as Lushington. He would work his way up to the board's chairmanship in 1818 and retire from it in 1824 "on very satisfactory terms."

After 1814, evidently, he had no great financial anxieties. By 20 March 1815 he told Clark that his annual income was about £2,000. The family had moved to Hanwell, about seven miles from central London. Even now the verdant hilly neighborhood (much of it a public park) retains a startling beauty quite unlike the present undistinguished Hanwell center. He had found a pleasing house with excellent gardens and twenty-four acres of land "at extremely reasonable price." When in 1819 "poor Thomas" fortuitously died, Lushington and his half-brothers could at last begin settling their differences concerning their father's properties, reaching an agreement in 1821. That same year Lushington regained a portion of his long-lost Madras investments. He could begin selling dispersed parcels of land, looking forward to locating and purchasing his own country retirement estate. By the end of 1822, his annual income had climbed "rather above £5,000." He would soon be "quite easy and ready to depart," although he would live another seventeen years.

But he had not liberated himself from personal anxieties: convictions of underachieved potentialities, memories of fumbled opportunities for serving humanity. Such regrets amplified themselves around 1816 as he neared and entered his fifties. Perhaps even yet he might discover a work more widely
beneficial. Writing to Clark that March, he recalled one of Gibbon’s characters who “passed the morning and evening of life in pleasure & inglorious indolence—but whose meridian burst forth with strong lustre.” He and Clark, just then, were “at the meridian & if we cannot hope for splendour may be more useful than at any other period. This ought to be the main object. I feel the desire and aim at it.”

Already in February he had confided a new idea. Working almost at the door of the King’s Bench prison, and reading the works of John Howard, he recognized how sorely Great Britain needed some centralized prison reform. Surely a general inspector of prisons “would be extremely useful,” one who in the “spirit of Benevolence” would coordinate all the local prison inspectors and personally inspect every prison in the nation at least once every three years. True, the work would be grueling, “intersecting each county backwards & forwards,” but he (already the adoring father of five small children with others arriving almost annually) felt ready to put forth the effort if such should prove his calling. Of course, nothing of the sort materialized. The burden of sensed shortcomings continued to weigh upon him. In February of 1821 he wrote that “the only serious drawback” to complete happiness was “the lingering” consciousness of past “errors of judgment.” In June, contemplating his half-brother William’s service on a distinguished commission of inquiry in Ireland, he “could almost envy him a situation so honorable & with such opportunities of being useful.” “Am I authorized,” he asked Clark, “to ascribe to myself any such desire of utility after what I once relinquished? Let that however pass.” And in December his return for a Founders’ Day visit to Charterhouse School, thirty-nine years after his last schooldays there, left him brooding over a life where “so much time has been misspent & so many opportunities of living to more useful purpose have been lost.”

Those feelings of comparative failure, that equating of idealized “usefulness” with some large public office, would magnify Lushington’s ambitions that his sons, unlike himself, would prove their abilities and rise to national eminence, not for mere fame or wealth but for ampler service to humankind.

Even earlier than he might have hoped for, Lushington had found himself having to cope with the gratifying problem of how to manage the education of a precocious firstborn son. At the age of three years, ten months, with his half-sister Louisa for his teacher, Edmund, as Lushington informed Clark, “begins to read little books by himself & takes great delight afterwards in telling the stories to Henry.” (Henry was two years, six months.) Before reaching five Edmund had “played himself through a long Manchester multiplication table as far as 12 times 16—192.” By himself he was reading “with great delight Miss Edgeworth’s tales,” quickly memorizing hymns and little poems, and
writing on a slate "better than most boys at 7." He was "full of spirit & fire the whole time that he is learning." When his mother would ask him, "How much dear is 9 times 6?" he would say "54 mama taking her by the chin & giving a skip & a jump." He was constantly asking, "What does that mean?" about "any new word or expression."

Would Clark, who had taught boys at the Charterhouse, give some professional advice? Should they begin the youngster in Latin? He could almost undoubtedly learn it, but would that be an advantage or otherwise in his later schooling? Clark promptly advised against the Latin. A boy starting school too far ahead of the others would be unpopular and have too little left to accomplish there. Instead he should work on mathematics and the other common branches, acquiring a lifelong practical advantage "in the pursuit of either fortune or fame, & a prodigious resource for happiness."

The Latin, accordingly, was deferred, though only for a year, while Edmund worked on arithmetic and put "together maps" drawn "in an extraordinary manner for a child of his age." He was entering his seventh year when his mother and half-sister began him on the Latin grammar book written by Dr. John Russell, headmaster of Charterhouse School. Within a year his progress "surprised his Uncle George" (Sophia's M.P. brother, later Sir George Philips).

