

The History of  
DOWNING COLLEGE  
CAMBRIDGE



by  
*Stanley French*

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**DOWNING COLLEGE ASSOCIATION  
1978**

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## CHAPTER I

### THE MARRIAGE

The foundation of Downing College, Cambridge, in 1800 was the consequence of the marriage of two children a century earlier. The wedding took place so quietly that we do not know the exact date or where the ceremony was performed. What we do know is that on a February day in the year 1700 a pretty little girl of thirteen named Mary Forester was the bride of her cousin, George Downing, who was two years older. They both lived at Dothill Park, near Wellington, Shropshire, the home of Sir William Forester, who was Mary's father and George's uncle by marriage. Mary's mother, Lady Forester, and George's mother Lady Downing were sisters, the daughters of James Cecil, third Earl of Salisbury. Mary Cecil was happy in her marriage with Sir William but her sister Catherine was so badly treated by her husband, Sir George Downing, the second baronet of East Hatley, Cambridgeshire, that when she died in 1688 the gossips said it was his conduct which killed her. Her younger son James had died in 1686. His brother, christened George after his father and grandfather, was only three at the time of her death.

The widowed baronet did not wish to bring up his son himself, perhaps because he realised he was not well-fitted to do so, and quickly accepted Lady Forester's offer to take George under her wing with her own children at Dothill Park. As Sir George was much wealthier than Sir William he probably entered into an agreement to pay for his son's support, and to show that he did not intend to disinherit George when he was out of his custody he made a will shortly after his wife's death leaving nearly everything he owned to the boy. This meant that in due course George would inherit the greater part of the fortune left by his grandfather, the first Sir George Downing, whose career was succinctly but uncharitably described

by the diarist Evelyn as that of a man "who had been a great traitor against his Majesty (Charles II), but now insinuated into his favour and from a pedagogue and fanatic preacher not worth a groat had become excessive rich".

That career began in Massachusetts, where his father Emanuel Downing, the son of an Ipswich headmaster, was an influential settler and his mother Lucy the sister of the first Governor, Adam Winthrop. In 1642 George's name appeared in the second place on the first list of graduates from Harvard College. He remained at the College for two years, teaching and preaching, then left Boston for the West Indies, where he preached. He then returned to Britain, where he made his way with such success that from being a chaplain in the regiment led by Colonel Okey he became Scout Master General in Cromwell's army in Scotland, member of Parliament for Edinburgh and the husband of Frances Howard, the lovely sister of an influential aristocrat, the first Earl of Carlisle. About 1657 Cromwell sent him to the Hague as his Resident representative, with a salary of £1000 a year. In that office George Downing appears to have played a double game, paving the way through contact with Charles II for his admission into the Royal service after the Restoration. The King knighted him in 1660. In 1662 he was the King's representative in Holland and dispatched a force to Germany to arrest three of the regicides, including his former commander, Colonel Okey whom he sent to England for trial and execution.

The following year George Downing was rewarded with a baronetcy and the grant of land in Westminster on which he built a street which was to become world-famous — Downing Street. He played an important part in Governmental financial affairs and was the initiator of the Parliamentary practice of the appropriation of supplies. Samuel Pepys, who served under him, described him in his diary as "active and a man of business and values himself upon having of things do well under his hand". Whilst helping to look after the nation's money he took good care of his own interest and was reported to have made £80,000 as a servant of the Crown, in addition to what he acquired during the Protectorate. When he died in 1684 he left estates at Wrestlingworth in Bedfordshire, in Cambridgeshire at Gamlingay, Croydon, East Hatley and Bottisham, in Suffolk at Cowlinge and Dunwich, and in Westminster.

This fortune was probably increased by the second baronet as from 1681 to 1690 he held the lucrative sinecure of Teller of the Exchequer previously held by his father.

The heir to all this wealth, and to a baronetcy as well, was the sort of husband any parents would welcome for their daughter. In the seventeenth and eighteenth centuries business arrangements between the parents of young couples were as often the reason for a marriage as was love.

Jonathan Swift was expressing a widely-held view when he congratulated a young lady on her marriage to a "person your father and mother have chosen for your husband . . . a match of prudence and common good liking, without any of the ridiculous passion of romantic love".

It is not surprising therefore that the Foresters used their special position to get their eldest daughter married to their nephew as soon as they could. They had no reason to hesitate because of the extreme youth of Mary and her cousin. The legal minimum marrying age for a boy was fourteen and for a girl twelve and bridegrooms and brides of those tender years were not unknown. If the Foresters wanted precedents they need look no farther than Lady Forester's own family: her eldest brother, the fourth Earl of Salisbury, a gross man "whose sluggish body was the abode of an equally sluggish mind" had married a girl of thirteen.

Why did they keep the marriage secret? It can have been only because they were afraid some one might get it annulled on the ground that the children were the victims of a fortune-hunting conspiracy, as in a recent case concerning a ten-year-old girl, Hannah Knight. Perhaps the person they particularly wanted to remain in ignorance of his son's committal to wedlock, with all that entailed, was Sir George Downing. He seems to have been completely ignored, on the ground that he was, it was said years later, "of unsound mind". While his son was being married he was probably far away in his manor at East Hatley, presumably contented with the company of Priscilla Payne, the woman with whom he was "living incontinently" in 1695 when he was ex-communicated for immorality, and by whom he had a son.

Whilst Mary's parents did not think her too young to be joined with her cousin for life in the sight of God and the service of Mammon they thought her not yet old enough to consummate the marriage. When, therefore, after the ceremony the bride and bridegroom were, as was the custom, "put to bed in the day time, and continued there a little while" it was "in the presence of the company, who saw that they did not touch one another". . .

Thereafter the newly-weds were treated as though they were still no more than cousins. As soon as possible George was sent away, perhaps to school. Whether he and his wife ever again lived under the same roof it is impossible to say. If he did return to Dothill it made no difference to their conduct to each other. The marriage remained the empty consequence of a hollow formality.

After about two years, when George was seventeen, he was sent on a Grand Tour. England and France were at the onset of the war of the Spanish Succession, during which many great battles would be fought in western Europe, but the Augustan age knew nothing of the horrors of total war. Civilised intercourse between citizens of the warring nations was still



possible and young English gentlemen could continue, like their forbears, to wander about the continent in search of culture and experience, of beautiful objets d'art to send home and lovely ladies to leave behind. This must be how George Downing spent the next few years but no record of his travels has survived. If he wrote letters home, as travellers do, they have disappeared, as have the many letters it is said that his wife wrote to him. The contents of one letter from him to her are known to us and that is all.

It was not unusual for a young man on the Grand Tour to leave a wife at home. Parents sometimes liked to have their sons married before they got into undesirable romantic entanglements abroad. What was unusual was, first, that no one outside the immediate circle of the Forester family knew that he had a wife, and secondly, that that wife was a virgin, although she was now of an age when she would not have been exceptionally precocious in consummating the marriage. Whatever the reason for this it is understandable that George wanted the virginal maiden he was being compelled to leave untouched to remain virginal until he returned to claim his conjugal rights.

The best way to ensure this was to keep his wife with her family in the rural seclusion of Shropshire, away from the enticements of the wider world. He knew that Mary might receive a very attractive invitation. Queen Anne, who had just begun her reign, was endeavouring to gather at her court a bevy of beautiful girls of good family to be maids of honour. Lady Forester had been an intimate friend of Anne's sister, Mary of Orange, with whom she had stayed when carrying her eldest daughter, and the Queen was certain to hear how uncommonly lovely that daughter was at fifteen.

A Royal invitation to Mary would be very difficult to decline, but George, perhaps on adult advice, was determined that it should be refused. He therefore extracted from Mary a promise that she would do so if it came.

This was not an unreasonable demand by a jealous lover, if that is what George was, and agreement to it in the emotion of parting was to be expected from a fond wife, if that is what Mary was, or felt she was, at the moment of farewell.

The promise having been asked for, and given, George went off to foreign parts, satisfied that his wife's virginity was protected by this verbal chastity-belt, whilst Mary continued her quiet life with her parents and brothers and sisters at Dothill, walking and riding about the country lanes, playing with the younger children and busying herself with embroidery, in which she excelled, and in other domestic pursuits appropriate for a single young lady in the reign of Queen Anne.

The invitation she had dreamed about and her husband feared came

towards the end of 1703. The prospect of exchanging her humdrum life for the glamour of the Court and the balls and masques and frivolities of High Society outweighed any conscientious scruples she had about breaking her promise to the far-away young man she probably never thought of as her husband. Her parents saw the advantage of having their daughter in intimate attendance on the Monarch and advised her to accept. She did so.

At St. James's Palace she quickly adapted herself to the ways of the Court and showed that she had all the qualities expected in a Maid of Honour. After a probationary period she was confirmed in her appointment by a certificate from the Earl of Kent, Lord Chamberlain, that he had "sworn and admitted Mrs Mary Forester into the place and quality of the Maids of Honour to her Majesty . . ."

Only single girls were invited to be Maids of Honour. The description in the certificate of the new Maid of Honour as "Mrs Mary Forester" shows that no conscious exception had been made in her case. The marriage was still so secret that no one at Court knew about it, not even the Queen. (Mrs was short for Mistress, the usual appellation of a single woman.)

Mary undoubtedly never thought of herself as married and behaved accordingly. She threw herself gaily into the life of the Court, and her sparkling loveliness made her the toast of everyone, courtiers and politicians, old and young.

It was in the nature of things that amongst the admirers of this nubile beauty there were handsome and wealthy young men who were eager to marry her. They included a Shropshire neighbour, Sir Edward Leighton of Loton Park, near Shrewsbury. He asked Mary's father for her hand. Sir William felt obliged to reveal that she was already married and tried to mitigate Sir Edward's disappointment by suggesting that he married Mary's sister, Diana, who was just as beautiful. This the young baronet did with business-like celerity.

News of his wife's shining success as Maid of Honour soon reached George Downing. He was in Italy when he was shown a letter from Lady Temple, whose daughter was also a Maid of Honour, to Martha Blount, the friend of Alexander Pope. Presumably whoever showed him the letter — perhaps Martha Blount herself — did so because he was Mary's cousin, with no idea that its contents would deeply concern him as Mary's husband.

The letter said "I suppose you hear that pretty Mistress Forestthur (sic) is the new Maid of Honour".

The news shocked and angered George but he seems to have waited a little before doing anything, during which time he had other letters.

Then he wrote to his wife in pained tones and well-considered phrases: - "In my retreat here I have just received news from London which has

filled me with surprise. Amidst the idle gossip and scandal of the day I find Lady Mary not as I had fondly imagined her in her home at Dothill taking walks and rides but the gay cynosure of all eyes, blazing as a star of the first rank in the fashionable splendour of Court. This I find confirmed by letters from mutual friends who think they are pleasing me by their lavish description of the beauty and blandishments of my idol. Songs and proverbs have all told us of woman's fickleness, but I have never believed them. I said to myself 'These are written by men who have had the advantage of telling their own tales in their own ways. The pen has been in their hands' I thought 'and they have written with a bias towards our own sex and upon such bias have built circumstances in their own favour'.

I have tried not to believe the story told me and to keep silence until I come home. I find I cannot do so and that I must speak, for the story Lady Temple tells has pierced me to the heart; yet whilst I am half agony I am half hope. Do write and say it is not true and I will once more offer myself afresh with a heart more full than your own, or than my own could have heretofore known. I have loved but you; you might think me unjust from your point of view in extracting the promise but never have I been inconsistent for a moment.

I can hardly write; by every post I hear something which overpowers me. Write immediately and do say you have been faithful."

His wife's parents replied at once, taking the blame for Mary's acceptance of the invitation. They said they had persuaded her because of the difficulty of refusing the Royal command. Mary also wrote, "adding her womanly protestations."

George Downing acknowledged the Foresters' letter, then continued his travels without letting anyone at home know where he was to be found.

At first sight, if the emotions expressed in the elegant language of his letter to Mary were genuine one would have expected him to hurry home to snatch his wife from her undesirable environment and by announcing that he was her husband stop her from behaving with the joyous freedom of a high-spirited young woman untrammelled by the bonds of matrimony. There was a good reason, however, for his not acting impetuously; the scene of his wife's unconjugal behaviour was the Court of the Queen of England and of Scotland (soon to be united by the Act of Union), and the friends amongst whom she was disporting herself included some of the most influential men in the country. It is understandable therefore that the angry and embittered husband decided to restrain his natural impulse to return to England and confront his wife.

An alternative explanation is that the impassioned letter to Mary was a literary exercise without real feeling behind it, and that he had no desire to save his marriage. Certainly, from a statement made to the House of Lords by his wife in 1715 it appears that when George eventually returned



3. Sir George Downing, first baronet, founder of the Downing fortune.

home in 1705 "he positively declared his fixt Resolution never to Perfect (the marriage) and from that time, which is about ten years since, (he) has never seen or taken any notice of (me)." From this it could be deduced that husband and wife met once on his return, but never again. On the other hand, the declaration could have been made through a third party, such as a lawyer.

Mary Forester was godmother to a daughter of her sister, Diana, Lady Leighton, named Mary after her. Mary Leighton never married and in later life she often spoke of her godmother to her brother Baldwin's daughter Emma. Many years later Emma Leighton wrote down Mary Forester's story as she remembered her aunt had told it. The black-covered book in which she recorded the story is kept at Loton Park, and the present baronet Sir Michael Leighton has given Downing College a photo-stat copy of it.

Emma Leighton says that after his return from abroad George Downing happened to see Mary Forester waiting on the Queen and was much struck by her beauty and enquired who she was, as he thought he had never seen so handsome a woman. The next morning he waited on Sir William Forester and to his great surprise was told that she was his wife.

It is difficult to believe that after only three years the lovely Maid of Honour had grown so different from George's childhood companion that he could not recognise her. There must have been some basis for the story, however, although it became garbled in the telling.

If George was impressed by his wife's beauty it did not change his desire to end the marriage. He told Sir William he was determined to dispute its validity. This did not disturb Mary's father; he coldly calculated that if his daughter's marriage was declared null and void, now that she was scintillating in the highest circles of society he could easily find her a husband of much more influential standing than the undistinguished son of a dissolute second baronet.

## CHAPTER 2

### UNBREAKABLE BOND

As often happens when laymen invoke the aid of the law George Downing soon learnt that there were daunting obstacles in the way of his desire to get his marriage dissolved. In the reign of Queen Anne, divorce was a rare privilege, available on very limited grounds, and usually only to men of great influence and wealth, for reasons concerned with the inheritance of titles and large estates.

The ecclesiastical courts would grant a decree grudgingly on the grounds of a wife's adultery or because one or both parties were legally incapable of marriage by reason of consanguinity or existing marriage. Such a decree permitted the parties to live apart but not to remarry; subsequent marriage was not valid unless declared so by Act of Parliament.

In 1690 Parliament had declared the marriage of Mary Wharton, a minor, null and void because she had been forcibly abducted, and in 1695 that of another minor, Hannah Knight, because she had been the victim of a fraudulent conspiracy, but these afforded no precedent for George Downing. There had been no suggestion of force or fraud about his wedding. First cousins were permitted to marry by both Church and State; he and Mary had been of the age of consent and although they were both so young that they may not have appreciated the nature of the contract they entered into it was an irresistible presumption that in the absence of force or fraud guardians had acted wisely in arranging the marriage of children in their charge.

The only possible ground for an application to the Ecclesiastical Court therefore was that Mary had committed adultery, and of that there was no evidence whatsoever. The hotbed of Court gossip had not produced the slightest slur on her virtue.

The one hope – and that a faint one – was that Parliament might be persuaded into an unprecedented widening of its practice by annulling a marriage between capable and consenting spouses on the ground that it had not been consummated. George Downing was not the kind of man to devote himself to fighting a near-hopeless battle. He left his lawyers to do what they could and went abroad again.

He was home once more in 1709, when he bought some land at Dunwich, in Suffolk, where his father had an estate, and in the following year he became member of Parliament for that pocket borough.

In June 1711 the event happened which the Foresters had anticipated when they arranged their daughter's marriage. The second Sir George Downing died at East Hatley and at the age of 26 his son became the third baronet and owner of the wide-spread estates accumulated by his grandfather.

The Foresters' plans had gone agley, however, and her husband's change of status made no difference to Mary Forester. She continued her life at Court whilst George pursued a bachelor existence. He immediately set about providing himself with a home worthy of his wealth and position. He pulled down the ancient manor house at East Hatley which the first Sir George had bought from the Castils, transferred the materials from it to a large tree-covered area adjoining Gamlingay Common in the far west of Cambridgeshire and used it to build a big house called Gamlingay Park. This became his principal home for the rest of his life.

Whilst he was thus engaged he probably read, with what heart-pangs we can only surmise, a paragraph in the *Globe* newspaper in which Mary Forester was described as "a Maid of Honour of remarkable beauty" accompanying Queen Anne to the first horse races ever held at Ascot, in August 1711. The *Globe* said that in "a brilliant suite" she excited the greatest attention. She was mounted on a Palfrey and wore "a small three-cornered cocked hat bound with broad gold lace, a white-powdered long flowing periwig, a cravat tied like a man's, a long white coat, a flapped waistcoat, a flowing skirt being the only variation from the attire of a Cavalier".

Thus at the inaugural meeting on the famous course the wife of the Founder of Downing College began the tradition that Royal Ascot is a proper place for original-minded women to wear extravagant hats.

Jonathan Swift was staying at Windsor Castle at the time. The day before the first race meeting his host, the Vice-Chamberlain, lent him a horse on which he set out for a ride shortly after the Queen had also gone out. He was accompanied by the Queen's physician and favourite, Dr Arbuthnot. On the way they "overtook Miss Forester, a Maid of Honour, on her palfrey, taking the air; we made her go along with us. We saw a place they have made for a famous horse race, where the Queen will

come.

We met the Queen coming back and Miss Forester stood like us with her hat off whilst the Queen went by . . . . I was tired with riding a mettlesome horse a dozen miles, not having been on horseback these twelve months. And Miss Forester did not make it easier; she is a silly true maid of honour and I did not like her, although she be a toast and was dressed like a man."

Perhaps Mary chattered too much as the sardonic Dean bounced about on his unruly steed. He certainly disliked her attire; as he wrote to Stella that night he thought the fashion of "ladies taking the air in hats and feathers, coats laced with silver and periwigs", which was just coming into vogue "a sorry practice".

It was on the same visit to Windsor that Swift and Arbuthnot told the Maids of Honour that a book was to be written about them and as they would all appear in it they each ought to have a copy, for which subscriptions were invited. Mary Forester was the first to realise that they were being hoaxed and said so. This cannot have made Swift like her any more. Eight years had passed since she had come to Court "an unlesioned girl, unschooled, unpractised"; she was now a mature woman of twentyfour, probably the oldest Maid in the Queen's retinue, experienced in the ways of the world in which she lived and unlikely to be taken in by any man, however distinguished.

For three more years her life continued much as before, save that as the Queen's health worsened the atmosphere of the Court grew gloomier and uncertainty as to what would happen when she died filled all about her with anxiety.

The long-awaited event occurred on August 1st, 1714. For a brief time the future of the United Kingdom of Great Britain and Ireland hung in the balance. Would the Tories be able to establish the Old Pretender on the throne as James III or was Queen Anne the last Stuart to wear the crown? The Whigs worked swiftly and triumphed. George I became the King of three countries he hardly knew and whose language he could not speak and the Whigs began the ascendancy in English politics which kept the out-witted and discomfited Tories from office for the next forty-five years.

The great change in the Government of the country threatened Mary Forester with the loss of her position at Court. As Queen Anne had not signed her will her "poor servants", as Arbuthnot wrote to Swift, "were like many poor orphans exposed in the street".

Mary must have been very worried. It seemed most unlikely that there would be any place for her in the new Court, and if there were she cannot have contemplated with pleasure the opportunity to work for a queen who was, like her husband, a foreigner ignorant of the English



language and English ways. She faced the prospect of returning to a humdrum rural life at Dothill, not as the care-free, forward-looking girl she had been when she broke her promise to her husband but twenty-seven years old, a wife without a husband, a woman without a future.

Then fortune smiled. Soon after Anne's death Caroline, the wife of the Prince of Wales, came to England and set up an establishment with her husband in St. James's Palace. Her lack of knowledge of the English scene made choice of her entourage difficult and she asked some of the Maids of Honour who had served Queen Anne to serve her. One of these was Mary Forester, despite her age and married status.

The Princess of Wales was very different from Queen Anne. Although she spoke English haltingly at first she had little difficulty in making herself understood because of the vivacity of her manner and the clarity of her intellect. She was destined to exercise considerable influence in the affairs of her adopted country and as she had a taste for music and literature her apartments were the resort not only of politicians, especially young ones, but also of some of the greatest wits and literary figures of the age. Balls, masquerades, assemblies and animated discussions on a wide variety of subjects made the Court a much more stimulating place than it had been in the old Queen's time, and it must have been this invigorating atmosphere coupled with the new awareness of her anomalous status and insecurity at Court, brought about by Queen Anne's death, which persuaded Mary to take unprecedented action. As her husband had failed to carry out his ten-year-old threat to have their marriage annulled she would herself ask Parliament for a divorce.

No doubt she took this decision after much discussion with influential friends, who must have pointed out that the obstacles which faced her were mountainous, greater even than those which appear to have frightened her husband into doing nothing.

As a contemporary journalist wrote "women in England, as soon as they have married, with all their worldly goods are *in potestate viri*, at the Will and Disposition of their husbands".

It was unheard of for a wife to seek to free herself from that subordinate status by appeal to the Courts of Law or to Parliament. Only one adult woman had dared to do so. She was Elizabeth, Marchioness of Anglesea. In 1700 she petitioned for an Act of Parliament to provide that she need no longer live with her husband because of his cruelty. She was successful, but the Act only permitted her to live apart from her husband; it did not dissolve the marriage.

Mary did not need an Act to separate her from her husband; they were separated already. What she wanted was an annulment of her marriage to George Downing so that she would be free to marry someone else if she wanted to do so. At some time in her life there was such a man. Emma

Leighton says that "amongst her numerous admirers a young nobleman gained full possession of her heart." Whether this romance was a compelling factor in her attempt to free herself from George Downing or began later we cannot tell. If rumour is right and "the object of her fondest affection", as Emma called him was Philip Wharton Mary Forester's strange story is made stranger still; it is that of a child-bride who, after many years of abortive marriage, felt her greatest passion for a mere boy, eleven years her junior — a boy, moreover, so precocious that his political brilliance won him a Dukedom at the age of nineteen and so depraved that Lady Mary Wortley Montague described him as "the most profligate, impious and shameless of men".

As soon as Mary had formed her resolution to ask for divorce her advisers communicated with her husband. Whether there had been correspondence between them during the preceding ten years we do not know. Emma Leighton says that many lawyers were employed and much time and money spent in endeavouring to bring the marriage to an end, but she may be referring only to the proceedings initiated by Mary.

George Downing may have been deterred by the manifold difficulties from taking action himself, but he had no objection to his wife making an attempt against greater difficulties. He agreed to enter into a deed which would settle the financial relationship of the parties. Parliament would not consider a petition for divorce until it was satisfied that the wife would not be left destitute. First, Mary signed an agreement which abolished her right under the law to hold as tenant in dower for her life a third of the lands and tenements in the possession of her husband when he died. Next, George surrendered all claims on her fortune and agreed that any real or personal estate which she possessed or subsequently acquired by inheritance should be enjoyed solely by her for her separate use and disposal, as was a capital sum of £10,750 from five different sources, including £2,700 she had received from the Crown "on account of her having been Maid of Honour to Queen Anne". All the money was to be held in trust by her father but she would be free to dispose of it as if she were an unmarried woman. Both parties undertook not to molest one another or to intermeddle with each other's personal or private estates. The deed was signed on 27 February 1715.

These preliminaries having been disposed of Mary's petition was drawn up and lodged at the House of Lords. It was brought formally before their lordships on the 26th April 1715.

It said "To the Right Hon<sup>ble</sup> the Lords Spiritual and Temporal in Parliament assembled.

The humble Petition of Mary the eldest Daughter of Sir William Forester, Knt, by Lady Mary Forester, his wife,

Showeth, That about the month of February in the year of our Lord

1700 your Petitioner Mary being then but just Thirteen years of age was by the Authority of her Parents married to George Downing, Esq<sup>re</sup>, now Sir George Downing, Baronet, who was then about the age of fifteen years.

That there never was any Consummation of the said Marriage but the said Sir George Downing sometime after the said Marriage did Travel into parts beyond the Seas where he continued for about the Space of Three years, and upon his Return did positively declare his fixt resolution never to Perfect the same, and, from that time which is about Ten years since the said Sir George Downing has never seen or taken any notice of your Petitioner.

That your Petitioner did never Cohabit with the said Sir George Downing nor did ever take upon her the name of Downing.

That such disgusts and aversions have arisen and doe continue between the said Sir George Downing and your Petitioner that there is no possibility of any Mutual agreement between the said parties to perfect the said Marriage contract which was solemnised between them in obedience to your Petitioner's parents when they were of such tender years as aforesaid.

And your Petitioner after such a procedure being desirous of being discharged of her unhappy engage<sup>t</sup>.

Your Petitioner therefore humbly prays your Lordship's leave to bring a Bill into this honourable House for the Declaring the said Marriage and Marriage Contract to be voyd to all intents and purposes.

And your Petitioner shall every Pray,

MARY FORESTER.

George must have been told about his wife's petition, the terms of which were probably settled by the lawyers for both parties, but the House could not assume this without giving him an opportunity to put his side of the case. It therefore directed that he should be given notice of the petition, authorised him to take a copy of it, and allowed him a week to put in an answer in writing if he wished to do so.

He did so, very briefly:-

"I have considered the petition of Mrs Mary Forester, presented to the Right Honourable the Lords Spiritual and Temporal in Parliament assembled; and do affirm that all the Allegations thereof are true and that I have never reputed her as my Wife; and therefore join with her in the said Petition, humbly submitting myself to your Lordships' great Wisdom and Justice."

On 3rd May the petition and the answer were considered by a House packed with the country's nobility. The Prince of Wales was present, no doubt anxious for the success of his wife's maid of honour. The Archbishop of York and fifteen bishops were there to protect the principles of the Church of England. Twelve dukes, four marquises, forty-four earls and twenty-nine barons were recorded as present at Westminster that day,

although some may not have been in the Chamber during the debate. (In the eighteenth century peers needed no attendance allowance to entice them to Parliament.)

The House of Lords journal does not record what was said and by whom, nor how long the debate lasted, but merely notes that the petition was dismissed. The proceedings are reported briefly in a book "Cases of Divorce for Several Causes", published later that year. It says that the hearing lasted nearly three hours, that the Petition was rejected "by a Majority of Two Votes, No 49, Yea 47" and that the reasons for the rejection were

"First, that each Party was consenting to the marriage and was old enough to give such consent, according to the known laws of the Kingdom; the Male being Fifteen years old, the Female Thirteen, whereas the years of Consent are, by law, Fourteen and Twelve.

Secondly, They were actually Marryd according to the Form prescribed by the Church of England, the Minister pronouncing those solemn words as used by our Saviour. Those whom God has joined let no Man put asunder. They are therefore Man and Wife both by the Laws of God and of the Land; and since nothing but Adultery can dissolve a Marriage and no Adultery is pretended here the Marriage continues indissoluble".

The report goes on to quote another pamphlet published a little earlier, called "The Counsellor's Plea for the Divorce of Sir G.D. and M<sup>rs</sup> F." This was written by "a gentleman of the Law, very knowing in his own Profession but more conversant in Church-matters than Lawyers generally are, or need be". He listened to the whole debate and was so disappointed with the result that his friends persuaded him to compose the sort of speech he thought counsel should have made. He was given a fortnight to submit it but died before he could read it to his friends, so they published the speech in his memory.

Some of the arguments he adduced in favour of the petition must have been based on what had been said in the House of Lords, and one feels that if the supporters of the petition had put the case as lucidly and tenderly as the anonymous writer even the Bishops would have been moved to grant it.

"This young couple" he wrote "came together to Contract and to Consent to Marriage without so much as the Desire or Appetite to be married: without so much as knowing what it was they were to Bargain and to Contract for. They consented to give the Use and the Dominion of their Bodies each to the other, as long as they should live, without so much as understanding what they meant when they said so – without so much as an ability of making good their Promises and Engagements, and this Consent, it seems, the Church insists upon and declares that a Promise made in such a solemn manner can never be retracted or dissolved.

I intend not to say one word against the Dignity of Marriage, but I do not think that the Solemnity of Words, of Place and Company, in which a Contract is made adds any Strength or Virtue to such Contract, or makes it more obliging. Let us now consider the present Contract in itself; I will grant everything that can be granted; I grant that by the Laws of God nothing can dissolve a Compleat Marriage but Adultery. And I grant that no Adultery is pretended in this case, but I deny that the Marriage is therefore indissoluble, it being not a compleat Marriage by the Laws of God because it was never consummated.

The End of this Holy Institution is the Pleasures of the Nuptial Bed; that is the Purpose of God in making them Male and Female; this is the only Way of their becoming One Flesh. And therefore till the End is answered, Marriage is not perfect and compleat.

It may be argued, in the Case before us, there is now no defect of Power, no Impotence or Inability to compleat the Marriage pretended, but want of will. I own it, and assert from this Position, that a Marriage not consummated is not indissoluble by the Laws of God; and that an utter Aversion to the Consummation of a Marriage, in both parties, is as good a Reason for a Divorce, as an Inability in one party, which never fails of procuring a Divorce. In the one Case the Parties are each of them untouched, pure and unsullied, even in thought, whilst in the other there must pass such things as I have not will to mention, and yet a Divorce follows of course. Had consummation followed the Marriage, any time within these fourteen years, there had been no Room for hope for Relief. But when the Persons are as pure from each other as they were when Born they might have had some Hopes of being delivered from the Chains, which the Laws of their country only have bound them with."

No speech in the House of Lords can have been delivered with the profound conviction and sympathetic understanding shown in this imaginary address by the lawyer Bible-student who was to die so soon. What was said by the supporters of the petition was, nevertheless, persuasive enough to move to vote in favour of acceptance twelve more lay peers than were induced by the arguments of the prelates to vote against it. It was, therefore, the Lords of the Church who carried the day, believing, no doubt, that in doing so they were acting according to inviolable Christian principles.

As sometimes happens when such principles are invoked in personal matters the consequences to the individuals concerned were harsh, *but*, by refusing to lift the yoke placed upon George and Mary in their youthful innocence, the bishops forged another link in the chain of events which would culminate in the foundation of Downing College. Members of that College therefore may perhaps be excused for thinking that the Bishops took their decision under Divine Guidance.

### CHAPTER THREE

#### THE OLD MAID

The failure of the petition cannot have surprised Mary's advisers, but Mary herself must have been grievously disappointed. Whether or not she fully understood the great step she was asking Parliament to take in divorcing a couple wedded in a valid ceremony because they did not want to live together she, nevertheless, would be convinced, with all the blind optimism of a woman who longs for something very badly, that she had sufficient friends in the House of Lords to ensure that she got what she wanted. She must have wept many bitter tears when she heard that those friends were insufficient by two.

"As for the unhappy Pair", the report in "Cases for Divorce" concluded "it remains only that they would make themselves as Early as Possible in a Separate marriage State, since they have been refused that relief which they so unanimously sought after".

They had, of course, been living separately all their married lives, but the lawyers told them that now that there was no doubt that they would remain married, but apart, until death it was essential that they should get the agreement about financial arrangements they had already entered into given the seal of approval by Parliament, because the right of dowry and of a husband's control of his wife's property could not be set aside by private agreement, but only by statute. Without such an Act, in the eyes of the law Mary would still be in effect her husband's chattel, whilst if George died before her his heir would have to surrender one third of the estate to the widow. It was to both their interests, therefore, to accept the lawyers' advice, and they joined in presenting another petition to the House of Lords.

For reasons unknown its preparation took longer than one would have expected with an agreement already in being, and it was not until January 1717 that it was laid before the House of Lords. It read "The humble Petition of Sir George Downing Bar<sup>t</sup> and Dame Mary, Eldest daughter of Sir William Forester,

Shewith

That in the year 1700, your Pet<sup>r</sup> S<sup>r</sup> George, at the Age of fifteen years, and your Pet<sup>r</sup> Dame Mary, at the age of Thirteen years, were married. But such mutual disgusts have arisen that your Pet<sup>rs</sup> have never Cohabited, nor the Marriage ever Consummated or Confirmed, neither is there any prospect of Reconciliation".

It then recited the terms of the agreement, and continued

"That in-regard your Pet<sup>r</sup> S<sup>r</sup> George, cannot be Discharged from any demands that may hereafter be made against him and his estate, in respect of your Pet<sup>r</sup> Dame Mary's future maintenance, or such debts as she shall contract, or your Pet<sup>r</sup> have such powers over her Seperate (sic) Estate, as is intended by the said Articles, your Pet<sup>rs</sup> do humbly apprehend it is necessary that the said Articles of Agreement shall be made effectual by Authority of Parliament, which will greatly contribute to the Advantage of your Pet<sup>rs</sup>. Your Petitioners therefore most humbly Pray, that your Lordships will be pleas'd to give Leave to bring a Bill for making the said Articles effectual."

Leave was given and on 31st January a committee composed of five bishops, three dukes, eleven earls, three viscounts and ten barons was set up to consider it. What an imposing array of the nobility to deal with a matter of no importance to anyone but the parties! Their "lordships or any five of them" were directed to meet at 10 a.m. on Friday, 15th February at Prince's Lodgings near the House of Peers and to "adjourn as they please." Common sense then intervened. It was realised that the proposed bill was "of such a special nature as no other persons are concerned therein other than the said Sir George and Dame Mary" that it was "not within the reason or meaning of the Standing Orders in relation to the Commitment of Private Bills" and the date of hearing was brought forward to 8th February.

On that day the Earl of Clarendon reported that the Committee had gone through the Bill and that the parties had given their consent. The Bill was therefore reported to the House without amendment. It was ordered to be engrossed. Presumably it then went through both Houses without comment, as it received the Royal Assent at the end of the Session and was printed as a Private Act (4 Geo 1.c.17). It recited the terms of the agreement of 27 February 1715, stated that the sums due had been paid, re-affirmed Mary's liberty to deal with her own property as an unmarried woman and recorded George Downing's undertaking not to take out



4. Lady Downing (nee Mary Forester), wife of the third baronet.



letters of administration in respect of her property in her life-time. It removed his liability for her debts and her right to any of his property if she survived him and provided that she should be able to use the name of Dame Mary Downing "without any addition", that is, without appending as was usual, the description "wife of Sir George Downing".

