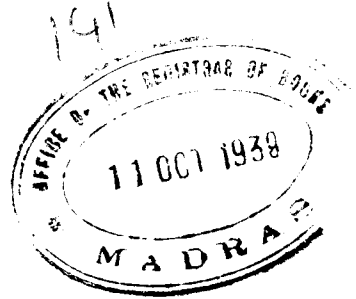


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ACKNOWLEDGMENT

The thanks of the Association are due and are hereby gratefully tendered to The Hon'ble the Chief Justice who kindly inaugurated the series of lectures arranged in commemoration of the Golden Jubilee and to Sri V. V. Srinivasa Iyengar, Sri S. Satyamurthi, M.L.A., Sir A. Krishnaswami Iyer; The Hon'ble Mr. Justice S. Varadachariar, The Hon'ble Mr. C. Rajagopalachariar; Mr. M. Ruthnaswami, The Hon'ble Mr. Justice K. S. Krishnaswami Iyengar; Sir C. P. Ramaswami Iyer, The Hon'ble Mr. Justice Sir Abdur Rahman; The Hon'ble Mr. Justice P. Venkataramana Rao, and Sir. M. Venkatasubba Rao, who were kind enough to deliver the several lectures of the series and to preside over them.

The Association also wish to thank Sir P. S. Sivaswami Iyer, Sir Vepa Ramesam, Sir A. Krishnaswami Iyer and others who have contributed sketches of eminent past members of the Association, The Theosophical Society, Adyar, and in particular Dr. Arundale, the President of the Society for permitting the Association the use of the Olcott Gardens for the Celebration of the Jubilee and Messrs. K. Rajah Iyer and K. Krishnaswami Aiyangar who were the secretaries last year for the magnificent manner in which they conducted the Golden Jubilee Celebrations.

We acknowledge gratefully our indebtedness to all the gentlemen who kindly lent the Association blocks and photographs for publishing in the souvenir, the publishers of the Madras Law Journal and Law Weekly for giving permission to reprint articles and photographs which appeared in the pages of their Journals, Messrs. A. Arunachalam Advocate to whose expert knowledge of photography we are indebted for a very large number of the photographs appearing in the souvenir. Messrs. Jagannathadas Govindas and K. P. Adiga, Advocates, who along with Mr. A. Arunachalam were mainly responsible for the successful conduct of the Fine-Arts Exhibition and for the art and photographic features of the souvenir, Mr. L. Krishna Dass, Advocate, who kindly drew the cover design and permitted re-production of his painting, the publishers of Ananda Vikatan for the neat execution of the tricolour reproduction, Mr. R. Chakravarthi, Advocate, who was chiefly responsible for the preparation of the Souvenir, Mr. A. T. Krishnamachariar, Advocate, who assisted in reading the proofs, Mr. K. Subramaniam, who helped us in securing advertisements, The India Printing Works, the printers of the souvenir, and Messrs. Klien & Peyerl who made the blocks of most of the photographs published within.

Our thanks are also due to the Jubilee Committee and the staff of the Association who ungrudgingly gave their services, and to all those who contributed liberally to make the Golden Jubilee celebration a great success.

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P. V. RAJAMANNAR.

Secretaries.



DR. SIR P. S. SIVASWAMI IYER, K.C.S.I., C.I.E., LL.D.