All seemed briskly marching to schedule until the summer of 1818, when Edmund, aged seven years, seven months, broke ranks. While using "a Latin & Greek grammar in one," he moved out of the Latin section and on his own volition began to study Greek. Suddenly, for Lushington, "one morning upon my return from London he repeated to me a Greek noun." Four months later Lushington was telling Clark that "Edmund has repeatedly desired me to remind you of your promise to send him a Greek letter." He was dutifully continuing with Latin, but enjoying better his self-assigned Greek. When he was three days short of eight, his father asked Clark to recommend "the best & easiest Latin poetry for lessons." Edmund had "found the Metamorphoses rather difficult & I am anxious not to dispirit him. He goes on well with the Greek grammar and the examples in Russell."

Edmund was displaying already two tendencies of his later life—the more or less resolute avoidance of Latin in favor of Greek, and a susceptibility to discouragement when he fell short of excelling. Greek was his language, Latin was not. Time spent on Latin afforded less satisfaction and distracted him from Greek. Greek quickly became, and remained, a calling, an absorbing personal fulfillment; Latin was a tolerated annoyance.

It was the agile-minded, more versatile Henry, coming along only fifteen months behind Edmund, who would develop an approximately equal bent for both Latin and Greek, and would soon begin developing a naturally easy, idio-
matic written English. But the father, so far as his surviving letters show, had not yet discovered Henry's potentialities. Others soon would do so, and then, if not before, the father would, too.

Fortune was seeming kind to the Lushington family. Lushington himself suffered attacks of gout, becoming more frequent and severe, but bore them pluckily. By early 1819 Sophia had borne seven children, and an eighth would come that year. But three times between December 1818 and April 1819, death would strike persons Lushington loved. In December it was Lord Ellenborough, his uncle and benefactor; then in January, his full-brother, "poor Thomas," long mentally deranged but his closest boyhood companion. Most heartbreaking, at the end of March came the loss of his daughter Louisa, only child of the other Louisa who died at Madeira, and the infant whom Sophia had reared and loved as her own. The studious girl, not yet eighteen, was adept in Latin and French and had begun studying Italian. Though known to be gravely "ill of a pleurisy," she had been expected to recover; but death struck with stunning quickness.

"Our dear Edmund," Lushington told Clark, "was at first severely afflicted, but at his time of life such impressions must be soon effaced." But would they, in truth, be so? Leaving aside the question of how soon, if ever, such traumas fade from the psyche of any eight-year-old, the precocious Edmund was no ordinary child. Louisa had initiated him in his studies. She had stood as a fourth, with his parents and his aunt, as a source of adult love and encouragement. For Edmund, early in his ninth year, the death of this young woman was the first of a dauntingly long string of bereavements throughout his lengthy life. Before he died, at eighty-two, in 1893, he would outlive eleven siblings (including Louisa), his firstborn and only son, and two of his three daughters. During a terrible four-year period between 1854 and 1858, he and his family would endure the deaths of a 30-year-old sister, the 43-year-old brother Henry, the 12-year-old son, and the 44-year-old brother Tom. Edmund would long outlive, too, any hope he may once have entertained of a normally happy, mutually sustaining marriage. Time and again the tender Edmund, senior in his clan, would be obliged to summon inner resources, buttressed by an undogmatic Christian faith and a rare intimacy with great tragic literature, to sustain himself and others who looked to him for strength. As bereavement inexorably followed bereavement, he would speak of the profound "mystery" of it all. "What does that mean?"—the small child's early question about "any new word or expression"—was extended by Louisa's death to the ultimate question he would ask time after time in presence of enigmas more puzzling than words.

Yet for the eager child, in 1819, the Greek still consolingly beckoned. "Edmund proceeds," Lushington wrote in June, "with his Greek and his Euclid con amore." On 4 July the father's letter to Clark began with a letter from Edmund
(now eight-and-a-half), in Greek. The Greek was "entirely his own, and he alone is responsible for the errors or progress which he has made. You will perceive that he indulges in the use of abbreviations, perhaps from the pleasure of overcoming a difficulty." But there was an ominous note: "Edmund is subject to nervous twitches arising from some ulterior cause which I do not understand." One suspects his recent bereavement.