Were it not for the interest of her personal story the historian of Downing College need concern himself with Mary Forester no more. She had played her part in the pre-history of the College. She could influence the future only by bearing her husband an heir; after seventeen years of unconsummated marriage and two years of lawyers' discussions and Parliamentary proceedings that was the remotest of possibilities. So long as Sir George lived she was condemned to the existence of a married spinster, a wife without a husband; so long as she lived he could father only bastards.

It was probably about this time that Mary's face began to take on that sadder look which in the course of the next decade was to make her even more beautiful than she was in the heyday of her youthful frivolity. Her failure to shake off the marriage bond was only one cause of this. Another was that the glamour of a maid of honour's life was failing. She was no longer "the cynosure of all eyes". That position was now competed for by Mary Lepel and Mary Bellenden, who were ten years her junior. Mary Lepel was celebrated for her beauty and wit, and tempered her extraordinary vivacity with discretion and such good sense that the poet Alexander Pope derived great pleasure from walking with her for three hours one night in the moonlit garden of Hampton Court. Her friend and rival Mary Bellenden was also exquisitely beautiful and just as lively, but more hoydenish and more likely to follow Mary Forester's example in wearing man-like clothes.

Dame Mary Downing, as she now called herself, must have felt acutely the contrast between these exuberant and nubile girls and herself — they with an exciting present and a fruitful future as wife and mother, she with a barren past, an unhappy present and an old maid's prospects. She had grown too old to be a Maid of Honour. Maids of Honour left the Court when they got married, which was usually long before Mary's age, in 1717, of thirty. The appropriate post for a married woman was woman of the bedchamber, but that much-sought-after post could not be Mary Downing's because she was living in a single state. She knew therefore that the time would soon come when there would no longer be a place for her at Court. Meanwhile she continued to lead the kind of life described by Pope after he had dined with the Maids of Honour at Hampton Court. In the course of conversation, he wrote, "we all agreed that the life of a maid of honour was of all things the most miserable, and wished that every woman who envied it had a specimen of it. To eat Westphalia ham in the morning,

ride over hedges and ditches on borrowed hacks, come home in the heat of the day with a fever (and what was worse a hundred times) with a red mark on the forehead from an uneasy hat; all these may qualify them to make excellent wives for fox-hunters and bear abundance of ruddy-complexioned children. As soon as they can wipe off the sweat of the day they must simper an hour and catch cold in the Princess's apartment; from these (as Shakespeare has it) to dinner with what appetite they may, and after that, till midnight, work, walk or think, which they please. I can easily believe no lone house in Wales, with a mountain and a rockery, is more contemplative than this Court."

The visit of Pope shows that life with the Princess was by no means as "horsey" as appears from this sketch. Caroline's encouragement of writers and scientists must have given the Maids of Honour frequent opportunities of listening to, and joining in, discussions on many subjects, although not always at a very high level, as the Princess's conversation was sometimes unrefined and her wit decidedly broad. She was, nevertheless, a stickler for etiquette and she must have been very annoyed when slanders on a senior maid of honour began to drift about the Court. These arose from Dame Mary Downing's love for the young nobleman who may or may not have been Philip Wharton. She was indiscreet in spending more time in his company than was wise for a woman who already had a husband, and this inevitably set the gossips' tongues wagging. Moreover, if the man was indeed Philip Wharton they had more ground for scandalising, because he too was married.

There was little joy in Mary's romance; her passionate love could never be fulfilled in marriage and before long she saw her adored decline into dissipation. As Emma Leighton wrote, to see him "give way to the vice of drunkenness to drown his sorrows; this to a mind like hers must have been very dreadful".

In her last years at Court her heavy heart must have made it hard for her to participate cheerfully in the busy gaiety of the Princess of Wales's entourage, so that she probably welcomed the change resulting from George II's accession to the throne in 1727. Caroline, now Queen, transferred her household back from Richmond to St. James's and re-organised her retinue so that she would no longer require Mary's services. At the age of forty therefore, Dame Mary Downing retired to a house in Hampton with a pension of £200, which was 2/3rds of her salary. There she lived the quiet life of a maiden aunt, glad of visits from her sisters' children and very friendly with Mrs Marriott, the housekeeper at Hampton Court, who kept her informed of what was happening in the circles in which she had been a brilliant figure for over twenty years. Amongst the nieces who visited her was Mary Leighton who told Emma Leighton that she "well remembered having seen her Aunt Downing, whose beauty and very serious

cast of countenance made a strange impression on her young mind". A portrait at Old Hall, Willey, the home of the Foresters after they left Dothill, was probably painted about the time of which her god-daughter spoke. It depicts her simply dressed in a round-necked black frock and a white cap with streamers, such as a widow might have worn, but no wedding ring is displayed on her left hand. Her lovely features have the serenity of a still beautiful woman who had known unhappiness and has learned to live with it. The only other known portrait of her hangs in the Hall of Downing College. It was painted long before the other, probably in her early twenties when her face was untroubled and her clothes fashionable.

The serenity of her later life came from her religious devotion, which she expressed in the composition of prayers. She occupied herself with embroidery, her favourite pastime, and in looking after her household. She had rooms in London, which she sometimes visited, and she may have made occasional journeys to Dothill. Her father had died in 1718 but her eldest brother William had inherited the estate and succeeded his father as Member of Parliament for Wenlock, a constituency which the Foresters represented for nearly three centuries.

A middle-aged gentleman often called upon her. He liked to spend the day in her company, but she was never pleased to see him and was glad when he left, although her gentle nature would not allow her to give him a hint of this. It greatly embarrassed her that whereas she was completely indifferent to him, her visitor frequently declared that if he had been at liberty to choose she was the woman above all he would have asked to make his wife.

The devoted swain who thrust his unwanted company upon her was none other than her husband, Sir George Downing, who had once been so angry with her that he had declared he would have nothing to do with her; from whom she had vainly tried, with his co-operation, to obtain a divorce; and from whom her permanent separation was enshrined in an Act of Parliament.

It was an extraordinary change of heart — or perhaps not a change at all, but the revelation of an abiding love which he had chosen to conceal behind a facade of anger and obstinacy. We have no evidence on which to base a surmise.

Mary Downing had no affection for her husband. All her love had gone to another man. If that man was the Duke of Wharton he had died soon after her retirement to Hampton — a branded traitor wandering about Europe in an ever-worsening state of beggary, drunkenness and destitution. Despite the agony of heart her great love had caused her she could not find solace in an admirer, however earnest, for whom she felt only pity. We have no indication that Sir George ever asked his wife to live

with him. She was in constant dread that he would do so, and that she would have to hurt him by refusing.

She had only seven years of retirement, dying at the end of July 1734. Two months earlier she had made a will so she may have been ill for some time and aware that she had not long to live. It was the simple will of a simple and thoughtful person.

She did not want to be buried with all the usual pomp and ceremony but "with all privacy and as little expense as is consistent with decency, and that there be three coaches at most to attend at my funeral, and no Escutcheons."

She appointed her sister Diana her executor and left her £150 for her trouble. To her mother she left "my japanned chest which was Mrs Mainwaring's", to my neice (sic) and goddaughter Mary Leighton "my little small red stone ring and gold snuff box with her mother's picture on it", "to my cousin Francis Forester £30 in case he is not better provided for than he is at present", her clothes, £30 and "the common furniture of my bedchamber in London" to her servant, Sarah Gurdon, if still living with her, £18 to her gardener Thomas Ledger, and £5 to each of her other servants. So anxious was she not to cause other people trouble that she left "all the bells and fastenings attached to the chimneys of my house at Hampton to "whosoever is entitled to the house" to prevent the inconvenience of them being taken away.

There is no mention of her husband in the will; as a result of the Act of Parliament in 1717 he had no claim on her estate and could have no share in its disposal. Emma Leighton says that he gave all his wife's jewels to the nieces and handed over her papers to her family but she must be mistaken because that would be the function of Diana Leighton as executrix, to whom she left the remainder of her property.

She was buried in the vault of Hampton Church, as she wished. Her friend Mrs Marriott died in 1750; in her will she asked to be buried in the vault in Hampton Church "where my dear friend Lady Downing lies", but there is now nothing to show where that is.

Dothill Park, where Mary grew up with George Downing, was demolished in about 1960 to make room for a new school and playing fields, the Forester family having long since moved to Willey Hall.

The last person to own Dothill was a Mr Groom. He lived there at the end of the last century and averred he had seen the ghost of Mary Forester walking alone around the pond at even-tide.

The only part of Mary's birthplace which survives is an ancient stone set into the southern wall of the garden of the West Lodge, Downing College. It is inscribed with the letters "W.S." and the date 1628 enclosed in a diamond-shaped border with rosettes at the corners and the letter 'F' beneath each of the upper rosettes. In 1960 the late Canon G. F. Woods,

then Dean of Chapel at Downing and an enthusiastic researcher into the history of the Downings, visited Dothill Hall whilst it was being demolished, and noticed the stone in the brick gable at the rear of the house. The local authority very kindly allowed him to arrange for its transfer to the College.

The initials "W.S." are undoubtedly those of a member of the Steventon family who built the house and occupied it for many generations before it passed by marriage to the Foresters.

A modern school and its playing field can have no attraction for the ghost of that lively, gentle and good eighteenth century lady, Mary Forester. If she still wishes to walk of evenings she will be very welcome in the garden where the old stone will remind her of her childhood and from which she will see the elegant buildings and the spacious lawns of the College which owes its birth to her sterile marriage.

## CHAPTER FOUR

### THE GRASS WIDOWER

In the years between his coming into his inheritance and the financial settlement with his wife George Downing had much besides his matrimonial problems to occupy his mind. He was now the owner of large estates in three counties, the management of which must have made considerable demands on his time, however much he left to agents, bailiffs and other servants.

Most of his property was in Cambridgeshire around East Hatley, Tadlow, Croydon and Clopton and in the Bottisham area, a total of 6243 acres of arable and pasture land, 235 acres of woodland, 500 acres of furze and heath, 40 acres of marsh, 20 orchards, 95 gardens, 82 dwelling houses, two watermills and a brewhouse.

In adjoining Bedfordshire at Wrestlingworth and Cockayne Hatley he owned 870 acres of arable land and pasture, 17 orchards, 14 gardens, 6 houses and 3 dovecotes. Much farther away in West Suffolk at Cowlinge and farther still in East Suffolk at Dunwich Sir George owned 877 acres of agricultural and pasture land, 235 acres of woods, 500 acres of furze and heath, 50 acres of salt marsh, 5 orchards, 24 gardens, 14 cottages and a half-share in seven others. He was also entitled to fee farm rents from the Manors of a number of Cambridgeshire villages, including Bourn, Denny Abbey, Ditton, Girton, Histon, Horningsea and Water-beach, whilst the list of places where he had the right of common or pasture for "all and all manner of cattle, view of frankpledge and Courts Leet with the appurtenances thereof" included the Hatleys, Croydon, Tadlow, Gamlingay, Wrestlingworth, the Swaffhams, Bottisham, Reach, Stow-with-Quy and Little Wilbraham. Such a wide-flung empire required constant attention to prevent it from developing spots of decay. (A fee farm rent was a

composition payment of dues to the Crown. Capital was often raised by selling the right to one. A particularly interesting "farm" owned by Sir George was that of the town of Cambridge. His grandfather had acquired it in 1671 when it was held by Queen Catherine, wife of Charles II. It was then worth 105 marks or £70 annually, having been raised by four marks after the Peasants Rising in 1381. It has remained at £70 for six hundred years, except for a period in the nineteenth century when the Cambridge Corporation reckoned a mark to be worth 11/8 instead of 13/4d. Since 1800 it has been collected by the College.)

Sir George also had Parliamentary duties as one of the two members for Dunwich. We know nothing about how he performed them except that he was absent from the vote on the Tory Ministry's Bill of Commerce on June 18th 1713, in which connection he was described as "the well-known Hanoverian rebel". This description gives rise to the thought that perhaps his anger with his wife when she joined the Court of Queen Anne had a political element in that he objected to his wife serving a Stuart, notwithstanding that that Stuart was the loved sister of Mary of Orange, Lady Forester's friend.

Sir George kept his seat at the 1713 election but lost it in that which followed the death of the Queen. Whether his rejection by the pocket borough was for personal or for political reasons is not apparent. He maintained close connection with Dunwich, visiting it every summer with a large retinue of servants. His estate there was much smaller than that in Cambridgeshire but it included a large house called Grey Friars, where he lived in the same style as at Gamlingay Park. He was bailiff of the town in 1712. In 1718 he behaved in a manner which cannot have endeared him to the burgesses. The business of the port was declining rapidly and acres of good land were falling into the eroding sea, so that the burgesses had great difficulty in paying the £5 fee farm rent which Sir George had inherited. Sir George must have realised their difficulties but harshly sued them for arrears and when they continued to default had ten of them committed to Beccles gaol, others only escaping a like fate by absconding.

Notwithstanding this grasping conduct the electors returned him to Parliament in 1722. No doubt a great deal of pressure was exerted to procure this result. Soon afterwards Sir George made certain that his constituents would never be fickle again by buying a lease of the Borough from the Crown; this gave him control not only of his own seat but of the other one as well. It is interesting to note that the occupant of the latter in 1726-7 was his wife's brother-in-law, John Sambrooke.

A major subject for his thoughts whilst his relationship with his wife was still unsettled was the building of his new house at Gamlingay Park. The demolition of the family home at East Hatley, and the transfer of the material so obtained to the new site for use in the erection of a larger and

more splendid house was a long undertaking. It is regrettable that no records of it have survived, so that we do not know which architect was employed, nor how much it cost. He may have been inspired to build by the example of his cousin, the third Earl of Carlisle, with whom he was on good terms, who began Castle Howard in the North Riding about the same time. It is pretty certain, however, that the great Vanbrugh was not Downing's architect and Gamlingay Park was a much more modest house than Carlisle's magnificent mansion. Nevertheless, it was the sort of house of which many women would have been happy to be mistress, even at the cost of living with a husband they did not love.

By the time it was finished, however, Parliament had approved the terms for the separation of George and Mary and the former took up residence in solitary state.

The house was composed of a south-facing main block three storeys high and single storey east and west wings, all with pilasters rising to a cornice and crowned with urns. The cellars were extensive. It occupied an area 225 feet by 150 feet, including the gravelled courtyard, which surrounded a circular lawn. No doubt its owner's years of travel influenced the style of interior decoration and furnishings, but if pictures from Italy hung on the walls and Grecian vases stood on Louis XIV side-tables no known inventory commemorates them.

The gardens, on the other hand, have the immortality of a plan still in the College archives. It was drawn in 1801 long after they had disappeared but by surveyors who knew them well, so there is no reason to believe the plan is inaccurate. Terraces on the north side of the house sloped to a stream which fed a tripozoid lake one-sixteenth of a square mile in area, four feet deep and fringed with apple trees. The extensive grounds were very well-wooded, contained scores of small ponds and were traversed by many paths, each with a piece of statuary at the end of the vista. There were figures of a Roman gladiator, of Diana, of Mercury, and of Fame "on a pedestal". There were also two pyramids, an urn, an obelisk and a Gothic gate. The grandest piece was at the northernmost point, on the Everton Road, where, early in the development of the Park, Sir George built an arched gateway, twenty-five feet high, in red brick. It was known as the Full Moon Gate, and a similar but smaller one not far from it was called the Half Moon Gate.

The broken outline of two of the lofty arches of the Full Moon gate was visible until a few years ago, but "Time's devouring hand", aided by the depredations of local inhabitants needing rubble for road-making, have almost completed the destruction and there remains only a wall of red and white bricks outlining a segment of the circle which gave the gate its name.

Mazes, symbolic of "the winding ways of life" have always appealed



to romantics, and it is perhaps an indication that George Downing was more imaginative than appears from other aspects of his life that he had a splendid labyrinth constructed at Gamlingay. It was enclosed in a brick wall ten feet high, and the ten foot wide paths were flanked by hornbeam hedges of the same height. Those who ventured into it would find it mysterious and rather frightening as they followed the meandering paths to a stone bench or creeper covered arbour in the remote centre. It was a maze to rival that at Hampton Court, but whereas the girlish laughter of Sir George Downing's wife when she was a young Maid of Honour must have sometimes sounded along the tortuous alleys at Hampton, those at Gamlingay would never hear her voice.

Her husband accepted this as inevitable and as soon as the private bill had received the Royal assent he called in his lawyers to advise him on making a will on the basis that he would never have a legitimate son. It is surprising that he gave up hope so early. He was only thirty-two and at that age death seems to most men a remote contingency, hardly worth planning for; there was always the possibility that his wife would die before he did so that he would be able to marry again and have children. He had been so hesitant and dilatory about taking action in respect of his empty marriage that one would have expected him to keep on postponing making a will; instead he acted so promptly that it was signed on 20th December, 1717.

His closest living relatives were his uncle Charles Downing and Charles's son Jacob Garrard Downing, who was named after his mother's father, the son and heir of Sir Thomas Garrard, Baronet, of Langford. In 1717 Charles was 49 and Jacob an infant. George no doubt thought that his cousin was likely to outlive his uncle, so he made the child his immediate heir. To him he left all his estates in Bedfordshire, Cambridgeshire and Suffolk. If Jacob died before he could inherit, the next heir was to be Thomas Barnardiston, the son of George's aunt Mary, who was the fourth daughter of the first Sir George. Should death also strike him down before the testator, the estates were to go in turn to two cousins, several times removed, Charles and John Peters, who were the grandsons of the first Sir George's youngest sister Martha. The Peters's father had been a reserve inheritor under the will of the second Sir George. Both the Peters were at Oxford in 1717 and like Thomas Barnardiston so young that the likelihood of all four named heirs dying without legitimate children before Sir George was so remote that any further provision must have seemed carrying caution unnecessarily far. However, the romantic side of George's character now manifested itself. He was undoubtedly very proud of his family name and of the estates his grandfather had accumulated; he wanted both to remain associated for ever. His father had made the father of the two Peters a contingent heir with the condition that if he inherited he was to

change his name to Downing. The third Sir George followed this example and directed that anyone not bearing the name of Downing could not inherit without assuming that name. This ensured the perpetuation of the Downing name if one of the testator's cousins inherited, unless they were so extraordinary that they would not change. Supposing, however, that all of them, most improbably, died childless before Sir George himself. How could he ensure that the estates and the name nevertheless survived together? Whether George thought of the answer or had it suggested to him we do not know. It was to found a college to be called Downing. The five trustees under the will — George's cousins the fifth Earl of Salisbury and the third Earl of Carlisle, his neighbours John Pedley of Tetworth Hall and Thomas Pullyn of St. Neots and Nicholas Lechmere the Solicitor General -- to whom the property was to revert after the death of each heir to ensure orderly transfer from one to another, were directed, if no heir survived him, "as soon as might be" "by with and out of the rents, issues and profits of the premises, buy and purchase the inheritance and fee simple of some piece of land, lying and being within the town of Cambridge, proper and convenient for the erecting and building of a college; and thereon should erect and build all such houses, edifices and buildings as should be fit and requisite for that purpose, which college shall be called "Downing's College" and "a royal charter should be sued for and obtained for the founding such college and incorporating a body collegiate of that name, in and within the University of Cambridge".

In arranging thus for the foundation in certain circumstances of a Cambridge college Sir George Downing was certainly not activated by a wish to introduce new educational practices, or to point the way for the reform of the Cambridge system, or even by a desire to foster a particular branch of learning or to encourage the widening of the fields of knowledge. There is nothing anywhere, apart from the contingent bequest, to hint that he had the faintest shadow of an original idea about education or the least interest in the purpose and function of a University. As far as we know his only connection with any university was that of having Oxford and Cambridge men amongst his relatives and friends.

His sole aim was to perpetuate the name of Downing. He would have preferred, naturally, to have done this through his own son and his son's sons, but as this was impossible he would have to be content with transmission of name and property through descendants of the first Sir George. If the worst came and only a Cambridge college could ensure the fulfilment of his wishes he did not mind much what sort of college it was. He reasonably believed that the contingency he had provided for was most unlikely to arise and if it did it would be so far into the future that any persons he named to carry his plan into effect might be dead. No doubt he reflected that the occupant of a public office is mortal but the office

itself may never die. Therefore he first of all directed that the duties of the Trustees should descend upon the shoulders of their heirs and, secondly, he appointed as advisers to the Trustees and their successors the holders for the time being of the Masterships of Clare Hall and St. John's College and of the Archbishoprics of Canterbury and York.

The reason for his choice of the academics is obvious. His father had been a Fellow-Commoner of Clare Hall in 1668/9 and had shown loyalty to it. In 1669 he had given £200 for new buildings and in 1688 he named the Master of Clare Hall as a Trustee under his will. There was therefore a connection between the Downings and Clare, as there was with St. John's, where uncle Charles had been a Fellow Commoner in 1683.

In the absence of any views of his own about the nature of a new college, the testator was wise to entrust the duty of advising his trustees on its structure and functions to the Masters of the two Cambridge colleges he knew best. His reason for placing the same duty on the Archbishops is much harder to deduce. He built himself a handsome pew in Gamlingay Church but there is no reason to suppose that his interest in religion was more than that of the average conforming country gentleman of the time. He may or may not have been a lukewarm Christian, but he was undoubtedly an ardent supporter of the Protestant succession, so perhaps he gave the Primates of the Church of England control over his foundation because it seemed the surest way of preventing it from falling under Popish domination.

The will having been signed and witnessed Sir George seems to have thought no more about it. The death of his Trustees one by one must have brought it to mind, but he seems to have relied on their duties passing under the will to their heirs and did nothing to replace them or to ascertain if the heirs were willing to act.

He appears to have given thought to what would happen to his wealth after his death on only two further occasions. One was in 1727 when he added a codicil in favour of a woman named Mary Townsend and her daughter Elizabeth. Mary was probably the child of that name who was born to John and Elizabeth Townsend at East Hatley on 3rd March 1694. Her parents presumably worked on the Downing estate and it would be in the natural course of events that she also went into the service of the Downings when she reached working age. She began as a kitchen maid so that her first employment was at the old house at East Hatley in the second Sir George's time. When the Manor House of the Castells was pulled down she was transferred to the new house at Gamlingay. As she was then about eighteen or nineteen she may have been promoted from her lowly position to that of cook or housemaid. She must have been a young woman of some capacity as she eventually became Sir George's housekeeper, a vitally important post in the big establishment her employer kept up at Gamlingay

Park. She must also have had considerable feminine charm — enough of it, at any rate, to make her sexually attractive to a husband unable to exercise his marital rights. George Downing left posterity hardly any clues to the nature of his sexual life. It may be that he told the truth when he assured his wife that during his first travels abroad he had no thought for any woman but her; it is possible that he was unlike other young men on the Grand Tour in not having any amorous experiences even after his declaration that he would not consummate the marriage; on the other hand, he may have been as ready to get into bed with any woman at any time as that fictional hero of his age, Tom Jones. All we know is that some three years after Parliament had put the seal on his separation from his wife George Downing began an intimate association with this young member of his domestic staff. Perhaps that association was between a lonely man hungry for sexual gratification and an accommodating woman exploiting his lust to her own advantage; perhaps despite their differing status, they were in love; perhaps it was merely that daily contact created mutual liking and affection. Whichever it was, the result was the same. In May 1722 Mary Townsend bore Sir George a daughter, who was christened Elizabeth. No one in that era can have been very surprised or shocked by the event; it was as normal for a country gentleman to father bastards on local wenches as that he should hunt the fox. The continued presence of Mary in the house after the birth, however, must have given her much more influence over her baby's father than was usual in such relationships, and no doubt it made it easy for her to reach the exalted position which she retained until Sir George's death. She may have been an excellent manager, everything that a man wants his housekeeper to be, as well as a loving companion, but subsequent events showed that she had a peasant's astuteness in looking after the interests of herself and her child. It is pretty certain therefore, that it was on her insistence that the usually procrastinating baronet executed a codicil to the will he had signed ten years earlier. Dated 23rd March 1727 it bequeathed an annuity of £250 for life to Mary Townsend and one of £500 to her daughter Elizabeth.

It was probably about this time that Sir George began to press his company on his wife, who was just beginning retirement at Hampton. It was not likely that he himself told her that he had found consolation in the arms of a domestic servant, who had made him a father, but she must have known about it; gossip of that kind soon reaches the ears of those it will hurt the most. It must have increased her dislike of his visits.

Gamlingay, his principal residence, and Dunwich, where he spent his summers, were too far away for casual visits to Hampton. They must have been made when he was staying in London during Parliamentary sessions. His metropolitan residence may have been in Downing Street.

There is no indication that he was very assiduous in his Parliamentary

duties, but he staunchly gave Sir Robert Walpole all the support he required. In return, Sir Robert recommended him for appointment as a Knight Commander of the Bath. He was admitted to the order in King Henry VII's Chapel in Westminster Abbey on 30th June 1732, together with the Marquis of Carnarvon, Lord Bateman and Sir Charles Gunter Nichols, none of whom seems to have done anything more than Sir George had done to deserve the honour. Maybe it was a reward for "political services", maybe it was a corrupt purchase; in either case it was a costly matter for the recipients as the installation fees were nearly £600, and afterwards there was a grand entertainment in the Court of Requests, for which, no doubt, the new K.C.B.s paid. But the romantic streak in Sir George must have made him think the expense well worth while, as he marched in the procession with the Duke of Cumberland in his robes, watched by the Prince and Princess of Wales, Princess Amelia and other notables.

If Sir George's visits to Hampton arose from a deep although, perhaps, very belated devotion to his wife, her death in 1734 must have been a grievous blow. It may be that in her pious and gentle company he found a quiet happiness which he did not feel when he was with his lowly-born mistress and her child. The deterioration in his character which became marked in his later years probably began when he could no longer assuage his lonely unhappiness by going to Hampton.

Three years later he suffered another loss, of more practical consequence. John Shipston, the attorney who had been the steward of his estates, possibly since he inherited them, died at East Hatley in September 1737. In the following year Sir George's servant William Andrews died, and in June 1739 he lost his great friend Gregory Whale of Little Shelford. His other close friend, John Pedley of Tetworth had died some years before. Then in 1741 his patron Walpole gave up the political fight and retired to the House of Lords. Sir George was therefore becoming more and more a man on his own and in consequence seems to have withdrawn increasingly into himself.

As the incident of the hard-up burgesses of Dunwich in 1718 had shown George Downing had a mean and miserly trait. It was inherited. His great grandmother Lucy Winthrop was a very thrifty woman who hated the sight of money extravagantly used; she was, for instance, very critical of one of her step-daughters who was "prodigal of her father's purse". She did not like it, however, when she suffered from the illiberality of her own son, the first Sir George, and complained about the "meagre starvation pittance" he allowed her whilst she lived, after her husband's death, at East Hatley, at a time when he was expanding his estates and amassing wealth at a great rate. Her son also suffered criticism for his meanness in entertaining his work people at Christmas. He provided a bill of fare which fell far short of what was expected of a prosperous

landowner in Charles II's time but which would probably strike modern employees as very lavish, if somewhat unbalanced; it consisted of "first, beef, then porridge, then pudding, and then, last of all, pork".

When Sir George Downing, third baronet, had his will drawn up in 1717, no generous motives animated him. In his concern to assure the perpetuation of his name and the integrity of his estate he forgot to make even a token gesture of the kind expected of anyone in his position in respect of provision for the poor and needy, or for those in his service. Ten years later he put this right by including in the codicil a bequest of £100 to be paid within two months of his death to the poor of Gamlingay, Hatley, Ludlow (a clerical error for Tadlow) and Clapton. This was a very miserly benefaction from a landed gentleman who, as subsequently appeared, had plenty of ready cash in hand. His legacy to his servants was also less generous than was customary, to the extent that he treated them all alike, however short or long their period of service, giving them a year's wages and mourning, which must have seemed to those who had worked for him for many years ungratefully indiscriminating.

Only one item, other than the provision for Mary and Elizabeth, did him credit. He showed that he was a man of his word and a reliable friend when he wrote in the codicil "I promised Mrs Pedley some Books which I never gave her. I therefore give her one hundred pounds to be paid within two months of my decease." As it happened it would have been far better if he had given his friend's wife the books, since it would be twenty-two years before the bequest could be paid, by which time the good lady was probably dead.

The saddest and gravest aspect of Sir George's decline was its effect on the estate of which he appeared to be so proud. Depressed by the death of his wife and of his best friends, and deprived of the advice, practical management and impulsion of Mr Shipston, he lost all interest in carrying out the duties of a landlord and took no steps at all to keep the property in good repair. The older he became, the more loth he was to spend money, however great the need. The result was that houses became uninhabitable and farm buildings unusable. No tenants would take on such farms, or stay in them if they were already there, and so many fields became uncultivated that the Rev. William Cole, who had rooms in King's College, Cambridge from 1736 to 1753 and so was at a good place to hear the county gossip, recorded that Downing had about £1500 a year of unoccupied tenancies on his west Cambridgeshire estate.

It is possible that Sir George's reluctance to spend money on his estates arose in some degree from a desire to look after his mistress and his daughter, to whom he gave the cash he should have used to pay for repairs. At any rate from time to time he gave Mary Townsend sums of money to put away for the use of Elizabeth, and by 16 January 1740 these had

mounted to such a considerable sum that, probably at the canny country woman's suggestion, he gave her a document which stated "This is to satisfy my executors, and all others, that what Mrs Townsend, my house-keeper has, that was mine, I gave for the use of her daughter, beside what I have given her by the codicil to my will."

This was the second, and last, occasion after making his will that he appears to have given further thought to it. Even allowing for Mrs Townsend's influence on this weak and lonely man, one must assume that the making of the gifts and the writing of the document arose from love for his daughter and consciousness that the annuity he had bequeathed to her was a very modest one.

Sir George's pattern of life does not seem to have changed as the years passed. He stayed in London when Parliament was in session, spent part of each summer at Grey Friars, and sat occasionally in session with the Cambridgeshire justices, but there is only one record that he ever did anything positive anywhere. That record is in the Reverend William Cole's diary, from which it appears that if Sir George had lost all interest in the practical utilisation of land he had a romantic's delight in its aesthetic qualities. He enjoyed wide vistas and decided to give himself the best he could have in the district by building a tower at Tadlow from the top of which he would have an extensive view of the fields and meadows, the little woods and the gentle undulations of his own estate, and beyond it towards Cambridge in one direction, towards Royston in another, and eastward to the Fens.

It was in 1744 whilst he was watching this tower being built, that a "villainous fellow", as Cole calls him, hit Sir George on the head with a hammer and fired several shots at him. The assailant was arrested, taken to Cambridge Castle and committed to the Assizes. He admitted the attack and said he saw no harm in killing a person "who paid nobody and was so ill a landlord and paymaster with so great an estate." It is understandable that a poor man should be maddened by the spectacle of money being spent on a useless tower for gratification of the landlord's private pleasure when none was forthcoming for repairing the estate's decaying houses and decrepit barns. Nevertheless, such attacks could not be tolerated and, as Cole said, the perpetrator was likely to languish in gaol for a long while.

His victim lived for another five years but did not make use of the tower, which until a few years ago survived as part of Tower Farm. He was not an old man, but the battering he had received may have had an adverse effect upon his health, which had been poor for some time. He suffered badly from gout, the scourge of the ruling classes in the eighteenth century. It used to be attributed to their addiction to port; now it is believed to have other causes, as even total abstainers from alcoholic

liquids can suffer from it. Whether Sir George drank as much as most of his contemporaries, or less, or more, we do not know, but whatever the cause of the disease from which he suffered his medical advisers and friends believed that it was gout from which he died at ten o'clock in the evening of the ninth of July 1749.

If, as he lay on his deathbed he gave any thought to the future of his estates his mind can hardly have wandered as far as the foundation of a college bearing his name; the four barriers he had set up in 1717 against this happening still stood. The first, and most substantial one, was his cousin Jacob. An infant when the will was made Jacob was now in his early thirties, not yet married, but as likely as any man to acquire a wife and breed an heir. He was on good terms with his cousin, who had nominated him for the other Parliamentary seat at Dunwich in 1741, and had sat with him in the House of Commons for six years, but in 1747 Sir George did not put him up for election, perhaps because he had shown unusual independence in voting against the Government in two important divisions in December 1743 and January 1744 and absenting himself from another in April 1746.

If the unlikely happened and Jacob died without issue Thomas Barnardiston provided a second, but less substantial, barrier to the foundation of a college – less substantial because he too was unmarried and in the ordinary course of events, being much older, was less likely to change his status and produce a family. He was a successful barrister who had achieved the rank of Sergeant-at-Law, and was well known as a legal reporter. His reports of cases were highly thought of by such great lawyers as Lord Eldon, but distrusted by others equally great, like Lord Mansfield, who forbade them to be cited in his court. It was said that Barnardiston often “stumbled upon what was right, but no case was so throughout”. His weakness was that he sometimes slumbered over his notebook, when wags sitting behind him were alleged to lean over it and scribble nonsense into it which he never noticed and never removed. He was recorder of Dunwich in 1718.

The other cousins named in the will were also still alive. The next in line after Barnardiston was Charles Peters. He would have brought most lustre to the name of Downing if he had adopted it in order to inherit. He matriculated at Christchurch in 1710 at the age of 15, then moved to University College. He was Radcliffe Travelling Fellow in 1725, became a doctor of medicine in 1732 and a Fellow of the Royal College of Physicians in 1739. He was physician at St. George's Hospital London from 1735 to 1746 and became physician extraordinary to the King. Like Barnardiston he was unmarried and getting rather old to produce an heir. His brother John was three years older, although named last in the will. He too had been at Christchurch. He went into the Church and in 1739 was Rector of



St. Clement Dane, Old Romney. As he had no son, if the estates came to him the Foundation of Downing's College would be only a few years ahead. Perhaps, after all, the tortured man dying in the great house at Gamlingay did penetrate as far as this into the future and with the clarity of thought which sometimes comes with impending dissolution departed this life believing that there was a strong possibility that his name would eventually be commemorated by a new Cambridge college.

Famous Kings and pious Queens, prominent divines and successful men of affairs have founded Cambridge colleges. If they had not done so they would still have at least a small place in history. But not George Downing. If his grandfather's wealth had not established a college his memory would have faded almost as the breath left his body; he would have disappeared amongst the millions of human beings of whom

"No one asks who or what they have been,  
More than he asks what waves,  
In the moonlight solitudes vast,  
Of the midmost Ocean, have swelled,  
Foamed for a moment and gone."