President of the Golden Jubilee
Celebrations of the
Advocates' Association, Madras,
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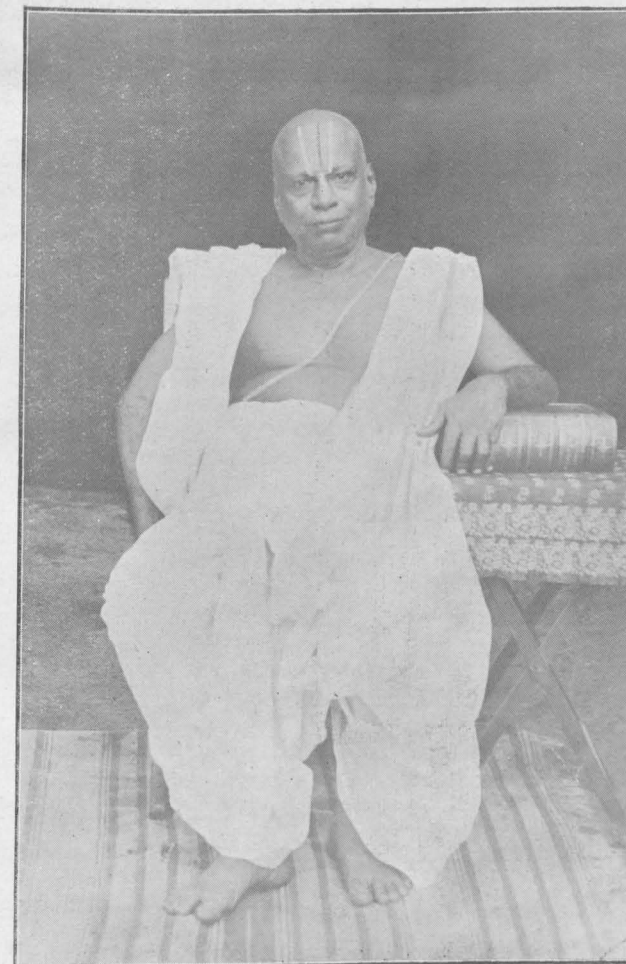
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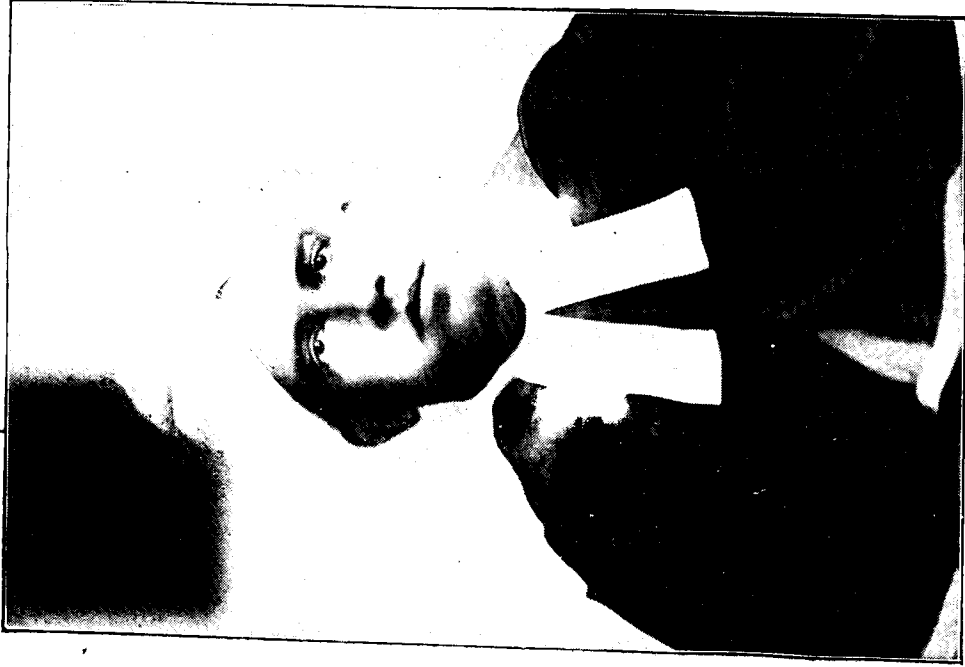
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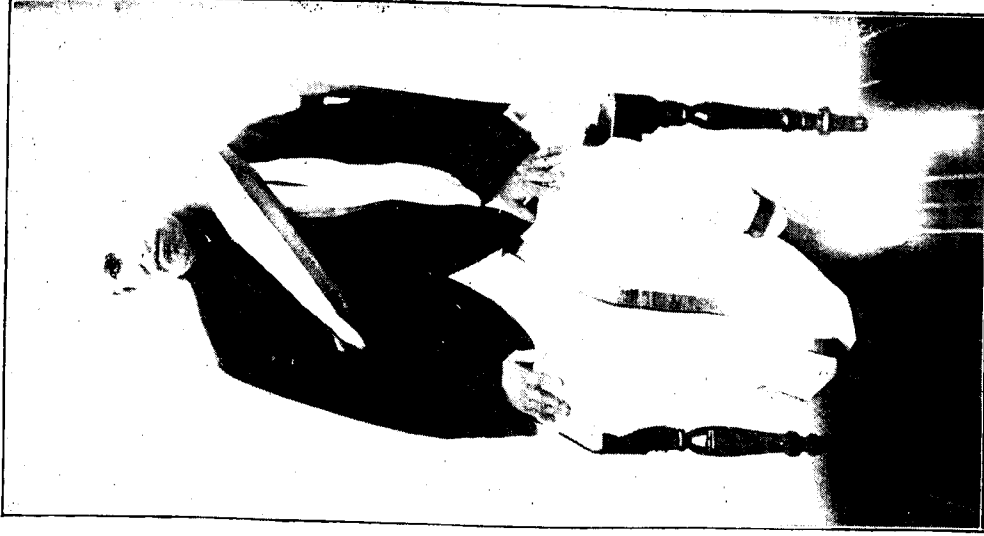
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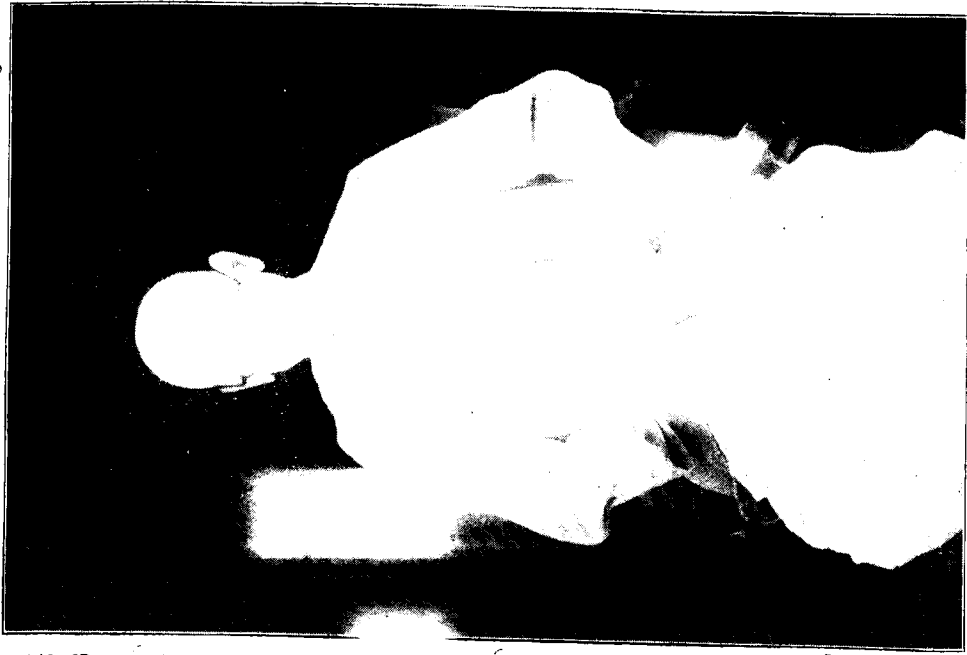
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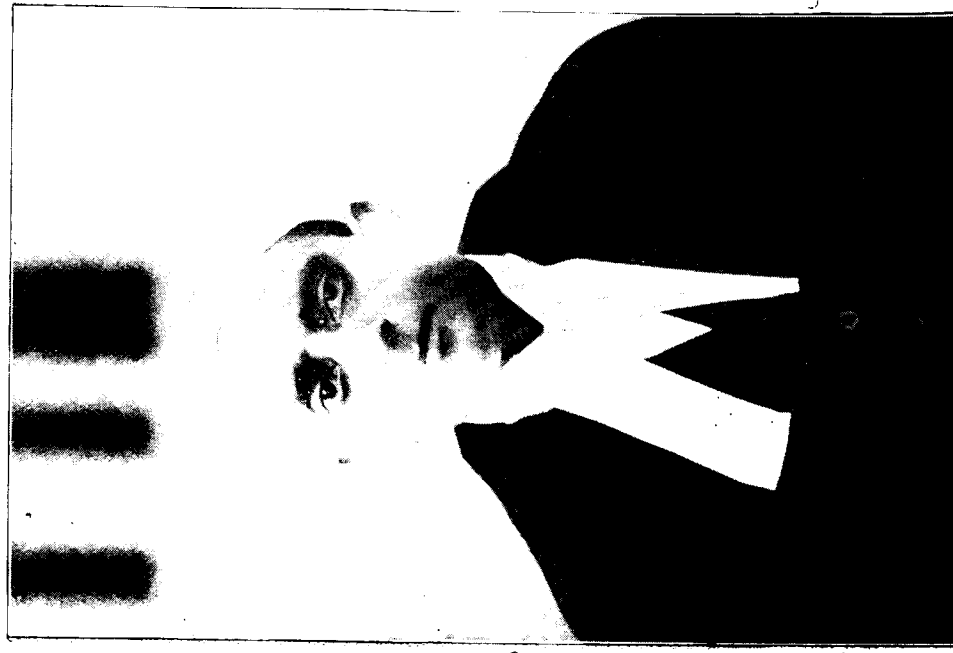
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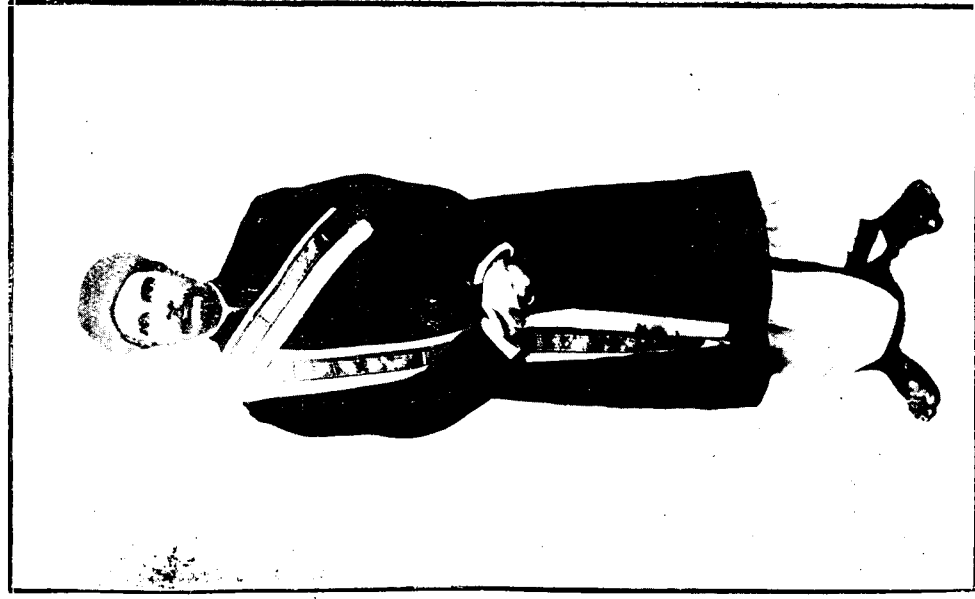
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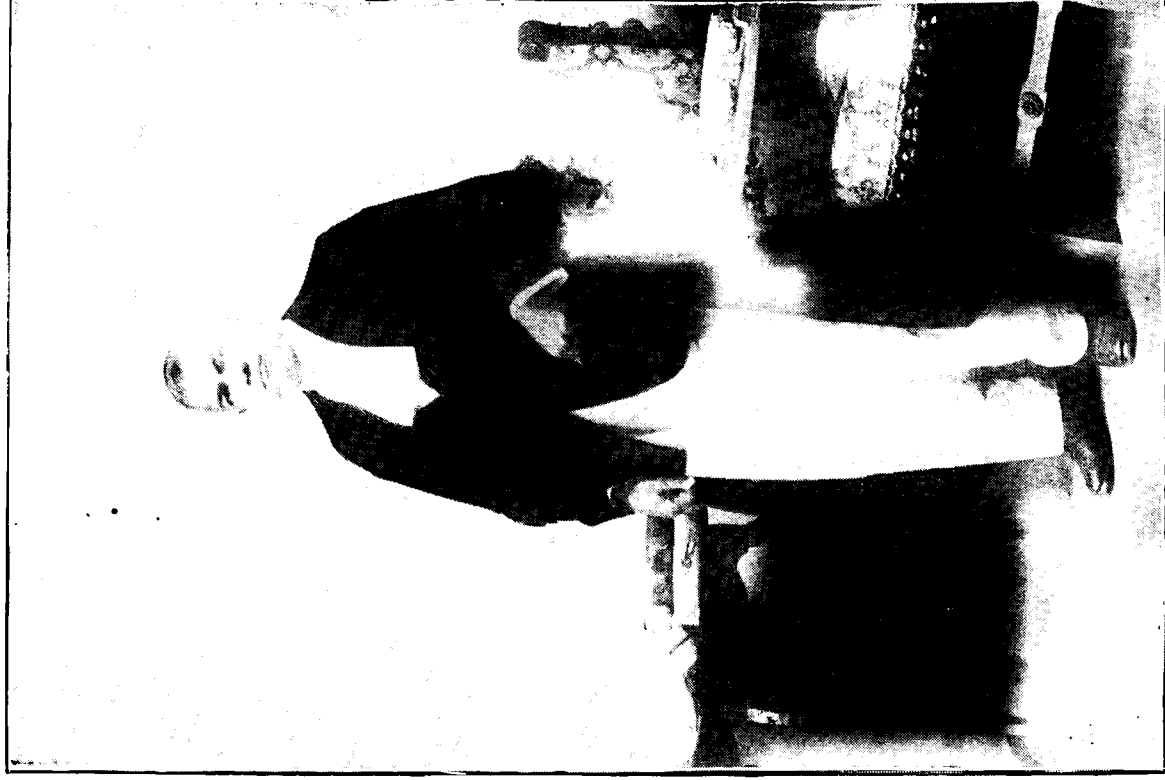