In late September came two other displacements. Both Edmund and Henry were sent from home to live at a small school in nearby Brentford conducted by a Dr. Crane. Then, rather perversely it seems now, Crane would not permit Edmund to go on with Greek. He "was at first nearly heartbroken, not I think by going to school," but by the taking away of his favorite employment. Henry, it seems, quickly adjusted, thriving in the enthusiastic acceptance of Crane and his wife. Edmund, "his spirits extremely distressed," became "comparatively unhappy and dull," his literal Latin translations failing to "give the senses." When the Cranes discussed the brothers, they invariably praised Henry to Edmund's disadvantage. Henry, they declared, unlike Edmund, was determined "not to get anything as a lesson without understanding it thoroughly." The parents, on the contrary, had found Henry to be the one who relied on his quicker memory, learning rules "to a letter" but not always understanding, whereas Edmund "understood applied & marked the exceptions," but remembered less well verbatim. To the Cranes, Edmund seemed "very much given to self . . . extremely tyrannical over Henry." The parents had observed Henry showing a temper, Edmund "none from the beginning," and Edmund always seeming less domineering over Henry than Henry had been over the younger Tom. Mrs. Crane contrasted Henry's sensitive responsiveness "to the gentlest reproof" with Edmund's resistance to restraint when "in high spirits" and "particularly his contempt for females." Lushington's "difficulty" had been "to restrain Henry—I have none to restrain Edmund." When Edmund complained of illness, the Cranes intimated he was malingering, although after an apothecary had come and given medicine for constipation, he improved. To Lushington himself Crane had exhibited a pedagogical "mock importance & mystery," even seeming to insinuate that "overexaction" of Edmund's "understanding at present might terminate in feebleness."

Lushington, shaken, could admit that maybe he had "indulged" Edmund in some respects more than Henry. And maybe Edmund was too much feeling superior to the other boys. But, really, was Crane's opinion "well founded or mere prejudice? Have all of us been blind from his birth to this moment?" He was almost "inclined to cut the Gordian knot by his almost immediate removal." But the boys stayed at Crane's through the following spring. By December, Sophia reported Edmund happier than he had been, and in January,
Edmund himself wrote, "I like school very much. Lately I have learned to slide [skate] & so has Harry."

The time had come for Henry to enjoy some equitable recognition. Perhaps unwittingly the Cranes were responding to the spell of a personality that today would be termed more "outgoing," more "articulate," more (the ultimate compliment) "charismatic" than Edmund's. To the end of his life, Henry would be the more gregarious of the two. His interests would be wider, his learning quicker (though not deeper) than Edmund's. Family tradition still has it that Henry was, everything considered, even more than Edmund "the clever one." The children's old family nurse liked to say of Henry, "If he only looked at a thing he knew it."

His closest friend, George Venables, recalled the adult Henry's "wonderful memory" and his uncanny reading ability: "He scarcely ever read a book through, but while he was dressing or resting, or in an interval of conversation, he turned over the pages of miscellaneous volumes; and it always appeared that he afterwards knew better than others the material part of their contents."

By April 1820, looking about for another school, Lushington ruminated about Edmund's limitations: "His disposition requires more management" than Henry's. Probably his elders had "praised him too much for his early progress," so that by then "the slightest reproof overwhelms him." His "whole habit is too sensitive. He is eager in everything—less eager indeed than formerly about his improvement but still unhappy if he fails." A Hanwell neighbor, Dr. John Bond, was planning to open a school larger than Crane's, taking "50 scholars upon moderate terms." Lushington hesitated to expose his boys to the "contagion" of such an "inveterate punster & coxcomb" as Bond. But the boys would be nearer home. The parents could watch Edmund's health until he became emotionally ready for a public school. He would "have the advantage of competition," completely lacking at Crane's where the oldest boy, two years Edmund's senior, did not even know his Greek letters.