It would be wrong, perhaps, to try to assess the character of a man, born nearly three centuries ago, who not only left no letters, diaries or other personal documents from which something of his thoughts and attitudes might be discovered, but who made so little impression on his contemporaries that there is hardly a mention of him in the writings of the time. If, as seems probable, he was a sad and ineffectual man, perhaps in part as a result of his unhappy early childhood, all who love Downing must nevertheless remember him with gratitude and admiration for enriching so many lives by his benefaction.

## CHAPTER 5

### THE LAST OF THE LINE

Sir George's loneliness in his last years is shown by the absence from his bedside during his fatal illness of any near relative or close friend. Only Mrs Townsend and her daughter were there to watch his life ebb away. We do not know how strong his paternal feelings towards Elizabeth were, — they were certainly not so strong that he wished to treat her as generously as if she were his legitimate heir — but we do know that any affection he had for her mother was tempered, at any rate towards the end, by suspicions as to her honesty — so much so, indeed, that he used to insist on her opening her hands to him whenever she had been to his *escritoire*. He would probably have placed the conduct of affairs immediately after his death in the hands of his steward, if any one worthy of the trust had succeeded Mr Shipston, but no one had. Sir George therefore told Mary Townsend to look after the will, and directed that it should be opened in the presence of two witnesses, presumably to ensure that it was not tampered with before its contents were known by Sir Jacob.

She may not have realised how ill her employer was, as she sent no message to Sir Jacob until Sir George was in his last delirium. Sir Jacob was in London. He did not go to Gamlingay at once, but sent his steward, Mr Wingfield.

Meanwhile Mary Townsend went round the house, opening drawers and cupboards, and gathered up all the money she could find. There was a large parcel of banknotes, including six for £500 each which had been in her possession before Sir George gave her the testamentary document in December, 1740, and £14000 in sovereigns and other coin. When she told her daughter how much it was Elizabeth suggested that she should admit

to holding only £10,000, as that would be an acceptable sum to be covered by the document, but should keep quiet about the rest, which she could have for herself; £4000 and the notes would help to make up for the miserly annuity of £250 Sir George had left her.

The temptation to act on this suggestion was too great for Mrs Townsend. She gave £4000 to her brother William to bury in the garden and then awaited Mr Wingfield's arrival. When he came she handed him the will and the testamentary document and told him she held £10,000 in trust for her daughter, which she had hidden. She may also have mentioned the notes, but witnesses disagree about this. She also told him about the testator's wish for two witnesses to the opening of the will and he called in Mr Astell and another neighbour and opened the will in their presence. When Sir Jacob arrived shortly afterwards and heard what had happened he had such confidence in Mary Townsend that he did not question her at all. Neither did he seal anything up. He told her to retrieve the money she had hidden and show it to Mr Wingfield. She produced exactly £10,000.

Sir George was not buried until three weeks after his death. On June 29th his body was taken to Croydon Church and buried in the vault which already held the bodies of his grandfather and grandmother, his father, his baby brother James and his uncle William. Later it received two other members of the family but there was no memorial in the church to any of them until 1961 when a plaque was placed there by the Master and Fellows of Downing College, the cost being defrayed from a bequest by a former Fellow, Tutor, Librarian and Keeper of the Records, William Lindsell Cuttle.

It reads

"In a vault beneath the chancel are buried with other members of the Downing family Sir George Downing 1st baronet who died in 1684 and Sir George Downing 3rd baronet founder of Downing College Cambridge who died in 1749".

The man who succeeded to Sir George's baronetcy and estates was already a wealthy man in his own right. His father, Charles, the second son of the first baronet, had followed his father's example in acquiring substantial sums from public offices. He had been Controller of the Customs at Salem, New England, and then Inward and Outward Controller in the Port of London. When he died in April 1740 the Gentleman's Magazine described him as "vastly rich".

One of Sir Jacob's first actions after Sir George's death was to get himself elected to the vacant seat at Dunwich. In this he moved so quickly that he was Dunwich's new member eight days before the old one was buried.

In the following year he took a step which had great and abiding influence on the fortunes of Downing College. On May 17th 1750 he

married Margaret Price, the daughter of a Trinity, Cambridge, graduate who was Curate of Barrington, Somerset. According to Cole he did so on the assurance that she would bring him issue. Perhaps it was not her fault, but his, that this assurance was vain. Apart from the failure to give him an heir Margaret Price made him an excellent wife. A strong character, she managed him and his affairs to their mutual advantage, even having the forethought at the very outset of her marriage to reserve to herself the right to dispose by her will of any property he left to her by his. Sir Jacob appears to have been devoted to her.

Some months before this wedding another had taken place in the Downing family. Sir George's daughter Elizabeth married John Bagnall and took her husband to live in number 10 Downing Street, an address much less famous then than now. Bagnall does not seem to have been of any standing in Cambridgeshire and it is most unlikely that he was a wealthy man, so he must have been very pleased with the marriage settlement, for which Sir Jacob became a trustee. It assured Elizabeth of an income of £500 a year from her father's annuity and the dividends from an investment of £10,000 in the South Sea Company, that capital being the money belonging to Sir George in the hands of her mother.

Some time after the marriage Sir Jacob learnt from some unknown source that Mrs Townsend had had more money and notes in her possession at the time of Sir George's death than she had admitted. Mr Wingfield was told to make enquiries and secured a confession from Mrs Townsend that she had kept quiet about the £4000 because she had little to live on beside her annuity of £250 and had to take expensive lodgings. Sir Jacob was still not satisfied that she had told the whole truth and instituted proceedings to ascertain the exact value of the coins and notes she had retained and to recover anything not protected by the testamentary papers. These proceedings took some time and raised interesting points which had no relevance to the history of Downing College. When the final judgment was pronounced Mary Townsend was dead. She died in March 1765. The erstwhile kitchen maid, the one-time "greasy Joan who keels the pots", was probably the only woman who gave the Founder of Downing College bodily pleasure, as well as affection and respect.

As she had died, judgment was given against her heirs, the Bagnalls. It left them with the £10,000 and any bank notes which bore a date earlier than January 16th 1740, but required them to deliver up £4000, plus interest thereon, and any notes the Master in Chancery found to bear a later date than that of the testamentary paper. They were also ordered to pay the plaintiff's costs, so that the cupidity of Elizabeth and her mother cost the Bagnalls dear.

The fourth baronet seems to have ordered his life on much the same lines as his predecessor. He spent the major part of the year at Gamlingay,

stayed at Grey Friars in Dunwich in the summer months and attended Parliament when his leaders told him to. In the management of the estates he had a capable wife to consult and a competent steward to carry out his instructions.

As Margaret Downing told the Court of Chancery in 1768, confirming what the Rev. William Cole had written in 1744, "at the death of Sir George a great part of his estate was untenanted and lay waste and uncultivated, and the Buildings thereof were suffered to run down and decay", so that Sir Jacob and his steward had a long task to put things in order. One of their first actions was to give instructions for detailed plans of the West Cambridgeshire estate to be made. This task was carried out by Joseph Cole and completed in 1751. The large well-bound book he presented to Sir Jacob is still in the College muniment room. Each parchment leaf contains a beautifully executed plan of the fields and woods belonging to the farms whose name appears in bright decorative lettering at the top of the page, and a sketch of the front elevation of the farmhouse. Today the plans are more valuable as a work of art than for the information they give, and even in 1751 Sir Jacob must have been pleased to possess such a handsome record of the West Cambridgeshire part of his inheritance. If he had similar plans drawn up for his other estates, in East Cambridgeshire and Suffolk, as one would suppose, they have disappeared.

Slowly the estate was rehabilitated, old buildings were repaired, new ones built, open land enclosed, at a cost of about £30,000. As the years of marriage lengthened with no sign that his wife would ever bear him an heir, Sir Jacob came to grudge spending money on property which he held as trustee for the next heir. He therefore tried to mitigate the cost of renovation by putting many barns and other new buildings on to pattens or rollers so that after his death they were not technically attached to the realty and could be wheeled off the entailed land and used for some other purpose or sold by his wife, with whom the idea may have originated.

In Parliament Sir Jacob closely associated himself with the Duke of Newcastle's party and especially with Lord Hardwicke, who lived a few miles from Gamlingay at Wimpole in Cambridgeshire.

Soon after he succeeded his cousin as member of Parliament for Dunwich Sir Jacob let it be known that he would not allow anyone he did not approve of to represent the Boro' and entered into an agreement with a prominent citizen named Chapman under which the latter agreed always to vote for Sir Jacob's nominee, and to serve Sir Jacob in other ways, in return for which Sir Jacob undertook not to demand payment of monies owed by Chapman to him, amounting in 1754 to £13391.1.3. It is not surprising that many years later, when Lady Downing sued for payment of the debt this corrupt arrangement was declared illegal and unenforceable.

No doubt it had helped Sir Jacob to return Soames Jenyns of Bottisham

as his fellow member in 1754, which pleased the Duke of Newcastle so much that he promised to obtain a peerage for him.

Nothing happened, however, and in November 1755 Sir Jacob wrote to Newcastle to express his uneasiness on finding that he was not included amongst a bunch of new peers. "I cannot tax myself with any action in my whole life" he wrote "that has not been with the warmest and most sincere attachment to the present happy establishment and ministry and will not suffer myself to think I am laid aside, as I have had so many assurances of your Grace's intention to serve me". He added "I have never asked any place, pension or employment and have been very little troublesome to any part of the administration".

He was anxious for the opportunity to replace Newcastle's supporter Soames Jenyns by someone "with as little reason as myself to be satisfied with the Duke of Newcastle". That opportunity came in 1758 but he did not find a suitable member until 1761 when one of the most disliked men in England, Henry Fox, was returned. Sir Jacob was out of Parliament himself from 1761 to April 1763, probably because he was ill, as Fox said in June 1762 that Downing was very infirm. When the seat became vacant again, however, on Fox's elevation to the peerage, Sir Jacob returned himself. It was the last effort of a dying man; on February 6th 1764 in his town house in Hill St Berkeley Square, the last Downing baronet departed this life. Fifteen days later his body was deposited in the family vault under Croydon Church. He was still under 50.

In an undistinguished way the last of the Downing baronets seems to have been a better man than his cousin, the third Sir George. He was certainly a much better landlord than the latter was in his later years. He took a pride in the estates and did his best, as far as he thought it reasonable to do so as a trustee who could legally have no influence on the future of the property after his death. As a member of Parliament he was conscientious and enjoyed the friendship of leading politicians. As a husband he was undoubtedly loyal and devoted, and extended the affection he had for his wife to her nephew and nieces. To Sir George's mistress and illegitimate daughter he behaved honourably, treating the former with respect and trust until her lack of integrity was exposed, and ensuring that Elizabeth regularly received the annuity under her father's will by himself becoming a trustee for its payment and directing that it was to continue after his death.

The one smirch on his character which we know of is the flagrant act of political corruption in respect of Chapman of Dunwich which he perpetrated soon after he came into the inheritance, but that seems much blacker to posterity than it appeared to many of his contemporaries, for whom bribery was an essential and venial ingredient of politics.

So also was the toadyism which is apparent in Sir Jacob's letters to

the Duke of Newcastle about a peerage; patronage and sycophancy were the oils which kept the political machine functioning smoothly. In fact, the eagerness of the last of his line to go to the House of Lords was probably more an expression of his wife's wishes than of his own.<sup>vn</sup>

In the story of Downing College Sir Jacob could therefore be treated as a worthy but unimportant personage if he had not made, from the point of view of the College, one grievous mistake — the mistake of marrying Margaret Price.

As time passed after the death of the third Sir George speculation at Cambridge High Tables about the possibility that the University would get a new college must have become increasingly hopeful. One by one the obstacles to Sir George's money becoming available for the foundation of Downing College disappeared. The exact date when the two Peters died is not known but both had been removed from the earthly scene before Sir Jacob's marriage. This left only Thomas Barnardiston to inherit if Sir Jacob died childless. He survived until 1762, producing several volumes of legal reports but no legitimate offspring. When he died Sir Jacob had been married unfruitfully for twelve years and the likelihood of his fathering an infant on his middle-aged wife was so remote that the advent of Downing College after his death seemed an absolute certainty. As he was known to be ailing his end might be so near that it was not unreasonable to start making tentative plans about the site and form of the new college, and there appears to have been some action in this respect before Sir Jacob's death.

When this took place all the estates owned by Sir George Downing when he made his will in 1717 should have immediately re-vested in the trustees he named, or in their heirs, so that they could perform the duty he laid upon them of buying out of the income of the estates a piece of ground in Cambridge suitable for a college and for erecting requisite buildings thereon. A Royal Charter would then have to be obtained, presumably by the trustees, and when the College had been founded and incorporated the trustees "and their heirs shall stand and be seized of all and singular the said manors, lands, tenements and hereditaments in trust for the said collegiate body and their successors for ever."

In short, Sir George's intention was that the Earls of Carlisle and Salisbury, Sir Nicholas Lechmere and Messrs Pedley and Pullynn, and their heirs after them, should bring Downing College into existence, and retain perpetual control over its finances.

The death of all the named trustees during the lifetime of the testator need not have frustrated this intention because the duty placed on them was specifically passed by the will to their heirs. The peers had sons who inherited their titles and the laymen must also have had descendants or other relatives who became their heirs-at-law, but Sir George took no steps

himself as his trustees died to make sure that their successors knew about their responsibilities and were willing to undertake them. Because of this neglect it seems to have been generally accepted that the devise to the trustees lapsed.

As there were no trustees upon whom did their functions fall? If a person died intestate his personal property goes to the relative or relatives closest to him in consanguinity and land to the heir-at-law. The closest surviving blood relatives of both Sir George and Sir Jacob were two grand-daughters and four great grand-daughters of the first Sir George Downing. The grand-daughters were the married sisters of Thomas Barnardiston — Elizabeth, the wife of the Rev. Dr Ewer, later Bishop of Bangor, and Sarah, who was married to a gentleman named Goate. The great grand-daughters were descended from the first Sir George's daughter Frances, who had married into the Cotton family, through her daughter, their mother, Mrs Hanbury. They were all married — Frances to Francis Barrel, Mary to Dr Martin Annesley, Catherine to a Cornwall, and Elizabeth to William Neale.

These were the ladies to whom the duties of Sir George's trustees passed. They must have been very disturbed that they had been burdened with the responsibility of founding a Cambridge college with income from estates they were required to manage but from which they themselves could derive no benefit.

It quickly became apparent, however, that they might escape these responsibilities. Margaret Downing was not prepared to release the estates, without which they could do nothing. Sir Jacob had shown his love for her by leaving to her everything he possessed, including that which he had no right to leave her, the property he had inherited from his cousin George.

When he made his will on 13th August 1763 he knew that he was the last of the line, the other three devisees being dead, and acted as though the entail on the estates was ended. It is highly probable that he did this on the suggestion of his wife, whom he appointed his sole executor.

The six unfortunate ladies who were Sir George's heirs-at-law were therefore faced with the problem of getting possession of the estates so that they could carry out the testator's wishes. They cannot have been very interested, as there was nothing in it for them personally, and might have been content to let Margaret Downing have her way if the University of Cambridge had not come to their aid. The idea of a new college appealed to some influential dons. The last college to be founded had been Sidney Sussex in 1596, but there was no obvious need for another. No college had as many undergraduates in residence as it had accommodation for, and some had so few that a year in which admissions reached double figures was an "annus mirabilis". As for the senior members, including the Professors, few were doing anything in the cause of learning which made it



desirable that they should be joined in their comfortable sloth by Fellows of a new foundation. Perhaps there were some men in University councils who were attracted by the opportunity to establish a college which could be free from the fossilised traditions, medieval inhibitions and antique statutes which prevented existing institutions from changing with the times, but the main motivation was undoubtedly the belief that it is always folly to refuse a gift, even if you have no particular use for it at the moment.

For guidance on what action to take the University was fortunate in being able to turn to a brilliant lawyer, the Hon. Charles Yorke, son of Lord Chancellor Hardwick. A graduate from Corpus Christi he had been University Counsel since 1757 and had served as Attorney General in 1762 and 1763. He got things moving surprisingly quickly for Hanoverian England.

## CHAPTER 6

### INTO CHANCERY

It was the duty of the Attorney-General to take action on behalf of the Crown to protect the interests of charities without trustees or the subject of dispute or uncertainty. Charles Yorke instigated the current holder of that office, Sir Fletcher Norton, to file a Bill in Chancery on behalf of the Chancellor, Masters and Scholars of the University of Cambridge. It was lodged on 1st May 1764, only three months after Sir Jacob's death. A printed document, it was in the form of a petition to the Lord Chancellor. It gave Sir George Downing's will in full and stated that Sir Jacob had inherited subject in equity to the trusts in the will. It set out Sir Jacob's will, named the six ladies who were heirs-at-law and anticipated the arguments for and against the petition. It concluded with the prayer that the will of Sir George Downing might be established and the trusts thereof carried into execution, that an account might be taken of the money received by Lady Downing from the rents and profits of the freehold, copyhold and leasehold estates since Sir Jacob's death, and that a receiver might be appointed. The Bill was signed by the Attorney-General and by Yorke and Edmund Hoskins, a future University Counsel.

All the persons with an interest in the matter including the heirs-at-law, the Bagnalls, the Archbishops, the Masters of St. John's and Clare, were named as defendants and were served with copies of the Bill so that they could make their answer.

The principal defendant was, of course, Margaret Downing. In her answer she insisted that she was entitled to inherit the devised estates and that the trust for founding and endowing a college was void.

The Information, she declared contained "Manifold Errors, Incertaintys and Insufficiencys". She referred to the money expended by her husband

on putting the estates into good repair, set out with meticulous accuracy the rents receivable village by village, and farm rents, — a grand total of £4858.9.2½ — and provided a list of barns, granaries and cart hovels on the estates.

She did not swear this answer until 15th January 1765, when she did so at Lincoln's Inn, so the proceedings which had been initiated so swiftly were already slowing up. This delay on her part was excusable as a good deal of work was involved in preparing the schedules of rents and buildings.

The answer of the six ladies who were heirs-at-law was simple; they would be quite happy if the Court decided the trusts under the will were void as the estates would then come to them as Sir George's heir, not to Lady Downing as her husband's heir.

The Bagnalls' only concern was that Elizabeth's annuity should continue to be a charge on the estates, whoever inherited.

The Archbishops and the Masters said, with commendable public spirit, that they were ready to act as the Court thought proper, in founding and establishing a college in accordance with the directions of the will.

The Bill had been filed promptly. Even Lady Downing had lodged her answer without unreasonable delay. Preparing the case and finding time in the Chancery Court for hearing it was more difficult. Nevertheless it was something of an achievement that proceedings began in Trinity term 1766, in Westminster Hall; no doubt this expedition was again due to Charles Yorke who had become Attorney-General for the second time in 1765.

Lord Chancellor Northington presided, supported by the Master of the Rolls, Sir Thomas Sewell and the Chief Justice of the Common Pleas, Sir Charles Pratt. It was the best Bench of Judges the times could provide and probably as good as any in the long history of the Chancery Court. The Earl of Northington, born Thomas Henley was the last man to be called Lord Keeper of the Great Seal. He was a graduate of St. John's, Oxford, a Fellow of All Souls, and a lover of classical literature. A later Lord Chancellor described him as a great lawyer who was "very firm in delivering his opinion". On the other hand his private life was disreputable and his manners coarse.

In Sewell he had a colleague who knew the work of the Chancery Court more intimately than most practitioners as he had been bred an attorney and had "laboured" as a Chancery draughtsman before being called to the Bar, where he achieved great success. He was making £3000 to £4000 a year when he surprised everyone by taking the less lucrative post of Master of the Rolls. He had the reputation of great efficiency on the Bench.

Sir Charles Pratt, the third member of the Court, was even more outstanding than his colleagues. His legal knowledge was profound, his capacity for clear reasoning exceptional; he spoke simply and colloquially

but with grace; his manner was courteous and his attitude benign. He could be relied upon to approach any problem without prejudice and to come to an absolutely fair decision. His determination to do this was the cause of his only defect as a judge — a tendency to prolixity through taking notice of minor and relatively unimportant facts and viewing questions in every conceivable light. His emphatic pronouncement against the principle of general warrants had added great popular esteem to the high regard felt for him by his fellow-lawyers. As a Fellow of King's he was well-acquainted with the University of Cambridge.

The weight of judicial wisdom assembled to hear the Downing cause showed both the importance attached to it and the influence the University had through its legal alumni. There was also a good array of leading counsel. Perhaps there was hyperbole in a contemporary description of Charles Yorke upon whom as Attorney-General the weight of conducting the case for the University and the heirs-at-law fell, as the "modern constellation of English jurisprudence, the elegant and accomplished ornament of Westminster Hall; whose ordinary speeches as an advocate were profound lectures", but there was certainly no man at the Bar more capable than he of forcefully putting the arguments for the validity of Sir George Downing's will with unimpeachable learning and irrefutable logic.

All the defendants had their own counsel but the only one who took a different view from that put forward by Charles Yorke was the barrister representing Lady Downing. His name was Harvey. He seems to have been an ingenious and pertinacious advocate but did not achieve a lasting niche in the hall of legal fame.

The hearing took several days spread over a period of at least three weeks. The gist of Harvey's arguments against the will's validity was that it was voided by the death during the lifetime of the testator of all the trustees named in it; that in any event the Court ought not to exercise the discretion it undoubtedly had to direct that the trusts should be carried into effect because that would legitimate the alienating of land in mortmain, which various statutes had discouraged ever since Magna Carta and which an Act of 1736 had prohibited except in certain circumstances; that a statute of Richard II condemned gifts to permanent bodies; that it was usual to obtain a licence from the Crown before alienating land in mortmain and that therefore the Court of Chancery could not establish the charity proposed without the consent of the Crown; as the Crown might refuse to grant a licence to hold in mortmain it would in *infra dignitatem* for the Court to make a decree which might be ineffectual.

It was obvious, Harvey told the Court, that Sir George's purpose in naming his trustees was to ensure that their judgment and discretion were used to influence the constitution of the charity but that was now impos-

sible because the trustees were dead. This meant that an essential element in carrying out the testator's purpose was missing.

He then turned to the merit of the proposal to found a college, and declared that it would be of no benefit to the country. There was enough room in existing colleges without building another.

Lastly he pointed out that the court could not direct the performance of the charity because there were no trustees who could be so directed.

The arguments in favour of the will's validity, put forward by Charles Yorke, with assistance from other counsel, appear from the Court's judgment. That judgment was a long way off, however, although the case was nearing its end. Suddenly the Downing Cause was left suspended in a void. Northington unexpectedly resigned the Lord Chancellorship. Like the man whose will he was considering, he was in gout's agonising grip and found hours of immobility on the Woolsack and the Bench increasingly intolerable. He therefore forsook both for the less static office of Lord President of the Council. The proceedings of Westminster Hall were adjourned indefinitely. Any sympathy Northington's disability may have aroused in those engaged in the case must have been overwhelmed by anger at his gross lack of consideration for others in not enduring his pains until the Court was in a position to announce its decision; from the heading of one report that position would seem to have been so close at hand that the judges had already expressed the opinion that a devise made before the 1736 statute was good and that a devise to endow and build a college was good, so that they had very few further steps to take before being ready to pronounce judgment.

Had they done so the story of the Downing Cause might have been much shorter, to the ultimate benefit of the College. There can be no place, therefore, in the list of Downing's benefactors for Lord Chancellor Northington. To put him in the list of malefactors, on the other hand, would be cruel; even with modern medicines gout is an excruciatingly painful affliction.

The good fortune that Charles Yorke was still Attorney-General saved the Downing Cause from a long period of suspended animation. Just three years after the Bill had been lodged it was in the list for hearing on May 18th 1767. Sewell was again on the Bench. So was Pratt but he was now Lord Chancellor Camden and Northington's successor in the Chair.

The third member was Sir John Eardley Wilmot, who had succeeded Camden as Lord Chief Justice of the Court of Common Pleas. His presence did not weaken the Court as his learning, judgement and character were equal to those of any of his contemporaries and better than most. In 1767 he was universally regarded as a potential Lord Chancellor, and a great one at that, but when the opportunity came in 1770 on

Camden leaving the Woolsack for political reasons he refused it. "I will not give up my peace of mind for any earthly consideration whatsoever," he declared, "Bread and water are nectar and ambrosia when contrasted with the supremacy of a Court of Justice." He was not reduced to that sparse diet, of course, but he never occupied the position he would most have liked — that of Fellow of his own College, Trinity Hall.

For his benefit the evidence and arguments which had been presented at the previous hearings had to be gone through again, but some part of the proceedings must have been shortened as everything except the judgment was disposed of in three days — May 18th and 27th and July 18th.

The Court then adjourned to consider its decision. The litigants were left to possess themselves in patience while the three wise men mulled over what they had been told. The Downing Cause was only one of many cases with which they were concerned and it was out of the question to hurry them. Not even Charles Yorke could hope to do that, particularly as he was no longer Attorney-General.

Eleven months passed before the judges met to agree their decision. They sat again on June 17th 1768. At the request of Lord Camden the junior member of the Court, Eardley Wilmot, read the judgment. There were over eleven thousand words of it, dealing with every possible point precisely and deeply in splendid sonorous English.

Lawyers would enjoy following him from argument to argument, but laymen might find only a few salient features interesting. Wilmot found precedents for a college like Downing holding estates in mortmain, rejected the argument that the death of all the testator's trustees frustrated the will; and described the relationship of the University of Cambridge and its colleges succinctly and clearly.

"An university" he said "is a great school incorporate to instruct by its professors and regular exercises all who come to study there and by degrees to give its students rank and credit in the republic of letters and which are qualifications for lucrative offices and sciences. And colleges are schools of learning, furnishing scholars for the universal school, which is a combination of all those schools; and in any other view than as schools of learning they are as useless to society as monasteries, and therefore I think they are not only with the equity of the Act, 43 Elizabeth, but the words of it".

The devise in the will was for augmenting the University, which was "a good and godly aim", and it was therefore right that the University should be a party to the proceedings and could, if the King thought fit, receive the benefaction instantly. "For though the University is not a corporation of colleges, but of matriculated members, and all colleges are distinct and separate corporations, yet these colleges attract and furnish

the members to be matriculated and by increasing the number of scholars add weight, dignity and strength to the University”.

The trend of these remarks made it certain that when Wilmot came to consider specifically the merit of Sir George Downing's wish to found a college he would be completely out of sympathy with the suggestion that it was an undesirable project. “A gift for the advancement of useful learning is the most meritorious charity that can be given”, he declared emphatically. “Most charities terminate with individuals, who are the objects of them. But donations of this kind are benefactions to the whole community. They furnish the means of bringing great parts and natural abilities out into public service, and thereby become a charity not only to the persons who are so helped forward in their education, but to the whole society, which reaps the benefits of those parts and abilities in the several stations of life where Providence places and employs them; and as Coke, in arguing Porter's case, says ‘No time was ever so barbarous as to take away erudition and science’. All people have at all times thought it most meritorious to promote and encourage them”.

What if the motive in founding a college was not love of learning but love of self? If it was merely an ostentatious attempt to perpetuate the testator's name? That was what Lady Downing said Sir George's motive was — a motive so reprehensible that the Court ought not to put its seal of approval on it.

The Lord Chief Justice did not agree with her. He pointed out that the wish to perpetuate one's name often influenced the wisest and best of men. Even if it was indeed the only motive it would not be immoral to yield to it. “It is a passion implanted in the mind, as a laudable incentive to industry and the reward promised Abraham for his faith:— “I will make thy name great among the nations”.

No one, Wilmot pointed out, had suggested that the requirement that Barnardiston and the Peters should change their name to Downing if they inherited in turn was so undesirable that it would have voided the devises. Why should the circumstances be more disgusting in the one case than in the other? “To raise and establish a family in the testator's name and blood was his first object; mutual affection was the principle of the provision. To perpetuate his name by the medium of a college for the good of mankind was his next object; social affection was the principle of that provision.

“Admit that vanity has some share in both the dispositions; it loses all its malignant qualities when it is productive of good, the world owes some of its greatest and noblest benefactions to this motive in a thousand shapes and forms. It is a spring not to be checked and stopped up, because under the discretion of good laws it becomes an inexhaustible source of benefits to mankind. Courts of Justice are not to examine, like casuists, the

motives of such dispositions, but to execute or condemn them according to their intrinsic merit or demerit, let them proceed from what motives they will”.

Wilmot then dealt briefly with the argument that as there were already enough colleges the foundation of another was useless and unnecessary. In doing so he emphasised what would distinguish Downing from all existing colleges. He said he would have found more weight in the objection that there was no need for a new college if it was to follow exactly the plan of those already established. But it was not to do so. It was to have a special quality of its own. The two Archbishops and the two Masters of Cambridge colleges were to be entrusted with forming its laws, rules and orders and determining the useful learning to be taught there. “The testator’s hope and expectation was therefore well grounded that such an establishment would be made and such a system of government and study introduced as might greatly improve an academical education.

The testator could not expect the trustees particularly named should survive so many estates of inheritance as are limited before the devise was to take place and therefore the confidence was in the archbishops and masters who should be in being at that time. He did and might safely depend upon their ability and integrity to adopt and father the college to the time of its foundation; to reject all the weeds and plant all the flowers which are to be found in every system of education, ancient or modern, either at home or abroad”.

It is a pity that the judgment could not end with that peroration, with that splendid vision of the nature of Downing College; that tribute to the forethought and wisdom of the founder; that expression of faith in the reforming zeal and organising ability of the Archbishops and the Masters. Wilmot had to continue, however, to dispose of various minor questions and one major one – who should take the place of the dead trustees and apply for a Charter? He declared for the heirs-at-law.

The Master of the Rolls and the Lord Chancellor gave concurring judgments and then adjourned without giving any guidance as to what the University and the heirs-at-law should do next.

The three judges sat again in the New Year to deal with mainly technical matters they had not pronounced upon. These led to so much argument that the Court adjourned again until 3rd July 1769. On that day the Court disposed of all the outstanding questions and placed the duty of applying for a Charter squarely on the shoulders of the heirs-at-law. “They” said Lord Camden “clearly have the best pretensions to have the conduct of the charity; they are of the blood and kindred of the testator, which entitles them to preference”.

The costs of all the parties were directed to be paid out of the testator’s estate. To enable the heirs-at-law to determine how many Fellows



and Scholars the endowment could maintain the Court ordered Mr Lane, a Master in Chancery, to ascertain the annual value of the devised estates and gave the six ladies liberty to contract for a piece of ground in the University of Cambridge on which the College could be built if the Crown granted a charter. Mr Lane was also instructed to enquire into the nature of the buildings on the estates which Lady Downing had declared were not "affixed to the realty" because they had been placed on rollers or wheels. He was ordered to report to the Court but never did so. As the Downing Cause was to learn very soon, if Chancery proceedings moved on wheels at all they were wheels which revolved only after a great deal of determined and persistent pushing.

## CHAPTER 7

### WICKED LADY

Sir John Wilmot believed that the Court's judgment had cleared the way for the quick foundation of Downing College, provided the King agreed to grant a charter, and that it would not take long for George III to make up his mind. "The will of the King may be known as well in six months as in six years", he said "allowing for the most mature deliberation".

He was sadly wrong; the King's will was not to be known for another thirty years.

The blame for this has always been attributed to the contumacy of Lady Downing and her heirs and to the long-drawn-out processes of the law. There were other factors, however, which must bear some of the blame. One was the inefficiency of the legal advisers of the University and the heirs-at-law; they lacked the acumen and determination essential if the obstacles placed in the path of the Downing Cause were to be overcome. Another was the hostility of two Law Officers of the Crown and indifference of others. A third was the incomplete nature of the Court of Chancery's judgments; having said, clearly and emphatically, that the estates of the testator should vest in the heirs-at-law Lord Camden and his colleagues rendered that decision difficult to implement because they left Lady Downing in actual possession of the estates, gave her no directions about paying over the rents and profits she received before she surrendered them, and offered no guidance to the heirs-at-law about the procedure they should follow to get the property out of her hands.

The first step for the heirs-at-law after the final judgement was to get the decree drawn up so that there could be no dispute about its exact meaning and intent. This proved more difficult than might have been expected and during 1770 several attendances at Court by the lawyers

were necessary before the matter was completed.

The heirs-at-law then petitioned the King for a charter. As their lawyers should have told them, they were in too much of a hurry; the petition was almost certain to be rejected because the testator's instructions had not been followed in the chronological order he had set out. It will be remembered that Sir George, in his will, directed his trustees, now represented by the six ladies as heirs-at-law, to buy out of the rents and profits of his estates a piece of freehold land in Cambridge, then to erect thereon all the houses and buildings requisite for a college, and, lastly, to obtain a Royal Charter for founding the college; that, at any rate, is the order in which these various actions were named. The heirs-at-law reversed this order and applied for a charter before they had taken any other action. They had to do this because they had no money with which to buy a piece of ground. Even if they got the charter they would be unable to buy any land as they would never have the purchase price while Lady Downing refused to give up the estates or even to pay over the income from them.

The immediate action they should have taken after the decree had been drawn up was to apply for the appointment of a Receiver for the rents and profits of the devised estates. Charles Yorke had told the University as long ago as 1764 that this would be necessary when judgment had been obtained, but unfortunately for the Downing Cause death cut short his brilliant career in January 1770, only three days after he had surprised the political world and shocked his friends by agreeing to serve as Lord Chancellor in the Government he had hitherto strongly opposed and criticised.

The loss of his advice and encouragement was a grievous blow to the Downing Cause. The success of the proceedings in Chancery had been largely due to his skill and knowledge, as the University realised; in 1768 the Senate voted their thanks to him for "having proved an effective advocate for us in the great cause whereby an estate worth £4000 a year is secured to the University for building and endowing a new college". By that time Yorke had ceased to be Attorney-General and also University Counsel but he had become Member of Parliament for the University and would undoubtedly have continued the good work, guiding the heirs-at-law on their proper course and using his influence as Lord Chancellor to further the Cause, if his "vaulting ambition" had not "o'er leapt itself". As it is he deserves a prominent place in the list of Downing benefactors.