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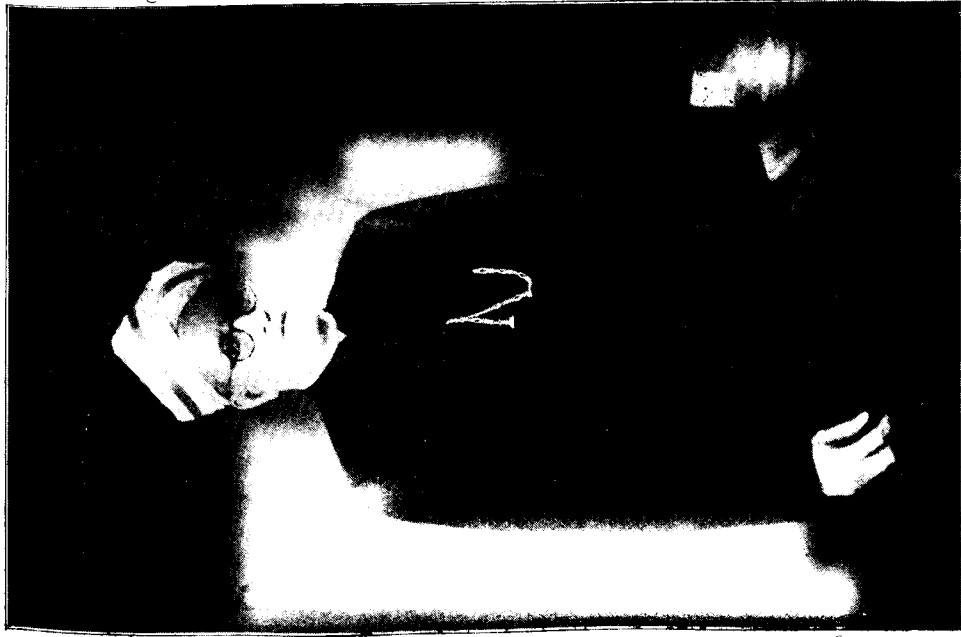
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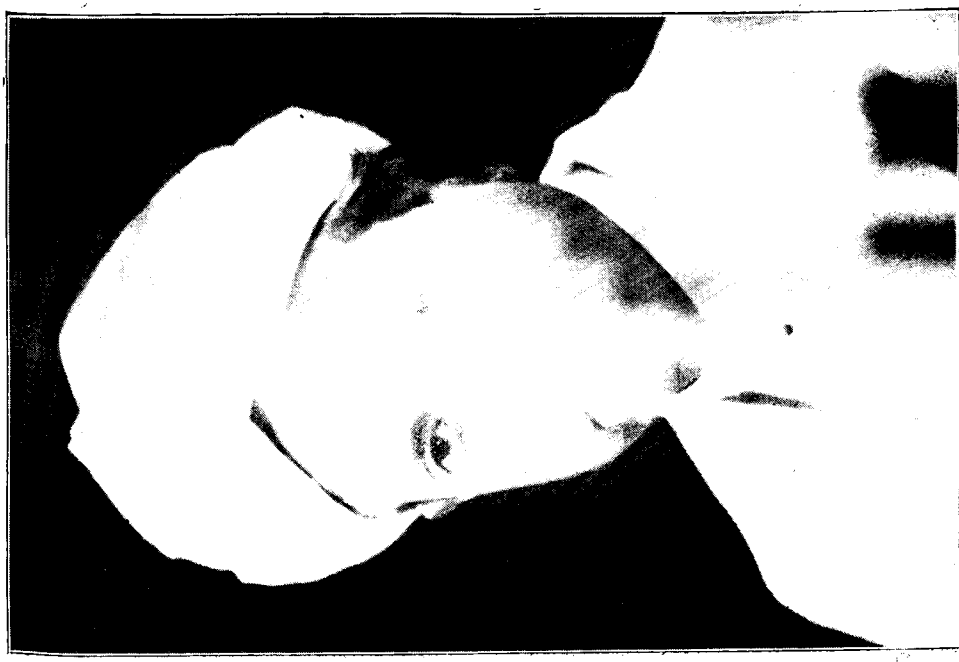
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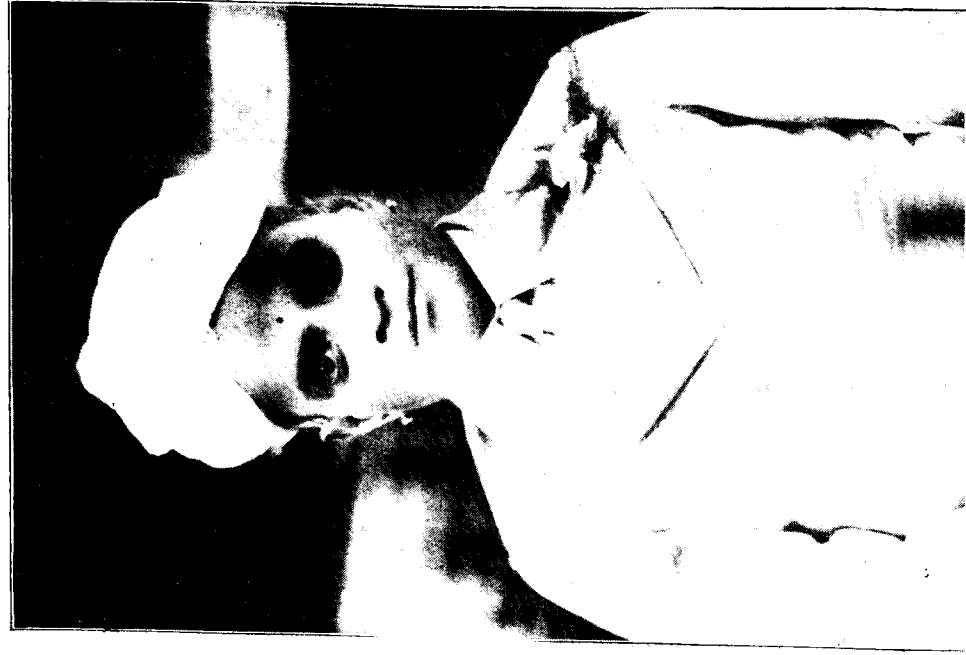
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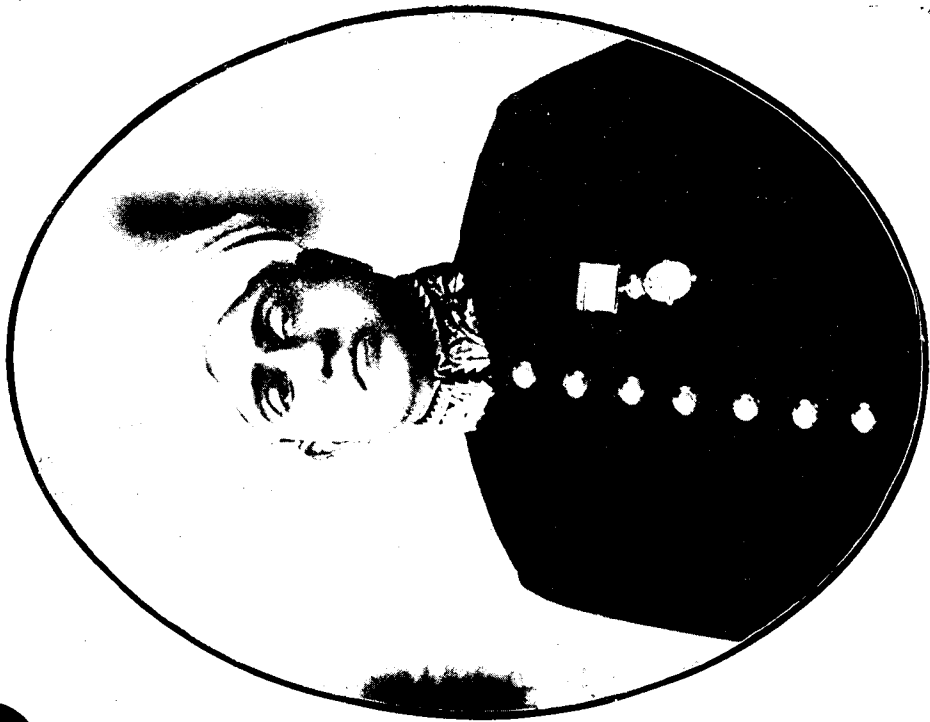
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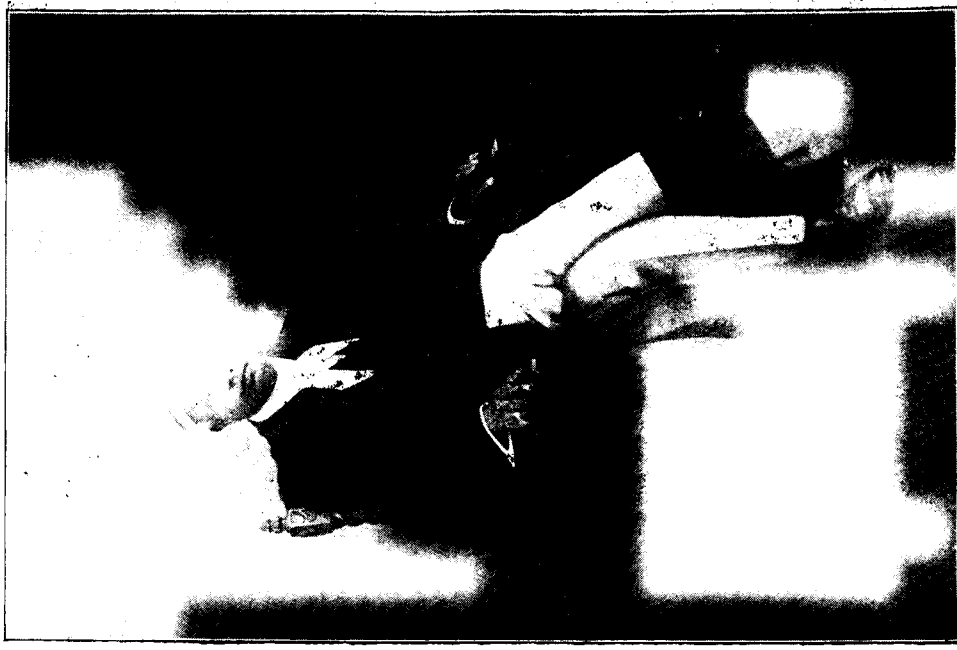
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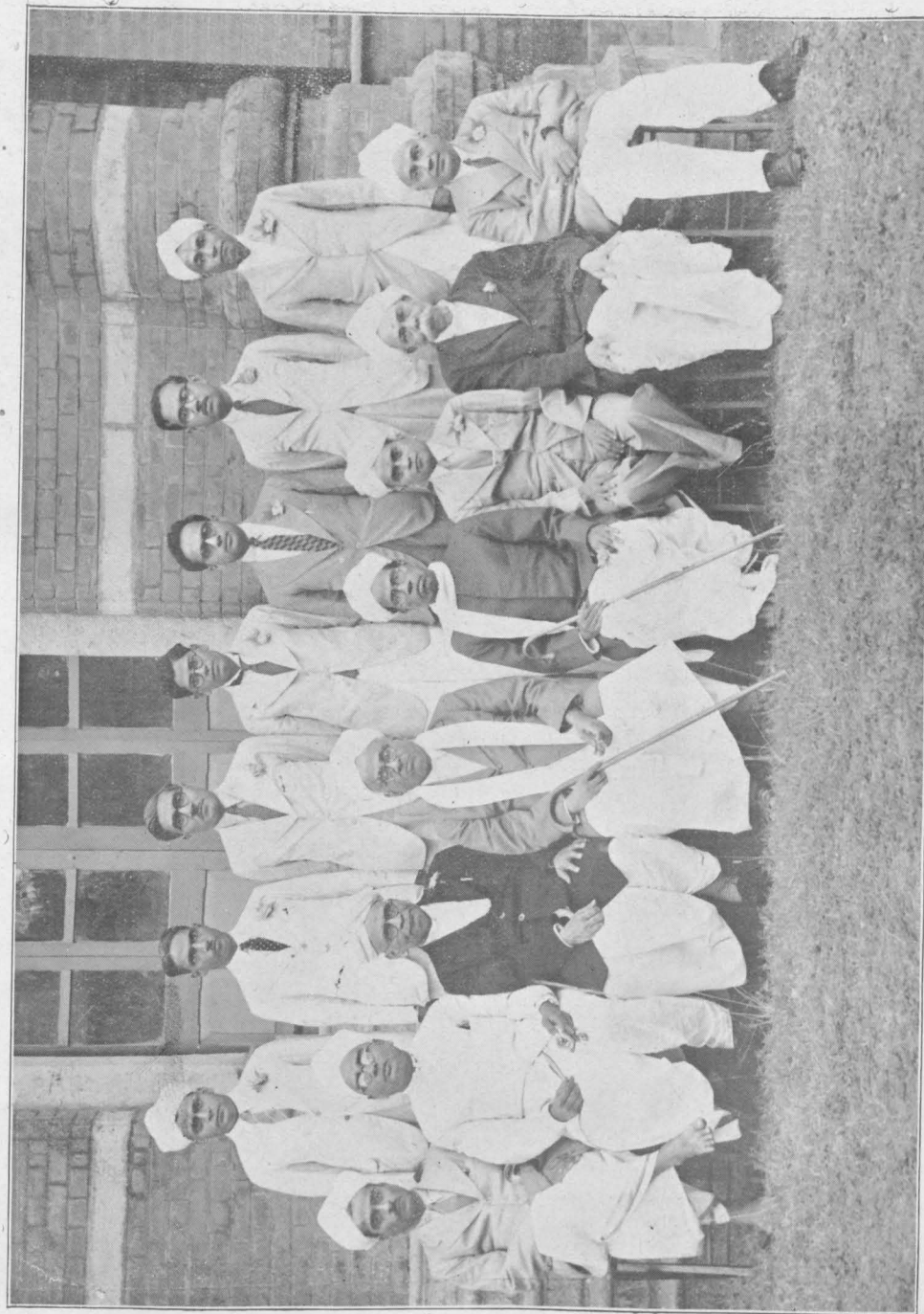
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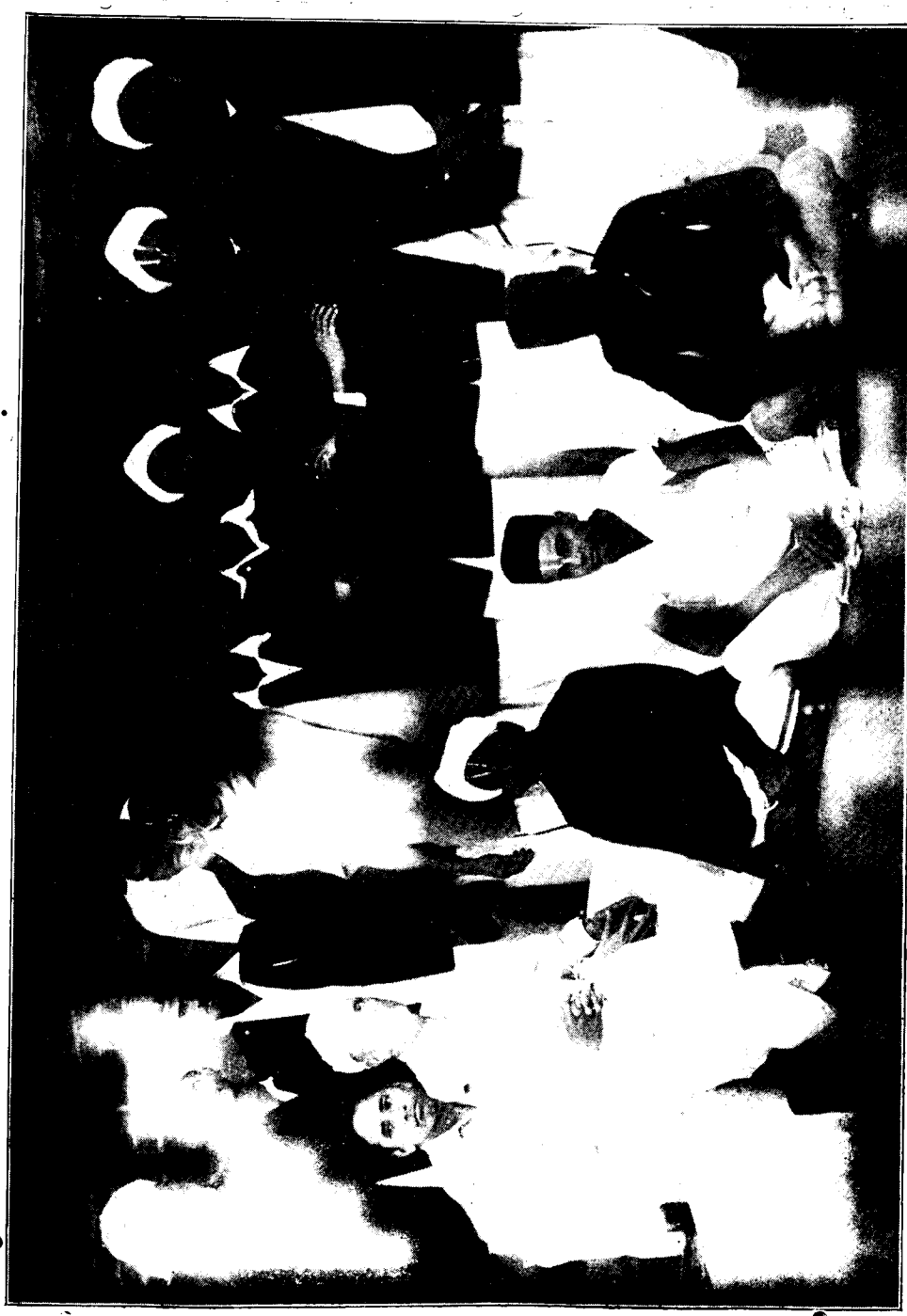
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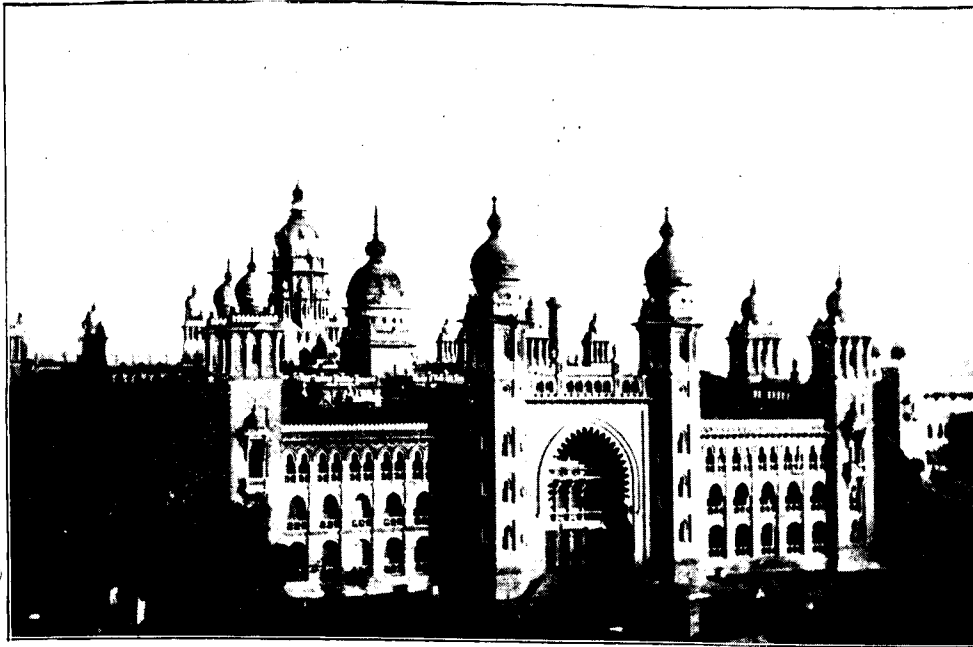
COUNCIL OF THE ASSOCIATION 1938—1939