As for Henry (not yet turned eight), Lushington thought he might "be trusted" to the Charterhouse "or any other public school tomorrow." Long after Clark and he were "asleep," the boys' characters would be developed; but he was "inclined to think that Hy's progress in life will be more certain & happy." Surely the "great object" of education "should be to form the disposition so that it may encounter with firmness the various ills of life & take advantage of the opportunities." By June, Lushington was declaring Henry probably "the more careful—& rather think that he retains more perfectly what he learns. He far excels in the expression of his thoughts. Upon the whole I certainly feel less hope abt Edmd than I did a year since." But his health was improving, "or I should rather say quite good."
In the world that Lushington knew, a topsy-turvy world it may seem to us now, "progress in life" for a talented young gentleman would be over and up a hazardous road leading to parliamentary or judicial eminence. Surefootedly the boy would run a charted obstacle course, triumphantly endure a succession of initiation rites. He would attend a prestigious public school, develop social aplomb while mastering the rudiments of Latin and Greek, rising steadily to the top of the school. His university would be Cambridge, where mathematics stood firmly beside the classical languages along the obstacle course. Undeviatingly he would shoulder his way through a set of increasingly crucial competitive examinations to the highest scholastic honors, a publicly announced numerical ranking in his class that always thereafter would go with him where he went, be virtually a piece of his name. Neither the languages nor the mathematics would he allow to become ends in themselves. If he became too enchanted with them, they would turn into sirens to lure him off the road. He prevailed in the examinations chiefly to post notice to the world that it would hear from him later, in areas of endeavor largely unrelated to those where he had hitherto excelled. Unhesitatingly he would turn his face toward London, toward the Inns of Court, master the law, and then somehow—here the outlines of the map became inconveniently hazier—would manage to prevail in the badly overcrowded profession of barrister. There and later, if Fortune smiled un-crookedly, the prestige of his university ranking would boost him toward the summit.

Although loving Edmund no less, Lushington was now observing that apparently Henry, more than Edmund, had the auspicious combination of qualities for traversing such a trail. Along with his apparently sturdier disposition, Henry would quickly begin to develop a lively interest in current affairs and a liberal indignation against injustice, both like Lushington's own, and a graceful, apparently effortless way with the English language quite beyond Lushington's own, or Edmund's. Venables later wrote that long before his Cambridge years Henry had "taken an eager interest in political questions, with a constant leaning to the liberal side, and sometimes to radical opinions," having derived "his first political impressions from his father, who shared in moderation the Whig opinions of the society in which he had chiefly lived."23

Where Edmund would remain extraordinary was in his single-minded devotion to Greek. To the child, the schoolboy, the undergraduate, the Fellow of Trinity College, the professor at Glasgow, Greek would remain the center of life, no mere steppingstone to some broader or higher goal. His would be the dedication of the specialist in an era that still offered dismayingly few careers for that kind of specialization. Father and son would never lose their mutual respect and love, but the father's goals for him would not be his for himself.

In the fall of 1820, our boys, along with their brother Tom, joined the new
Family Background and Early Childhood

school of their neighbor Dr. Bond. That summer Edmund had repeated "very well the first 260 lines of the Iliad." After a year at Bond's, Edmund was the head monitor. By December 1821 Lushington was again worrying about his being "so far superior to all the boys at his present school." He had begun to compose alcaics "with considerable facility, considering his youth & very recent practice." Perhaps it was time to think of sending him to the Charterhouse. There "among 400" Edmund would "meet with competitors, not to eliminate for this is not wanted—but to repress that baleful destroyer of excellence—vanity."

The family, meanwhile, was flourishing, adding in June a drawing room and two bedrooms to their Hanwell home. By the summer of 1822, the decision was set to send Edmund and Henry to the Charterhouse in January. Lushington had spoken "in general terms" to the headmaster, Dr. Russell, about the boys, but had not yet mentioned Edmund's "peculiar ardour. We cannot keep him in bed after 5. . . . The little Henry is all health vigour and fun." By December, if not earlier, Dr. Bond was agreeing that "Edmund ought to go." Lushington was naturally "rather anxious" about the differences the boys would find between the two schools—"particularly Edmd who has been so long the little cock strutting about with the Masters." But it had been "partly from the moral tendency of this situation as filling him with notions of his own superiority & rendering more sensitive to opposition & defeat when they should come, as come they must, that I thought it right to remove him & on acct of their mutual devoted attchmt Harry with him."

On entering the Charterhouse, Edmund would be just twelve, Henry not yet eleven. The ages were not untypically young, not even Henry's, although the average entering age at such public schools was gradually rising. "At the Renaissance," according to R. L. Archer's Secondary Education in the Nineteenth Century, "the usual age was six; Fox [born 1749] entered Eton at nine, Salisbury [born 1830] at eleven; in the forties twelve was a usual age; by the sixties entrance was deferred till fourteen, and a preparatory school preceded." That same January 1823, a boy named William Makepeace Thackeray, who had been born six months after Edmund and nine months before Henry, was starting his second full year at the school. At school Thackeray was never esteemed successful. His preschool grounding in the classical languages was sadly inadequate, his native genius did not bend toward philology, and such motivation as he might have developed was crushed by the wrongheadedness of his masters. But, ironically, a major part of what is now readily known about Charterhouse school in the 1820s comes from the pen of Thackeray or from the researches of his biographers. Unfortunately, nothing in the contemporary record seems to authenticate any association between him and the Lushingtons.