Presented with a petition for a charter for a college without an income, without a home and without land on which to build the King followed practice in referring it to the Attorney-General and the Solicitor-General. The Downing Cause had just lost an invaluable friend; it now acquired a powerful enemy. The Attorney-General was Edward Thurlow,

a large, black-visaged, craggy man of undistinguished lineage, a Cambridge man who did not like the University because it had not liked him. He had obtained a Perse scholarship at Gonville and Caius from King's School Canterbury when he was only 17, but soon showed himself unworthy of it by his rude and boisterous behaviour, his licentious tongue, his prominence in nocturnal misdemeanours and his constant conflict with authority. In his third year the College could tolerate his presence no longer. After particularly insolent behaviour towards the Dean he was asked to take his name off the books. He left Cambridge with no regrets and thereafter treated the University with contempt. He had great abilities, although "too indolent", it was said, "to master statecraft or law", and achieved considerable success both at the Bar and in Parliament. He had been made Solicitor-General by the Tory Government in March 1770 and Attorney-General in January 1771, a post he was to occupy for seven years and in which he was in a strong position to stop — or at least to hold up — the addition of a new College to a University for which he had no liking or respect. He seems to have been one of those creatures who feel strong antipathy for those who have tried to educate them. When he met the Headmaster of a school he had attended for four years before going to King's he cut him dead, remarking to his companion "There is no reason why I should recognise every scoundrel who recognises me".

He appears to have originated the story, since told of Calverley and other notoriously indolent undergraduates, that the Dean of Caius once remarked to him severely "Mr Thurlow, every time I look out of my window I see you passing by" and he replied "Mr Dean, every time I pass by your window I see you looking out".

It was fortunate, eventually, for the Downing Cause that the Solicitor-General, Alexander Wedderburn, was Thurlow's great rival for public acclaim and political promotion. They had been put into double harness by political expediency and personal ambition. The Tory Government were anxious to secure the support of a brilliant debater who was violently critical of it, and Wedderburn had accepted the offer, in what was said at the time to be "one of the most flagrant cases of ratting in our party annals", because, like Charles Yorke, he was determined to become Lord Chancellor. A skinny little Scotsman who was sometimes called Starvation Wedderburn he was more temperate, pliant, artful and accommodating than his partner, Thurlow, who was his inferior in brilliance of mind but a much more dignified and impressive figure — Charles James Fox said no man could be as wise as Thurlow looked — and a much more powerful orator. Wedderburn had grown up in Edinburgh and knew nothing about English Universities. His attitude to the petition would therefore have been an impartial one if it had not been for his inclination to take the opposite view to Thurlow. This had considerable effect on the Downing

Cause later on but whilst Thurlow was Attorney-General his junior colleague's hands were tied.

The Law Officers took no notice whatsoever of the petition, not even in 1773 when the University persuaded its Chancellor, the Duke of Grafton, a former Prime Minister, to send them a memorial requesting them to expedite their report. Two years later there was a slight sign of movement in the Attorney-General's office when he sent for some papers in the case. What stirred Thurlow into this action does not appear; perhaps it wasn't Thurlow at all, but a subordinate who thought it was time something was done. Nothing more happened; presumably the papers quickly disappeared into a dusty pigeon-hole.

Thus Thurlow "stopped the new college" until 1778, when he succeeded Lord Camden as Lord Chancellor. Wedderburn became Attorney-General and was joined by James Wallace as Solicitor-General.

With Thurlow out of the Attorney-General's office, the heirs-at-law decided to treat their first petition as dead and to lodge another one. They were preparing it when they had news which must have gladdened their hearts, however much their better natures told them that they should grieve. The principal opposition to the fulfilment of Sir George Downing's wishes was removed. Lady (Margaret) Downing had in 1768 taken a naval captain, George Bowyer, as her second husband, but she had clung to her first husband's name and her title and it was as Lady Downing that on 18th September 1778 she died "of an apoplexy" at her house on Putney Heath.

In College conversations she is sometimes referred to as "the wicked Lady Downing". The consequences of her actions were so evil for the College that the use of the epithet by those who can see it suffering from then to this very day is justified, but an historian striving for truth has to point out some aspects of her conduct which may make her a little less black than tradition has painted her.

One is that in using her wifely influence to persuade Sir Jacob to ignore the devise and leave Sir George's estate to her she was not a Lady Macbeth screwing up her consort's courage to the "sticking place" before committing a foul crime but a practical woman trying to keep family wealth in the family. Most wives would have tried to do the same.

The addition of another college to Cambridge University can have had no appeal to her; the necessity for it was no more apparent to her than it was to Edward Thurlow. Her father had been at Trinity, her first husband at Emmanuel, but the closest she ever got to the University was Gamlingay Park. Looking at it with the detachment of an outsider she cannot have felt that her refusal to facilitate the foundation of Downing College would deprive the community of a much-needed benefaction. What she saw has already been briefly described. The University was at its lowest ebb. It



5. Lady Downing (née Margaret Price), wife of the fourth and last baronet.

was a community in which sloths and sots outnumbered scholars and students, in which political jobbery was of more interest than the extension of knowledge, and in which "the science of horse-racing, fox hunting and giving extravagant entertainments were the chief studies" of undergraduates. It was not surprising that many parents were loth to send their sons to receive "a pretended education from which no possible benefit is likely to result". In consequence there was not a large number of young men clamouring for admission. Contrary to what had been said in the Chancery Court, few colleges had their full complement of undergraduates and in some half the chambers were empty and only a handful of gowned figures were to be seen in the handsome halls and ornate chapels, or strolling about the grassy courts. Even a timid executrix might have hesitated to hand over to such a decadent institution wealth which had been in her husband's possession for fifteen years, and Margaret Bowyer was far from timid. Her portrait by an unknown artist (perhaps a pupil of Gainsborough) which hangs in the College Hall (rather like a murderer's picture on his victim's gravestone) shows her as a large buxom lady, straight-backed and stiff, with a determined but not unbenign look on her plump features. Even if one knew nothing about her one could have no doubt from that picture that she was a strong personality, a managing type, who was very difficult to live with if she did not get her way.

Apart from the natural disposition of such a woman to hold on to what fate had put into her hands she had some ground in law for clinging to the estate. In 1754 Lord Hardwicke, father of Charles Yorke, had decided that when an heir was to lose lands on a future uncertain event there was until that event a resulting trust for the heir-at-law so that the rent and profits would in the meantime go to him. Margaret Bowyer was not Sir George's heir, but Sir Jacob's, and therefore this decision would appear not to apply to the devised estates, but it gave her lawyers an excuse to argue that she could continue to receive the rents and profits of those estates until the Founder's direction that a college should be established had been acted upon; that is, they would solve the "chicken and egg" problem by requiring the college to come into existence before the funds requisite for its creation.

It followed from this that the longer a Court decision on this point was delayed the longer she could continue to enjoy the revenues. Her refusal to yield up the estates or to pay over the income had therefore some slightly excusable element. Nothing, however, can mitigate her wickedness in destroying the splendid house which Sir George Downing had built at Gamlingay Park when he was a young man. The only motive for this reprehensible act was spite. Margaret Bowyer was determined that if the law eventually deprived her of Sir George's estates the heirs-at-law

would find them worth a good deal less than they ought to have been, that the husk they had won was as empty as she could make it. It was probably at his wife's instigation that Sir Jacob put barns and other farm buildings on to wheels and rollers so that they could be pushed off the devised lands under the noses of the legitimate heirs. Nevertheless he seems, as has been said, to have kept the estate houses and cottages in fair repair and to have improved on the condition the estates were in when he inherited them. After his death, however, his executrix spent as little as possible on this essential task and by 1776 the estates must have reverted almost to the state of disrepair and neglect they were in at the time of Sir George's death.

Margaret Bowyer no doubt looked with satisfaction at the deterioration of the property she feared she must eventually part with and decided that the desolation should be considerably increased by the demolition of the most valuable building in her temporary possession. The great house at Gamlingay Park, with its landscaped gardens, its maze, its lakes and vistas was to be obliterated.

The foul deed was performed in October 1776. The materials were put up to auction on the spot. Margaret Bowyer conceived the idea of grouping them into such large lots that nobody would want to buy them. Then she would be able to use the bricks and wood and other materials to build a new house in the locality but not on the entailed land. She was advised that this might be "looked upon as a Collusion and called to account", so she had to let the articles go for what they would fetch. It was the paltry sum of £800, probably less than a tenth of the cost of building the house over sixty years before. The vendor did, however, secure a few lots for herself, including some iron palisades. These were used in a house called Mount Pleasant she built on Putney Heath.

Four years earlier, in December 1772 she had perpetrated a wickedness of far graver consequence to the Downing Cause. She made a will which ensured that the fight against the foundation of a college would continue after her death.

She had a lot of property of her own to leave; something like £176000 in cash and stocks, and real estate which Sir Jacob had inherited from his father Charles or which for various reasons was not covered by Sir George's entail, including the valuable part of Westminster in which Downing Street was situate.

One would have expected all this wealth, excluding specific bequests, to have been left to the testator's second husband, George Bowyer. She was not on very good terms with him, however. As a sturdy sea-dog he was probably less amenable to the domineering lady than Sir Jacob had been. Fortunately for him he was often away at sea but when he was at home there were violent quarrels. At least once she struck him in the



white heat of her temper. Afterwards she was sorry and tried to make it up with her husband by giving him £1000. He had received £10,000 as a marriage settlement and now under the will he was left a further £7000 and "my lands, manors and tenements in the county of Suffolk" so that he did not do too badly out of his ten years of domestic strife.

His wife was a very affectionate aunt and left handsome sums to her four nieces, two great-nieces and great-nephew, and remembered her servants and executors with adequate bequests. Her chief beneficiary, however, was her nephew Jacob John Whittington, an officer in the Army. She continued as a charge on her personal estate an annuity of £400 which Sir Jacob had left him and bequeathed to him the considerable residue of her own property. If she had done nothing more for him he would have been very comfortably off but there was something much more valuable she wished to bestow upon him – "all my landed estates in the counties of Cambridgeshire and Bedfordshire to him and his heirs for ever".

The last bequest and that of Downing land in Suffolk to her second husband turned her will from the warm-hearted testament of a kindly lady into a gesture of contempt and defiance directed at the heirs-at-law of Sir George Downing, at the Masters and Scholars of the University of Cambridge, and at the Court of Chancery itself.

The lands she left to Bowyer and Whittington were not hers to leave. Three of the most distinguished judges in the realm had said so, but Margaret Bowyer was determined to continue to strive from beyond the grave to make their pronouncement null and void.

She was buried in Croydon Church on 25th September 1778. Her second husband was believed to have been lost at sea; if he was alive he was unaware that his matrimonial troubles were over but that she had saddled him with litigation for the rest of his life. Captain Whittington, the principal recipient of her bounty, was therefore the chief mourner. Through him and Bowyer, as her body mouldered amongst the bones of four Downing baronets, she was to exert as great an influence on the fortunes of Downing College as though she was still herself in the forefront of the battle.

She lost in the end, but not completely. The gentle ghost of Mary Forester does not haunt the College but Margaret Bowyer's malevolent spirit still sometimes makes its presence felt.

## CHAPTER 8

### INDEFATIGABLE CHAMPION

Seven days after the funeral Captain Whittington applied for, and obtained, appointment as administrator of his aunt's property. Notwithstanding the important part he played in the Downing Cause during the next quarter of a century he is a shadowy figure. It is possible that his second name was Jacob because he was Sir Jacob's godson. This would explain why the fourth baronet treated him generously in his will, but gave the two daughters of his wife's sister Ann only £500 each.

In August 1763, when Sir Jacob made his will, John Jacob Whittington was still at school. His uncle-by-marriage left him £100 a year "to be paid or applied to or for his use during such time and so long only as he shall continue at School and from the time (he) shall leave school until he shall attain the age of twenty-one years I give him the yearly sum of two hundred pounds for his Support and Maintenance during that period and no longer". After that Whittington was to receive £400 a year for life; this was the sum Margaret Bowyer continued by her will. It was handsome provision for someone who was not a blood relation, but Sir Jacob was still not satisfied he had done all he should (or, more likely, his domineering wife insisted on his doing more), so he directed that "the sum of one Thousand Pounds be paid and laid out for the benefit of the said Jacob John Whittington on the purchase of an Insign's Commission in one of his Majesty's regiments of foot guards."

Whittington seems to have been very well off without these substantial bequests. How long he continued in the army is not known. After his marriage to Harriet Smithers he had two country homes — Theberton Hall, Suffolk and Kilverstone Lodge, Thetford. He had three sons. To the two elder, George and Henry, he gave the second name of Downing, either

because he was genuinely proud of his Downing connection, or because it gave an appearance of authenticity to his possession of the Downing estates; if either inherited them in due course they had only to drop their last name to fulfil the third Sir George's wish to perpetuate his name in association with the estates.

All three sons went up to Cambridge and did well, but died early. Their father had no financial need to devote his time and energy to keeping the devised estates; his persistence and obduracy without this incentive show that he and his aunt had a lot in common; without the same combative determination as she had exhibited he would have given up the struggle long before his last attempt to 1803.

In that struggle he had the support of his step-uncle, Captain Bowyer, who had not been lost at sea after all, but survived to take part in the battle off Granada in 1779, after which he returned home, to become commanding officer of a guardship, the *Irresistible*, in the Medway. In 1785 he was elected Member of Parliament for Queensborough, but continued his naval career, as was usual then. In 1793 he was promoted rear-admiral and became commanding officer of the *Prince*. He lost a leg at the Battle off Ushant in 1791, for which he received a pension of £1000. His gallant service was rewarded with a baronetcy. In 1797 he became a baronet twice over on inheriting the family title from his elder brother. He died in 1799. In his very full and successful career the Downing Cause must have been of minor importance but he was as obstinate as an old salt can be and a doughty fighter and joined with his nephew-by-marriage in opposing every step taken by the heirs-at-law to deprive him of the estate in Suffolk his wife had left him in defiance of the Court's decree.

Ten years — ten wasted years — after the Downing Cause had secured its empty triumph in the Court of Chancery these two new characters stepped upon the stage to play the part of antagonists to Sir George Downing's wishes. About the same time another character emerged from the wings, where he had been waiting for some time, to play opposite them. He was a man of Downing blood, a forty-five-year-old Member of Parliament named Francis Annesley, son of one of the heirs-at-law, Mary Annesley, and great-grandson of the first Sir George. Although he must have taken a great interest in the Downing Cause from the beginning we do not hear of him in connection with it until he is referred to as the Master of Downing. There is no known record of the date or circumstances of his appointment, but it seems likely that it was made in 1778 or 1779, when his name begins to appear in a bill of costs as in frequent consultation with the solicitors to the heirs-at-law, and there can be no doubt that he owed it to his mother and his female cousins. When public and private appointments were to be made in the eighteenth century those responsible did not carry out their duty in trembling fear of accusations of nepotism; they took the

very sensible view that anybody who had a lucrative office at his disposal would be foolish not to look for a suitable occupant amongst his relatives and friends before turning to strangers.

It was natural, therefore, when the heirs-at-law found themselves saddled, as successors to the trustees named in the will, with the task of appointing the first Master of the proposed College, that they should look for a likely candidate amongst Founder's kin. They could have waited until they were sure of obtaining a charter, but probably thought that it might help to get their petition favourable consideration if they showed their earnestness by appointing a reputable Master. Probably, also, Annesley was eager to identify himself closely with the Downing Cause and persuaded his mother and cousins that he could best do so in the lofty position of prospective Master. With a mother's partiality Mary Annesley can have had no doubt as to the fitness of Francis for the post. She probably had no difficulty in getting the agreement of the other ladies, and the Archbishops and the Masters, to whom the proposal had to be submitted, readily agreed because Francis Annesley was in almost every respect eminently suited to preside over a new Cambridge college. His only defects were that he was not a member of the University and that he had no experience of academic life. These deficiencies apart, he was the equal of any Oxford or Cambridge don, and better than many in the breadth of his culture and his devotion to the acquisition of knowledge. He was a lover of literature and the arts, an antiquarian and a collector of pictures and valuable editions of ancient classics. On his father's side he came of a family of long pedigree which took its name from a village near Nottingham but in the seventeenth century acquired close connections with Ireland. Several of his ancestors, including his grandfather, after whom he was christened, were Members of Parliament, but his father, Martin, went into the Church from St. John's College, Cambridge, and became a Doctor of Divinity; he was Vicar of Bucklebury, Berkshire, for 21 years and was Prebendary of Salisbury when he died in 1749. On his mother's side Francis was descended from the famous Cotton family as well as from the Downings, the first Sir George's daughter Frances having married John Cotton, the Founder's godfather, through whom Francis inherited the privileges and responsibilities of an hereditary Cottonian Trustee of the British Museum. He was educated at Reading School in the time of a highly respected and successful Headmaster named Hiley. He became a member of Gray's Inn, where he had chambers, but he does not appear to have practised much at the Bar. Presumably he was wealthy enough to indulge his liking for learning and lovely things without working. In 1770 some of the leading citizens of Reading invited him to stand for Parliament in a by-election expected shortly in the Borough. They did so because they wanted to frustrate the plan of one of the sitting members, John

Dodd, to secure the vacancy, when it occurred, for a friend. Annesley agreed, but the member who was threatening to resign did not do so. Annesley became a candidate in the general election of 1774, however, and was elected. At the next election, in 1781, he was top of the poll, the electors having realised that the Public Ledger was right in 1779 when it described him as "a very conscientious member of Parliament, means well, votes with the Opposition, but not attached to any party". He was indeed an ideal member, devoting himself to the public good and very different from most politicians in never thinking of possible advantage to himself. He did not even ask his constituents to contribute towards his election expenses, but paid them himself. The sum involved was not large as after 1781 he was returned unopposed at every election until he resigned in 1806. Even his opponents acknowledged his rectitude and devotion to principles, whilst his constituents knew that they could always rely upon him to look after their collective and individual interests and to strive indefatigably to satisfy their legitimate wants.

In 1780 he supported Dunning's famous motion "that the power of the Crown has increased, is increasing and ought to be diminished" and two years later he voted with the minority for withdrawing the confidence of the House from the King's Ministers. Many years later he was again in the minority when he voted for the abolition of slavery.

These details of his Parliamentary career show that the family nominee for the Mastership of Downing was not a privileged nonentity but a man of exceptional character and capacity. A new college was much more likely to achieve a fruitful maturity free from the limited perspectives and archaic inhibitions of older foundations under the guidance of this cultivated, energetic and independent-minded Parliamentarian than if it depended upon the leadership of the kind of sleepy scholar or academic place-hunter who might have been appointed. If Downing College had come into existence soon after Annesley took on the mantle of Master he would have stamped it with an indelible impression of his own high ideals and wide interests; he would have made it stand out amongst established colleges as he stood out amongst contemporary politicians. Unfortunately he was never to have the opportunity of presiding over a new college, its gracious buildings alive with young men eager to learn and scholars anxious to teach. He was doomed instead to spend the rest of his life in conducting against implacable opposition a battle first for the birth and then for the survival of Downing, a battle in which he had to contend with antipathy in high places, the ineptitude of his legal advisers, the cumbersome procedures of the Court of Chancery and the Ecclesiastical Court and the indolence and indifference of those who should have been his most ardent supporters.

From about 1778 until the Charter was granted in 1800 every step in

the Downing Cause was taken on his initiative and under his guidance. Some of those steps took the Downing Cause only a very short way forward; a few landed it in a morass from which it was difficult to extricate it. In a short history there is no space to follow it step by step on its tortuous path, only for leaps from one important stage to the next.

In 1781 a petition was again presented to the King. It was referred to the Attorney-General (now James Wallace) and the Solicitor-General and they reported that it would be in order for the King to grant a charter for a college paid for out of the Downing estates, but said they could not make any recommendations about a scheme for the College because none had been attached to the petition, although Annesley had drawn up one in consultation with the University Counsel, Jackson.

Whittington then appealed to the Court of Chancery to review its previous decree authorising the heirs-at-law to apply for a charter.

Preparations to answer this appeal took until the Michaelmas Term 1783. Six barristers were engaged on behalf of the University and the heirs-at-law, mostly with briefs 25 pages long.

Fortunately for the Downing Cause Edward Thurlow was no longer Lord Chancellor. The Great Seal was in commission, the chairman on this occasion being "the puny Scot", Alexander Wedderburn, now Lord Loughborough. He was, of course, intimately acquainted with the Cause, and now struck a blow for it of which his erstwhile colleague, Thurlow, would have strongly disapproved. A contemporary report said that "The gentlemen of eminence in all the Courts at Westminster were engaged and it seemed to be agreed that it would take the whole Term to hear and determine". As the costs of all parties would fall on the Downing estates this protracted litigation might have caused such a financial drain on them that insufficient money would remain for founding the College. Moreover Whittington had hinted that if he lost he would take the case to the House of Lords. Using this as a reason for avoiding wasting a great deal of the Court's time to no end Loughborough, with the consent of the other two Commissioners, made "a mere naked order" in favour of the heirs-at-law, "without a scintilla of opinion".

Although Whittington might go to the House of Lords about this decision Annesley and his friends decided to re-present the petition, with a scheme appended. At this point an unexpected obstacle appeared. When the scheme was presented to the Master of Clare, Dr Torkington, in 1781 he had signed it without disapproval. Now a clean copy of the scheme, with minor amendments, required his signature, but he refused to give it; "I cannot see I should be called upon without any disapprobation of the first scheme" he wrote to Annesley "immediately to sign another totally disagreeable and repugnant to the wishes of the University of Cambridge." The new scheme differed little from the first and there is no

evidence that the University had any official objection to it but Torkington, who seems to have been a reasonable man otherwise, persisted in his refusal to co-operate and thereafter the Downing Cause had to proceed without the support of one of the four "wise men" named in the Founder's will, in constant fear that the Crown's advisers might recommend the rejection, on the ground that it was not in accordance with the Founder's wishes, of any petition or scheme not supported by all four advisers.

That risk had to be taken, however, and a new petition, with a scheme attached, was presented in October 1785. As usual it was referred to the Law Officers, R.P. Arden and Archibald Macdonald, but either from indolence or from pressure of business they did not hurry to deal with it and it was not until the following August that they answered that they would not proceed further until they had the report on the value of the devised estates that the Court of Chancery had ordered in July 1769. If they recommended the King to grant a charter before considering the report (they said) the embarrassing situation might arise of Downing College having a charter but no money to put its terms into effect.

In 1782 the University had shown its close interest in the Downing Cause by setting up a Syndicate to keep an eye on the proceedings, and it now tried to strengthen Annesley's hand by passing a Grace directing that an instrument be drawn up, confirming, for the benefit of the Law Officers, that it consented to the incorporation of the new college in the University.

This had no effect. All efforts to get the Attorney-General to move failed, and no report from Mr Lane or his successor was forthcoming. It at last dawned on Annesley, the Syndicate and the lawyers that there was little likelihood of a charter until the heirs-at-law had control of some, at least, of the Founder's wealth. Application for the appointment of a Receiver of all the entailed estates ought to have been made immediately after the Chancery decree in 1769. Counsel advised that it was too late to do that now and recommended that the Prerogative Court of the Province of Canterbury should be asked to give someone a limited administration of that part of Sir Jacob Downing's estate which he had inherited from Sir George.

As the nearest male blood-relation of both Sir Jacob and Sir George Francis Annesley had a strong claim for the appointment, and the University showed that it thought so by making him its Syndic or nominee in the proceedings although he was not a member of the University.

He was now precipitated into a very different legal world from that which centred on the Common Law Courts in Westminster Hall. Its hub was a building known as Doctors' Commons, which was approached by a lane called Paul's Chain, to the south of St. Paul's Churchyard, from which one passed through an archway into a shady courtyard, paved with stone

and surrounded by old houses in red brick. In an ancient-looking room with sunken windows and black carved wainscoting, reached by a small door covered with green baize studded with brass-headed nails, sat the four courts of the realm which conducted proceedings according to the principles of Romanist Law, not the Common Law. They were the Admiralty Court, the Court of Arches, the Consistory Court and the Prerogative Court. It was the last named Court which was now called upon to help the Downing Cause forward, because it dealt with testamentary matters in the Province of Canterbury.

Forty years after Francis Annesley made his first visit to Doctors' Commons Charles Dickens began his reporting career there. It was an institution immune to change and the description put into Steerforth's mouth by Dickens when he wrote *David Copperfield* could have been written in 1788. "It's a little out-of-the-way place where they administer what is called ecclesiastical law and play all kinds of tricks with obsolete old monsters of Acts of Parliament which three-fourths of the world know nothing about, and the other fourth suppose to have been dug up, in a fossil state, in the days of the Edwards. It is a place that has an ancient monopoly in suits about people's wills and people's marriages, and disputes about ships and boats."

This was the cob-webby institution upon whose decision the eventual foundation of Downing College now depended. It is probable that the first visit Annesley made to the "lazy old nook" was to engage a proctor. "What" asked David Copperfield, "is a proctor?". "He is a sort of monkish Attorney", Steerforth told him. "He is to some faded courts held in Doctors' Commons what solicitors are to the courts of law and equity. He is a functionary whom existence in the natural course of things would have terminated about two hundred years ago. The proctors employ advocates. Both get very comfortable fees and altogether they make a mighty snug little party".

As a member of Gray's Inn Annesley must have known about the shortcomings of the "snug little parties" in Doctors' Commons but he cannot have anticipated that tortuous proceedings and obstructive tactics would keep him in the thrall of the proctors for over three years.

It is obvious from a detailed bill of costs submitted by Messrs. Forster, Annesley's solicitors, that progress was constantly held up by every procedural trick that Bowyer and his advisers could think of, by the extensive documentation which had to accompany every step, and by the difficulty of getting judges to sit and then to come to a decision.

Whittington was not a party to the proceedings, although he was Lady Downing's executor, but he no doubt exercised his obstructive influence behind the scenes. Two separate suits were necessary — one against Bowyer, as Lady Downing's second husband and the other against a solicitor.



tor name Aylmer who had acted on behalf of Bowyer when the latter was at sea.

It would be tedious to follow Annesley through the morass in which he was now bogged down. It was not until July 1792 that he emerged triumphantly from it with letters of administration in respect of the entailed estates. The next step was to bring the result to the notice of the Court of Chancery. It was delayed by Bowyer's absence at sea and by technicalities. Eventually early in 1795 the Court reaffirmed the decree of July 1769. It took over twelve months after that to get a report from the Master in Chancery, Mr. Leeds, on the annual value of the devised estates, which was "£4200 and upwards". Everybody now knew how much money the new College would have and the way seemed clear for the heirs-at-law to present another petition, accompanied by a very broad scheme for the College's constitution and conduct.

It was, inevitably, again referred to the Law Officers, whom Annesley must have regarded by now as his arch-enemies, however often their names changed. In fact, one name had not changed recently. Sir John Scott, who had appeared for Aylmer in the proceedings in Doctors' Commons, had been Attorney-General since 1793, after five years as Solicitor-General: He was to remain in that office until appointed Chief Justice of Common Pleas in 1799. As he became Lord Chancellor in 1801 and would continue on the Woolsack, with one short break, until 1822 the Downing Cause was going to be very vulnerable to his opinion and influence. Unfortunately his opinion was, as he admitted in 1812, that the foundation of Downing College would be a mistake, because of difficulties which, he said, he could see as a University man — he had been a Fellow of University College Oxford, at the age of sixteen — but which anyone, like Lord Loughborough, who had not been educated at Oxford or Cambridge could not anticipate. He was genuinely convinced that a college founded in the circumstances in which Downing would be founded was bound to fail, and was therefore determined to put every legitimate obstacle in the way of the heirs-at-law and the University. In consequence he and his colleagues reported that, for reasons stated, they were unable to recommend the Crown to grant a Charter.

These reasons are dealt with in a letter Annesley received from a family connection, John Ranby, who would himself become an heir-at-law on Mrs Mary Goate's death, by virtue of his marriage to her daughter, also named Mary. A Trinity, Cambridge, man he had achieved fame by his writings on politics; James Boswell described him as "my learned and ingenious friend", and his letter shows that these epithets were well-deserved. He put his finger on the vital points with a clear-sightedness and a certainty no lawyer appears to have shown after Charles Yorke.

"My Dear Friend", he wrote, "Upon perusing the Report you sent me

it gave me much concern to perceive that there is but little probability of your getting two principal objections over-ruled, and that therefore either you must find means of satisfying them or abandon the hope of bringing this tedious business to a favourable conclusion.

The first objection I allude to is the purchase of a piece of ground. I was never aware that Lord Camden had directed by his decree that a conditional contract should be made for such a purchase; but as all your pretensions fundamentally rest on this decree, which has not been appealed from, a strict compliance with it on your part seems unavoidable. As no seller will enter into a conditional contract without some consideration in case Chancery should not approve the title or the terms the risk of paying this consideration must fall on you; at least no alternative occurs to me at present. I think an agreement may be so framed as to contain conditions that it is to be subject to the approbation of Chancery, and also that it shall be void unless completed within a given time — suppose three or four years. Without some such proviso I doubt if any Seller would contract at all. It is also material for your security, since without it, you might by the delay in Chancery Proceedings be obliged to complete the purchase at your own risk and expense, before the Court should either have approved or disapproved. If indeed the Seller will enter into such an agreement without any consideration so much the better for you. But lest this should not be the case, you should be prepared to enter into a private agreement for the payment of something (not a considerable sum I should hope) upon the agreement of purchase being cancelled at the end of the time fixed for its completion.

The Requisition (by the Law Officers) that the Plan of the College should contain the Collegiate Statutes (although it need not have been made) seems to me a difficult one to get over. Perhaps to do so may save time. For it appears to be understood that even were the Charter granted still the Statutes must be referred, not only to the controlling Trustees, but also to the Chancellor, which it seems is in fact to Attorney — and Solicitor — General; consequently, inserting the Statutes in the plan, one reference will serve instead of two.

These statutes are (I presume) to contain only what may be called the fundamental laws of the Corporation, such as the Number, Election, Qualifications and Duties of the Members, together with the distribution of the revenues; for I take it for granted that it must be left to the Corporation to regulate by By-laws its own interior and Domestic management of discipline.

If I recollect aright your Plan which has been approved by three of the controlling Trustees, is a pretty close imitation of that of All Souls in Oxford. I doubt if that College is considered as very useful in the cause of Literature and Science, or even to the University itself. But if it satisfy all

Parties except Clare Hall, let it stand as it is. For as nothing will satisfy him some means must and (I doubt not) will be found to compel him to submit his objections to a Hearing. Indeed from a passage in your letter I expected to have met in the Report with some suggestion of the proper means for this purpose, but if any such there be I have overlooked it. Should you have any thoughts of materially altering your plan let me know; for why may I not build my Castle – or rather my College – as well as any other man?”

Ranby then went on to condemn in scathing terms the Law Officers’ “unlawyer-like suggestion” that the King might wish to pay attention to a submission by Bowyer and Whittington that “the lapse of time and neglect to pursue the decree of 1769 may give cause for your Majesty to consider how far in your wisdom you will decree it proper to give effect at this distance of time to a disposition not capable of being carried out without your Majesty’s concurrence. This objection cannot be stated as forming any legal objection to your Majesty granting the charter prayed – and we apprehend it can only be argued as a matter on which your Majesty’s Royal Wisdom may be disposed to exercise discretion upon consideration of the public inconvenience which may arise from the length of time during which the ownership of property may by means of similar disposition be rendered uncertain.”

Ranby said that if the King acted on this suggestion it would be an exercise neither of his wisdom nor his justice. The arguments the Law Officers put forward in its favour gave him a strong disposition to laugh in their faces. “When one recollects” he concluded “the Revivors that have been unavoidable by the deaths of several of the Parties, and the chicane you have had to struggle against since you took any part in the business I am astonished that the Reporters could be induced to take any objection which it required the full exertion of Westminster Hall intrepidity in Mr Whittington’s Counsel even to state.”

That the Law Officers did take notice of such an objection shows how opposed they were to the Downing Cause. They had done their worst, however, and had failed. With unprecedented rapidity event followed event, each bringing the Charter a little nearer.

## CHAPTER 9

### UPHILL ALL THE WAY

In January 1772, when the result of the first petition for a charter was not yet known, the London Chronicle reported that the heirs-at-law of Sir George Downing had applied for a charter for a new college and that "a spot is fixed for erecting this edifice, a spacious piece of ground fit for the purpose on the south side of the town, opposite the Physic Garden between Pembroke and Emmanuel Colleges." An architect well-known in Cambridge, James Essex, had been commissioned to draw plans and to negotiate for the site.

The petition failed and nothing more was heard of the site for twelve years. In October 1784 Annesley visited Cambridge, according to a contemporary letter, to fix on a site for his new College "for though many have been proposed to him, yet objections are made to all... The most promising spot seems to be that between Dr Watson's house and the Tennis Court, but here 'tis said they cannot dig cellars, a material object I presume in such a college...."

The hope of an end to the Downing Cause which had encouraged Annesley to journey to Cambridge soon faded and the search for a site was left in abeyance. When it was renewed in 1785 there was no time to try and buy the favoured site, which was divided into many occupancies and ownerships, each requiring separate negotiations, and on which were common rights extinguishable only by Act of Parliament. What was wanted was a piece of land which could be easily acquired but would satisfy the Court as a suitable site although there was no intention to build on it.

Cambridge Corporation, which was under the domination of the powerful banker, William Mortlock, offered two sites – one, a mere one

acre twenty-three poles in area, at Pound Hill, near Castle Hill, the other fifteen acres or thereabouts of pasture-land at Parker's Piece. The latter would make an ideal site. On 19 December 1796 Annesley, as agent for the heirs-at-law, provisionally agreed to take it on a 999 years lease, on terms to be fixed. He also made a similar agreement in respect of Pound Hill. Both agreements expired without being implemented, and the site eventually acquired from Cambridge Corporation was a miserable one and a quarter acre plot lying between Emmanuel Road and Fair Street, facing Midsummer Common, and appropriately called Doll's Close. To build any sort of College on it would be practically impossible, but Mr Leeds, Master in Chancery, reported to the Court that in his opinion it would be fit and proper for the purpose intended by Sir George Downing.

Bowyer and Whittington pointed out convincingly the absurdity of this opinion but the Court accepted it. After thirty years of indifference the law was putting itself on the side of the Downing Cause in a remarkably uncritical way.

This attitude was also apparent in relation to the scheme for the college. Dr Torkington "declined signifying either his approbation or disapprobation thereof although duly summoned for the purpose", but Mr Leeds nevertheless found the plan signed by the other three office-holders a proper one "for founding and establishing a college conformable to the trusts and direction in Sir George's will."

Six days later the Court of Chancery gave the heirs-at law leave to renew their application for a charter. This they did promptly.

They submitted a draft of the Charter and its Preamble and nominated five members of the Governing Body — Francis Annesley, Master; Busick Harwood, Professor of Medicine; Edward Christian, Professor of Law; John Lens and William Meek, Fellows.