GOLDEN JUBILEE CELEBRATIONS COMMITTEE 1938—1939.



STAFF OF THE ASSOCIATION



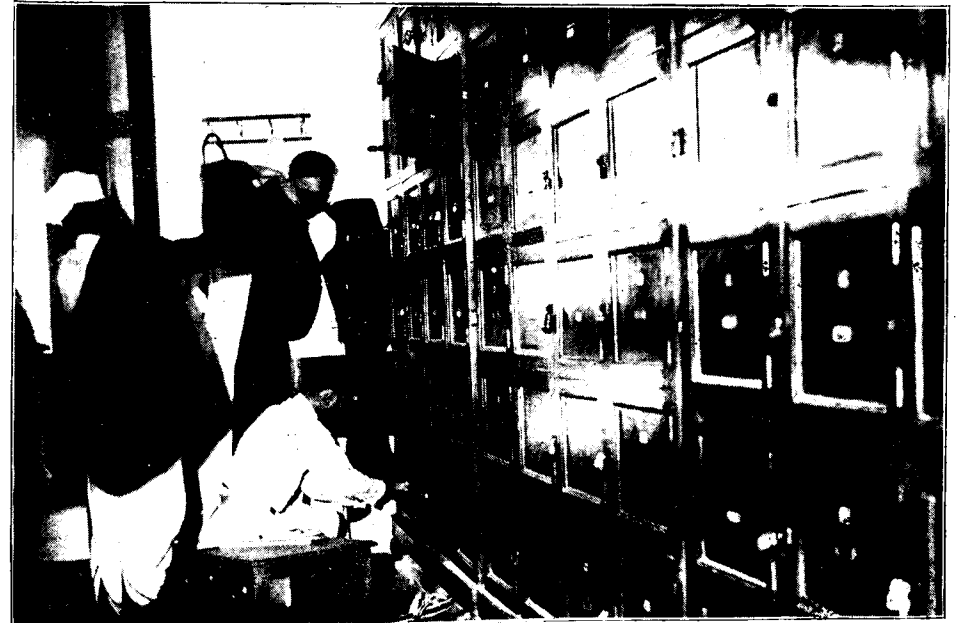
A view of the High Court Buildings showing the Law Chambers and the premises of the Association.



Luncheon hour at the Association.



A view of the Library of the Association during working hours.



A view of the Lockers of the Association rented out to Members for keeping their Gowns, Coats etc.



The rest hour at the Association



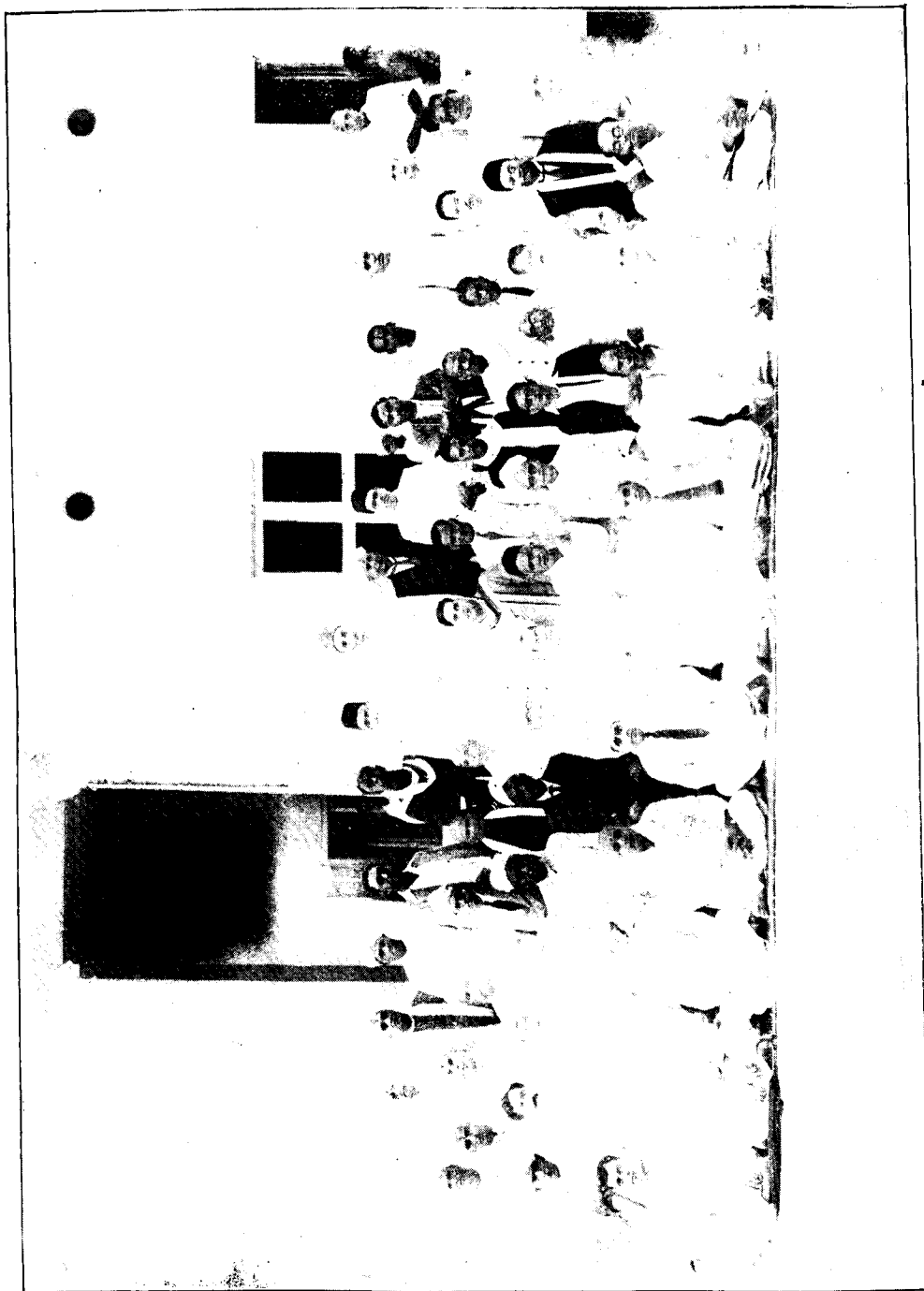
A Group Photo taken on the Morning of the Jubilee Day at the Olcott Gardens, Adyar, immediately after Bhajana.



A snap taken at the Garden Party given by the Association in honour of Hon. Justice Sir S. Varadachariar and Hon. Mr. Justice B. Somayya.



A View of the Golden Jubilee Public Meeting at the Besant Scout Camping Centre, Adyar, on the Jubilee Day with Sir P. S. Sivaswami Iyer, K.C.S.I., C.I.E. in the Chair.



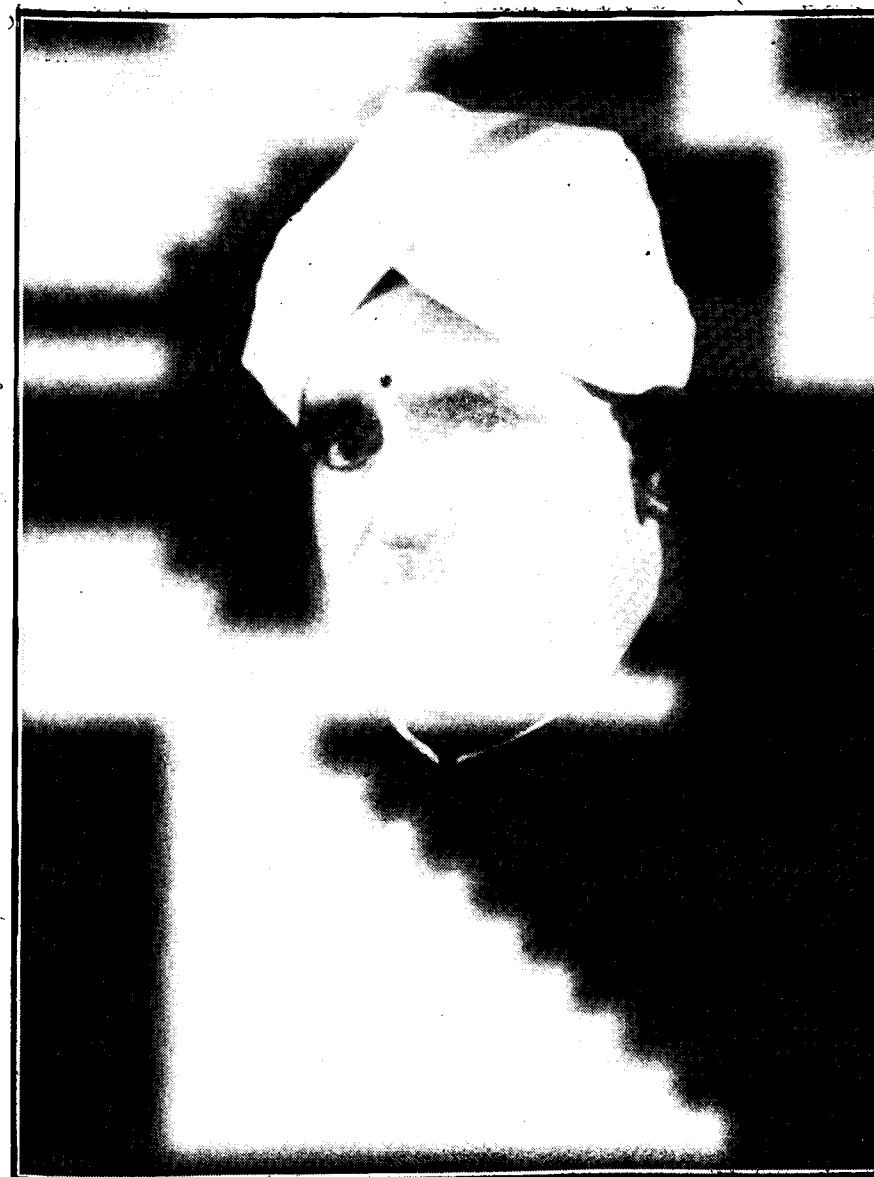
A Group Photo of the informal Conference of Lawyers held in the Olcott Bungalow, Adyar
on the Jubilee Day with Sri S. Srinivasa Iyengar in the Chair.



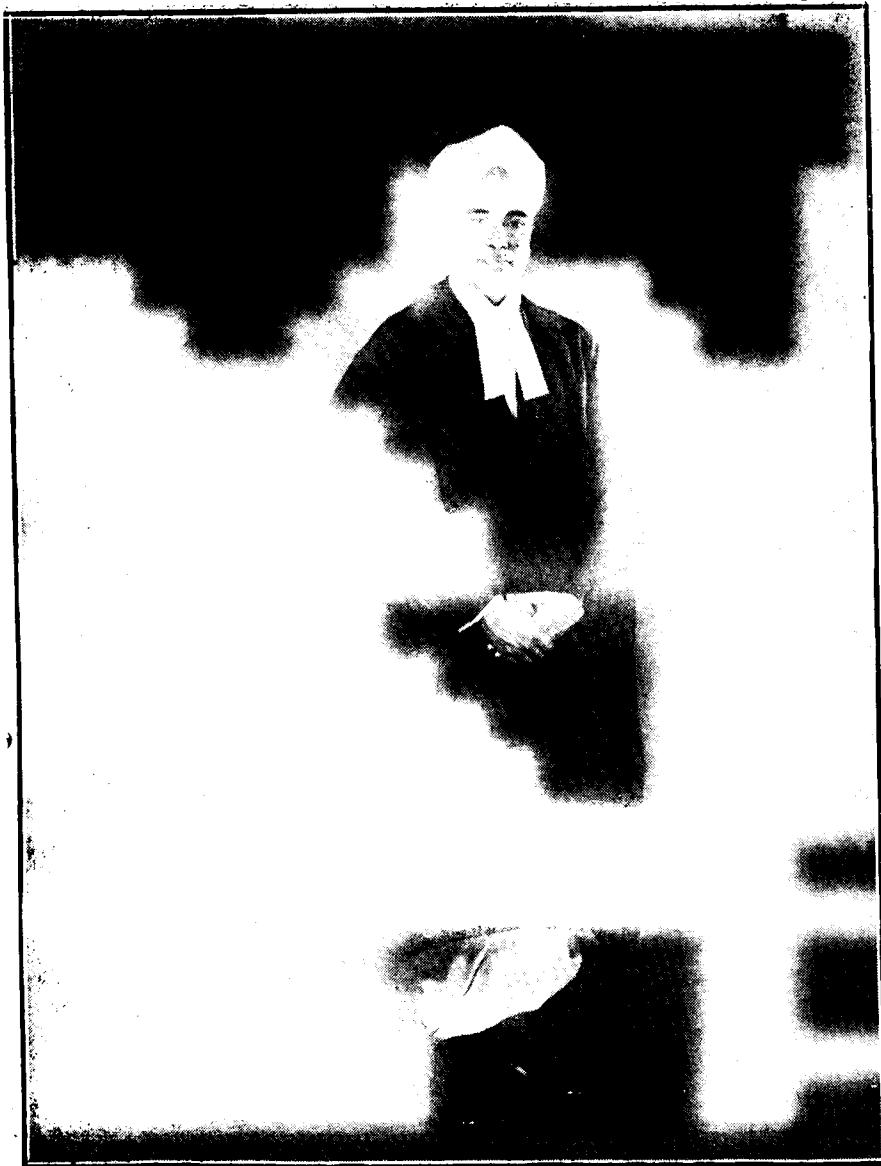
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Chief Justice, Madras High Court.



THE HON'BLE JUSTICE SIR. S. VARADACHARIAR.



THE HON'BLE MR. JUSTICE K. P. LAKSHMANA RAO.



THE HON'BLE MR. JUSTICE K. S. KRISHNASWAMI AIYANGAR.



THE HON'BLE MR. JUSTICE B. SOMAYYA.



THE HON'BLE MR. JUSTICE M. PATANJALI SASTRI



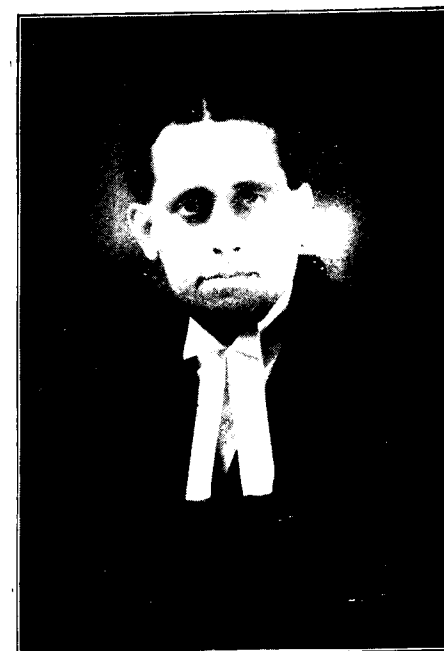
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MR. J. A. PINTO
Judge, City Civil Court, Madras.



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District and Sessions Judge.



MR. M. A. T. COELHO,
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MR. S. RANGASWAMI IYENGAR,
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MR. T. N. C. SRINIVASAVARADACHAR
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ADVOCATES' ASSOCIATION, MADRAS

(FOUNDED. MARCH 1889)

HISTORICAL NOTE.

Friday, the 1st March, 1889 was the auspicious date on which our Association was born. A meeting of High Court Vakils was held on that day in the office of Rai Bahadur P. Anandacharlu (a former President of the Congress) at 5-30 p.m. on a notice convening the meeting, issued by Mr. K. P. Sankara Menon. The notice ran as follows:

Gentlemen,

It has been suggested by some friends that it is desirable to revive and re-organise the Vakils' Association for the purpose of mutual co-operation and better safeguarding the interests of the profession. It is hoped that all the members of the profession will cordially approve of the suggestion.

A meeting will be held at the office of Rai Bahadur P. Anandacharlu at 5-30 p.m. on Friday the 1st March to consider the details of the scheme. All are earnestly requested to attend.

(Sd.) K. P. SANKARA MENON,
High Court Vakil.

The full proceedings of the meeting have been recorded in the proceeding book still with us.

Of special interest is the page in the book containing the autograph signatures of the first members, who may be called the "Founders" of the Association. A photographic copy of it is printed on the next page.

A list of members was maintained in which those willing to join were made to sign their names. This procedure seems to have been followed till the beginning of the year 1902. The last member to sign this register was Mr. M. R. Sankara Iyer who entered his name on the 2nd January 1902.

At a meeting of the Executive Committee of the Association held on 18th July 1889, the following resolution, among others, was passed:

"That the Committee approves of the suggestion that Vakils should wear gowns and recommends the same for the consideration of the Association."

At a meeting of the General Body of the Association held on 6th December, 1889, it was resolved

1. Mr. Subramaniam
 2. Mr. Ramanathan
 3. Mr. Ramanathan
 4. Mr. Ramanathan
 5. Mr. Ramanathan
 6. Mr. Ramanathan
 7. Mr. Ramanathan
 8. Mr. Ramanathan
 9. Mr. Ramanathan
 10. Mr. Ramanathan

P. Lammochus - Carina. 29

- (a) that Vakils shall wear black coats and white turbans with or without lace after the 1st January 1890,
- (b) that it shall be optional to wear boots and trousers.

"that at the instance of the Association, the Hon'ble The Judges conferred upon Vakils the privilege of appearing in gowns before the Court."

"that the managing Committee met 9 times during the year,"

"that the number of resident members on 1st May 1890 was 54 and of mofussil members 10 and that there was one resignation,

“that the total of subscriptions collected was Rs. 392 and of the uncollected arrears Rs. 113,

"and that the balance on hand was Rs. 73-7-6.

So the arrears had a promising start in the very first year.

The original name of the Association was "The Madras High Court Vakils' Association" but owing to changes introduced by the Bar Councils' Act the name was changed into "The Madras Advocates' Association" by proceedings of the general body dated 27-8-1928.

Membership and finance.

From its small beginning the Association steadily grew in strength. The membership was over 100 even in 1909 and by 1918 it had reached 300. In 1934 the 500 mark was crossed and we now have over 600 members. Likewise the financial position has also shown an increasing advance and from the humble beginnings in 1889 with a balance of Rs. 73 we have at the present day about Rs. 20,000 to the credit of the Association. This is apart from a large amount of arrears outstanding. No doubt the question of arrears has been a problem ever since the formation of the Association and does not admit of an easy solution unless all the members make up their minds to co-operate in bringing the arrears down.

Accommodation.

The growth of members and steady increase in the size of the Library has called for more and more extensive accommodation for the Association in the High Court Premises. As early as 1909 and 1910 there were complaints about want of accommodation. Eventually in 1921 the High Court authorities kindly decided to grant the Supreme Court Record Room for additional accommodation. In 1934, however, there was a complete change in the location of the premises of the Association and the present rooms came to be occupied then. In 1937 more accommodation was granted to the Association. In 1934 provision was made for lockers for the members, the use of which is allowed to each member on

payment of Re. 1 per term. This provision has been much appreciated by the members and the addition of more lockers was necessary later on. The grateful thanks of the Association are due to The Hon'ble The Chief Justices who were kind enough to accord the accommodation and to the Registrars who helped the Association to a considerable extent in this matter.

Library.

Every year there have been considerable additions to the Library and the Association can now boast of one of the best Libraries of its kind in the Presidency. There are well over 30,000 Volumes on its shelves. The Association gets a complete run of almost all legal journals and periodicals both Indian and foreign.

Work of the Association.

One of the important functions of the Association has been to forward considered opinions on almost all the Bills of the Provincial and Imperial Legislatures. The Association was frequently consulted by Government on general matters of Law Reform and proposals for alterations of jurisdiction and constitution of the City Civil Court and the Small Cause Court and other such matters. It was also consulted by the High Court on matters dealing with the profession. The Association has, from the beginning, been careful and zealous of preserving the rights and privileges of the members of the Bar and whenever necessary the Association has been making representations to the authorities concerned on subjects relating to the profession. The Association has also passed resolutions pressing the claims of the members of the Bar to vacancies on the Bench of the High Court and it is presumed that the resolutions have not been without effect. Before the formation of the Bar Council the Association was also vitally concerned with matters of professional etiquette and misconduct. The Association submitted a memorandum to the Civil Justice Committee and its then President the late Dewan Bahadur T. R. Ramachandra Iyer also appeared before the Committee and gave oral evidence on behalf of the Association.

Mofussil Associations.

The Association has been generally looked up to by the other Bar Associations in the Province as their natural leader and the advice of the Association was sought on several occasions by the Associations in the mofussil on several matters pertaining to the profession and in particular in respect of relations between practitioners and the Courts. Though there is provision for affiliation of the mofussil Bar Associations to this Association it must be said that there has not been much of success in this direction. It is hoped that in future there will be more co-operation between the mofussil Associations and this Association.

In 1921 the Association arranged for a Provincial Lawyers' Conference and it is expected that there would be another conference in the near future.

Entertainments.

The Association has been arranging entertainments under its auspices in honour of Judges of the High Court who had been members of the Bar on their appointments and at their retirements. The Association has also been building up a portrait gallery of distinguished members of the Bar some of whom have adorned the Bench of the High Court. Mention must be made also of the part the Association took in setting up the Statue of Sir V. Bhashyam Iyengar which was unveiled on 18th October 1929 by Sir. P. S. Sivaswami Iyer. The Association has also occasionally taken the opportunity of inviting prominent persons to visit the Association and address its members.

Vakils' Gatherings.

There used to be a gathering of Vakils every year when one of the leading members used to stand as the host to the other members. This happy annual institution continued for about 20 years till 1927 but unfortunately after that date there was no such gathering. In 1937 however the 'Association Day' was celebrated with great success.

The Association has thus during the half century of its existence amply achieved the purposes for which it was formed in 1889 viz. "for the purpose of mutual co-operation and better safeguarding the interests of the profession."

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BIOGRAPHICAL SKETCHES

RAJA T. RAMA RAO

President (1889—1891)

BY

SIR VEPA RAMESAM

Raja T. Rama Rao belonged to the first set of legal practitioners enrolled as High Court Vakils. The old Sadar Court had been replaced by the High Court constituted under the Charter Act, 1861, and some vakils of the Sadar Court were granted Sanads enabling them to practise before the High Court. Rules were framed providing that graduates in law after undergoing a period of apprenticeship for a year could be enrolled as vakils of the High Court. Mr. Rama Rao was the first of such vakils enrolled under the new rules.

He came of a distinguished Golkonda Vyapari family of Andhras in Madras. He graduated in Arts in 1864 and took his degree in Law in 1866. He was enrolled as a High Court Vakil in 1867 and rapidly began to build up a lucrative practice. The volumes of the Madras High Court Reports are full of cases in which he appeared. Very soon he rose to be a leader of the Bar and was nominated as a member of the Legislative Council, and by his activities in the new sphere and his wise counsels stood high in the estimation of the Government and especially of the Governor of Madras, His Excellency Mr. Grant Duff. In recognition of his services in the Legislative Council and of his eminence in the legal profession, the Government conferred on him the title of 'Raja.' He was also for several years an examiner in Law in the Madras University both for the B.L. and M.L. degree Examinations. He was also connected with various public institutions and movements in the city.

In the early eighties of the last century he had as rivals at the Bar such eminent lawyers as Sir V. Bhashyam Iyengar and Sir S. Subramania Iyer. As he grew older in years his powers naturally began to wane but he continued to appear in courts almost up to his death in 1904. His advocacy was very impressive and his method belonged to the type of advocacy which still prevails in the Privy Council. He took down notes of all the facts of the case and of the many points arising in the case, and he analysed them and even noted down the arguments to be addressed to the court; so thoroughly was the work done that the notes contained everything necessary and no further reference to the papers was needed.

He presided over the meeting first convened to consider the formation of the Association and he signed his name first in the register of members as a founder of the Madras High Court Vakils' Association. He was elected its first president and continued to hold the office till 1891.

DR. SIR S. SUBRAMANIA AYYAR

President (1891—1895)

BY

SIR VEPA RAMESAM

Mr. Subramania Iyer, more familiarly known as Mani Iyer belonged to a very respectable family of Madura District. He was born on 1st October 1842. He entered life as a clerk in the local Deputy Collector's Office. He was attracted by the glamour of the legal profession and applied for a Sanad to practise as a lawyer after topping the pass list in the Pleadership Examination; but it was refused. He passed the Matriculation Examination in 1865 and the First Examination in Arts in 1866. He straightway took the B. L. degree in 1868 without taking the B. A. degree, for, in those days, one could take the law course after passing the F. A. Examination. He underwent the apprentice course under Mr. J. C. Mills, Official Reporter of the High Court, and set up practise at Madura after having been enrolled as a High Court Vakil. Soon he rose to the front rank in the profession and won the regard and esteem of the several civilian Judges of Madura and of the Public. In 1870 he was made a Municipal Commissioner and a member of the Local Board. His services to the municipality and district were numerous. He was appointed a non-official member of the Legislative Council.

Very soon it was evident that Madura was too small a place for Subramania Iyer's practice and he accordingly moved on to Madras and immediately became a rival to the many leaders of the Madras Bar, chief among whom were T. Rama Rao and V. Bhashyam Iyengar. Though not a graduate in arts his mastery of the English language was superb and he was both a fluent and effective speaker. His services in the cause of Local Self-Government and purer administration of temples and religious endowments were very well appreciated by the public and by the Government. When in 1885 the Indian National Congress was founded he joined the leading politicians of the day and also attended and took part in many of the annual sittings of that great institution. For keeping up the political activity of the country in the intervals between the annual sessions of the Congress, the Madras Mahajana Sabha was founded and Subramania Iyer was for many years its Secretary and was the moving spirit of the Sabha. The many representations made by the Sabha from time to time on the important problems of the day were looked upon by the

Government as important contributions and respected since they were mainly the results of Subramania Iyer's study and were drafted by him. In 1885 began also his connection with the Madras University which valuable connection lasted till 1907. He was the first Indian to be appointed its Vice-Chancellor. The Government in recognition of his marvellous services to the public cause, conferred on him the title of Dewan Bahadur.

In 1888 there was the sensational trial of the Mahant of Tirupathi. Mr. Eardly Norton appeared for the Mahant and argued very eloquently in moving for bail. Mr. Subramania Iyer opposed the bail motion in a speech which has been described by one present on the occasion as the high water mark of forensic eloquence.

He was the first Indian to be appointed as Officiating Government Pleader.

Mr. Subramania Iyer was a very generous man. He was very kind to his juniors and apprentices and was quick to discover and appreciate merit among them and was keen on encouraging them in their early days of struggle at the Bar. Very often he was known to have parted with his entire fee in favour of a deserving junior. Mr. P. R. Sundara Iyer who afterwards rose to eminence and Judgeship was his apprentice and junior. Mr. V. Krishnaswami Iyer too, though not his apprentice, derived very great help and encouragement from Mr. Subramania Iyer in the early years at the Bar. He was always eager to help merit, to cheer up and encourage the timid, but talented junior.