As the Court had approved both the site and the plan it looked as though even its enemy Sir John Scott would have difficulty in holding up the Downing Cause any longer. He and his colleague dealt with it on 16 November and 6 December, when all parties were present or represented. Bowyer and Whittington advanced all the old arguments, but the Law Officers called the King's attention to only three of them — the long time the estate had been in possession of Bowyer and Whittington; the doubtful desirability of vesting so large a property in Mortmain; and, ignoring precedents which had been pointed out to them, the difficulty of making the new college part of the University without an Act of Parliament. Until they knew the King's views on the arguments they so contumaciously put forward they declined to prepare the draft of a warrant for a charter in accordance with the King's request.

The King sent the petition and report to the Privy Council. It set up a committee which asked for particulars of the funds the College would have

for its foundation and maintenance.

This presented the University and the petitioners with a major problem; upon the way it was solved depended the whole character and development of the college. Legally Whittington and Bowyer were liable to account to the administrator of the devised estates, Francis Annesley, for all the rents and profits they had received from them since the death of Sir Jacob Downing. At Mr Leeds's valuation of £4,200 a year the total amount thus due was well over £100,000 after the litigation costs of all the parties had been paid. This sum would provide ample capital for building magnificently in spacious grounds, and a very useful annual income as well; it would give Downing a splendid beginning and an assured financial future. Alas! although Annesley and his friends thrilled at the prospect they had to admit that it was an empty dream. There was not the slightest likelihood that Whittington and Bowyer would be able to pay this massive sum; they certainly declared that they could not do so because they had expended most of it in the belief that it was there to spend. Action to recover could of course be taken against them in the courts and as they had been in unlawful possession such action would probably succeed. Then further action would be necessary to compel them to make retribution out of their personal resources, perhaps by selling all or part of their own estates. The litigation would be a godsend to the lawyers who had already done so well out of the Downing Cause, but it would continue the wearing-away of Sir George Downing's fortune, and, worst of all, would postpone for many years the grant of the charter which at last seemed imminent.

It was a crucial decision to make. The University's legal advisers met with those of the heirs-at-law and after much cogitation and discussion unanimously agreed to recommend that the demand for payment should be limited to the total rents and profits collected by Whittington and Bowyer from their respective parts of the devised estates in the preceding six years. Six counsel — Mansfield, Leycester, Graham, Fonblanque, Romilly and Christian — signed the recommendation. The University accepted it, "being solely influenced by the authority of the gentlemen signing the opinion", and the heirs-at-law concurred.

Admiral Bowyer had fought his last battle at sea and in the courts; he died in late 1799, but his executor and Whittington accepted the compromise gladly. And well they might. The recovery of the full amount would almost certainly have proved impossible but Whittington was a wealthy man in his own right and Bowyer's second wife was rich so that pressure on them might have produced a much larger sum — perhaps £40,000.

The agreement was reported to Lord Chancellor Loughborough on 5th March 1800. Counsel for the University showed the eagerness of that

body for an end to the Downing Cause, by arguing, contrary to the obvious facts and without any supporting calculations, that the sum claimed was all that was needed. "The University have an interest and are compelled to consent", he said. "It was very material for them to consider whether the foundation shall be to the extent of the enormous sum of £100,000, a foundation totally different from that intended. The Court may upon the admission of the University take a decree restraining it to what the foundation may want". In short, the University asked for no compensation for twenty-two years of delay – 36 years if calculated from the death of Sir Jacob – but would be content if the new foundation began with a capital about a quarter of that to which it was entitled; indeed it professed that a larger sum would be embarrassing. This was so obviously absurdly untrue that it is not surprising that Lord Loughborough was unhappy about the proposal. He declared himself in a quandary. He did not see how, as a matter of principle, he could make an order for less than the amount due, but he realised that a decree which followed the principle would be ruinous, "If I was to arbitrate on it" he said "I should have no difficulty in saying all the public purpose would be as well answered, though, with the consent of the parties, who have no right to consent, I should make a decree only with a little blot on it. I will do it, however, if, after it is done you will take an Act of Parliament to confirm it:" He ordered Mr Leeds to ascertain the total rents received by Whittington and Bowyer in the preceding six years. The calculation was easy; the rent roll totalled £4,200 a year, so £24000 would allow for repairs and defaults. In comparison with the £120,000 to which the college was entitled it was a poor sum, but enough to pay for the site and some buildings. Unfortunately the amount at the disposal of the heirs-at-law was much less than this – only £9780.18.1. (Mr Leeds was clearly a stickler for accuracy). This devastating reduction was due to payment out of it of all the costs of all the parties. As counsel for the University told Lord Loughborough "The great opposition to the charity has been carried on by means of the funds of the estate given in support of it". One would have thought that the two men whose defiance of the law had caused the expensive litigation would have been required to pay their own costs. All who agreed to this most unsatisfactory deal must bear much of the blame for Downing College's protracted infancy and penurious maturity.

The Privy Council then wanted to know how much the college buildings would cost. Annesley hastily consulted Thomas Wyatt, a widely-known architect whom in 1783 Annesley had asked to draw plans. Wyatt said the cost would be at least £60,000, but one wing could be built first for £20,000. It would have required an architectural miracle to get the buildings he listed on to Doll's Close. Happily the Privy Council was in the mood to accept miracles; on 11th June it advised the King to grant a

charter for the college to be erected on Doll's Close.

Sir John Scott's successor as Attorney-General, Sir John Mitford, continued the Law Officers' traditional unhelpfulness to the Downing Cause and declined to draft the charter until he knew the King's views on a number of doubtful matters. George III seems to have grown tired of his advisers' pernickety arguments and directed Mitford and his colleague to get on with the draft. He told the Home Secretary, the Duke of Portland, that he would sign the warrant for the Charter as soon as Doll's Close had been fully conveyed to the heirs-at-law. That transaction was quickly settled. All that remained was for the lawyers to complete the formalities and for the scribes to put the King's grant into elegant lettering.

For the first time for more than two decades Francis Annesley could relax. He was Dr Annesley now, not plain Mr. He had matriculated at St. John's College, Cambridge, at Easter 1800 and on 24 May, by mandate from the King, the University admitted him to the degree of Doctor of Civil Law. Never before or since has a degree conferred without examination been so strenuously earned.



## CHAPTER TEN

### THE IDEAL AND THE REAL

On the 22nd day of September 1800 that good friend of the Downing Cause, Lord Loughborough, passed the Charter under the Great Seal. Instantly, Cambridge University had a new college. A remote possibility, prepared for by a young baronet in the third year of the reign of George I became in the fortieth year of the reign of that King's great-grandson an established fact, created by Royal decree with the approval of those august bodies, the Privy Council and the Court of Chancery.

The terms of the Charter, in the evolution of which Francis Annesley had played a major part, were designed to keep Downing College free from the anachronistic restrictions, myopic outlook and sloth-inducing atmosphere of older foundations. It was to be a perpetual College for students in "Law, physic and the other useful arts and learning", with a Master, a Professor of Law and a Professor of Medicine, and sixteen Fellows, of whom only three were to be appointed until the necessary buildings had been erected. To prevent the ossification apparent elsewhere only the Master, the Professors and two clerical Fellows were to hold office for life; the rest of the Fellowships were limited to a tenure of twelve years whilst their holders were "going forward" in their chosen professions.

The allocation of only two Fellowships to men in Holy Orders would ensure that Downing would not be a predominantly clerical society like other colleges and yet would have as life members of the Governing Body two of that class of graduates which was traditionally considered most fitted to teach undergraduates and to undertake administrative duties.

The indolence of Professors during the eighteenth century was notorious. As Edward Gibbon wrote "most of them had for these many years given up altogether the pretence of teaching .... secure in the engagement

of a fixed stipend, without the necessity of labour or the apprehension of control."

The Professorships established under the Downing Charter were not to be such sinecures. The Archbishops and the Masters were to decide what lectures the Professors should give, and the statutes were to "contain provisions for enforcing the reading of such lectures by suitable penalties in case of any omission thereof."

Future Masters were to be elected by the Archbishops and the Masters named in the will, future Professors by the same four men and the Master of Downing. Future Fellows were to be elected by the Master, Professors, and Fellows of M.A. standing, from Oxford and Cambridge graduates in Arts, Physic or Law. Clerical fellowships lapsed on marriage, but lay fellows could marry after six years in office.

The Visitor was to be the King, acting through the Lord Chancellor.

It is convenient here to record that on the 23rd July 1805 the heirs-at-law published, as the Charter required, Statutes Rules and Ordinances for the regulation and Government of the College and its members, with the approval of the Archbishops and the Master of St. John's, but not of Dr Torkington, who continued to sulk at Clare Hall. The statutes amplified some of the provisions of the Charter and added others relating to the procedure for the election of Fellows and Scholars, and other administrative matters. They gave the highest authority to the Master, making him almost a dictator in College affairs. The control over the Professors was extended to a specification of the number of lectures they were to give (24 of one hour's duration each) under a penalty for failure of reduction in stipend or, on a third offence, loss of office. Annesley and his advisers were determined that the Professors should earn their stipends, which were only £200 a year. The Master was to receive £600 a year and each Fellow £100, but no member of the Governing Body was to receive anything until all other necessary disbursements had been made. That meant that for a time, at any rate, Annesley and his colleagues had to work for nothing. The Law Officers were to blame for this. In their last report they had recommended that control over the College finances should extend to the establishment of a building fund which should be a prior claim on resources. The Charter adopted this recommendation and directed that "out of the revenues of the said College there shall be in the first place set apart as much as shall be necessary to be applied to creating proper buildings .... together with any other funds applicable for that purpose," (that is, the capital sum obtained by the settlement with Whittington and Bowyer). As the Court of Chancery would determine the amount to be set aside the Governing Body's scope for managing the College's finances was very limited indeed. By adding this restraint to the restrictions arising from a chronic lack of capital the Law Officers were

largely responsible for Downing's sixty years of stunted existence.

Statute XIII, which dealt with finance, declared that "both the utility and dignity of a collegiate establishment are highly concerned in maintaining a constitution of just principles and a liberal spirit and in preserving that constitution in unity and consistency".

The last sentence shows that in over twenty years Annesley had not abated one jot the determination he had expressed soon after assuming the mantle of Master designate to make the principal object of his college "to supply whatever is defective in the ancient establishments". He wanted Downing to begin and to remain free from the clerical domination, unworldly seclusion, toleration of idleness, neglect of scholarship, ineffective use of resources and absence of purpose which to a greater or lesser degree afflicted the old foundations of both Oxford and Cambridge. Guided by a powerful Master; its Governing Body frequently re-invigorated by ambitious young lawyers and medical men; its influence in the outer world steadily increasing as those young men went forward in their professional careers; whole-heartedly devoted to the furtherance of learning and the instruction of youth; its teaching in the hands of men in Holy Orders prepared to dedicate their lives and energies to their pupils and the College, Downing was intended to stand as a shining example of what a nineteenth century college should be.

That was the dream. The reality was very different.

As Annesley studied his copy of the Charter in his chambers at Gray's Inn or in his Mayfair house, surrounded by his Turner and Wilkie paintings, his Gainsborough drawings, his fine china and his books of prints he cannot have felt much optimism for the future of the college he had nursed into existence. It was a legal entity without a home, committed to building a college on a patch of ground only suitable for a small house; its expendable capital was minute, its annual income derived from neglected and impoverished landed estates; until sufficient buildings had been erected to satisfy the Court of Chancery it could not add to its tiny Governing Body or pay its members their modest stipends, neither could it perform any of the functions of an educational establishment.

If Annesley had been absolutely free to conduct the Foundation's affairs as he and his colleagues thought fit, and especially to enter into contracts and to borrow money, Downing might have begun to function within a reasonable time. He had no such freedom; he was in the grip of Chancery. The fortunes of the college were in the hands, not of the Lord Chancellor himself, but of a Master sitting in Chambers, in that department of Chancery of which it was as true then as it was when Dickens wrote fifty years later that it "has its worn-out lunatics in every madhouse, and its dead in every churchyard, which has its ruined suitor with his slipshod heels and threadbare dress, which gives to monied might the means of



6. Downing College as it might have been.

abundantly wearing out the right, which so exhausts finances, patience, courage, hope and overthrows the brain and breaks the heart that there is not an honourable man amongst its practitioners who would not give – indeed does not often give – the warning ‘Suffer any wrong that can be done to you rather than come here’”. Annesley’s colleagues included three such practitioners – Christian, Lens and Meeke – but it was too late for them to warn. The curse of Margaret Downing was upon Downing College. It had to “come here” to exist.

The times were not auspicious for the establishment of a new college. Britain, at war with Napoleon, was an armed camp; the hungry part of the populace were restless; the Cambridge poor were being kept quiet by soup; even the academics were making such sacrifices for the general good as doing without pastry. As a friend told Annesley, he had taken on an “Unprofitable and grievously tantalising Headship”, but like David

“His way once chose, he forward thrust outright,  
Nor stepped aside for danger or delight.”

The first essential step was to find a proper site, the second to get permission to use it.

Annesley and Christian were given the first task and quickly decided that the site originally chosen, Pembroke Lees, (sometimes called St. Thomas Leys) was the only possible one. The various owners were willing

to sell so the College solicitors Messrs Forster Cooke and Frere took rapid steps to get the change approved by Act of Parliament.

The total area of the Lees was over thirty acres, divided into a large number of fields, with eleven different owners, including Peterhouse, Caius, Jesus, the University and Hobson's Charity, and a number of tenants on a variety of leases. In addition over 200 people had common rights. Provisional contracts were speedily arranged and the Royal Assent was given on 2nd July 1801, not only to the bill authorising the change of site but to another bill enclosing Pembroke Lees. The final signatures were not appended to every contract, however, until 1807. The total purchase cost was £5451.8.1.

In 1802 Whittington made his last attempt to ruin the College by inviting the Court of Chancery to declare that the purchase of Doll's Close was invalid because it was in the names of the heirs-at-law and not in those of the trustees named by Sir George, and that in any event Doll's Close was manifestly too small for the purposes specified in the charter, which was thereby invalidated because it did not specify a proper site. A hard-fought contest lasted three days and resulted in Whittington's defeat. For nearly a quarter of a century he had had a malign influence on the Downing Cause. He was as doughty and persistent a fighter as Francis Annesley and perhaps was animated by as firm a belief in the justice of his cause as his opponent was in his. The following year a "clearing up" action took 6 days. The cost of all this litigation fell upon the estate.

When negotiations for the purchase of St. Thomas Leys were going well the Governing Body submitted plans of the new college drawn by James Wyatt for the approval of the Court of Chancery. The Master who now became, under the Lord Chancellor, the ultimate arbiter in Downing College affairs was Mr. Stafford. He told Annesley he wanted to compare Wyatt's design with another. Annesley consulted Thomas Hope, an ardent apostle of the neo-classical movement which advocated the replacement of the Roman-Doric principles hitherto in vogue by those revealed by the pure Doric buildings of ancient Greece. In February 1804 Hope published a pamphlet in the form of a letter to Dr. Annesley in which, with much verbiage, he damned Wyatt's design as without "one striking feature, one eminent beauty." This encouraged a number of architects to submit plans — James Wyatt's nephew Lewis Wyatt, Francis Sandys, William Porden, George Byfield and William Wilkins. Porden's design was Gothic, which would not have pleased George III, who was reputed to have said "Not Gothic" when the question of the style of the new college was mentioned. Those by Lewis Wyatt and William Wilkins found favour. Mr. Stafford asked George Dance and two other leading architects for their opinion. Their choice fell on the design by William Wilkins, a graduate of Gonville and Caius, aged 27, who had been to Greece and brought back drawings of

ancient Doric buildings. Hope thought very highly of Wilkins's design, and Annesley agreed. Wilkins's plans were accepted by the Governing Body and Downing was committed to building extensively in the Greek neo-classical style.

As soon as possible the College put up the rents of its tenants so that its annual income, if everyone paid, came to £6200. The Court of Chancery fixed the sum to be paid into the Building Fund annually at £3000. As in some years many tenants could not pay their full rent and putting the estates into a reasonable condition, and keeping them so, was costly, there would be very little for the College's running expenses, which would increase as building progressed and activities expanded. Not much of Wilkins's great design could be built without borrowed money.

The Court of Chancery gave the go-ahead for building to begin and in bright sunshine on the morning of Monday, May 18th 1807, Dr. Annesley laid the foundation stone in the presence of what the Cambridge Chronicle described as "a vast concourse. . . as well from the neighbouring county as from the University and town anxious to witness various parts of a ceremony which has of late so rarely occurred." The stone bore a bronze plate engraved with an inscription recording the origin and objects of George Downing's Foundation. With it the Master put specimens of the current coin of the realm and Mr Watts, the University Printer, deposited the first stereotype plate cut in the University. The location of the stone is not now known; presumably it is in the Master's Lodge, where building began.

The proceedings had begun at 11 a.m. with a service in Great St. Mary's, at which the Public Orator, Dr Outram of St. John's, had referred to the defects of the existing University and college systems which the new foundation was designed to avoid, especially the limitation of Fellowships and scholarships to particular families or localities, which had "checked the elevation of spirit and retarded the process of learning." "Now," he ended "a new luminary of science has arisen, a new source of light and strength has come to our revered establishments. Another college offers herself to our notice, holding in her hands the free rewards of moral and intellectual acquirements."

Later that day the Master, Professors and Fellows (except Mr Meeke) entertained sixty or seventy gentlemen at the Red Lion in Petty Cury.

Hitherto meetings of the Governing Body appear to have been held in London, either in the chambers of one of its lawyer members or in a coffee house, but on the day following the laying of the foundation stone the first meeting in Cambridge took place in the Provost's Lodge at King's College. It decided to instruct Wilkins to proceed "with all convenient expedition" to complete the Master's Lodge, next to build the East Lodge for the occupation of the Professor of Medicine as his need was greater

than that of his colleague of Law, and then to build six sets of chambers between the two Lodges to provide temporary accommodation for Professor Christian and the three Fellows. Professor Christian convinced that he was senior to Professor Harwood because by alphabetical chance his name came first after the Master in the Charter, objected to being left without a Lodge whilst his medical colleague had one, and persuaded the Governing Body that West Lodge should be built before the chambers on the east side.

Nevertheless, that resolution was ignored and the six chambers were built before work started on the west range. This annoyed Christian so much that he appealed to the Visitor, Lord Eldon, and for several years the principal subject of discussion at the few Governing Body meetings was his claim. Lord Eldon staved off coming to a decision until it was made unnecessary in 1821 when the Professor of Law at last got his house within the College precincts.

The Master's Lodge and East Lodge were ready for occupation in 1811, but completion of the six chambers had to wait until there was more money in the Building Fund. These were ready in 1813. The eastern range had cost £30,621.14.0, which was outstandingly more than Wilkins's original estimate owing to increase in the price of materials and the cost of labour shortly after building began.

That cost covered the range itself, 236 feet in length and 160 feet at its greatest depth, with stables and coach houses for the Master, one Professor and one Fellow, a main sewer suitable for all projected buildings, a considerable extent of boundary walls and a carpenter's shop and out-buildings.

The Building Fund was exhausted, although it had been augmented in 1810 by the sale of the "cabbage patch" at Dolls Close for the trifling sum of £350, and of several "messuages, stables and outhouses adjoining the Great Bridge" for £1050. Two years later £13,100 was obtained by the sale to Mr Barns of the Downing estates at Dunwich and Westleton where the Founder had spent his summers.

Professor Harwood moved into East Lodge as soon as it was ready but the Master did not hurry to move into his Lodge himself, although some of his servants took up residence there. He may have thought it better to wait until the chambers were built, as building activity next door is not conducive to comfortable living. He was getting too old to change and must have been happy enough amidst his treasures in his house in Curzon Street, Mayfair. It was there that he died, on Thursday, April 16th, 1812.

## CHAPTER ELEVEN

### FRANCIS ANNESLEY AND COLLEAGUES

Everything which gave Downing College life and purpose was done on Francis Annesley's instigation and under his close supervision. At an early meeting of the Governing Body his younger brother Martin had been appointed Receiver, first of the Suffolk estates, later of all the College property, but as the Visitor was told many years later "Dr Annesley had in fact the whole direction of the business of the Receivership in his brother's name and with his concurrence. The Governing Body were very rarely assembled for a corporate act; the principal occasions were changing the site, fixing the plan of the buildings, electing Fellows, framing statutes, and when particular applications were to be made to the Court. The general business of the management of the estates was conducted solely by Dr Annesley and Mr Annesley under the direction of the Master in Chancery".

Annesley's virtual monopoly of the conduct of College business arose partly from his natural reluctance to leave to others the further advancement of the Cause with which for so many years he had been more closely identified than any one else, and partly from the absence amongst his colleagues, except only the youngest of them, of any one with anything like his knowledge, determination and drive. Yet they were all his own choice. In 1798 Samuel Romilly had been briefed to tell the Law Officers that "great merit is due to the heirs-at-law for the independent and liberal spirit by which they have been activated in proposing the several Appointments, a circumstance no less honourable to themselves than to their nominees"; that is, the Professors and Fellows had been selected because they appeared from their reputation, character and academic standing particularly fitted to help in forwarding the fortunes of the new foundation.



That was probably true when they were first nominated, but after fifteen to twenty years they and their circumstances had changed. Thus two of the three Fellows, Lens and Meeke, were certainly not in 1800 within the qualifications for a Fellowship laid down by the Charter. They were not in need of "temporary assistance" whilst they were "pressing forward to active and useful employment in society"; they were not "on the way", they had arrived. The Law Officers pointed this out but Annesley stressed the importance he attached "to the Prospect of being assisted on the first Establishment of the Institution by persons of their Knowledge and Experience", and their names were included in the Charter.

John Lens, of St. John's, fourth wrangler and first Chancellor's medallist had by 1800 acquired a flourishing practice on the Western Circuit, of which he became leader; University Counsel in 1805, King's Sergeant in 1806, his calibre was such that he was destined to receive an invitation, instigated by the Prince Regent, to become Solicitor-General. When he refused his reputation for the incorruptible support of freedom was so enhanced that a popular toast was "Sergeant Lens and the Independence of the English Bar". He was always ready to give Annesley advice without fee but, understandably, he had no time for day-to-day administrative matters.

In 1800 William Meeke had been Member of Parliament for Penryn for four years. A Fellow Commoner at Emmanuel he had achieved no academic distinction. He was not called to the Bar until 1785, so why Annesley nominated him in 1783 is inexplicable. He did nothing much as a barrister and appears to have contributed very little to the College. He did not attend the laying of the Foundation Stone ceremony in 1807, ostensibly because he was ill. The real reason for his absence was that he had married (or was about to marry) and thereby forfeited his Fellowship, but he did not let his colleagues know of this until nearly six months afterwards, when he resigned.

His successor was chosen from four candidates at Downing's first Fellowship examination in April 1808. He was Charles Skinner Matthews of Trinity, aged 23, a scholar who was also a man of the world, a philosopher and sceptic who was devoted to boxing and swimming, and a sardonic humorist. He might have played a very influential part in the development of Downing if he had not suffered the fate of Lycidas. "The blind fury" came "with abhorred shears and slit the thin-spun life" on August 2nd 1811. He was drowned in the Granta near what is now called Byrons Pool after his great friend, Lord Byron, who wrote in 1820 that "he was a very extraordinary man and would have been a great one. ...His conquests will be found registered at Cambridge, particularly his Downing one, which was hotly and highly contested and yet easily won."

Of the two Downing Professors the one from whom the Master might

have expected most help was Busick Harwood, who lived in Cambridge. He was a member of a Newmarket family. After qualifying at London Hospital he went to India, where he amassed a large fortune. Returning home he became a member of Christ's but soon transferred to Emmanuel as a Fellow Commoner. He acquired a considerable local practice, gave well-planned and comprehensive lectures on anatomy and spent much time in investigating the sense of smell in fish. He had succeeded Charles Collegan both as Professor of Anatomy and Professor-designate of Physic at Downing in 1785, at which time Annesley must understandably have believed that he was the Cambridge man best fitted to further the study of medicine in the new college. By 1800, however, various incidents of a scandalous nature may have made Annesley wonder whether his choice had been a wise one, but it was then too late to change. Harwood's election in 1798 to the captaincy of an armed association of Cambridge householders showed that he was nevertheless a respected local figure. In 1806 he received national recognition in the form of a knighthood and the following year he became a Justice of the Peace, but his idiosyncrasies and quarrelsomeness continued to give rise to anecdotes which must have embarrassed his quiet and gentlemanly Master. Harwood was far too occupied elsewhere to do much for Downing, at any rate until he moved into his Lodge in 1811.

The Professor of Law was also very busy. A St. John's man, he had been third wrangler and second Medallist, and quickly achieved a reputation as a lecturer on "The Principles of the Laws and Constitution of England", a very valuable service to students because most instruction concentrated on Roman Law and ignored Common Law. He edited Blackstone's "Commentaries on the Laws of England". The Copyright Act of 1807 was largely due to his efforts. "This" he boasted "I and I alone with the assistance of Parliament, procured." He was an ineffectual advocate because of the excessive self-satisfaction indicated by that brag, and because of his capacity for "drawing out the thread of his verbosity finer than the staple of his argument". As Professor of Common Law at the East India College, Haileybury, and Chief Justice of the Isle of Ely he too had little time for College business. Annesley must have been glad of this when Christian became increasingly cantankerous as the years passed; he even appealed to the Visitor about alleged defects in the first Fellowship examination.

The Fellow from whom Annesley received most help was William Frere. His name had been included in the Charter at the last moment. It may have been put forward by his brother George who in 1797 had become a partner in the firm of Forster and Cooke, the founder of which, Samuel Forster had acted as the heirs-at-law' solicitor throughout the litigation with assiduity and good sense. Frere was about to sit for a Trinity Fellow-

ship when he was offered one at Downing. He intended to go to the Bar and certainly came within the category of young men for whom Downing Fellowships were intended. It was a good choice. He did well at the Bar and became Serjeant at Law after only seven years in practice. He was so anxious to do what he could for his new college that he chose to go on the Norfolk and Suffolk Circuit so that he could get to Cambridge fairly easily. He was given the immediate task of getting the College a coat-of-arms and quickly obtained a grant of the arms of the first Sir George; he designed the College seal; he read a Latin oration at the Foundation Stone ceremony; he was principally responsible for the conduct of the first Fellowship examination. He was thus a very valuable colleague and Annesley must have been very sad when in 1810 Frere married Miss Mary Dillingham and resigned his Fellowship.

His successor, Cornwallis Hewett, and Matthews' successor, Thomas Cadogan Willatts, both of Trinity, had had no time when Annesley died to show their worth; their subsequent history gives no ground for believing that they were men of outstanding quality. If as he lay on his death bed the Master's thoughts turned to the question of who ought to succeed him the answer, if he reached one, must have been that the only man with Downing connections fit to do so was William Frere.

Whoever it was who would become the first resident of the Master's Lodge, his task would be very different and much easier than that which occupied Francis Annesley for at least half his life time. The first Master was unique, and would remain so. No one would ever need to do again for Downing what he had done. He had been the vigorous heart of the Downing Cause, pumping blood into parts which but for it would have withered away, and he had been the nurse and midwife of the College, bringing it safely through a long and difficult gestation and fostering it in its feeble infancy until there were visible signs on Pembroke Leys that it would reach adulthood. If he visited Cambridge not long before he died, as he probably did, he could have stood amidst the expanding groves and lengthening avenue of young trees which were turning the thirty acres of Pembroke Leys into a bosky pleasance, looked at the delicately coloured Ketton stone and the graceful proportions of the Master's Lodge and the East Lodge and without immodesty murmured, like Christopher Wren, "si monumentum requiris, circumspicere."

He had another monument in the respect and affection of the citizens of Reading. For thirty-two years he was their unassailable member of Parliament, establishing Reading as an independent borough completely free from Governmental or any other outside influence, a remarkable achievement in a corrupt era when the buying and selling of constituencies and votes were widely regarded as necessary business. His careful attention to the needs and wishes of his constituents and his absolute incorrupt-

ibility earned the trust and affection of all electors, including the independent ones. As has already been recorded, he never asked his constituents for a penny towards the cost of the six elections in which he was returned, five times unopposed. Neither, as he himself said, did he on any occasion ask or receive from the Government or any one else, any sort of favour on behalf of himself or his relatives.

He retired from Parliament in 1806, because the forthcoming election would have been a contest owing to two candidates standing in the two member constituency, although not with any desire to oust him. It was as well that he did not stand again; he was 72 and College business would require increasing attention as building proceeded.

The burgesses of Reading showed their appreciation by presenting him with a two-handled silver vase and cover by Benjamin and James Smith, weighing over 145 ounces and inscribed

“Presented to Francis Annesley, LL.D.,  
Master of Downing College in the  
University of Cambridge, and one of the Hereditary  
Trustees of the British Museum, who in six  
successive Parliaments Represented the Borough of  
Reading with Honour to himself and Fidelity to his  
Constituents.

This Memorial of their Private Esteem and  
Public Gratitude was unanimously voted at a General  
Meeting of the Electors Expressly called for that  
purpose, the 10th day of December, 1806. Thos  
Gleed, Chairman.”

He continued after his retirement from Parliament to be active in his friendship with his former constituents. As was said “his benevolence was so engrained in his disposition that he could not be otherwise”.

In Reading Town Hall there is a portrait of Annesley by A. Hickel. In 1920 the Rev. W. L. Beaumont, a Downing man greatly interested in the history of his College, had a copy made and presented it to the College, where it now hangs in the Senior Combination Room. Looking at it one can have no doubt of the truth of the obituary in the *Gentleman's Magazine* which said “The mention of his name is sufficient to awaken the feelings of respect, affection and gratitude in the hearts of all who knew him. No man was ever more exclusively or deservedly loved. He might be said literally to be always doing good. The delicate and endearing manner in which he conferred a benefit increased its value. He never resented an injury and never forgot a kindness. His moral excellence proceeded from a deep sense of religion. He was devout without ostentation and his zeal was guided by knowledge . . . . In the arts he possessed an exquisite taste . . . In every period and relation of life he united the urbanities of a man of the

world with the strictest practice of the duties of morality and the works of Charity.”

In lapidary inscriptions and obituaries, as Dr Johnson said, one is not upon oath, but Downing men must feel that that panegyric is fully deserved, for have they not in their very existence the proof that he was a remarkable man. If Francis Annesley had not been a man like Wordsworth's Happy Warrior “who not content that former worth stand fast, Looks forward, persevering to the last”, it is very likely that the idea of Downing College would have been smothered to death in the chambers of the Law Officers.

## CHAPTER TWELVE

### OPENED FOR EDUCATION

The death of Dr Annesley brought Downing College to a watershed of the utmost importance. The statutes for which he had been largely responsible placed so much power in the hands of the Master that the way the infant college would go depended almost entirely on the character and ability of his successor. The difficulties which beset the college, the restrictions within which those who worked for it must labour, made it very likely that a Master, however capable, who was not prepared to subordinate all other interests to the duties of that office, would fail to carry the fortunes of Downing further forward than Annesley had left them, whilst a really bad choice might have disastrous consequences.

The duty of ensuring that this did not happen was placed by the Charter and the statutes on the four wise men the Founder had nominated in his will as his college's guardian angels. It was not an enviable duty, partly because so much depended upon its proper performance and partly because the field of choice was narrow. Only past and present members of the Governing Body were eligible for election and two of these – Hewitt and Willett – were too young and inexperienced to merit consideration. Lens, whose Fellowship would expire in September, was so successful at the Bar that one would have expected him to have no desire to take on what would continue to be "an unprofitable and grievously tantalising Headship". However he let it be known that he was a candidate.

Still more surprisingly William Meeke emerged from obscurity to declare his desire to rule over the college in which he had taken no apparent interest since his marriage.

Professor Christian had no doubt that he was more fitted than anyone to conduct the affairs of Downing, or, for that matter of any other college,

and moved quickly to assert his claim. Astutely he realised that there was a strong possibility that the four electors might find themselves in deadlock, in which event the appointment would fall to the Visitor. On the very morning of Annesley's death therefore Christian, in his own words, "threw" himself "in the way of the Lord Chancellor" and pointed this out to him, with implication that if he was right he (Christian) was the man Lord Eldon, should choose. Eldon, as was proper, said he could not say a word.

Professor Harwood was in London when Annesley died, but as soon as the news reached Cambridge his wife went to see one of the electors, Dr Torkington, who was still Master of Clare Hall. He had resolutely refused to have anything to do with the Downing Cause for nearly thirty years but Harwood was his doctor and a friend of long standing. Although later he said he was still uncommitted he apparently promised Lady Harwood "that he would perform his statutory duty" in her husband's favour. As Harwood was likely to get the support of Dr Craven, the Master of St. John's, the Professor of Physic was in a strong position; it only required one Archbishop to vote for him to put him in the Master's Lodge.

Another who got busy even before Annesley's body was cold was William Frere. He hurried to Lambeth Palace to see the Archbishop but Dr Sutton was out. He called again next day. The Archbishop was in and told him that the electors would have to consider the other candidates and consult together. Frere therefore hastened to Cambridge and spoke to the Master of St. John's.

Dr Craven told him that he thought highly of him but his vote would go to Professor Harwood, although he might best serve the college by not voting at all, thereby avoiding the possibility of a deadlock and preventing the Visitor from having an opportunity to choose Christian. Frere also called on Torkington who ignored his promise to Lady Harwood and said he had not yet decided how he would vote.

Two days later Frere called at Lambeth Palace again and told the Archbishop his ideas about the Mastership. He and Dr Sutton were apparently on good terms.

The only elector who was safe from personal visits was Dr Harcourt, Archbishop of York, who was far away in Bishopsthorpe. He could be reached by post, however, and amongst the letters he received was one dated April 19th, from a very influential Cambridge figure, the Rev. Dr Isaac Milner, President of Queens', who wrote "My age and long residence have made me to know the candidates pretty well and in consequence expose me to applications from them for the purpose of doing any little matter which they may suppose may be in my power, to help their view.

Though I am known to most, if not all, of the candidates yet this is a

case where I can say, from the very bottom of my heart, that I have not a wish, except upon general grounds, — that is, for the good of the University at a period, in my opinion, by far the most critical that has taken place for many years . . . . I think your Grace will do very well to be in no hurry to decide. Lady Harwood called at my Lodge yesterday morning before I was downstairs."

The Archbishop replied, agreeing with these sentiments and commenting on the candidates. Milner wrote again on April 23rd.

"Sir B.H., an old acquaintance but the objection precisely what you mention, and in good degree.

Professor C., an old friend, who I am sorry to say has not grown in my esteem for some years. I will say no more, unless necessary. I was very instrumental in procuring for him his present situation at the India College, but I could not conscientiously repeat what I said then.

Lens, an actual pupil of mine — excellent scholar — stands well in his profession — strong-headed but I have for years lamented his politics and the length he is said to go.

M(eeke) out of the question for the reason you mention.

Frere, the only one of whom I have known but little; his character very good.

I believe the Lord Chancellor thinks well of Professor C. and I have heard has given him his promise.

They say that Professor C. has also the Master of St. John's, Sir B.H. certainly the Master of Clare Hall" (University gossip was only half right.)

It is plain that what worried Milner and the Primate of York was that Christian would get the appointment through the Lord Chancellor.

Sir Busick Harwood was also alarmed at this prospect. He could not stomach serving under the Professor of Law and when he heard that the Archbishop of York was going to vote for Frere and his colleague of Canterbury was likely to do the same he wrote to the latter on May 2nd withdrawing his candidature. More than that, he persuaded his supporter Torkington to promise to vote for Frere. Harwood's bitter dislike of Christian was a prime motive in this action, but he must be given credit for doing his best to stave off a disaster of the first magnitude. Christian at the head of Downing would have been a calamity which the College could not have survived. Even Torkington, despite his previous lack of interest in Downing, could see that. His view was summarised later on when the petition was heard. "He knew there was a particular candidate who in his opinion was unfit to be Master, from a long and intimate acquaintance with him he had seen that he was of that temper and disposition which was likely to prevent him from being a good Master; that he was a man of excellent moral character; that he had none of what are generally called vices; that he was admitted to be a Man of Learning but yet had many failings which rendered him unsuitable". The case against Christian could not have been put more fairly or more succinctly.



The Archbishop of Canterbury gave notice to the Masters that the election would take place at Lambeth Palace on May 8th, unless some other date was more convenient. On that day the two Archbishops were present, but not the two Masters. Professor Christian attended and handed in a "proper Proxy" signed by Dr Craven, and stamped, authorising the Archbishop of Canterbury to vote on his behalf for Professor Christian. Mr Frere was also there and handed in a proxy in favour of himself signed by Dr Torkington, but unstamped.

Later that day William Frere was elected Master of Downing by three votes to one.

Christian was furious. He at once lodged a petition against the election with the Visitor. His grounds were (1) that the election did not take place in Cambridge, as was customary; (2) that the Master of Clare Hall, Dr Torkington, had voted by proxy, although the proxy form submitted on his behalf was unstamped and thereby made the vote void; and (3) that Torkington had been influenced by Busick Harwood to vote for Frere when he was incompetent to give a proxy, being either deceived or influenced into giving it by Harwood, who obtained it to transmit or not as he thought fit.

Craven supported him to the extent of complaining that he was never consulted about the date or place of the election. As he had been invited to say if the date was inconvenient, but sent in the proxy without question, the Master of St. John's was blatantly allowing himself to be influenced by his desire to help a former member of his own college, without thought for the well-being of Downing.

There was nothing in the Charter or Statutes to compel the election to take place in Cambridge; even if Torkington's vote was invalid Frere would still have two votes against Christian's one; and although Torkington's proxy was not stamped as it should have been, it could be made valid by payment of a fine of £10 in addition to the fee.

The Lord Chancellor did not begin to hear the petition until Saturday morning, March 13, 1813, in Lincoln's Inn Hall. As he had to rise at 2 p.m. the hearing was adjourned to Monday. Although it was a domestic matter the public was admitted. Much to the annoyance of Mr Forster Christian had induced Sir Samuel Romilly to appear for him, although he had been retained by the College on several previous occasions. Leach led for the College.

The long delay in getting the petition before the Visitor did not mean that nothing had happened since Frere's election. Christian himself was so active in trying to further his cause that he upset several people, including Torkington. The Master of Clare Hall was old and ailing although mentally alert, and spent much of his time in bed. Three times during June and July Christian called at Clare Lodge. Twice he failed to see Torkington, who told his servants not to admit him and then retired to bed. On the third occasion — on July 12th — he managed to see the Master and asked him if he had changed his mind. Torkington told him sharply "I am not such a shuttlecock" — an understandable "derangement of epitaphs"

when being badgered by the Downing Professor of Law.

In the autumn the Lord Chancellor suggested through Mr Leach that the electors should have another meeting and vote for the candidates all over again. Later on he denied that the suggestion came from him but the Archbishop of Canterbury took the hint and called the electors together again on October 5th. This time Dr Craven did not vote — presumably he too had had enough of Christian. Torkington sent a properly prepared and stamped proxy in favour of Frere, the Archbishops stuck to their guns and Frere was elected again. This second bite at the cherry was commented on at the hearing of the petition but it was not allowed to affect the issue. It is unnecessary to record the tedious arguments with which Romilly supported Christian's case, or the equally tedious but much more sensible arguments of his opponents. Even Romilly could not accept Christian's allegation that Torkington was too senile to know what he was doing, and he must have felt uncomfortable about an affidavit of Christian's declaring that "a gentleman of the University" told him about a conversation with Dr Brown, Master of Christ's, and that Mr Hicks had gone "on a strange errand", nebulous occurrences which he advanced as manifestations of a conspiracy against him. The contents of his petition were truly, as Frere said, "the sweepings of his mind".

One would have thought that by Monday night Lord Eldon would have been ready to reject the petition but he was not. He rose without giving a decision and it was not until September 1814 that Frere heard from a friend in Cambridge that the Visitor had eventually done so. He asked Forster, who was also in complete ignorance of the decision, to make enquiry, and he discovered that the Visitor had written on the back of the petition

"Upon the view I have taken of all the circumstances of the case, which have been laid before me, whatever doubts may have been raised upon some of the points touching the validity of the Election, I do not think as Visitor I ought to nominate any other person than the Gentleman whom the majority of the Electors clearly meant effectively to appoint, if they have miscarried in their forms of proceeding."

By that decision Lord Eldon as Lord Chancellor saved from almost certain disaster the college of which he had as Sir John Scott, Attorney General, tried to frustrate the foundation.

William Frere, the youngest of the five sons of George Frere of Twyford House, near Sawbridgeworth, Herts, belonged to a vigorous family which has produced many men of distinction in learning and politics. As he had helped Annesley in college business he was fully aware of what had to be done to make the college an effective place of education, and of the difficulties which lay in the way of doing so, but he took office fired with determination and enthusiasm. He was more fortunate than Annesley in having a wife who was exceptionally well-fitted to be the first lady to grace the Master's Lodge.

Mary Forester, Mary Townsend and Mary Annesley had each played a part in the Downing story. Now a fourth Mary stepped upon the stage.

Mary Frere was six years younger than her husband, the daughter of a Norfolk squire, Brampton Gurdon Dillingham, who was for some time member of Parliament for Norwich. She was that rare creature, a woman who was as happy and accomplished with a gun in a wood as with a piano in a drawing room. Her interest in agriculture was as great as her interest in music, about which she was said to know more than anyone else of her generation, and she had a voice of such a splendid quality that a famous operatic star, Madame Catalini, described her as the best non-professional singer in England. Another of her interests was the theatre. Whilst her father was M.P. it was her privilege twice a week to choose the play to be performed at Norwich Theatre. In consequence she knew many leading actors and actresses and much enjoyed amateur theatricals. As she and her husband were well known in some of the best social circles in London there was every prospect that Downing College Lodge would become the centre of activities such as other colleges rarely knew.

The uncertainty of his tenure of office arising from the Lord Chancellor's failure to give publicity to his decision must have made it difficult for Frere to go whole-heartedly into his new duties, but he did so, whilst still keeping busy on circuit.

Soon after his second election, in October 1812, the future Lord Chancellor Cranworth, Robert Monsey Rolfe of Trinity, joined the Governing Body in Lens's place; he was the only candidate but had to sit an examination to prove his worth.

In the same month it was agreed that the six sets of chambers between the two Lodges should be completed as soon as possible. It was also decided to take all Pembroke Leas under college control because of the depredations resulting from letting to tenants. A gardener was appointed and considerable tree-planting and path-making undertaken. Mrs Frere was a great tree-lover and exercised considerable influence on the lay-out of the grounds, much of the work being done at her husband's expense and with his horses and carts. She also took much interest in tree-planting on the College estates.

An early indication of her theatrical interest was the visit to Cambridge of Mrs Siddons to give a Shakespeare reading to the University. The Freres invited her to stay at their Lodge and after her public performance she recited the "Dagger" scene from "Macbeth" in their drawing room, but, it was said, "marred the climax by producing from her belt at 'this which now I draw' her spectacle case!"

In November 1814 the Master of Downing was presented with an unusual problem. Sir Busick Harwood died after a long and painful illness. Since taking up residence in East Lodge he had identified himself more closely with the college, had shown self-sacrificing concern for it at the time of Frere's election, and had undertaken the duties of Vice-Master at Frere's request. He asked in his will to be buried on the site of the College chapel, a wish which he had frequently expressed in his lifetime. The problem was that although a site for the chapel had been designated in Wilkins' original plans nothing had been done to mark it off from the rest

of the domus: it was not consecrated ground and the likelihood of a chapel being erected there was remote. Frere hastily obtained a licence dated November 12 from the Bishop of Ely to inter the bodies of members and inhabitants of Downing in a piece of ground 40 feet by 20 feet on which the chapel might eventually be erected and instructed Wilkins to build a vault. This was done with such expedition that the Downing Professor of Medicine was laid to rest there a few days later. He has lain there ever since, with nothing above ground to indicate his tomb except when a dry summer shows up a yellowing patch of fading grass between the Master's Lodge and the Hall.

On the whole, despite his eccentricities and pugnacity, he did not fall far below the standard the framers of the Charter had in mind for the Downing Professors; he lectured on anatomy and botany, he planned his lectures carefully and published them in advance in outline, and he busied himself with original, if rather unprofitable, research. Not nearly so much could be said of most Professors of his time. It could be said of his colleague, Professor Christian. The syllabuses of his lectures on the Common Law which he published in 1797 and 1816 show that he tried to cover every aspect of his subject; his editions of Blackstone were scholarly, and he wrote learnedly on the Law of Bankruptcy and the Game Laws. He was a Professor Downing could be proud of had it not been for the glaring defects of character and temperament which Isaac Milner had hinted at in his letter to the Archbishop of York. His refusal to accept Frere's election had caused the College considerable expense and the Master much anxiety, but the rejection of his petition did not deter him from continuing to put his own interests before the welfare of the College. A fortnight after Harwood's death he petitioned the Visitor again about the failure to provide him with a Lodge when one had been built for "the junior Professor", as he persisted in calling his colleague. The Governing Body, perhaps unfairly, allowed the new Professor of Medicine, Cornwallis Hewett, to take over East Lodge and thereafter the disgruntled Christain hardly ever attended Governing Body meetings although the few that took place in the next four or five years were largely occupied by discussing his petition. Lord Eldon managed to avoid giving a decision on it and Christian did not move into West Lodge until 1821.

Cornwallis Hewett's promotion to Professor created another vacancy for a Fellow. This was filled in August 1815 by the election of Samuel Grove Price, Scholar of Trinity, after an examination held in London "because of the prevailing apprehension of sickness in Cambridge". (The University had been closed because of a typhoid epidemic.)

In May 1817 there was what might have been a very significant event — the admission of the first pensioner (that is, fee-paying undergraduate). In fact it proved to be an occurrence of no importance, for James Montague Wynyard was only technically an undergraduate. He was 36 years old, a

Montagu John

married man with a family. He had served in the Coldstream Guards with the rank of Captain, retiring at the end of the Napoleonic Wars, to become a clergyman. He was accepted at Downing as a "ten-year man"; that is, because he was in Holy Orders he could proceed to the degree of B.D. without examination provided he kept his name on the College boards by paying the requisite fees for ten years, and resided in Cambridge for three terms in his ninth and tenth years. Frere recognised his peculiar status by making him Junior Chaplain. As there was no chapel this can have involved him in few duties, but he gave up the post after seven months and became Vicar of Brafferton, Yorks. He proceeded to the degree of B.D. in 1828.

One "ten-year man" did not make Downing an undergraduate college; it could not hope to be that until it had a Hall, a kitchen and more rooms.

Frere was anxious to get on with the provision of these essential buildings but knew that the Court of Chancery would not let him embark on it unless it was satisfied the work could be paid for. Unfortunately, the College finances were in a poor state. So poor that in 1816 there was no money to pay stipends; the estates were still in such a bad condition that the College was obliged to give some of its tenants an abatement of rent, which meant that after the payment of £3000 annual contribution to the Building Fund there was very little left for urgent repairs and the cost of running the College. The Governing Body and their advisers felt very strongly that they should be relieved of what Lambert Hotchkiss, assistant to Martin Annesley, the Receiver, described as the "dead weight" of the Building Fund but the Court was obdurate and in 1817 Samuel Forster, the College solicitor, wrote to Frere "I doubt notwithstanding all your endeavours you will not (sic) live to see the Downing finances relieved from the Burden of lawyers and architects. The recent attempt has satisfied me of this; your bonds are rivetted closer than ever".

The only hope of progress was that the Court might be persuaded to agree to the Governing Body borrowing sufficient money on the security of the estates to pay for the completion of enough buildings to accommodate a few undergraduates. It might be more disposed to consent to this if the amount to be borrowed was fairly small. Frere therefore consulted Wilkins about reducing the cost of the original plan. Wilkins told him that there was no possibility of completing the buildings for the sum he had estimated because "very soon after the commencement of building in 1807 all building materials rose considerably in price" and the cost of labour had also gone up. He thought, however, that it would be possible to effect economies "without departing from the spirit and intention of the plan." He therefore addressed his attention to "the improvement of the decorative part and also of some of the interior arrangements" and came up with three major suggestions. He proposed to contract the width of the quadrangle from east to west by 54 feet, to reduce the length of the west range to make it more in proportion to its height than he had originally

planned, and to build the kitchen and other offices contiguously to the Hall and out of view, thereby removing the need for that particular building to be ornamental. He estimated that these changes would save about £5,500 and reduce the cost of completion of the full plan to £74,000. He knew that it was impossible for the college to find that large sum so he estimated the cost of building only the west range. That, he calculated, could be done for £27,000. This was a sum within the College's capacity to raise so in December 1817 Frere lodged a petition for permission to proceed. This action was confirmed at a Governing Body meeting on January 24th 1818 in London, at Green's Hotel, Serle Street; Frere, Hewett, Rolfe and Price attended. Willatts was absent and so was Christian but the latter was unusually co-operative and wrote to say that, without prejudice to his petition about his right to a Lodge, he would agree to any plans for building his colleagues decided upon. These were to proceed with the west range in accordance with Wilkins' amended scheme but to postpone consideration of his suggested alterations to the remainder of the buildings because the prospect of their being erected was remote. It was agreed that Porters' Lodges ought to be built at the northern and eastern entrances because it was "essential for even the present occupation of the College" to have lockable gates at those points of access. The meeting resolved that Wilkins should be given a free hand to do what was possible to reduce the expense of building and also to increase student accommodation, but that any additional fences, railings or drains he found necessary would require the approval of the Master or of Hewett, whom Frere had appointed Vice-Master.

In the application to the Court which followed these decisions the Master in Chancery was assured that "the portion of the said Buildings proposed to be erected, together with the Buildings already erected, would contain all the Buildings necessary for the accommodation of all the present members of the College and also for eighteen Under Graduates and that the same would provide temporary accommodation to supply the uses of a Chapel, Library and Lecture Room". Completion would take four years and the College could then be "opened for the purposes of education". Speedy completion was very necessary as "most colleges are so full they have no room for more". The Court was told that it was desirable that all the new buildings should be erected together to avoid the danger of unequal settlement, a recommendation which put an end to Christian's hope of getting his Lodge built first.

The Master in Chancery was sufficiently impressed by these arguments to ask Dance, Lewis and Cockerill to give their opinion of the changes from the plan they had approved thirteen years before. That opinion was favourable, so Mr Stafford authorised the Governing Body to proceed with the building and to borrow £20,000 at 4½% interest, repayable on 30th December 1830. When the Court of Chancery itself had confirmed this order the way was clear to start building, as there would be no need to borrow money until the work was nearing completion. Apparently an undertaking that it would be available was received from a man named

Gore Townsend but the deed mortgaging the College estates to him as security for a loan of £20,000 was not agreed until December 1819.

On August 11th 1818 Frere, Hewett, Willatts and Rolfe gave a stone mason named Tomson a contract to complete all the new stone work within three years for £7560, and Spicer Crowe a contract for the rest of the building work at a cost of £20,800.

The East range had not been built by contractors. Wilkins seems to have used direct labour, the work of organising and supervising being shared with his father, whose experience must have been a great help to the young architect. Now he was in such demand that he had no time to do a master-builder's work. Instead, a Clerk of Works, Richard Woods, was appointed to look after College interests.

The contractors appear to have worked satisfactorily and kept to schedule save for some delay caused by the bad winter of 1819-20. By the middle of 1821 the West range, including Christian's Lodge, was ready for occupation. When the architect's fees were added the cost was higher than the estimate, and there were additional expenses which had not been forecast, including £890 for the cost of laying pipes for "the conveyance of water from a spring lately erected in the College grounds", £550.1.0. for "planting and improving St. Thomas's Lees" and £861 for "features" necessary for opening the college to undergraduates. To meet these and other expenses the Governing Body had to apply to the Court in June 1822 for an additional £5869.15.10. from the Building Fund. The Court took the opportunity of ensuring that no more building would be possible for years by directing that Gore Townsend was to be paid one year's allocation of £3000 at once, so that the interest payable would be considerably reduced, and that from August 1st 1822 he was to receive £2000 yearly in repayment of capital. This would ensure that the loan was repaid by 1830 but meant that after the payment of interest the surplus in the Building Fund would be very small; half a century would pass before Downing College could afford to build again and then in only a very small way.

Whilst building was in progress there was some advance in other directions. In 1819 the existence of Downing as an integral part of the University of equal standing with the ancient foundations was recognised by the election of Sergeant Frere as Vice-Chancellor. In the same year a distinguished baronet, Sir Thomas Barratt Lennard, F.S.A. the natural son and testamentary heir of Lord Dacre, head of one of the oldest families in the Kingdom, was accepted as a pensioner at the age of 57. The following year he was joined by another middle-aged man of high lineage – Frederick North, fifth Earl of Guilford. The College gave both the status of nobleman, which meant they could proceed to the degree of M.A. after residing for six terms without taking an examination. In 1822 the Earl became an LL.D. and founded the Ionian University at Corfu, whilst the baronet

received an M.A. The College also expected to have two pensioners of the usual undergraduate age when in 1818 Perry Nursey and in 1819 William Wright Hewett, a younger brother of the Professor of Medicine, were accepted for admission, but Nursey matriculated from Christ's and Hewett never matriculated, although he appears in the University Calendar for 1819 and 1820 as a Downing pensioner.

The first two undergraduates of any age whose names appear in 1820 on the pristine pages of a large leather-bound admission book were Henry Brown Longe and James Grundy-Cross, on November 6th and November 7th respectively, Longe was only seventeen, the son of the Vicar of Coddensham, near Ipswich and came from Bury St. Edmunds School. Cross was a year older, a Lancastrian from a school at Richmond, Yorkshire. It would be interesting to know why they or their parents chose the new college. Presumably they were given rooms in the East Range until those on the other side of the court were ready.

There were no more admissions until April, when the completion of the building attracted a number of men from other colleges. They were all older than Longe and Cross. The first to arrive was John Errington French from Cheshire, aged 23, who on April 6th forsook St. Catharine's. Charles Fursdon and Willam Butt, Etonians from Trinity and St. John's respectively, arrived a few days later, and were soon joined by the first Fellow-Commoner, Charles Philip de Thierry, a French baron from Queens'. By the end of 1821 a total of 21 undergraduates (excluding the noblemen and the Ten-year-man) had been admitted, 17 of them pensioners and four Fellow-Commoners. Twelve had come from Cambridge colleges and one from Oxford.

The migrants came to Downing in much the same spirit as the Pilgrim Fathers landed in New England. They were escaping from rules and restrictions they disliked to a previously unsettled world in which they hoped to be free to live as they wished, unhampered by the traditions, prejudices and inhibitions of past centuries. The fewness of the Downing Fellows, the unusual character of the buildings and the spaciousness of the domus promised a very different community from those in other colleges, a community where rules could be few and simple, the atmosphere informal and undergraduates could live more like gentlemen in a country house than students in a mediaeval institution.

In the eighteen-twenties Cambridge was beginning to expand after remaining much the same size since the Middle Ages. The first years of the new century had seen much of the common land around the town enclosed and 'new towns', as they were called, were growing up between Christ's and Parker's Pieces and the previously isolated village of Barnwell (including on Downing's rejected site at Doll's Close) and on land on the other side of Cross Road (soon to be called Lensfield Road because Sergeant



Lens had a piece of ground there) from St. Thomas's Leys. Houses were being built all along Regent Street, some on plots leased out by the College, and these combined with wide bands of trees and high walls obscured Downing from public view on that side but on the west, as The Cambridge Guide pointed out in 1823, "on entering Cambridge from London by Trumpington Street the eye glances with pleasure at the new college of Downing, which, with its light and graceful porticos, presents itself at a small distance on the right, Considerable progress has been made in laying out the grounds. The plantations are in a flourishing condition, and the whole begins to assume a beautiful and an imposing appearance." The broad belts of trees surrounded almost all the domus; only a part of the southern boundary was left open.

The principal entrance was in Downing Street, as Birdbolt Lane had been re-named. From it the Avenue Road ran between double rows of limes to another road which crossed the domus from a western entrance about where the Kenny Gate now stands to a small building used as a porter's lodge, behind which were stables for the Master and Professors. The road skirted this group of buildings to a gate, called the Back Gate, situated in much the same position as the present main gate. The only entrance from the south was a drift way which had a farm yard containing a barn on the west and a small plantation and a cowshed on the east. This led into the Master's Little Meadow and the Master's Great Meadow, which between them took up all the remainder of the domus up to the central court, except for a very small Fellows' Garden behind the Hall. Amidst all the rural greenery, looking much more like separate country houses than a single college, the east and west ranges faced each other across an expanse of grass on which the Freres' sheep were sometimes pastured. Life in such surroundings could not avoid being different from that which was thought to be appropriate in the enclosed courts of colleges cheek-by-jowl with town houses and shops.

One respect in which the migrants hoped that their new college would be Liberty Hall was attendance at chapel. In the older colleges young men were, in Lord Palmerston's words, "compelled to rush from their beds every morning to prayers, unwashed, unshaved and half-dressed, or in the evening from their wine to chapel and from chapel back to their wine." In Downing that might not happen for a very long while, because the splendid chapel planned by Wilkins had not been built, and was not likely to be built in the foreseeable future. The framers of the statutes had realised this and provided that statute XII, which required Divine Service to be performed in accordance with the Master's directions, should not come into force until "the erection of the necessary buildings and the completion of the number of Fellows." When it did come into force every resident in college, whatever his status, was to attend chapel as required

"or suffer such penalties as the Master and the major part of the resident M.A.s determined." There spoke the Archbishops, anxious that Downing should be as much a buttress of the Church of England as the rest of the University; it was an illiberal provision which Annesley had to accept to secure the requisite approval of the Primates. The statute also declared that "no person shall be considered present at Divine Service who is not in his place before the commencement and does not continue there until its conclusion." There spoke the Masters of St. John's and Clare Hall, who knew from experience how undergraduates behave.

It may be that the first Downing residents did not escape compulsory chapel attendance altogether because an upper room on the Hall staircase and above the Senior Combination Room was furnished as a chapel and Samuel Peeling was engaged to "ring the bells, mark the absentees and attend to fires and lights." As the statutes required the appointment of two chaplains the religious side of college life was well-looked after, but from what we know of those responsible for organising it it seems very unlikely that undergraduates who did not wish to take part in it daily were required to do so. Candle-lit and heated by an open fire the Upper Room had an intimacy and a simple dignity which made it a restful place for the quiet devotions of a small community. As such it served the college well for 130 years.

As there were only eighteen undergraduate sets in the West Range and Downing had twenty-one undergraduates Longe and Cross probably remained in the East Range. Another undergraduate, Edward Edgar, occupied throughout his period of residence rooms over the Buttery under the control of, and furnished by, John Gooch, the Butler. In 1826 Edgar's father told the Master that this arrangement was "one of the greatest of the numerous proofs of kindness and friendship" shown to his son at Downing.

Presumably other undergraduates had to buy their own furniture, which was destined to be handed on through gyps with grasping palms to succeeding generations. Downing rooms were all lofty and large, in contrast to many in other colleges; each set had a "keeping" room and a sleeping room and a few upstairs had a third room. Apart from the impossibility of keeping them warm by their open fires they were excellent for entertaining. The privies were behind the buildings. The only bath in college was in the Master's Lodge, where Wilkins had installed a warm bath in 1812, emphasising to Frere that it was too small for a cold bath. The rent for ground floor sets was from £8 to £9.6.8 a term and for upstairs sets £10.

The first intake of Downing undergraduates had, unusually, a Professor as their Tutor — Cornwallis Hewett. He was an Old Carthusian, born in the East Indies, a scholar of Trinity who had become licensed to practise medicine only in the year that he was elected Downing Professor of Physic.

He became M.D. in 1822 and lectured on pathological anatomy, "with specimens of diseased structures", and on "the use and abuse of mercury". He acted as Tutor for only a couple of years, after which, although he took some part in the government of the college, he spent much time in London, where he lived in Berkeley Street. In 1825 he was appointed Physician to St. George's Hospital, and six years later Physician Extraordinary to William IV.

His successor as Tutor was the Reverend Richard Dawes, from Trinity. He had been a Wrangler in 1817. In 1820 he was appointed mathematical lecturer and chaplain at Downing. This was a significant appointment because as he was in holy orders he was qualified to be one of the two clerical fellows envisaged by the Charter and the Statutes as the members of the Governing Body particularly fitted to organise and supervise the education of undergraduates. The opportunity to elect him into a Fellowship came in July 1823 when T. C. Willatts, who was serving as Dean and Steward and had been Vice-Master since 1818, resigned. Like Frere he practised on the Norfolk Circuit but in 1823, having taken holy orders he became Rector of East Hatley. Marriage must have been the cause of these changes in his life. Cornwallis Hewett wrote in 1825 that "poor Willatts is eager for preferment", but that preferment never came; he died the next year.

Dawes was a man of considerable energy and organising power and had liberal principles which he openly professed. He was an ideal tutor and in the right circumstances would have built up a reputation for Downing as the abode of scholarship, toleration and civilised conduct which no other college would rival, but unfortunately he lacked the raw material with which to build. When the first batch of undergraduates had taken their degrees, or gone down without obtaining one, new admissions dwindled until in 1828 there was only one new pensioner (that is, ordinary undergraduate) to join the four surviving from previous years. The number of Fellow-Commoners, on the other hand, had gone up from five in 1822 to fourteen. Three years later (1831) there was one solitary pensioner, J. L. Stoddart, but seventeen Fellow-Commoners. Fellow-Commoners were to be found in every college; about this time for instance they formed about 10% of Trinity's annual entry. They were described in the University Calendar as "generally the younger sons of the nobility or young men of fortune, who have the privilege of dining at the Fellows' table."

Many of them were as capable of intellectual study as their pensioner contemporaries but their social and financial position made it unnecessary for them to obtain an honours degree. All they wanted was the Cambridge hall mark, obtainable without much effort by passing examinations for an ordinary degree, after which they could embark on a career in the Church of England, in which family connections often gave them a good prospect

of advancement, or in managing their father's estates, or in politics.

"The score of men of various ages" wrote A. G. Bradley "who led a rather sumptuous life in the umbrageous park-like privacy of Downing had many things said about them — the perfection of their cook, the amount of good wine drunk, their advanced age and the size of their families at home." To take only two examples, J. C. Stapleton was thirty when he came up in 1828 after serving in some capacity in Prussia, and the Hon. Thomas Keppel, the original of Captain Marryat's Mr Midshipman Easy, had some years of naval experience behind him in 1833 when he not only matriculated but married the daughter of Downing's first 'nobleman', Sir Thomas Barrett Lennard.

Whatever else could be said about the Fellow-Commoners there was one thing which could not be said — that they gave Downing academic distinction. That was not expected of Fellow-Commoners in any college. Scholarship was for scholars, and occasionally for pensioners. Unfortunately Downing had no scholars.

The Law Officers and the Court of Chancery were to blame for this. They had insisted on the establishment of a Building Fund and that Fund took so much of the College's inadequate income that there was nothing left for scholarships or prizes or other reward for academic excellence.

The intention had been that Downing should have six scholars, each in receipt of £50 a year. Statute II had laid down that they were to be awarded by open competition to Oxford or Cambridge men who had been in residence for not more than eighteen months, with no preference for a particular school or college or county. It was a fine liberal idea but useless; Downing could not afford inducements to encourage academically-inclined young men to choose a new, uncompleted, untried college instead of one of the established foundations with money to hand out in the traditional way. Even if, nevertheless, a bright student had come to Downing his prospect of getting a Downing Fellowship would have been no better than that of any man from any other college. Like the scholarships, it had, under the statutes, to be won in open competition with candidates from Oxford as well as Cambridge. Moreover there were only three Fellowships, and they tenable for twelve years or, if clerical, for life. There was no prospect there to tempt an ambitious young man.

Downing had no glittering prizes to offer. What it could offer was good living and good talk.

Lawrence, the first cook, and his successor, Samuel Peeling the bell ringer, played an important part in ensuring the good living. The good talk was largely due to the Reverend Richard Dawes. Because other members of the Governing Body were often away from Cambridge and the Master could only visit the Combination Room by invitation it frequently fell to the Tutor to preside at High Table, and afterwards in the Combination

Room.

Without the Fellow-Commoners and guests it would have been impossible to maintain a lively society, but, as Dawe's biographer, Dr Henry, wrote "with a sprinkling of men of the world in its composition and therefore with less of collegiate restraint or stiffness about it, the society of Downing College became agreeable and attractive, and Downing Combination Room acquired a social and convivial celebrity second to that of no other college in the University." There it was that Dawes's friends from Trinity, including its future Master, William Whewell, Romilly the Registrary, and Adam Sedgwick, and from other colleges, "delighted to share the genial humour and exuberant spirits of Dawes in his own combination room and to witness his management of a general conversation, in which, whatever it might be, the youngest of his fellow-commoners, would be warmly encouraged to take his part, if he wished to do so. It must have been this experience which helped one of the first fellow-commoners, William Lytton Bulwer, brother of Bulwer-Lytton the novelist to earn in the course of very important diplomatic duties in Europe the reputation of a "brilliant conversationalist". Many other young men must have also benefited.

Thus the privileged Fellow-Commoners, elegant in their black silk, square-collared gowns ornamented with tufted silk lace, and their gold-tasselled black squares, gave life and purpose to Downing, whilst pensioners in black bombazine gowns with large sleeves looped up by three silk cords on buttons became a forgotten part of the scene they had inhabited so briefly.

## CHAPTER THIRTEEN

### TROUBLE IN ARCADY

In Dawes' time and long afterwards observers of the University scene believed that Downing "resting placidly" as Dean Kitchin wrote "in green and level meads which call to mind some gentleman's park far from towns and noise and intellectual strife" flourished "peacefully untouched by the growing turmoil of the town and careless of University excitement and struggles". They were mistaken about the peacefulness. Behind the apparent placidity lay persistent anxiety and occasional discord.

The cause of the anxiety was finance. Even Arcady needs money. An unusual feature of Downing's financial anxiety was that its mitigation always depended on the Court of Chancery. A petition presented to the Court by the Governing Body on 4th June 1822 shows what this meant:

"Your petitioners most humbly pray from your Lordships that it may be referred to the Master to enquire what Fixtures and other articles are necessary to be provided for the lodge of the Law Professor and also whether it will be proper to Inclose the Garden attached to such Lodge with a brick wall and that the said Master will ascertain what will be the Expense of providing the said Fixtures and erecting the said Wall and that he may also be directed to enquire whether the sum of £72.10.0. expended by the Petitioners in repairing the road called Tennis Court Road adjoining the said College grounds has been properly expended . . ." and so on.

In July 1822 the College petitioned that in consequence of abatements it was compelled to make in estate rents there was no surplus for stipends and allowances and begged that £350 out of the Building Fund be allowed annually for salaries. Next year the Court agreed to this for two years.

Such applications were frequent, all requiring expenditure on lawyers'

fees. Some relaxation was obtained in 1828 when the Court agreed to discharge the Receivership of the College estates. Lambert Hotchkiss was appointed Steward with a commission of 6d in the pound and he managed the estates under the direction of the Governing Body, in practice Sergeant Frere and after him Richard Dawes as Bursar. The Governing Body was still, however, unable to spend a penny from the Building Fund without permission.

The estates, particularly those in West Cambridgeshire, were a constant problem. The heavy land was very difficult to farm, almost impossibly so in winter, the lath and plaster farmhouses and the timber barns and cattle sheds were costly to maintain, and several houses and many buildings were in a tumble-down condition. The cottages were worse. Built of lath and plaster or of mud they were often in a half-ruinous state and grossly overcrowded, families of eight or nine of both sexes and all ages having to sleep in a single room. Roads on the estate were few and in need of repair.

The College wanted to be a good landlord and regarded these conditions as intolerable but improving them was a slow and expensive business. Rent abatements were essential in bad seasons and when the Building Fund had had its allotment there was far too little left for essential College expenses and for estate maintenance.

In 1833, for example, the College petitioned for more money because "it had suffered very heavy losses from the general distress of Farmers and burthens and disadvantages which particularly affected the estate, so it became impossible to pay salaries and allowances to their members and servants (without which the College could not be kept open as a place of Education)." The Court made an order for £1450 to be paid out of the Building Fund and authorised the College to retain £980 per annum out of the Building Fund's £3000 allocation "as an allowance towards the payment of Stipends and Salaries so that the College can be kept open as a place of education".

That allowance achieved its object for the time being, but for another half century or more the threat of closure was never far away.