Mr. Subramania Iyer was renowned as the acutest lawyer of his time in the Presidency and his arguments were noted for extraordinary precision and circumspection. He was a keen student of English and American Law and Roman Jurisprudence. He had few rivals at the Bar worthy of his steel except Sir V. Bhashyam Iyengar. He was elevated to the Bench in 1895 in succession to Sir T. Muthuswami Iyer. His ill-health compelled him to retire in 1907. A knighthood was conferred on him in 1900. He had made his mark on the Bench as one of the greatest judges Madras ever had. He acted on three occasions as Chief Justice of the High Court and introduced many salutary reforms during those periods. In 1908 the Madras University conferred on him the Honorary Degree of Doctor of Laws.

Even after retirement his intellect continued to be of unrivalled vigour and he devoted his time to religion and politics. During the Home Rule movement he led the agitation after Mrs. Besant's internment. He wrote a much discussed and much criticized letter to President Wilson of the U. S. A. asking the President to interfere to get Home Rule for India. He gave up his knighthood as a protest against the arrest of Mrs. Besant by Lord Pentland's Government. He spent his last days in peaceful retirement at Guindy engaged in religious meditation. He

passed away at the ripe age of 82 in December 1924 full of years and honours, revered by all as the grand old man of South India. His statue adorns the gardens of the University of Madras, of which he was a distinguished Vice-Chancellor.

He was one of the founders of the Vakils' Association (now the Advocates' Association). He was greatly interested in the Social Reform movement. He founded the Dharma Rakshana Sabha and through it succeeded in bringing about salutary reforms in the management of Hindu religious institutions. He was a member of the Theosophical Society and was a staunch supporter of it throughout his life. His name will forever be cherished as one of the greatest of South Indians. To conclude in the words of Lord Ampthill, "I regarded him as the soul of honour, as a man who had absolutely no personal end to serve, and who devoted his great abilities to the public good. His life is an example to all, for the virtues of piety, modesty, industry and patriotism are equally essential to all classes and conditions of men."

SIR V. BHASHYAM IYENGAR

President 1895-1901, 1906—1908.

Sir V. Bhashyam Iyengar, was born in January 1844 and belonged to the well-known Vembakam family which has contributed many distinguished men to the efficient and valuable service of the public and the state. After a distinguished college career he took his B. A. Degree heading the list, and after a period of government service as Registrar, he appeared for the B. L. Degree Examination of the Madras University in 1869 and took the first place in the first class. It may be interesting to mention that Sir. T. Muthuswami Iyer who also appeared for his B.L. in the same year took the second rank. In 1872 he joined the Bar and made his mark in the new line almost immediately after he entered it. In those days, for distinguished men, there was no such difficulty as a period of struggle at the bar and he was soon recognised as a subtle lawyer and one marked out for leadership. He was the apprentice, and, afterwards, the junior of Mr. P. O. Sullivan, a former Advocate-General. Mr. Sullivan was very much struck with the remarkable legal erudition and subtlety of Sir. V. Bhashyam Iyengar and predicted that one day he would become the Advocate-General. In a very short time Sir V. Bhashyam Iyengar came to the top of the profession and his income-out-distanced all competition during many years. The reports of the judgments of the High Court from 1872 to 1901 are full of leading and celebrated cases in which he argued on one side or the other. At a comparatively early period of his career he was appointed a member of the Madras Legislative Council by the Madras Government and was repeatedly so nominated in order that his legal acumen may be available to

the Government in the many legislative measures of the period. Much of the Provincial Legislation of those years bears the impress of his mind. In the Legislative Council he was often required to draft bills, and those who know the work done by him there bear testimony to his supreme skill as a draftsman of legislative enactments. For instance Act II of 1894 and Act III of 1895 may be said to be his own. I may also refer to his Hindu Gains of Learnings Bill which however did not become law. He made the discovery that a Vakil was duly qualified to be an Advocate-General and an appreciative Government, recognising his superior talent and merit, conferred the Advocate-Generalship upon him in 1898, thus fulfilling Mr. P. O. Sullivan's prophecy. He was the first member of the Indian Bar to receive the distinction of knighthood. He was appointed to act as a judge of the Madras High Court on 8th March 1901 and he became a permanent Judge on 1st August 1901 on the retirement of Mr. Justice Sheppard. He accepted the office at great pecuniary sacrifice. He entirely fulfilled the expectations of all by the learning, impartiality and independence which characterised his judgments during the period of two years and nine months when he was on the Bench. In January 1904 he had to retire under the age rule though he was given an extension of a few months. Acting on the advice of Sir Aruthur Collins, the then Chief Justice, he decided to resume practice at the Bar. He was also re-appointed as Advocate-General in November 1908. He was arguing, on a Monday, a heavy appeal before the Chief Justice Sir Arnold White and Mr. Justice Abdur Rahim when as he was returning during the mid-day adjournment he had a sudden attack of apoplexy, fell down unconscious before the statue of Sir. T. Muthuswami Iyer and had to be carried to his chamber. He lingered for two days and at 7 P.M. on 18th November 1908 the great career was closed by death.

Sir. P. S. Sivaswami Iyer who was then the Advocate-General, communicated to the High Court the news of Sir. V. Bhashyam Iyengar's death in a speech full of feeling containing a dignified description of Sir. Bhashyam's greatness as a lawyer and as a Judge. He said :

"One had only to listen to him for some minutes to feel the fascination of that masterly intellect growing on one. It was a privilege and a feast of intellect to hear him unravel the facts of a complicated case or expound a difficult question of law. The dry, clear light of his intellect illuminated every nook and corner of the subject, however obscure. As an Advocate, the characteristics which distinguished him were his thoroughness, his wary circumspection, the studied presentation of his cases, his readiness of resources, his ability to pounce upon the weak points of his adversary's case, his tact and his successful management of the Judges.....As a Judge he displayed a remarkable fearlessness and independence. He carefully studied every case, as he was wont to do at the Bar, and his great acumen, width of grasp and mastery of legal principles enabled

him to get through his work with great rapidity. He had an unerring legal instinct which led him to the correct solution. He was never technical, except for the purpose of defeating a technicality, and was no respecter of precedents which were not supported by principles, and he never shrank from the task of laying down general principles. His judgments were and will be admired throughout India as models of close reasoning, discursive examination of the language.....My Lords, the debt owed by the Vakils to him is immense. No one has done more than Sir. Bhashyam to raise the position and prestige of the Vakils."

The Chief Justice Sir Arnold White also paid a glowing tribute to the late Sir. Bhashyam and said that his reputation was not one confined to this Presidency or even to this country. He had died, as he wished to, in harness.

His arguments were marvels of lucidity, however subtle and intricate the point of law that was involved. He had a habit of reading through every case he desired to cite in Court and when citing a case he would first fully state the facts of each case without mentioning the names of the parties and without referring to any notes. His advocacy was regarded by all as representing the high water-mark of Indian legal subtlety and erudition.

V. KRISHNASWAMI IYER

BY

SIR ALLADI KRISHNASWAMI AYYAR, *Advocate-General*

My acquaintance with the late Mr. V. Krishnaswami Aiyar was not very long, though it was fairly close during the few years I came in contact with him. I was the recipient of several acts of kindness from him, in grateful recognition of which a lectureship was instituted by me in the Madras University associating his name with that of the late Mr. P. R. Sundara Aiyar under whom I had the privilege of being an apprentice and working as a junior in the early years of my professional life. To have come under the influence of an arresting personality like the late Mr. Krishnaswami Aiyar was an education in itself. In forensic brilliance and eloquent presentation of a client's cause I have rarely seen his equal. How difficult it is to convey to my young friends the thrill and the rapturous enthusiasm produced in me as I listened to his clear and ringing voice! His sparkling eyes, his erect demeanour, and his commanding personality contributed as much to the powerful impression his arguments produced on the mind of the Court as the force and cogency of the arguments themselves. Even a Judge, prone to entertain no argument but that which appealed to pure reason, could not resist the magic influence of his inspiring opening address in a complicated case. His reply was always short, incisive and effective. As a lawyer, though

he was well-read in the law, he did not revel in the intricacies and refinements of a complicated mass of case law. He would seize a few central points and hit hard. I have not come across another Advocate who, without a long preparation of cases, by merely picking the brains and availing himself of the industry of a talented junior, could at the shortest notice, so ably and forcibly present a case.

But, more than as a lawyer, it is as a man that the late Mr. Krishnaswami Iyer made a most powerful appeal on my imagination. By temperament I have never been attracted by men who are full of negative virtues. I have often felt that a man may even be all the better for some slight weaknesses, for it makes him the more lovable. If the late Mr. Krishnaswami Aiyar was occasionally the victim of a bad temper, there was none, to my knowledge, who was so full of generous emotions and active sympathy for young talent.

The late Mr. Krishnaswami Aiyar has been praised for his great munificence and wide philanthropy. These virtues, great as they are, have never made so strong an appeal to me as certain other qualities of his, such as his uncanny sense of discerning and appreciating talent wherever he found it, his infectious enthusiasm for any noble cause to which his mind was drawn, and his almost passionate love for the ancient culture of this land. For an intellectual to extend a generous appreciation to talent is a much more difficult virtue to practise than even to be generous with his purse.

It is said that a lawyer, who has risen to forensic eminence, or an orator, who can sway public audiences, is more often than not a failure in constructive work. The career of the late Mr. Krishnaswami Aiyar is a direct challenge to that statement. No public man, within living memory, has been more responsible for the founding of lasting institutions in this City than the late Mr. Krishnaswami Aiyar. He followed up his powerful advocacy in the Arbuthnot prosecution by the institution and organisation of the Indian Bank at a time when an ordinary man would have been staggered by the shaking of public credit. His brilliant Convocation Address, in which he held up the ancient Gurukula ideal, was only the sequel to the founding of the Sanskrit and Ayurvedic Colleges in Mylapore and was followed up by the institution and reorganisation of Oriental Studies in the Madras University for which he, more than any other, was responsible.

Oftentimes, in a self-complacent mood, there is a tendency in man to speak of the acts of kindness extended to him by others, seldom realising that he in his turn owes a similar duty to others. While the late Mr. Krishnaswami Aiyar was full of gratitude for all that Sir Subrahmanya Aiyar, of whom it has been said that he could make heroes of clay, had done for him, he, in his turn, extended a generous recognition to intellect and character, wherever they could be found. His chief

source of strength lay not in the fact that he did not suffer fools gladly but in that he could discover the latent talent in others.

RAI BAHADUR SALEM RAMASWAMI MUDALIAR

BY

SIR P. S. SIVASWAMI IYER.

Mr. Salem Ramaswami Mudaliar, M.A., B.L., belonged to a respectable family of Mittadars in Salem. Shortly after his enrolment as a High Court Vakil, he was appointed a District Munsiff, but after a few years, he resigned his appointment and settled for practice in Madras. I first became acquainted with him about 1883, when he was living in a bungalow at the end of Kutcheri Road in San Thome. My opportunities for knowing him increased in later years, after my enrolment in 1885.

At the time of the Penjdeh incident in 1885, when there was a Russian scare, Mr. Ramaswami Mudaliar, Mr. C. Sankaran Nair and another gentleman whose name I now forget applied for enrolment as volunteers in the Madras Volunteer Artillery Corps and, though the Commandant was willing to admit them, their application was rejected in consequence of the opposition of the European members of the unit. The incident stimulated the popular demand for the eligibility and admission of Indians to the volunteer corps.

Mr. Ramaswami Mudaliar was a member of the Public Services Commission of 1886 presided over by Sir Charles Aitchison. He was a leading and influential member of the Reception Committee of the 3rd Session of the Indian National Congress held at Madras in 1887.

About the year 1887 he went on a deputation to England along with Mr. (later Sir) Surendra Nath Banerjea and Mr. (later Sir) N. G. Chandavarkar. The object of the deputation was to acquaint the English public with the wants, grievances and aspirations of the people of India. They toured in England and delivered addresses in various places. The deputation was believed to have done useful spade work for India in the political field.

Mr. Ramaswami Mudaliar enjoyed considerable practice at the Bar and commanded the respect of the Bench and the Bar alike. He had a high conception of his duty to the court and to his opponents as well as to his clients. He was an able and learned lawyer and, having a good knowledge of Sanskrit, was greatly interested in the study of Hindu law. He was one of the founders of the Madras Law Journal, but unfortunately his association came to a close with his untimely death in 1892, within about fifteen months after the journal was started.

He was a man of culture and high character both in his professional and in his private life. A man of commanding presence and dignified

bearing, he was physically and morally robust, with a hatred of injustice and insincerity and a devotion to public good, unalloyed by any communal bias. He took a prominent part in the public life of the city and was a genuine patriot. Kind-hearted and amiable, he was loved and respected by all who knew him. He was an ornament of the Non-Brahmin community and one of the most esteemed members of the Madras Bar.