Early disagreement centred on a subject which is a familiar cause of trouble in rural communities — land boundaries. The Fellows believed that the Master was monopolising for his own use an unreasonable amount of the domus. The architect had set aside two pieces of land for a front garden and a flower garden and shrubbery for the Master's Lodge. Annesley had not lived long enough to make use of them, but Frere engaged men to develop them, planning the front garden so as to be "ornamental to the present buildings and useful to the Master" and the flower garden and shrubbery "so as to be ornamental to the Master's Lodge without interfering with the general view of the principal front and so as to form a pleasant and convenient walk for the use of occupiers of the Master's

Lodge and a screen for the windows of the Lodge from the windows of divers houses in the public street adjoining." He also extended to the back of his Lodge a road which ran to the rear of East Lodge. When Busick Harwood died he took over the East Lodge kitchen garden and planted it with trees. Francis Annesley had allocated the two meadows which lay south of the buildings for his own use and on his death Frere took possession of them.

He also took an almost proprietary interest in the rest of the domus. This was understandable because the shape it was assuming was due to his initiative and organisation and, to some extent, money. When he became Master there was no road or other means of access to the College quadrangle for people coming to Birdbolt Lane (Downing Street) from the centre of the town and University. Frere consulted with Wilkins the architect and Custance the surveyor and the result was the lime avenue from the northern boundary, 900 feet long and 120 feet wide, with a gravel road between the trees and for a further 300 feet beyond them. It was a splendid conception. Although the entrance gates and adjoining fence had to be made of humble wood, not wrought iron, because of lack of funds the avenue, as the trees grew, formed an impressive approach to Wilkins's elegant buildings; until nearly the end of the century it was one of the sights of Cambridge. The gravel for this road and for other roads and paths about the domus was dug from a pit in the Master's Great Meadow. It took five men and boys three months in February, March and April to prepare the ground for the road and trees, their labour costing the incredibly small sum of £30.16.7½. The gravelling and fencing was done by Thomas Hopkins of Sawston for £177.7.9½. Frere also employed Hopkins to remove some of the transverse fences which had survived from St. Thomas's Leys' time as common land, because they interfered with the view of the avenue and buildings.

There was no lighting on the domus when Frere took over, except on Busick Harwood's back road, so Frere engaged the man who was employed in lighting the town to put up lamps — oil ones of course — on the approaches to the buildings, at a cost of £12.8.10.

On such improvements Frere spent about £500, which the Master in Chancery eventually allowed him from the Building Fund, but he also spent money of his own, paying for his own men and horses to do construction work, and also for additional labour when Thomas Woolnough, the gardener engaged in 1812, found that keeping thirty acres in good order was sometimes more than he could manage single-handed (Woolnough's wage in 1823 was £52.10.0.).

In 1812, just before he died, Annesley had complained to Wilkins that the ground designated for a Fellows' Garden, behind the six sets of chambers between the Master's Lodge and East Lodge, took up so much room that he had insufficient drying ground. He asked for the rear wall of



this area to be moved nearer the back of the chambers but Wilkins said that was out of the question as if the wall was moved the privies would have to come with it, and this would bring them too near the rooms to be hygienic. When the West Range was completed the Master took over the garden — it is still his vegetable garden — and the Fellows were given a small piece of ground adjacent to the kitchen. They soon decided that this was inadequate and demanded the Master's Little Meadow. The Master was reluctant to part with it but offered to provide a way out from the college on that side and a sufficient area to afford a view from it of the buildings and grounds. He pointed out that he had kept the grounds, plantations and walks in order largely at his own expense, that the two Professors had their separate closes and that the rest of the domus, apart from the meadows and gardens, was available to any resident members who kept stock.

His colleagues did not think that these considerations justified him in retaining the Little Meadow and on October 11th 1823 they resolved (Frere voting against) that "West Field . . . now occupied by the Master partly as a farm yard and partly as grazing land, ought to be conceded to the exclusive use of the Professors and Fellows, with a view to converting it into ornamental grounds, as is the custom in all other colleges." The proposer, Mr Price, explained that by "exclusive" he did not mean to prevent the Master and his family from having access, but "principally the exclusion of stock." That was the nub of the matter; the Governing Body believed that it was time that the domus was not wholly given up to farming but should begin to take on the decorative character appropriate to a Cambridge college.

Frere (perhaps encouraged by his agriculturally-minded wife) declined to accept the proposition although he was willing to concede a smaller area, and the Visitor's help was sought. He probably gave some good advice, for on November 2nd 1825, despite the Master's opposition, it was resolved that the West Field should become the Fellows' Garden and the Steward was authorised to spend £100 in laying it out.

The Master seems to have tried to be placatory whilst insisting on what he believed to be his right but the controversy cannot have made his relationship with the Fellows comfortable, and there remained another source of friction. Like Annesley, Frere had kept the business of the college very much in his own hands, mainly because there was no one else with the time and inclination to relieve him of it. He became so accustomed to making decisions and taking action without consulting his colleagues or at most obtaining their retrospective consent that when at last there were Fellows who wished to share in the government of the college he was prone to ignore them. This inevitably annoyed them, especially the younger men. Richard Dawes found the magisterial dictator-

ship particularly annoying because, as his subsequent career showed, he was a man who always sought to get the best out of any institution with which he was associated, and he felt that Frere was not doing that at Downing.

The need to obtain the Governing Body's consent to transactions was emphasised at the audit meeting on January 2nd 1826, but six weeks later Frere was accused of making a secret agreement with William Crowe the builder for the lease of a house to be built on college land in Regent Street for forty years at a nominal rent. The occupant of the house was to be Mrs Frere's mother, Mrs Dillingham, whose husband had just died. It was also alleged that without College authority he had obtained an order from the Court of Chancery for payment of Crowe's bills for large amounts, much of which related to work done for the Master's benefit, and that he had incurred considerable debts on behalf of the College without the consent of the Fellows. Another complaint was about the lodging arrangements for Edward Edgar, under which Frere allowed Gooch the Butler to hold college rooms at lower than the fixed rent and then let them furnished to Edgar without tutorial permission at thirty guineas a year.

Mrs Frere's sheep were the cause of another complaint. They had been kept confined to the grass plots in the court by temporary fencing which Frere had paid for with money granted from the Building Fund for putting up railings on the north and south sides of the college.

On May 14th 1827 Dawes wrote to Frere "As I wish to tell you candidly the general feeling on College matters I assure you that the state of things about the College and the irregular way in which the business is done gives (I may say) to the residents and I believe also to the non-resident members the greatest possible dissatisfaction and I am thoroughly persuaded that until the business is put into a more vain (sic) than at present there can be no quietness among us. I must explain why I call it irregular and that is because whatever is to be done or whatever sum is to be laid out we are never in one single instance called up to give our sanction to a thing until after it is done, the consequence is that opposition to it becomes extremely painful."

After such a letter from a man of Dawes's gentle and understanding nature only a very stupid and obstinate Master would refuse to heed his colleagues. Frere was far from stupid and only moderately obstinate. In 1827 he appointed his principal critic Bursar. As Dawes, in addition to his important role as Tutor was joint Chaplain with a recent recruit to the Governing Body, Thomas Worsley, and in 1829 also took on the office of Steward, he became the most powerful member of the Governing Body. He had outside duties as well, having taken over the livings of Tadlow and East Hatley when Willatts died.

It was fortunate that, as his biographer wrote, "there was not much

opportunity for the Senior Tutor of Downing to exercise in the college lectureroom those powers of tuition which he undoubtedly possessed, and could have used in the highest sphere of education with the same success which afterwards obtained so great a name for him on a lower but more extended area," because this enabled him to devote much of his unbounded energy and administrative ability to his Bursarial duties. He put the college accounts into a more complete state than they had hitherto been kept and took a great interest in the estates, playing the part of landlord for the college with the care and thought he would have given to an estate of his own, scrupulously and rigidly maintaining all rights of ownership whilst treating the tenants, with whom he was on very friendly terms, fairly, justly and, when needed, leniently. Indeed, he was more than a landlord; as Vicar of Tadlow and Rector of East Hatley he was responsible for the spiritual well-being of the inhabitants of his two considerable parishes, a responsibility which he fulfilled with dedication and gentle understanding.

In 1827 the college obtained a licence to sell intoxicating liquor in a farmhouse on the Tadlow Road in Croydon. A man named Wright was put in to run it as "The Downing Arms" but he proved so unsatisfactory that Dawes was authorised to dismiss him in February 1829. Under better landlords the Downing Arms, known locally as The Scratching Cat from the Griffin in its sign, became a focal point for the district. The Bursar went there on rent days and paths made by tenants going to meet him and by thirsty men when work was done converged on it from all directions.

In December 1829 the college felt obliged to contribute to the cost of a new road in Croydon which would serve college farmhouses, but it had no spare cash so it was compelled to borrow £400, at 5%, repayable in four years. In 1833 Dawes persuaded the Governing Body to build a vicarage at Tadlow, offering to contribute £200 himself towards the cost. The balance came from the Building Fund and from Queen Anne's Bounty. In the following year the college built two houses near the Back Gate in Regent Street, one for a gate-keeper, the other for letting, and replaced the old gate with iron ones and palisades. In the autumn of 1835 the grass plots in the quadrangle were levelled and resown, presumably to repair the ravages of the Freres' sheep, now banned from them for ever.

Another matter which occupied the thoughts of the Governing Body and in particular the Bursar, was the liability of the College to pay the gaol rate, on which legal advice was taken. It seemed as though Downing could never escape from legal fees, sometimes on unimportant matters. Thus when Cornwallis Hewitt announced in May 1834 that because of ill health he was giving up residence in Cambridge and wished to let his Lodge to the Reverend Robert Willis of Caius for a rent of 180 guineas the Governing Body decided to consult the Attorney General and another Counsel as to the legality of this. They said it was legal.

These were but a few of the matters with which Dawes had to concern himself. In everything he did he received the support of the Master, who was sometimes the only other senior member in college; Hewitt's London duties kept him away, and Thomas Starkie, who had become Downing Professor of Law when Edward Christian died in 1823, in, as was unkindly said, "the full vigour of his incapacity", was a busy practitioner on the northern circuit; William Worsley was fairly regular in his attendance at Governing Body meetings, but now and again was away travelling on the continent; and the junior Fellow, Alfred Power, who had replaced Willetts, appeared only at the annual Audit Meetings; he was "going forward in the law line" on the Midland Circuit.

On May 25th 1836 an era ended. William Frere, the last of the Charter Fellows, died in his Lodge. He was 61. For thirty-six years he had done his best for Downing, first as Annesley's willing helper, then as a virtual autocrat, and latterly as an elder statesman. His career at the Bar had been successful, despite the time he devoted to Downing. He had been Recorder of Bury St. Edmunds from 1814 to 1826, Chairman of Norfolk Quarter Sessions for several years, and a *nisi prius* commissioner. He was a sound lawyer and attentive, humane and impartial on the Bench, but handicapped as an advocate by always seeming at a loss for words, so that judges were alleged to murmur "Goddess of Dulness, hear our prayer! And save the Court from Sergeant Frere." That unfortunate disability was of little importance in comparison with his sterling qualities of industry, patience and benevolence. He was a good scholar; some of his Greek and Latin verses were published. He was also a good patriot; in 1803 he commanded one unit of volunteers at Westminster and raised another in Norfolk. In his later years he acquired an estate at Dungate, Balsham, near Cambridge, where he and his wife could pursue their great interest in farming more appropriately than on the College domus.

It may be that his painfully slow way of speaking discouraged people from seeking his company when he was alone; the future Dean of Ely, Charles Merivale, wrote to Frere's nephew, John Frere, in September 1830 "I met the Master (of Downing) walking solitarily in Grantchester meadows and looking as if he would give the world for a companion." Not that he was an unsociable man; far from it. The entertainments and parties for which Downing became famous soon after Mrs Frere arrived at the Master's Lodge continued throughout her husband's lifetime. In the year before Frere's death, for instance, Downing was a lively centre for festivities connected with the visit to Cambridge of the Chancellor of the University, Lord Camden. The Registry, Joseph Romilly, recorded in his diary that he went to a public breakfast at Downing, where "the grounds looked exceedingly pretty and were stocked with gay company; breakfast was set out very tastefully in a Marquee . . . The party lasted till

midnight and longer, ending with a Ball and a Play and After-piece by amateur gentlemen acted in the Hall, which was very tastefully fitted up under Mrs Frere's direction; it occasioned some inconvenience to Dawes and the rest of the Downing Society as they had to dine in their own separate rooms for a week."

Frere gave another breakfast four days later when "all the world was present," and three days after that there were private theatricals for the College tenants, servants and tradespeople, and "a small sprinkling of gentry who sat together". A "firework illumination" of the Master "went off very well", but he did not see it himself as he became indisposed during the After-piece and retired to bed. Perhaps it was the decline in health which ended in his death which caused Frere to fall asleep at a dinner in Trinity College in the course of that week, and not boredom at "a tedious harangue" by the Archbishop of Canterbury, who spoke for forty minutes. Romilly's comment "of course the Master of Downing slept" implies that Frere's tendency to somnolence at public functions was well-known; the weaknesses of old age seem to have come upon him sadly early.

After a lapse of twenty-six years the two Archbishops and the two Masters named in the Founder's will were again called upon to choose the Master of Downing. As before their choice was limited to past and present members of the Governing Body. Richard Dawes was undoubtedly the outstanding candidate. As Tutor and Bursar he had shown himself to be able, energetic, resourceful and tactful. No one had a closer acquaintance with all aspects of College business. He was popular in the University and got on well with undergraduates.

George Eliot wrote that he had "a face so intelligent and benignant that children might grow good by looking at it," but behind his gentle manner lay an unwavering determination to pursue what was right. In deciding what was right he took a liberal view of most problems. It was this characteristic which kept him out of the Mastership.

Dawes's colleague, Professor Hewett, was a leading advocate of the abolition of the requirement that no one could proceed to a degree who would not subscribe to the doctrines of the Established Church. In February 1834 he presented a Grace to the Senate for the appointment of a Syndicate to consider the problem. It was rejected by the University's main Council, the Caput. On March 12th Hewitt called a meeting at East Lodge at which it was resolved to present a petition to both Houses of Parliament suggesting the abolition of every religious test imposed on graduands. An attempt to obtain a Grace for a petition supporting the retention of the tests was vetoed by Hewett as a member of the Caput. The abolitionists' petition was signed by 280 senior members of the University, including many non-residents, and was presented to both



7. Downing College Hall, circa 1890.

Houses. Richard Dawes was an active supporter of Hewitt and signed the petition. Downing, therefore, although a University backwater, lived up to the liberal principles by which the framers of its Charter and Statutes had been animated. Unhappily, in doing so it condemned itself to another quarter of a century of backwater existence; the Archbishops shrunk from appointing as Master a clergyman who was prepared to undermine the foundations of the Established Church by showing tolerance to Dissenters, and so did the Masters of St. John's and Clare Hall, the latter declaring that he could not have appointed Dawes if he had been his own brother. Their choice fell on Thomas Worsley, Chaplain and Dean, who was a Tory of Tories unquestionably loyal to the Establishment. A Foundation Scholar of Trinity he had succeeded in 1824 to the Fellowship which Rolfe, the future Lord Chancellor Cranworth, had held for the statutory twelve years. He was a cultured man who enjoyed continental travel, had a deep interest in art, especially in the works of the Italian Masters, and was himself such a good landscape painter that he ultimately earned the reputation of being the best amateur in England. He was a close student of theology and the Bible, and completed the character of a rounded man by his enjoyment of out-of-door life, excelling at riding, fishing, skating and cricket. He was an intimate friend of William Whewell and other Trinity notables, the former writing at the time of Worsley's

election "he is a person of very conciliatory character, very great accomplishments and very desirous of making the College more effective for the purposes of good education than it has yet been. There are few persons of whose religious principles and right intentions I think so highly, and he is a very general favourite both for his literary and conversational endowments."

Worsley was therefore very well-fitted to be the third Master of Downing but for one thing — the college he wanted Downing to be would in character and purpose look back to the eighteenth century instead of becoming, as Annesley had intended, a model for a New Age of Cambridge colleges.

He wanted studies in Downing to have a theological basis so that the embryo lawyers and doctors envisaged by the framers of the Charter would take second place to prospective clergymen. He also wanted the College to fulfil a mission, which he believed it had from the national point of view, to educate as Fellow-Commoners young men who "from their station in society combined with their fair abilities constituted an important class in the community"; it should therefore become a home for men who wanted to pass through a University but "neither coveted a European reputation for scholarship nor were anxious to develop an extraordinary capacity for hard study, but were content with trying to be English gentlemen in touch with most of the contemporary intellectual movements". In short, it was to combine the characteristics of a Church of England seminary with those of a finishing school for the sons of landed gentry.

It was a vision of Downing which horrified the other members of the Governing Body. When on July 8th Worsley presented a certificate purporting to show that he had been appointed Master on June 23rd, Starkie and Power refused to accept it and protested against the election, and then joined with the other member present, Dawes, in deciding, despite Worsley's opposition, to get legal opinion as to whether it would be "safe and legal" to elect clerical Fellows before completion of the College buildings and before the Crown had nominated the thirteen Fellows still to be appointed under the Charter. The idea was that if the lawyers advised that the election of clerical Fellows would not be "safe and legal" the retrospective effect would be to make previous elections to clerical fellowships "unsafe and illegal" and thereby disqualify Worsley from the Mastership.

The effect on Dawes's position would be the same but the gentle cleric was so angry that he was prepared to accept that consequence. A good deal of personal feeling lay behind his fight to prevent Downing from dropping out of the nineteenth century. In 1834 after Dawes's vote for Hewitt's motion on dissenters Frere had replaced him as Vice-Master by

Worsley, and this apparently rankled. He wrote to the Archbishop of Canterbury contrasting his work for the College with that "of a person who can have no claim grounded on past services rendered to the college and very little derived from academical distinction. Mr Worsley was elected Fellow with a view to his being associated with me in the tuition and conducting the internal management of the College but from the little interest he took in it Sergeant Frere requested him in 1831 to resign his Tutorship and intimated that he ought to resign his Fellowship. He did resign his Tutorship and placed his Fellowship at the disposal of the College, then went out of residence for some time . . . . I feel called upon to add that during the whole time of his being joined with me in the tuition his distaste for College duties and consequent neglect of them was a matter of general notoriety."

There was probably a good deal of truth in this slashing criticism of his colleague's industry. Worsley himself said that he resigned the Tutorship because he was ill, but his fondness for foreign travel and his artistic leanings must have weakened his application to his collegiate duties.

The Archbishop also had a letter from Alfred Power. Writing as "the only lay Fellow" he protested that "the appointment of a clerical member to the Mastership when lay candidates of the highest pretensions both academical and collegiate are competitors for that distinction is an appointment repugnant to the law under the meaning of the Founder's will, the Charter and the Statutes".

As usual, the desired legal opinion took some time to obtain. Worsley consulted Jacob K.C. who discussed the problem with the Solicitor-General, who was none other than Robert Rolfe, himself as a former Fellow eligible for the Mastership. Their opinion was that the election of clerical Fellows, both in the past and in the future, was in order, and that there was nothing to prevent the election of a clerical Fellow as Master.

This did not satisfy Worsley's opponents, who proposed to petition the Visitor. Then the Governing Body was suddenly reduced to three members. On 21st September 1836 Dawes married a lady from Aberdeenshire, Mary Gordon, after having first made sure of a sufficient income by accepting the living of King's Somborne, Hants. As Rector there he soon revealed the qualities which would have made him an admirable Master of Downing; he created a village school which became famous as a highly successful pioneer of elementary education. Later as Dean of Hereford he did wonderful work in restoring and re-opening the ancient cathedral.

A few days after Dawes's marriage Alfred Powell espoused Lucy Starkie, daughter of the Professor.

The Governing Body now consisted of Worsley, "claiming to be Master" and two Professors. The election of a clerical Fellow to carry on the tutorial work was urgent but Hewett and Starkie declined to make it



until the result of an appeal to the Visitor was known. At first they had proposed to appeal themselves but eventually the petition went forward in Power's name only. They must have realised that they were in a weak position to argue that clerical Fellows could not yet be elected, as they had raised no objection to election of Dawes and Worsley and had acted with them in the business of the college for many years without question. This also applied to Power, but he was not deterred either by the laying-out of himself to the charge of inconsistency or by his change of status to Past Fellow. On his part Worsley petitioned the Visitor to declare his election as Master valid and to direct Hewett and Starkie to proceed with him in the election first of a lay fellow and then of two clerical fellows so that the business of the College could be carried on. He pointed out that if the College was deprived of clerical Fellows until the buildings were completed the Court of Chancery might direct all income to be paid into the Building Fund until there was enough in it to finish building, and that would close Downing as a place of education.

The persistence of ill-feeling between Worsley and the Professors is shown by his crossing out an entry in the College Minute Book for 22nd February 1837 which Hewitt and Starkie had made during his temporary absence from the meeting. It merely expressed the urgency of getting the Visitor's decision on Power's petition, but Worsley objected to it as wrongly criticising the College solicitors.

Two months later the Visitor gave his judgment after much argument on both sides. He found Worsley's election valid and ordered the College to pay all the costs. This brought Downing back from the brink of disaster.

The Professors immediately agreed to join Worsley in electing a lay fellow to replace Power. The Master of Christ's undertook the task of examining the candidates and recommended the election of Philip Howard Frere, son of the late Master. He was a scholar of Trinity and a first-class classic.

As more than six months had elapsed since Worsley's Fellowship became vacant on his election to the Mastership the duty of filling it was placed by the Statutes on the Visitor. He chose William Webster Fisher, who was already an M.D. of Montpellier when he had come up to Trinity in 1827. Later he migrated to Downing, where he graduated M.B. in 1834.

Both men brought much-needed strength and loyalty to the Governing Body. Philip Frere had his mother's love of agriculture, of which he had had considerable experience on his father's estate at Dun Gate, and was therefore well-fitted to manage the College estates, which he did as Bursar from 1839 until he became Secretary of the Royal Agricultural Society.

Dr Fisher, who succeeded him as Bursar, serving in that capacity for twelve years, was a liberal-minded man who acquired a European reputation in his profession and was known at Addenbrooke's Hospital as "the good

Dr Fisher", because he treated every patient, however humble, with unfailing courtesy.

Although Frere took holy orders he was a lay fellow, as was Fisher. Worsley was therefore without the clerical fellow he wanted so badly. He did not get one, however, until 1842 when the Rev. G. M. Sykes of Trinity was elected to the Fellowship vacated by Fisher on becoming Downing Professor of Medicine. In the meantime Dawes's place was taken by a lay Fellow, William Gurdon, who was a practising lawyer and contributed little to College business.

The personalities had changed but the problems remained the same.

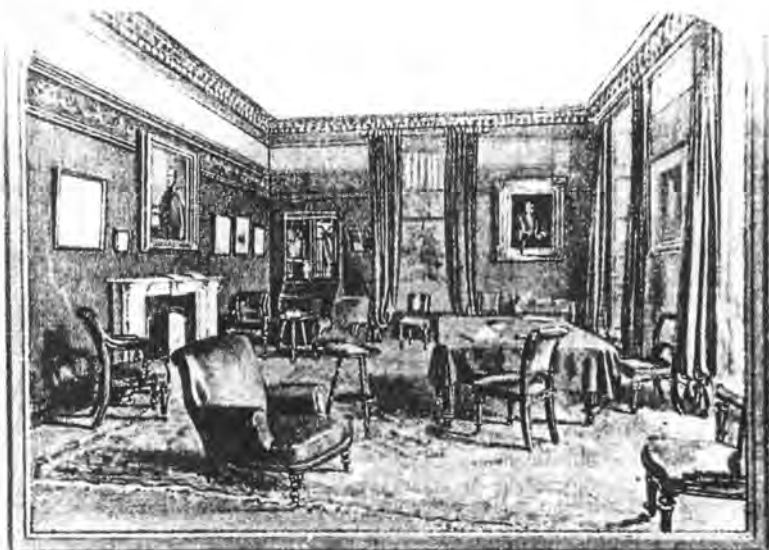
## CHAPTER FOURTEEN

### STAGNATION AND PROGRESS

Worsley's Mastership lasted for forty-nine years and fell into two parts. The first part was a time of stagnation when there was every excuse for a contributor to the *Law Magazine* who had no intimate knowledge of Downing's circumstances to write in 1847 "At Cambridge is a foundation set apart for law studies, nobly endowed but very ill adapted to its object: so ill-adapted or ill-administered (it matters not to our argument which) that the men of Downing are almost all of them Fellow-Commoners . . . exempt from industry and discipline . . ." That period ended in 1861. Thereafter for the remainder of Worsley's life Downing slowly edged itself towards a position as a place of education comparable with that of other small Cambridge colleges.

Worsley cannot be blamed for the stagnation. Another Master, such as Dawes, might have succeeded in giving Downing a better image in the eyes of the educational world but so long as the Court of Chancery retained its grip on finances a fundamental change in the character of the college was impossible. Neither can Worsley be praised for the progress which was made in the second part of his Mastership. That was due in the first place to an Act of Parliament which made a change in the statutes possible and thereafter very largely to the zeal of other members of the Governing Body. Worsley's contribution was that he maintained a conciliatory attitude even when his colleagues took views and advocated courses which he found repugnant. He also fostered Downing's reputation in the social world of the University.

He was no sooner established in the Mastership than he was also burdened with the duties of Vice-Chancellor. He had been nominated in 1836 but asked his friends not to vote for him. He was elected the follow-



8. Downing College Senior Combination Room circa 1890.

ing year and filled the office with dignity, being probably the only occupant of that exalted position who was reputed to be the best skater and the boldest rider in Cambridge.

On July 14th 1840 he was host on behalf of the College to a gathering larger and more splendid than anything the Freres had staged. The Royal Agricultural Society met in Cambridge and held a dinner attended by 2600 people in a huge temporary building erected in the College court. One of the speakers was Sir Robert Peel. The building was used again next day for an horticultural fete. The University Registry was there and thought the show was very pretty but that the band was disgustingly loud.

Seven years later Downing was the scene of a Royal event. Queen Victoria and the Prince Consort, who had been installed as Chancellor of the University earlier in the day, attended another Horticultural Show in the grounds, their presence making the occasion so attractive that 10,000 tickets were sold and many people got in without paying.

When Worsley welcomed their Royal Highnesses he had a wife by his side. On June 20th 1842 he had married a Cumbrian lady, Katherine Rawson. She was a worthy successor to Mrs Frere as the chatelaine of the Master's Lodge. "Her tender devotion" to her husband (wrote H. W. P. Stevens) was "the brightness of his life" and "her sweet and gracious presence lent a rare charm to the hospitality of Downing Lodge".

In the year of Worsley's election Downing had sixteen undergraduates,

all Fellow-Commoners; after fluctuating between eleven and seventeen their number dropped in 1845 to five, plus one nobleman, Viscount Hereford. Thereafter there were never more than twelve Fellow-Commoners and often only five or six. In 1860 there were only four. It is not surprising that members of the public who saw Downing's spacious grounds and costly buildings used by a few not very industrious wealthy young men and half-a-dozen dons who were often not in residence raised their hands in horror at a scandalous state of affairs. They did not know that it was due very largely to lack of money and the Court of Chancery's unrelenting grip on what money there was.

In 1858 P. H. Frere, as Bursar, submitted an account of college finances for the three preceding years to Commissioners appointed under the Cambridge University Act 1856. His affidavit gives a good idea of the sort of expenses the College was striving to meet, not only in those years but in the years before and for many years to come. As a would-be good landlord it had to find capital for new schoolrooms and schoolmasters' houses and income for the maintenance and support of day schools, Sunday schools, clothing clubs, coal clubs and other charities established for the benefit of the inhabitants of Tadlow, Croydon, East Hatley, Swaffham, and other parishes. The Bishop of Ely required two full services to be held on Sundays at both Tadlow and East Hatley, recently united into one living, which obliged the college to find £80 a year for a curate to assist the Rev. Godfrey Sykes, whose combined stipends totalled £293.6.0. Church roofs demanded repair, and cottages had to be built to replace tumbledown hovels. Bad harvests and bad weather rendered many tenants incapable of paying their full rent; almost every year some abatement was necessary. In 1854 there was income tax at 7d in the £1 to pay; two years later it had gone up to 9d. Then there were the costs of running the college, of the stipends of the members of the Governing Body, (which were often only paid in part), the salaries of the officers and the wages of the servants, which could not be met from the fees from the undergraduates.

The college was able to keep going only by obtaining from the Court of Chancery reluctant permission to make use from time to time of monies in the Building Fund. Despite this that Fund, owing to the accumulation of interest as well as to compulsory six-monthly payments, continued to increase; only a little more than £1200 in 1836, by 1871 it was over £38,400. This would be more than sufficient to go a substantial way towards the completion of the buildings, but what was the use when hardly any academically-minded men wanted to come to Downing? The first essential step was to find a way to attract them. As the Lord Chancellor was told in April 1848 "The present depressed condition of the college . . . . arises in part from its inability to hold out any pecuniary awards or encouragement whatever to diligent and deserving students."

He was not, however, prepared to release any sum for the purpose and it was not until 1861 that Downing was able to offer a few scholarships and exhibitions. In that year new Statutes approved by the Commissioners under the Cambridge University Act, 1856 came into force. The Act required the Governing Bodies of all colleges to submit amended statutes and authorised the Commissioners to propose such statutes themselves if a Governing Body dithered a great deal before submitting proposals after the appointed date. The Commissioners made some suggestions themselves and the final draft was not approved by the Governing Body until April 17th 1860. Worsley did not like some amendments and recorded in the minute book "The Members will be clearly aware from what I have laid before them (correspondence he had had with the Commissioners) that I do not sign the scheme because I altogether approve of it, or because I think it is the best or most equitable apportionment of the College Revenues. I sign it because it appears to me to be the best scheme which under all the circumstances there is a fair hope to realising."

He thought that the Master was unfairly treated for two reasons. One was that whereas the stipends of the Professors and Fellows were doubled the Master's went up by but 50%, and that only after he had protested vigorously at a proposal to keep it at the £600 stipulated in the Charter. The other reason was that the power of the Master was diminished by depriving him of the right to nominate the Bursar, who was in future to be elected by the Governing Body, and by other changes which Worsley felt isolated him from his colleagues. A noteworthy change which would not affect him was that the Archbishops and Masters named in the Founder's will would not have the duty of electing his successors; the Governing Body would have that.

From the College's point of view the most important amendment to the statutes was that all College revenues, including amounts accruing by the termination or diminution of the Building Fund under the Court's direction, were to be used for taxes and rates, repairs and improvements, and other necessary expenses, the residue being distributed amongst the members of the Governing Body, the College officers and the scholars, and to the librarian for buying books, in proportions set out in the statutes.

This was a momentous change, due, Worsley believed, to the influence of Robert Rolfe, Lord Cranworth, Lord Chancellor from 1852-8. The control of Chancery over College finances was thereby broken. Application to use monies already in the Building Fund would still have to be made but annual payments into it would no longer be necessary. At last the College had the power possessed by every other college to make the best of both its capital and its income.

It would not make Downing any better off but no one, not even Worsley, had any doubt that however straitened its finances were money

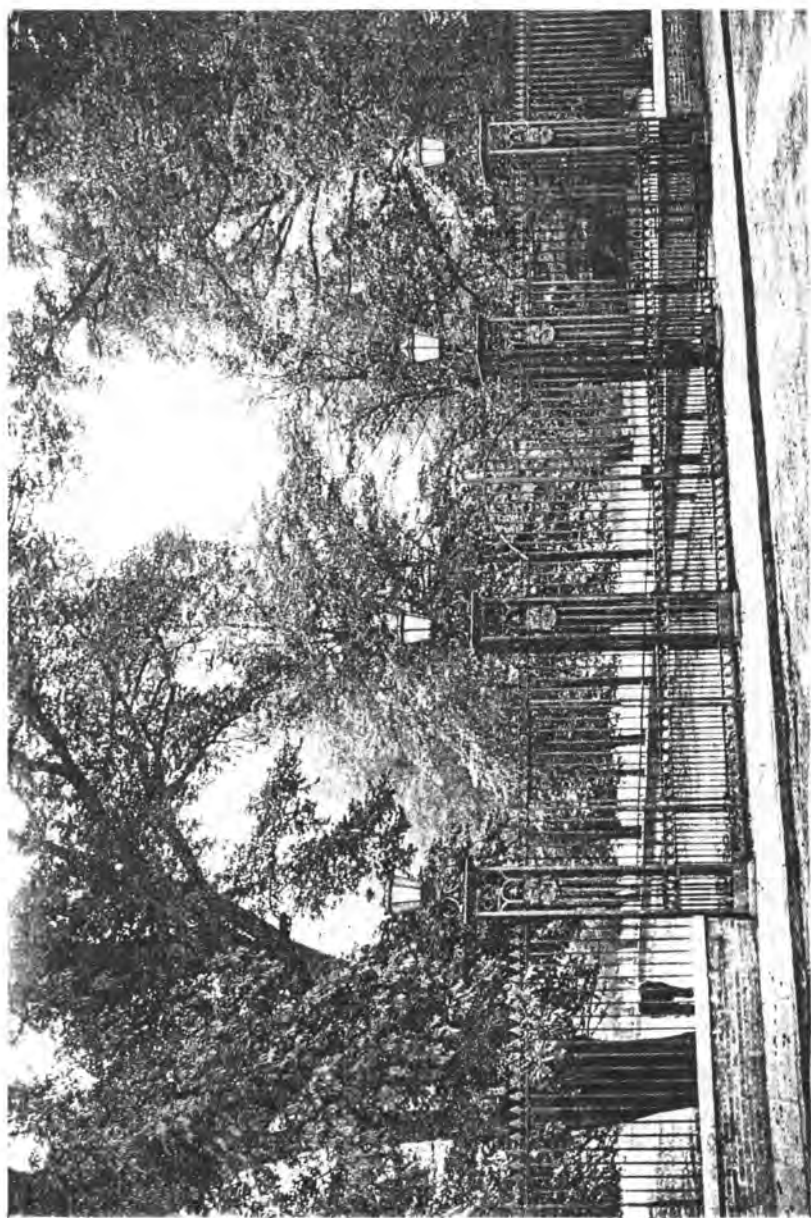
must be found for scholarships and prizes, without which there was little prospect of attracting serious students. The announcement that Downing was now in a position to do so had an immediate effect. Once again the black gowns of pensioners were seen about the college. The first three pensioners to be admitted for over thirty years came up in October 1861; they included the first minor scholar G. W. Cole. Next year Downing attracted three men from other colleges by awarding them foundation scholarships. By 1865 the eight Fellow-Commoners in residence were out-numbered by the pensioners, of whom there were nineteen, including four Foundation Scholars and three Minor Scholars.