DEWAN BAHADUR C. RAMACHANDRA RAO SAHEB

BY

SIR P. S. SIVASWAMI IYER

Mr. C. Ramachandra Rao Saheb was a gentleman of aristocratic descent. He was closely related to the Jagirdar of Arni, and he himself owned the Jagir of Colathur in the North Arcot District. He was enrolled as a Vakil some time about 1871. His legal attainments were of a high order and he was a man of vast erudition and had a passion for the study of law which he retained throughout his life. While he was learned in several branches of law, the subjects in which he took special interest were Hindu Law and International Law.

He was appointed to the Law Professorship after Sir V. Bashyam Aiyangar and he continued to hold it for many years. The Law Professorship in those days was a part-time appointment which could be held without prejudice to the practice of the profession.

Mr. Ramachandra Rao Saheb was one of the leaders of the Bar on the appellate side. As an advocate, he was distinguished not merely for his ability and learning, but also for his industry and thoroughness and fairness of presentation. He had a high ideal of the duties of an Advocate, and commanded the respect of the judges and the members of the Bar. In recognition of his legal attainments and his services to the cause of legal education, the Government conferred upon him the title of Dewan Bahadur. He was a man of charming manners and amiable disposition and incapable of wounding the feelings of any one. He was one of the founder members of the Advocates' Association and took a prominent part in its work. He was a prominent figure in the public life of the city in his days.

M. E. SRIRANGACHARIAR

Mr. M. E. Srirangachariar, one of the founder-members of The Madras Advocates' Association, was enrolled as a Vakil of the High Court in April 1883, and with Dewan Bahadur M. O. Parthasarathy Iyengar and the Hon'ble Mr. Justice T. V. Seshagiri Iyer, he formed what was then

popularly known as the "Trio of Triplicane." This Trio of ardent, zealous and enthusiastic friends took an active and leading part in most of the public and social affairs of their times and was also responsible for starting very many charitable, religious and banking institutions. An ardent student of philosophy and religion, Mr. Srirangachariar combined in himself a profound love of art and literature with a genius for music of which he was both an exponent and critic. His genial temperament, his refined and sociable manners, his innate sense of justice and passionate love for truth made him popular in the Bar and respected in society. His keen and abiding interest in Shastras, Upanishads and Vedic literature and everything pertaining to truth and religion was largely instrumental in his starting religious classes to impart lessons in Vedic literature.

Alongside with the Trio may be mentioned the names of Dewan Bahadur Raghunatha Rao and Eardly Norton who evinced great zeal and interest in the Triplicane Literary Society, famous then for its political, besides its literary, activities.

For nearly 15 years this Trio of indefatigable workers served the political and social life of the day and it is sad to reflect that towards the close of the last century the Trio broke up when owing to the sudden demise of his elder brother the Government Pleader and Public Prosecutor of Chingleput District, Mr. Srirangachariar left an active and lucrative practice at the Madras Bar to take up his brother's place at Chingleput. His early interest in religion soon turned Mr. Srirangachariar from the Bar at Chingleput to the sacred city of Conjeevaram where he spent his remaining years of retirement in religious studies and discourses not often unmixed with his interest in the public and civic affairs of that city till he died in August 1922 at the age of 64.

K. P. SANKARA MENON

BY

K. P. VELAYUDHA MENON.

Mr. K. P. Sankara Menon, was a leading member of the Madras High Court Bar from 1882 to 1896. He passed his B.A., in 1878 from the Presidency College, where he was a favourite student of the late Dr. Duncan and took his B.L. in 1881. After a course of apprenticeship under the late Sir H. H. Sheppard he was enrolled as a Vakil of the High Court in 1882. He had a successful career at the Bar from the very outset and was a general favourite of all his colleagues, senior and junior alike. As an Advocate he commanded the respect of the Judges, Indian and European. Sir T. Muthuswami Iyer had a great regard for his general behaviour both in and out of Court and he once described Mr. Menon as a fine type of a gentleman.

He was for many years the chairman of the Board of Examiners in Malayalam in the University of Madras, and was also a fellow of the University. It was over his signature that the notice convening the first meeting of High Court Vakils' to consider the formation of the Association of Vakils, was sent. At that meeting held in Mr. P. Anandacharlu's Chambers, the Madras High Court Vakils' Association was formally formed and he was elected provisional Secretary till Mr. V. Krishnaswami Iyer was elected to that office. He took much interest in the various public movements and institutions of his time and was an active member of the reception committee of the Indian National Congress held in 1887 at Madras.

In 1895 Mr. Sankara Menon had an attack of pneumonia, which made him a victim of asthma. Dr. Branfort, his doctor, advised him to give up the profession and he left the Bar in 1896. Presiding over a Bench with Mr. Justice Davis, Sir Arthur Collins, the Chief Justice, publicly complimented Mr. Menon, on his standard of advocacy, observing that they could safely rely on his statements at the Bar and said they were extremely sorry to part with him. The late Mr. C. Ramachandra Rao Sahib, the senior member of the Vakils' Association associated himself with his Lordship the Chief Justice's appreciation.

Soon after his retirement from the Bar, Mr. Sankara Menon was offered a District Judgeship by the Travancore Government and he accepted the job out of deference to the wishes of the late lamented Sree Mulam Maharaja who took a great care in Mr. Menon's welfare. As was expected, Mr. Menon was appointed Diwan Peishkar, a place which his father—the late Mr. P. Sankunni Menon, the author of the History of Travancore—held for many years. In 1909 Mr. Sankara Menon was appointed as a puisne Judge of the Travancore High Court which was then presided over by the late Sir T. Sadasiva Iyer. He retired in 1912 on the completion of his 55th year.

Mr. Sankara Menon was of a religious turn of mind and took a great interest in the consecration of the Sri Sarada and Achariar temples at Kaladi, along with the late Mr. A. Ramachandra Iyer who was Judge of the Travancore and Mysore Chief Courts and who had settled down at Kaladi. Mr. Menon's ambition was to live a purely religious life at Kaladi in the company of his friend Mr. Ramachandra Iyer. But a few months after his retirement from service in 1912, he had a heart attack while reading a commentary of the Devi Bhagavatam, and instantaneously shuffled off his mortal coils.

MR. R. BALAJI RAO.

BY

SIR P. S. SIVASWAMI IYER.

Mr. R. Balaji Rao was enrolled about the year 1870. He had served as an apprentice under the Hon'ble Mr. Sanjeeva Rao who was one of the leaders of the appellate side Bar and a member of the Madras Legislative Council. Mr. Balaji Rao had a very considerable practice on both the original and appellate sides of the High Court and it was partly for this reason that I became his apprentice. My friend Mr. V. Krishnaswami Aiyar was my fellow-apprentice under him. Mr. Balaji Rao was not merely my neighbour, but an old friend of my father's. He was an exceedingly warm-hearted, kindly man of jovial temperament.

He was the chief organiser and one of the founders, in the seventies of the last century, of the Mylapore Hindu Permanent Fund, which, I believe, was the pioneer of the fund movement in this city and furnished the model upon which the Tanjore Permanent Fund and a number of other funds in the Tanjore District and elsewhere were organised. The success and prosperity of the Mylapore Fund were in large measure due to the initiative, enthusiasm and unremitting watchfulness and attention of Mr. Balaji Rao and his fellow-directors. The Fund was identified by people in the city with Mr. Balaji Rao and it was long known as Balaji Rao's Fund. The service rendered by the Mylapore Fund to the lower middle classes and to the poor by encouraging thrift and by loans on moderate terms will always stand to the credit of Mr. Balaji Rao's memory.

Mr. Balaji Rao was also closely connected with various other public institutions in the city and was keenly interested in politics also.

MR. T. ETHIRAJULU MUDALIAR.

BY

SIR P. S. SIVASWAMI IYER

Mr. T. Ethirajulu Mudaliar was my class-mate in the Presidency College and in the law class and was enrolled in the same year as myself. He had a bright academic career and had a large practice in the High Court, mainly on the original side. He was a man of sterling character and unassuming manners and was liked and esteemed by all who knew him. He was a member of the Advocates' Association from its inception.

SIR B. N. SARMA

B. Narasimheswara Sarma was a Telugu Brahmin of Vizagapatam District. His father was a Pandit. At the early age of 18 Mr. Sarma took his B.A. degree, and was for about two years a tutor in St. Aloysius College, Vizagapatam. He then became an assistant lecturer in Mathe-

atics in the Vizagapatam Hindu College (now Mrs. A. V. N. College). Mr. V. Ramesam (afterwards Sir Vepa and a Judge of the High Court) was a pupil of Mr. Sarma at this time. In 1889 Mr. Sarma came over to Madras for studying for the Law and took his degree in Law in 1892. He first settled at Vizagapatam for practice without going through a period of apprenticeship at Madras. Very soon he became one of the leaders of the Vizagapatam Bar where also was practising his former pupil Mr. Vepa Ramesam. Mr. B. N. Sarma took active part in Politics and when the Legislative Councils were enlarged and representation thereon was given to Municipalities and District Boards he was elected to the Madras Legislative Council by the Northern District Boards constituency. His legislative activities drew him to Madras where he settled down and enrolled himself as a High Court Vakil in 1901. He continued to take great interest in both Law and Politics, but Politics soon greatly attracted him and engrossed his interest. In 1919 he was elected to the Supreme Legislative Council and in 1920 he was appointed as the Education Member of the Viceroy's Executive Council. He was awarded the knighthood in recognition of his services to the State. His work as a member of the Council elicited warm praise from all quarters. After his retirement from the Executive Councillorship he became the President of the Railway Rates Tribunal. He passed away full of honours in January 1932.

MR. R. SADAGOPACHARIAR.*President, 1912-1915.*

BY

C. NARASIMHACHARIAR.

Mr. R. Sadagopachariar was born of poor parents in Kumbakonam on the 5th July 1854. He matriculated from Trichinopoly and joined the Presidency College from which he graduated in 1875 with a high rank in the B. A. Degree Examination. He passed the B. L. Examination in 1878. He was a lecturer for some time in the Pachaiyappa's College and, later, in the Presidency College. He was also for sometime lecturer in the Law College, Madras. He was apprenticed under the late Mr. A. Ramachandra Iyer, then the leader of the Madras Bar, who, later on, became the Chief Judge of the Travancore Chief Court and of the Chief Court of Mysore.

He set up practice at Madras and soon acquired a lucrative practice by dint of his own merits. In a few years there were few cases of any importance, magnitude or sensation (especially on the Criminal Side) in any part of the Presidency, in which Mr. Sadagopachariar was not engaged. In the famous Salem riot case he instructed eminent Counsel from Madras and later on took a leading part in the conduct of the case. His success was no doubt due to his remarkable powers of cross-examination, in which difficult art his only rival was Mr. Eardly Norton. His

cross-examination was always to the point and even if his witness tried to jib, with a sudden rapier thrust he got from him the answer he wanted. This was not all. He was never satisfied with the instructions received through his junior or any other intermediary. He always insisted on seeing the clients personally and eliciting from them all the facts in order to construct the theory of the defence. His arguments displayed a unique forensic eloquence. His complete mastery of the English Language attracted the praise even of several eminent European Judges. An eminent European Judge, I believe Mr. Waller, used to bring his wife to Court whenever Mr. Sadagopachariar addressed the Court, to listen to the magnificent display of forensic eloquence. Mr. E. Labouchere Thornton, Barrister-at-Law wrote in the '*Madras Mail*' comparing him to Sir John Simon: "Both men have in a marked degree—"*suaviter in modo*" continued with persistence of purpose and real ability which are so far more successful as well as far more agreeable than the blustering manner which too often conceals very little knowledge of the record adopted by some leaders." Many of us still remember his ringing voice in the passionate appeal he made in V. O. Chidambaram Pillai's Appeal against his conviction for sedition and there was not one among the audience who was not moved by emotion.

On the Civil Side the early reports of the Madras High Court bear ample testimony to his ability as a Civil Lawyer. He was the standing Counsel to almost all the Matadhipatis and Pandara Sannidhis in Southern India. He was well versed in the ancient customs of these Mutts and fought many a battle for them in defence of their ancient usages and institutions.

His love for his juniors was remarkable, and he made his house the home of all his juniors. He used to insist on his juniors staying always with him so that he may discuss with them the best way of presenting a case and would not tolerate even a few hours' absence on their part.

In private life it is impossible to find a kinder or a more generous heart. In his prayers both morning and evening he used to repeat with sincere fervour and real earnestness, "*Sarve Janaha Sukhino Bhavantu*", meaning, 'let all men be happy.' His love for the poor knew no caste nor creed. In his house, several young men dined with him and received scholarships. He had a keen taste for the fine arts and was himself a great musician and a patron of musicians. He led a simple and saintly life. He was extremely pious and religious and his great weakness was his credulousness.

Mr. Sadagopachari was for a term a member of the Council of the Madras Corporation. He was the President of the Advocates' Association, Madras, (then the Madras High Court Vakils' Association) during the years 1912 to 1915. He had genial and pleasant manners and was endowed with that great virtue of eminent lawyers, namely, forgetting a case as soon it was done. In paying a touching tribute on his death,

Sir Victor Murray Coutts-Trotter, Chief Justice, said, "Two of his qualities to which reference had been made had struck me; they were his extreme candour to the Bench and his great courtesy and regard for the interest of his junior." To close in the words of Mr. E. Labouchere Thornton, "I doubt whether we shall ever see exactly his like again."