When Worsley died in April 1885 the pensioners had reached the not-inconsiderable number of forty-three, including three Foundation Scholars and there were more Fellow-Commoners than ever before – twenty-one: amongst them were two men, Mortimer Singer and Sydney Graystone, who were to be great benefactors of the college.

It was not only the growing number of undergraduates that changed the character of Downing, it was their quality. The pensioners, especially the scholars, were mostly good honours men who acquitted themselves well and sometimes brilliantly in Tripos examinations, of which there was now a much wider range than when every candidate for honours had to be classed in mathematics. In 1864 both T. W. Danby and J. W. Bradbury obtained first class honours in the Natural Sciences Tripos, which was three years old. In 1867 the college elected Danby to a Fellowship, a unique recognition of scientific scholarship. Bradbury had to wait for his Fellowship until 1894 when he succeeded P. W. Latham as Downing Professor of Medicine.

For almost the first time residents in the remote seclusion of Downing began to make their mark in University activities – not quite the first time because E. St. John, a Fellow-Commoner, played cricket against Oxford in 1829. The first Downing man to hold office in the Union Society was J. B. Payne, secretary in the Lent Term 1863, the next was J. E. Symes, Vice-President in Easter Term 1870 and President the following term. Worsley lived to see seven Downing Presidents of the Union and two Vice-Presidents who did not reach the highest office – a remarkable record for a small college crawling out of the chrysalis stage. One of those Presidents, W. F. MacMichael, had the rare distinction of being both President of the Union and a rowing blue – the former in the Lent Term 1872, and the latter in 1868 and 1869.

Encouraged by such evidence of Downing's newfound energy the Governing Body decided to petition Chancery for £18,000 from the Building Fund to complete the East Range according to Wilkins's plan. The Court agreed. Barry was engaged as architect and in 1875 the East Range was completed, not quite as Wilkins had wanted to finish it sixty-



9. Downing College north entrance and lime avenue, circa 1890.



three years before. At the same time a lecture room was added to the West Lodge for the use of the Downing Professor of Law.

Worsley's part in these developments appears to have been very small, especially in his later years when illness often kept him away from Governing Body meetings. After what he called "the ill-advised and unhappy legislation" of 1861 he found it even more difficult than previously to cope with "the problems moral and legal, of the three Bodies, Master, Professors and Fellows, each with distinct and not seldom antagonistic duties and interests." He particularly objected to the gradual increase from one to six of non-resident Fellows, as permitted by the new Statutes. It meant that they were in a majority and "numerous and energetic enough" to feel that they were the real centre of the college." One of them, the Rev. W. B. Pike, from Trinity, who succeeded the Rev. G. M. Sykes in 1855 and became a Tutor, took action on several occasions without the Master's authority and twice in direct opposition to his wishes.

Fisher's death in 1874 resulted in another non-resident Fellow, P. W. Latham becoming Downing Professor of Medicine, and he too tended to take his own line.

Despite his dislike of much that his colleagues did the Master did not exert his magisterial authority but contented himself with "kind expostulations and remonstrances."

From 1821 to 1881 he was Rector of Scawton and from 1844 to 1850 the University's Christian Advocate. The lectures he gave in the latter office were published as "The Province of the Intellect in Religion, deduced from Our Lord's Sermon on the Mount." Today that book is virtually unreadable, as are the six thick volumes of his sermons and those containing the result of the researches he conducted for fifty years into the Structure of the Scriptures, by which he sought to prove that the arrangement of the Bible was not chance but "the authentic and articulate voice of God speaking to each man's own spirit."

He was undoubtedly a good man, but in the wrong place and the wrong century.

His successor as Master, W. L. Birkbeck, who had been Downing Professor of Law since 1860, survived him for only three years, and was followed by Alex Hill, M.A. who had entered Downing in 1874 as a scholar and obtained a first class in the Natural Sciences Tripos. He studied medicine and surgery at St. Bartholomew's Hospital and achieved a considerable reputation as an anatomist, returning to Cambridge to work under the great Professor of Surgery Sir George Humphry, who had become a Fellow-Commoner at Downing when already a fully-qualified medical man working at Addenbrooke's Hospital. (Humphry was said when he died in 1896 to have been "one of the greatest benefactors of the

University in modern times.”)

Alex Hill was an energetic and forward-looking Master and did all he could to foster Downing's progress but the man to whom the College owes the most during the last quarter of the nineteenth century was John Perkins, a Cambridgeshire man who took his degree from Christ's in 1859 and was elected Fellow of Downing in 1861. He was in some ways a character from the eighteenth century. He was a keen huntsman, for thirty years Secretary of the Cambridgeshire Hunt, a familiar bushy-bearded red coated figure at every meet. "Although he is not always seen to admirable advantage in the field", said "Vanity Fair" in 1889 "his hunting stories are invariably highly successful at the table. He is a clever lecturer and an excellent tutor; he is jovial, genial and convivial; and at the Bump suppers he is always in the chair, with ready wit and unaffected eloquence." He was Tutor for 26 years, Bursar for 28 years, and served as Steward, Dean, Praelector and Librarian. If some aspects of his character made him a Georgian survival in others he was very much a late Victorian academic eager for his pupils to achieve Tripos honours. They did so — six Wranglers, four first-classes in the Classics Tripos, eight or nine in Law, four in Moral Sciences. As Bursar he was very popular with the tenants and managed the estates as well as their impoverished condition permitted. As the years passed his conviviality made him the subject of mildly scandalous stories; he was not, however, a heavy drinker but merely a man who was easily excited by a moderate amount of alcohol. He often stayed in rooms reserved for him in a house called the Palace which the College built at East Hatley and it was there on April 30th 1901 he shot himself, perhaps because he was afraid of approaching blindness. He once declared that he believed his best memorial to be the great increase in the number of Downing undergraduates whilst he was Tutor and the fact that whilst he was Bursar no fox was shot on the College estates. These two boasts express perfectly the two sides of a great character to whom modern Downing owes much.

## CHAPTER FIFTEEN

### ACHIEVEMENT

Before Jack Perkins was laid to rest in East Hatley Churchyard – by his wish near enough to Buff Wood for him to hear the Cambridgeshire hounds working through it – he had seen the beginning of changes in the Downing domus which would destroy its unique character of rural seclusion in wide acres.

For many years some members of the Governing Body had believed that the college ought to raise money by selling parts of its unnecessarily large domus, but Worsley refused to contemplate it. Downing's most distinguished son in residence, Sir George Humphry, was the leader of a campaign which began in the eighteen-seventies for the University to build the laboratories made urgently necessary by the expansion of scientific studies. (Downing was a pioneer in having a small laboratory of its own behind the kitchens.) On his initiative, no doubt, approaches were made to the College but these were rejected until 1895 when the Governing Body promoted a Parliamentary bill which became law as the Downing College Act. Immediately two acres along the Downing Street boundary of the domus were sold to the University for £15,000. Two years later an adjoining strip, forty feet wide, was sold for £5000 an acre, and in 1901 the College agreed to sell a further six and a half acres in three stages at two-yearly intervals for a price which would produce an annual income of £120 an acre.

Unfortunately it proved a practical impossibility to preserve the main entrance in Downing Street and the great avenue of limes. The principal entrance to the College had to be in Regent Street, and except for a few at the southern end of the avenue which survived until 1950 the limes disappeared and with them the nightingales which had sung in them for a hundred years.

At the other end of the domus red-brick houses on land leased from the college spread themselves along Lensfield Road, fore-shortening the southern vista, but that loss was mitigated to some extent by the appearance in 1890 on the south-eastern skyline of the graceful spire and Gothic tower of the Roman Catholic Church of Our Lady and the English Martyrs, features which made the view across the paddock one of the loveliest in Cambridge. About the same time the paddock was converted from grazing land to a cricket field.

The outcrop of laboratories in various styles on "the Downing Site", as it was named, remained unpleasantly visible across tennis courts and through iron railings until 1931, when two right-angled buildings were erected parallel with the East and West ranges and matching them in height and appearance, although of three storeys instead of two. They contained two Fellows' sets and rooms for fifty-four undergraduates, so that for the first time since numbers began to expand it would no longer be necessary for many men to spend all their period of residence in lodgings. The architect, Sir Herbert Baker, produced a handsome design for the completion of the northern range, including a library and a chapel with a domed roof, but there was no money for this until 1950, by which time Baker was dead. His partner, Alex Scott, assisted by V. Helbing, modified the design to make it more like the Wilkins' ranges. Instead of a library the new building contained bed-sitting rooms and two Fellows' sets. The apsidal Chapel was beautiful in its simplicity and large enough for all normal use but small enough to have the intimacy which had made the Upper Room a happy centre of religious life since 1821.

The Baker buildings were financed out of the remainder of the old Building Fund and other College savings and from the results of an appeal to old members and others. The basis of the cost of the new building came from a legacy from Sidney William Graystone, after whom it was named. He was a Fellow-Commoner who migrated from Clare to Downing in 1882 and took an ordinary degree in law. He was the grandson of a wealthy Welsh draper in London who collected pictures. Some of these pictures were included in the legacy, with property valued at over £100,000, all subject to Mrs Graystone's life-interest.

That bequest is the second largest the College has so far received -- the largest was by Mortimer Singer -- but during the present century there have been many other bequests and gifts for the foundation of scholarships, for buildings, for the library, for squash courts, for the chapel, for a sports ground (opened on Long Road in 1934), and for a boat house (built in 1895), for boats, and to support the publication of the annual news letter (first issued in 1934) of the Downing College Association (founded in 1922). The response of old members to every appeal has always been gratifyingly generous.

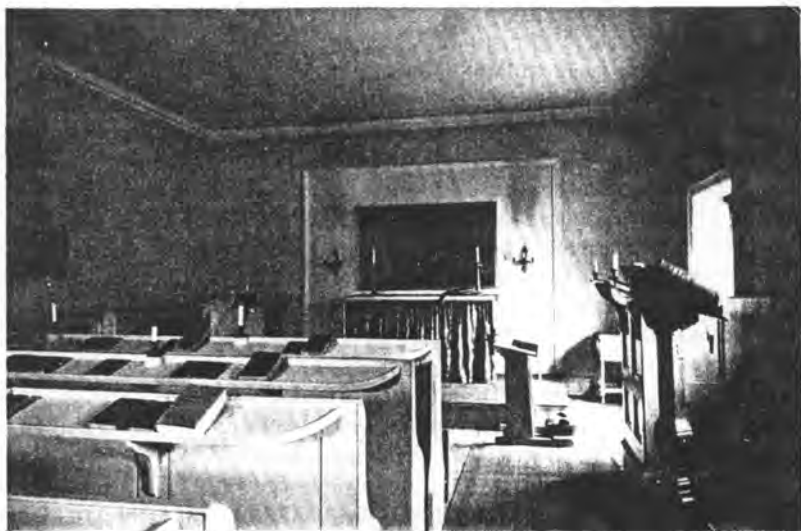
In 1931, when Lord Chancellor Sankey opened the Baker Buildings, he also opened memorial gates in Tennis Court Road to the great authority on criminal law, Professor C. S. Kenny, who had suffered a fatal accident at that very spot shortly before. The cost of these gates was defrayed by the Misses Muriel and Agnes Kenny, the Professor's daughters. In 1960/61 the surviving daughter Agnes provided a substantial sum towards the erection of two blocks of bed-sitting rooms beyond the western end of the northern range. Once again the homogeneous appearance of the college was maintained by the use of Ketton stone and a design by Scott and Helbing in harmony with the Wilkins' ranges.

The latest buildings were opened on November 6th 1969 by H.R.H. the Duchess of Kent, a descendant of the brother of the Rev. Dr Thomas Worsley. They consisted of a new Senior Combination Room, Kitchens, Buttery and administrative offices, all standing west of the Hall in a position which prevents their modern style from clashing with the more elegant older buildings. The architect, the late W. G. Howell, designed a Combination Room which would be reminiscent of a Chinese pagoda if the broken pediments of the roof had a less heavy appearance. The interior of the room is graceful and relaxing. The greatest achievement of the development was the enlargement of the Hall by the inclusion of Wilkins's Senior Combination Room. The Hall is now so perfectly proportioned that one must wonder if that is how Wilkins would have liked it if finances had permitted.

For nearly a century and a half the college had struggled to administer to its own profit and for the benefit of the tenants the estate which had belonged to the Founder, from which seven-eighths of its income came.

The nature of the College land made it exceptionally vulnerable to the recurring and deepening depressions which afflicted farming. J. H. Widdicombe once declared that during his Bursarship every farming tenant of the College went bankrupt or committed suicide, or did both. When the condition of agriculture worsened again after the temporary prosperity of the Second World War the Governing Body came to the momentous decision to sell out. This decision was supported by the best advice obtainable, so in January 1947 all the property which the first Sir George Downing had acquired in West Cambridgeshire in the reign of Charles II went under the hammer. Much of the land was bought by the tenant farmers, to whom the College behaved with a consideration still remembered by the sons of the beneficiaries. The Governing Body now had a freedom of investment which offered possibilities of expansion of both capital and income which could never exist whilst nearly all College wealth was tied up in fields hard to cultivate and buildings in constant need of repair.

Many years earlier a drastic change in the Charter of 1800 had relieved the College of the obligation to provide a stipend and a Lodge for the



10. Downing College Upper Room Chapel, 1821-1951.

Downing Professors of Law and Medicine. Reluctantly the Governing Body agreed in 1924 to the severance of the Professorships from the College on condition that those liabilities were abolished and Downing was treated like other colleges in its financial relationship with the University.

It was very sad that these Professorships, the only ones in the University attached to a college, should cease to bring distinguished doctors and lawyers on to the Governing Body. For much of the nineteenth century they were almost the only evidence that Downing was a place of scholarship.

Harwood and Christian were exceptional amongst the professors of their era in lecturing regularly throughout their careers. All their successors did likewise except Thomas Starkie (1823 to 1849) who gave no lectures after 1834; as he was a poor lecturer this was little loss, and did not affect his considerable reputation as the author of books on the Law of Slander and the Law of Evidence, and as a valuable member of the Law Commission.

Cornwallis Hewett (1814 - 1841) was the only Downing Professor of Medicine not to hold an official position at Addenbrooke's Hospital; the others were much esteemed there, especially W. W. Fisher (1841 - 1874). P. W. Latham (1874 - 1894) established a Materia Medica museum in Downing; he had been a Fellow for only four years when in 1864 he persuaded the Governing Body to build one of the first College laboratories

in Cambridge. J. B. Bradbury (1894 - 1930), the last holder of the Professorship, initiated the University's Department of Pharmacology in 1896, and, like Latham, was widely known for his contributions to medical literature and for his active interest in medical affairs outside Cambridge.

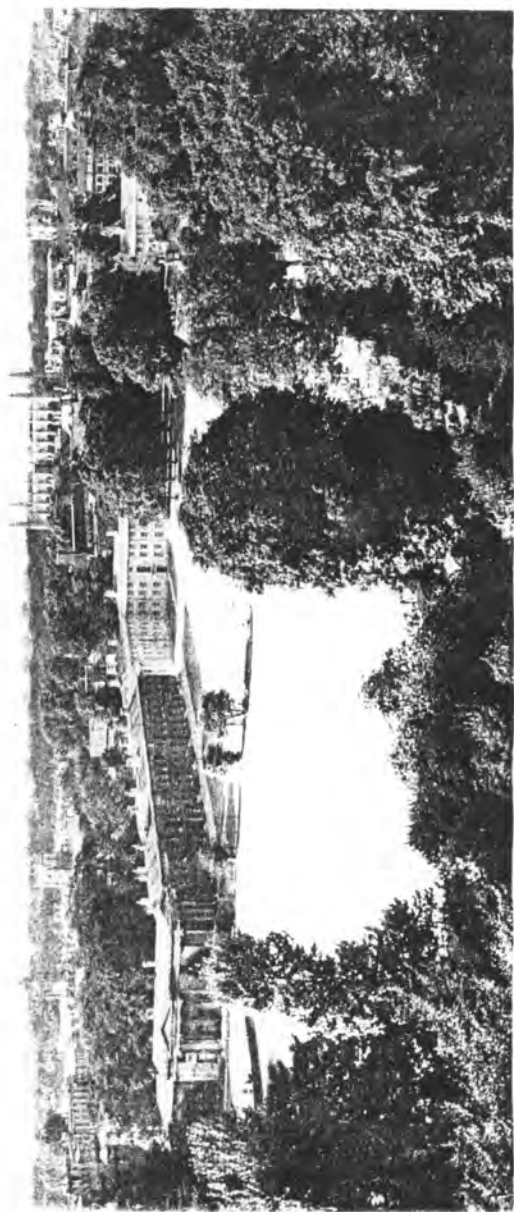
The Downing Professors of Law were as distinguished as their medical counterparts. One, Frederick William Maitland (1888 - 1906), was a truly great man, the kind of scholar the world only sees at long intervals. In the words of his successor, C. S. Kenny (1907 - 1918) "He wrought a revolution in the treatment of a great branch of knowledge. He searched to the bottom the origins of English law with an energy as untiring as Selden and with a literary skill more varied than Blackstone's." He was a wise and practical member of the Governing Body, acting as Vice-Master when the Master was away, and took a great interest in undergraduate activities. His friends found him "the most brilliant and delightful of companions." His "slight, ascetic, scholarly figure with a pile of books under the arm hurrying about the court" gave Downing vicarious honour in every part of the English-speaking world.

He had succeeded William Lloyd Birkbeck (1860 - 1888) who retained the Professorship when he became Master. Birkbeck lectured principally on Real and Personal Property and was an authority on Equity. In 1861 he instructed the Prince of Wales in aspects of English law, thereby emulating his predecessor Andrew Amos (1849 - 1860), who taught Queen Victoria constitutional law. Amos was a brilliant lecturer; his Cambridge lectures on the Reformation Parliament of Henry VIII were said to be almost as good as a contemporary account.

Courtney Stanhope Kenny ranks second to Maitland only because he did not introduce fundamental changes in the methods of research. He was more versatile than Maitland, playing many parts and excelling in them all — as a member of Parliament, in local government, as a magistrate and chairman of quarter sessions, as a writer and as a lecturer. He was a wise counsellor, a skilful administrator, a great lawyer and a brilliant teacher. His "Outlines of Criminal Law" is a classic of legal literature. Like Maitland his loyalty to and interest in the College were unbounded. He kept the minutes of the Governing Body for fifty years and had great influence on its deliberations. He was deeply interested in the history of the College. A modest man, and generous, he did much good by stealth.

The last of the Downing Professors attached to the college was H. D. Hazeltine (1918 - 1942), whose special study was the history of legal institutions. He founded and edited "Cambridge Studies in English Legal History". He lived in West Lodge and took a full part in College activities.

The loss of the Downing Professors did not affect the image of the College as a place of scholarship because their place was taken on the Governing Body by men of outstanding reputation, not only in law and



11. Downing College before "Graystone".



medicine, but in a variety of other disciplines.

When Alex Hill resigned in 1907, disappointed by the Governing Body's rejection of his scheme to make Downing a graduate college for which the University would have full financial responsibility he was succeeded by another distinguished medical man, Howard Marsh, Professor of Surgery. Eight years later the Governing Body's choice fell on a Professor of Botany, Albert Seward, who was not only an outstanding scholar, but a first-class administrator. He was followed in 1936 by Admiral Sir Herbert Richmond, who had crowned a naval career of great responsibility and influence with international fame as a naval historian. When he died in 1947 the Fellows returned to medicine for their Master and elected a former scholar of the college, Sir Lionel Whitby, Regius Professor of Physic and a world-renowned pioneer of blood-transfusion. In 1957 a leading classical scholar, Professor of Ancient Philosophy Dr W. K. C. Guthrie, moved into the Master's Lodge. After fifteen very full years he yielded the Lodge to Sir Morien Morgan, the retiring Director of the Royal Aircraft Establishment at Farnborough and one of the progenitors of "Concorde". He died suddenly as these last pages were being written.

Everyone of these outstanding men not only enhanced the reputation of Downing by their academic eminence but served the college with unflinching loyalty and self-sacrificing application to the duties of their office.

That can also be said of many of the Fellows, whose numbers increased as expansion of the University made it possible to elect men whose principal remuneration would come from their University posts. There is space to mention only two – Sir John Hammond and Dr F. R. Leavis, C.H. Hammond, a Downing man *ab initio*, was a leading authority on animal physiology who had great impact on farm practice all over the world, and became head of the strongest post-graduate school of animal husbandry in England. His tall, athletic, cloth-capped figure was as familiar on the cattle ranches of the world as it was on the college estates when he was estates bursar during the Second World War.

Leavis, who joined Downing from Emmanuel in 1934, was the most original literary critic of his era, through his lectures and books and the magazine "Scrutiny" which he founded, setting up his own criteria for the judgment of literature. A well-known journalist once wrote "Dr Leavis must remember that Downing College is not the Vatican but only Little Bethel", but young men disagreed and clamoured to come to Downing to hear their scrawny, earnest-faced open-shirted Pope expound the pure doctrine with the intolerance and fervour of an Old Testament prophet.

The result was that for twenty years many graduates of the English school went from Downing into the universities and journalism, the theatre, radio and television, where most of them prospered and now exercise

great influence.

It was not only such new subjects as agriculture and English which brought more students to Downing. Law and medicine continued to hold an important place, and natural science became increasingly popular. Although admissions dropped when the Rev. J. C. Saunders succeeded Perkins as Tutor in 1888 he increased the number of candidates for the Natural Science Tripos and about a third of them got firsts. In 1901 Henry Jackson took over from Saunders and the numbers went up rapidly, being helped by the unusual number of Orientals the Tutor admitted. In 1909 there were only two Fellow-Commoners and they men who had matriculated at the beginning of the century but there were 125 pensioners, of whom twenty-two were Asiatics.

Unfortunately this very able Tutor was better at persuading undergraduates to come to Downing than he was at accounting for the fees he received from them. When the Governing Body discovered this in 1911 he made a substantial payment and resigned; he then had a successful political career and received a baronetcy. Another of J. C. Saunders' bright natural scientists took his place — J. H. Widdicombe, who was just as capable, energetic and enthusiastic and twice as durable. He gave up the Bursarship, in which he had performed competently since Perkins' death, but for the next twenty years there was hardly any college activity, academic, sporting and social, in which he did not exercise considerable influence. He also regularly gave much-appreciated lectures on physiology. Until 1923 he managed all this without clerical assistance. When he retired in 1931 there were five times as many undergraduates in Downing (150) as there were when he matriculated as a scholar in 1888. To generations of undergraduates "Widdy" became a legend, his services to the college remembered gratefully, his kindly heart, his mannerisms and his oddities of character affectionately recalled.

He has had worthy successors, for Downing has never lacked men of outstanding ability and sterling spirit to fight for it and to guide it. It is not proposed, however, to bring this story nearer to today than the fringe of living memory. Another chronicler must be left to write about the great work of H. C. Whalley-Tooker, of Trinity Hall and Balliol, who came to assist Widdicombe in 1924 and was Senior Tutor from 1931 to 1947; about the skilful management of college finances by four clever Bursars — A. Amos, F. B. Smith, James Grantham and Malcolm Fisher; about the vital influence of the Rev. Canon George Woods, Chaplain and Dean of Chapel, on the shape and character of the new chapel; and about the Butlers and Cooks, Porters, Gardeners and Bedmakers, Clerks and Secretaries whose devoted service, often for a lifetime, has made Downing a comfortable and attractive home for dons and undergraduates alike.

Wise and vigorous dons are essential for the well-being of any college,

but ultimately its public reputation depends on the quality of its undergraduates and how they acquit themselves when they go out into the world. Downing has done well in that respect. There were remarkable men amongst the Fellow-Commoners, including Baron de Thierry, who might have been King of New Zealand, Lord Guilford, founder of the Ionian University in Corfu, Sir Harry Verney the patrician politician, Sir George Humphry, the famous anatomist, and Charles Doughty, author of "Arabia Deserta".

The pensioners have also had many outstanding men amongst them as well as the hosts of graduates who have in diverse ways contributed much to the prosperity and security of their country, (sometimes not the United Kingdom) without receiving the public acclaim accorded to more prominent persons.

They had showed the first signs of their excellence when they were undergraduates by organising their activities sensibly and enthusiastically. For a long while they were handicapped by their fewness. A Debating Society and a Shakespeare Society blossomed early and a Downing boat appeared on the river in the eighteen-seventies; it rose to tenth place in the first division of the May races in 1882 but dropped back quickly for lack of recruits. The cricket club, formed in 1889, played on Parker's Piece until the paddock was made available.

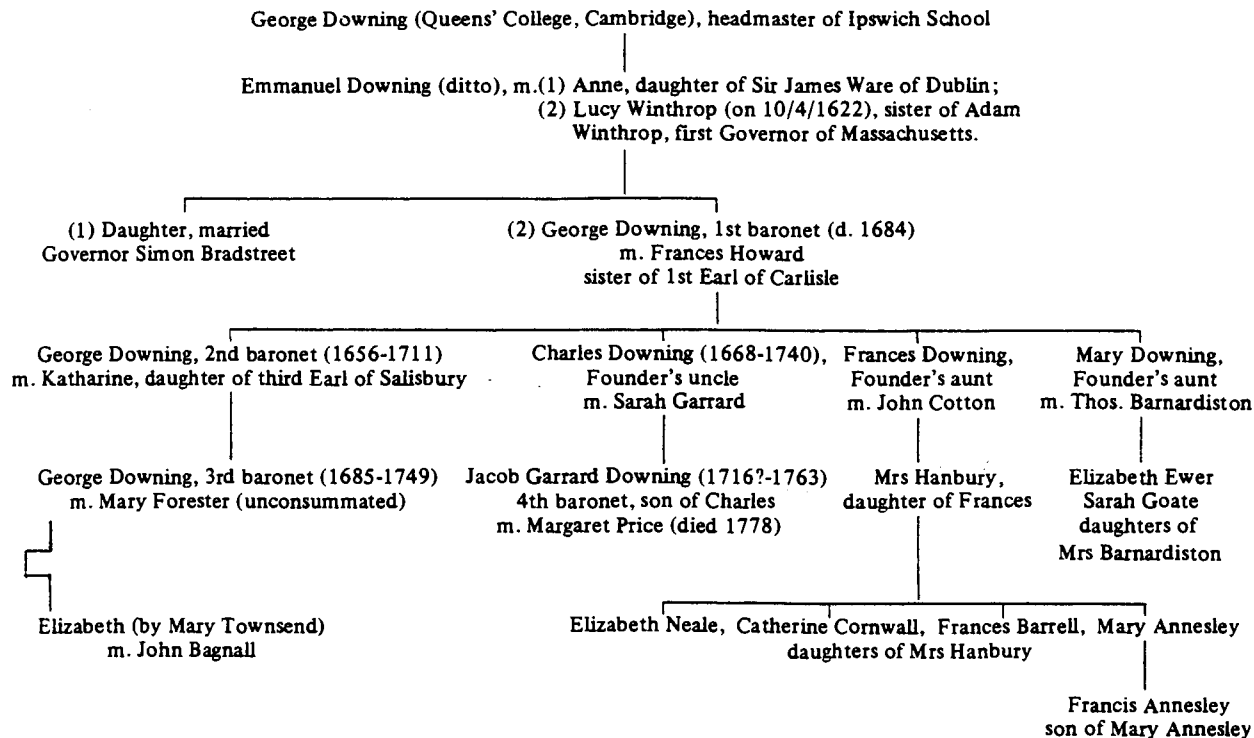
In the years before the first World War Downing's standing as a sporting college became more nearly comparable with that of other small colleges because of the versatility of a nucleus of undergraduates who loyally played for any team in need of members. As the undergraduate population grew life for the clubs and societies became easier and the great expansion after the war, when numbers doubled, put the college on equal terms with its rivals and resulted in Downing names frequently appearing in University teams.

Academically, too, the College has done well. In 1977 there were thirty "firsts" in honours examinations, including ten of the twenty awarded in Part I of the Law Tripos. This latter result, and the Chancellor's Medal in English Law, won by a Downing man for the third time, together with the presence on the Governing Body of three Professors and two Fellows concerned in the teaching of medical subjects, show that the College is not encouraging the study of other subjects at the expense of the two which the framers of the Charter had in mind as the proper disciplines for Downing men.

Annesley and Frere, Fisher and Grantham, Dawes and Perkins and Widdicombe and many others, some of whom have not been mentioned in this history, have by their devoted service and wise counsel helped to make Downing what it is today. If the buildings are not destroyed by a nuclear holocaust, or the idea smothered by egalitarian ignorance, there is

no reason why the fruits of their labours should not be enjoyed by many future generations of undergraduates, a splendid memorial to Sir George Downing the Third, who so surprisingly dreamt of founding a Cambridge college, which, as the Lord Chief Justice said in the Downing Cause “is a godly thing to do”.

# THE FOUNDER'S FAMILY TREE



## ACKNOWLEDGEMENTS

The author is very grateful to the Governing Body of Downing College for appointing him College Archivist when he retired from his Fellowship in 1973, thereby giving him ready access to the archives, with permission to make use of them for a history of the College. He thanks especially the statutory Keeper of the Records, the Bursar, Dr S. G. Fleet, for his great interest and encouragement. He is also grateful to the following members of the Downing College Association for reading substantial parts of the typescript and making helpful comments:- Mr P. Bicknell, Judge Bernard Gillis, Q.C., Dr W. O. Henderson, Mr Reginald Hill, Mr R. E. Jefford, Professor Clive Parry, Mr H. P. Shallard and Mr H. C. Whalley-Tooker. Another member, Mr G. F. Darlow, formerly Town Clerk of Reading, supplied information about Francis Annesley.

Sadly Sir Morien Morgan, Master since 1972, died suddenly as the last pages of this history were being written, and so will not see the completion of a project in which he took much encouraging interest.

Most of the illustrations have been made from photographs of the originals taken by Mr R. Wheeler, Head Porter of Downing.

As the first eight chapters of this book are an abridgement of "College into Chancery", which became too long to publish in a form suitable for the Association's purpose, I wish to thank Mrs Doreen Browne for taking great pains in typing the longer work. Very helpful advice and assistance has been given by Mr. C. Bailey of Messrs Foister and Jagg, printers to the Association for a quarter of a century.

The final version has been typed by Mr R. J. Pate, College Secretary for forty years, who undertook the task in his eightieth year for love of the College to which he has rendered many invaluable services; the author is very grateful indeed for the benefit he has derived from Mr Pate's skill, knowledge and enthusiasm.

Lastly, the author thanks the members of the Downing College Association, of which he has the honour to be the current President, for agreeing to publish this history. All profits will go to the funds of the Association in the hope that they can be used to pay for further books by various contributors on aspects of Downing history and on the lives of Downing men.

## **PRINCIPAL SOURCES**

### **In Downing College Muniment Room**

The History of Downing College, Cambridge. By H. W. Pettit Stevens (1899). (Copy annotated by Professor Kenny.) This pioneer book is inevitably very incomplete but has provided useful information not obtainable elsewhere, and a good basis for research into the relationship of the Founder and his wife.

The Minute Books of the Governing Body of Downing College.

Memoir of Mary Forester by Emma Leighton, (photostat copy of 'The Black Book' at Loton Park given to Canon Woods by Sir Michael Leighton, to whom sincere thanks are due).

The research papers of the Rev. Dr H. W. Pettit Stevens, Professor C. S. Kenny, Mr W. L. Cuttle and the Rev. Canon G. F. Woods.

Dr Henry: Biographical Notice of the Very Rev. Richard Dawes.

Briefs, petitions, contracts and other legal documents in great profusion.

Miscellaneous letters, account books and reports.

Maps and plans. Cambridge Review. Cambridge University Calendar, 1842 onwards. The Griffin. Downing College Association News Letter.

### **In Downing College Library.**

English Reports. Volumes 27, 30, 31, 32, 34, 97, 103.

Venn's Alumni Cantabrigia.

Dictionary of National Biography.

G. Walkley's William Wilkins (unpublished thesis, copy presented by the author).

### **In Cambridge University Library**

The Journal of the House of Lords, 1715 and 1717.

Historical Manuscripts Commission, 14th Report.

Cambridge University Calendars (before 1842).

Cambridge University Reporter.

Gentleman's Magazine.

### **In Cambridge City Library. (Cambridge Collection)**

Cambridge Chronicle.

**In Cambridgeshire Public Records Office.**

Parish Records of Tadlow, Croydon, East Hatley and Gamlingay, the compiler of which, Mr T. P. R. Layng, has been very helpful.

Ely Diocesan Records.

**In the British Library**

Cases of Divorce for Several Causes (Fleet St. 1715).

The Counsellor's Plea for the Divorce of Sir G. D. and Mrs. F. (London 1716).

Books which have provided information include:

Atkinson and Clark: Architectural History of Cambridge

Clifford's History of Private Bill Legislation, Vol. 1

A. Dale: James Wyatt

R. Gore Brown: Chancellor Thurlow

M. Milner: Isaac Milner

C. Merivale: Autobiography (1887)



# THE HISTORY OF DOWNING COLLEGE

(published November 1978)

## ERRATA

Page	Line	
20	23	shall every Pray <i>to read</i> shall ever Pray
20	24	<i>add inverted commas after</i> MARY FORESTER
33	26	Tripozoid <i>to read</i> trapezoid
34	41	accummulated <i>to read</i> accumulated
47	26	that the latter <i>to read</i> than the latter
48	4	<i>delete extra letters after</i> than of his own
49	6	goes <i>to read</i> went
53	39	it would in <i>to read</i> it would be
61	15	as least <i>to read</i> at least
68	11	to 1803 <i>to read</i> in 1803
68	34	great-grandson <i>to read</i> great-great-grandson
69	7	<i>insert the before</i> Founder's kin
69	17	Annesly <i>to read</i> Annesley
74	1	name <i>to read</i> named
74	20	He <i>to read</i> he
78	8	Emmanual <i>to read</i> Emmanuel
99	39	William Frere was the fourth son of John Frere of Roydon Hall, Norfolk, not as stated
101	16-17	colleague <i>to read</i> colleague
105	<sup>21</sup> 10	<sup>Christain</sup> <i>replace the comma after</i> <sup>Christain</sup> respectively <i>with a full stop</i>
110	14	<i>add inverted commas after</i> to do so
117	2	himslef <i>to read</i> himself
117	7	William <i>to read</i> Thomas
117	22	Serjeant <i>not</i> Sergeant
121	39	Powell <i>to read</i> Power
134	28-29	Widdicome <i>to read</i> Widdicombe
138	39	<i>insert comma after</i> earnest-faced
142	Chart	The date of Jacob Garrard Downing's death <i>to read</i> 1764