MR. J. L. ROSARIO

President, 1915-1917.

BY

K. KUTTIKRISHNA MENON.

It was with the deepest regret that the numerous friends and admirers of the late of Mr. John Leonard Rosario heard of his death on the 4th of September 1917, when they were eagerly looking forward to the celebration of the golden jubilee of his career as a lawyer. His was a notable career which in the words of the then Chief Justice set a standard to the profession in the conduct of cases and raised the level of the profession generally. He was one of the most respected members of the Bar, in his time, respected alike by the Bench and his brethren at the Bar, both for his character and advocacy.

Mr. John Leonard Rosario was born on 23rd October 1848, graduated in Arts in 1869, took his B. L. Degree in 1870, and became a Zilla Court Pleader in the same year. He set up practice at Tellicherry, North Malabar and very soon became the leader of the Bar there, commanding extensive practice, both civil and criminal, in the courts in Malabar and South Kanara. It will surprise the present generation of lawyers to be told that his income from the Bar was for several years on an average Rs. 4000 a month at the mofussil station, Tellicherry. Mr. Rosario continued to practise in the West Coast till 1899 when on the advice of his doctors he had to leave Malabar for a drier climate. He came to Madras for treatment and rest, but having regained his health he decided to practise at Madras where he soon came to the forefront in the profession. He was appointed Acting Government Pleader and Public Prosecutor in 1912 (the office was not then bifurcated) and acted as Advocate-General for a few months the same year. He would have been appointed permanent Government Pleader and Public Prosecutor but for the rule which, it may be mentioned, was then for the first time introduced fixing the age limit at sixty.

He was undoubtedly a great Advocate and his clear, concise and accurate statement of the facts of even the most complicated case was well worthy of emulation. It was this quality, more than anything else, that endeared him to the Bench. Mr. Rosario's eminence as a lawyer and as a remarkably capable and searching cross-examining counsel drew the admiration and respect of Europeans and officials who happened to

hear him conducting a case. Mr. J. Tirrel an European Police Officer has recorded in his book, "56 Years of My Life in the Indian Mutiny, Police, and Jails," his admiration of the remarkable ability, intelligence and the capacity for searching cross examination displayed by Mr. Rosario at the Bar. He used to study his cases carefully and did not merely depend on his juniors. Very few authorities used to be cited by him in Court, but that was not due to want of research into case-law for his friends knew that he had made his own index of cases and was in the habit of bringing it up-to-date. He was very fair to his adversary and was extremely considerate to the junior section of the Bar. If a junior happened to appear against him it was not seldom that Mr. Rosario warned the Junior about the weakness of his case so that he might not be taken by surprise in Court and might put forth his best efforts. Such was his fairness that it was his invariable practice to place before the Court even cases not in his favour, which were omitted to be cited by his opponent.

I would conclude this short sketch by referring to two incidents in his life which illustrate his high standard of professional morality and etiquette and his sturdy independence. To the then Chief Justice who asked Mr. Rosario why he did not intimate to the High Court his desire to be appointed Government Pleader and Public Prosecutor, his reply was that he thought his doing so would amount to soliciting work and it would be beneath the dignity of the profession. To a Civilian Judge who wanted an affidavit from him as to certain facts within the knowledge of Mr. Rosario himself, he said that his word at the Bar was as good as an oath and refused to file an affidavit.

DEWAN BAHADUR T. R. RAMACHANDRA AYYAR

President, 1921-1934.

BY

T. S. ANANTARAMAN.

Enrolled as a Vakil of the High Court in 1885 the late Mr. T. R. Ramachandra Ayyar was one of the accredited leaders of the Bar and an outstanding figure in public life till his retirement in 1934. He had the unique distinction of the Bench and the Bar celebrating his fifty years at the profession. Very fair, of medium height, with sharp attractive features and arresting eyes Mr. Ramachandra Ayyar had a magnetic personality. Deeply religious, regular and simple in habits, the very picture of health, trained in Yoga and well-versed in the Vedas, he had a sweet and optimistic temperament. "Trust in God and never go wrong" was the key-stone of his life. Courteous and sympathetic he was generous and charitable to a fault. A fearless Advocate, with abundant faith in himself, he presented his cases in a masterly fashion

in clear, precise and telling language carrying with him the Bench, the Bar and his opponent. His was the direct method, to get at the crux of the case, put his best at the forefront, with no love for legal quibbles, and with the strong belief that Law was only the handmaid of Justice. Endowed with an acute brain, sharp wit, and an abundant sense of humour, he was crushing in his repartees and judge and counsel were lashed to silence. He tolerated no discourtesy from the Bench, fought boldly for the honour of the profession and rigorously upheld the dignity and independence of the Bar. He was the champion of brethren in distress and helped out of trouble many a professional man brought before the Court. Considerate towards clients, he was never exacting in his fees. He never appeared without a junior and always treated the junior with generous affection. His adorning the the Presidential Chair of the Advocates' Association from 1921 till his retirement is conclusive proof of his vast popularity with the Bar. In recognition of his services to the profession and the public the title of "Diwan Bahadur" was conferred on him in 1925. He was a Member of the Bar Council since its inception and with his vast experience and influence was a tower of strength to that body. His activities were manifold. He took abiding interest in religious and educational institutions, industrial and commercial concerns, and guided with his powerful personality the destinies of those institutions with which he was closely connected to prosperity and success. He was a champion of Ayurveda and Varnashrama Dharma. He found delight in renovating temples and endowing them with properties. Charity was the pleasure of his life. He preserved his health by steady and regular habits, the practice of Yoga, *satwic* food, and by his deep devotion and trust in God. He attracted every one to him and easily dominated over all. He was held in great esteem by the Bench and there was none who was listened to with greater respect, more courtesy and regard than he. The tributes paid to him on his retirement by the Bench and the Bar bear eloquent testimony to his popularity and leadership and the esteem and regard in which he was held by all. He passed away after a brief period of illness on 30-9-1935 at the age of 75 having lived, a true, noble, religious, active and healthy life. He combined in himself all that is best in the culture of the East and the West and was the last but one of the lions of the 19th century. An inspiring personality never to be forgotten.

K. R. SUBRAMANIA SASTRI

BY

MR. K. P. RAMAKRISHNA IYER

He was a native of Palghat. He was an apprentice under Mr. Wedderburn and practised in the High Court from 1890 till he died in 1918. His practice was mainly on the appellate side and

he had a fairly large practice from Malabar and other districts. He was a contemporary of leading lawyers like the late Sir C. Sankaran Nair, Justice P. R. Sundara Iyer and Justice V. Krishnaswami Iyer when they were at the bar. Mr. K. R. Subramania Sastri was Secretary of the Mahajana Sabha for about six years and Joint Secretary of the Madras High Court Vakils' Association for about three years. He was also a leading member of the Madras Parliament famous in the middle of first decade of this century. This Parliament started by Mrs. Bessant it may be mentioned, was responsible for having introduced the idea of Parliamentary Government and Party System in Practice to the intellectuals in South India at a time when representative institutions were strange and new. Mr. Sastriar was a genial and popular lawyer, well-known for his social manners and conversation and was a great figure in the social life of the city. Though he did not rise to giddy heights like some of his contemporaries, he was held in esteem by all the Judges and by all those who knew him. He wrote a book on the Domestic Law of Kerala, but he died before he could publish it; it was however published after his death by his elder brother, who was also a vakil in Calicut and outlived him.

**RAO BAHADUR
T. SUBRAMANIA AIYAR**

BY

MR. T. M. KRISHNASWAMI IYER

More easily recognised amongst the clientele as "B. L." Subramania Aiyar of Salem, was one of the most conspicuous figures of the Bar of his generation. With a distinguished academical career at the Presidency College he took to the teaching profession for a time before he became a votary of the Law. As a Law Student he won his distinction by carrying off "the Muirhead Law Scholarship," outdistancing the later giants of the profession at Madras like Sir P. S. Sivaswami Aiyar, and the late Mr. V. Krishnaswami Aiyar. He took his Law degree in 1885 and settled down to practice in his native district at Salem. He quickly picked up the recognition and the confidence of his clients and earned the well-merited esteem of all the Judges before whom he appeared. He held at Salem the Office of the Government Pleader and Public Prosecutor for a period of six years. In Salem and in the surrounding districts he earned the great reputation of a born lawyer and of being no mean rival to the legal worthies of Madras at the time. During the later part of his professional career he transferred himself to Madras where he practised for about ten years. The conscientious thoroughness in the preparation of his cases and the punctilious circumspection with which he laid out the scheme of his arguments in his cases were never excelled, in the profession, if at all. His accurate grip of the case-law, his mastery of first principles

and his thorough acquaintance with the details of a case and his prodigious industry made him a dangerous opponent at the Bar. If he did not attain greater success at Madras than he did the fault was not his. His health began to give way. The Bench and the Bar at Madras had every opportunity, however, of recognising his outstanding ability as a lawyer from the very respectable practice that he commanded. Of him it may be truly said that every pie of his large acquisitions has been fully earned and no judge ever felt unhappy in his hands as his feeling of duty to the Bench was not the less sensitive than his feeling of duty to his clients. Above all, he indicated his duty to the public and to his God by liberal donations made with a large heart. The objects of his beneficence ranged from the Salem Temples to college scholarships, to maternity wards in Hospitals and to the building of a public hall in Salem. A sincere friend of the Bar, a good devotee, a large hearted philanthropist, and a high minded public citizen, he has left behind him an example of a full life for others to emulate.

MR. JUSTICE P. R. SUNDARA IYER

BY

SIR ALLADI KRISHNASWAMI IYER

As I begin to write a few lines in memory and grateful appreciation of my revered Guru and Master-in-law, the late Mr. Sundara Aiyer, my mind goes back to the year 1906, when fresh from College, I approached Mr. Sundara Aiyer to take me as an apprentice with no powerful influence to back me up and with no credentials excepting testimonials from the professors of the Madras Christian College and when he graciously agreed to do so.

The reader will easily appreciate my reluctance to weary him by recounting my personal relations with my Master during the year of my apprenticeship and the three and half years I was closely associated with him as a junior working in his Chambers. I need hardly say that I am profoundly grateful for all that he had been to me; what success I attained in the profession is not a little due to my association with him and my tutelage under him.

Mr. Sundarier's Chambers in those days were a kind of Gurukula. Every morning it was a sight to notice the juniors and the apprentices studying up the briefs, collecting authorities on every conceivable point of law that might arise in a case and listening with rapt attention to Mr. Sundarier's masterly discourse and exposition.

It was not merely that Mr. Sundara Iyer was thorough in the preparation of his cases and in dissecting every conceivable point involved; he devoted as much attention to the art of presenting the case before

the Judge. An orderly presentation of the facts, the mentioning of the right point at the right time, a sense of proportion and a due regard to the relative importance of a question, a lucid and forcible expression, a rich and resonant voice, these were the traits that marked his advocacy. There was no more fitting tribute to his advocacy than that paid to him by Sir John Wallis, who knew Mr. Sundarier very intimately at the Bar, on the occasion of the unveiling of his portrait in the Advocates' Association. Sir John Wallis then said that Sundarier's advocacy always reminded him of Sir Charles Russell's forensic skill and eminence and that in directness and force Mr. Sundarier was facile princeps at the Bar.

When at the height of his practice he was called upon to accept the office of Judge, he felt as much honoured by the call as the late Mr. Hawkins (afterwards Baron Brampton) when in the heyday of his practice the office of a Judge of the King's Bench Division was offered to him. Mr. Sundarier's judgments on the Bench if occasionally they suffered from over elaboration were throughout marked by erudition, research and exhaustiveness. But his friends and admirers cannot but feel that he might have left even a more lasting impression, had he not been cut off in the prime of life by falling a victim to that dire disease which overtook him as the result of an undue strain on his constitution by overwork, ignoring physical limitations.

Mr. Sundarier's interests were not confined to the profession. He took a deep and abiding interest in the affairs of the University and the various public institutions in Madras of which the late Mr. V. Krishna-swami Aiyer was the sponsor and himself the coadjutor and supporter.

He was Secretary of the Advocates' Association during the years 1908—1911.

May his inspiring career and example continue to be a guide to successive generations of lawyers!

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MESSAGES

RECEIVED BY THE ADVOCATES' ASSOCIATION, MADRAS
ON THE OCCASION OF ITS GOLDEN JUBILEE
CELEBRATIONS.

**Hon. Sir Maurice Gwyer, Chief Justice of India, Federal Court,
New Delhi:—**

I send every good wish to the Advocates' Association of Madras on the occasion of their Golden Jubilee. A strong and independent Bar is an essential element in the administration of justice, and the influence which such an Association as yours is in a position to exercise, will be as salutary as it is far-reaching. I observe that the first object of the Association is declared to be the maintenance of a high standard of professional conduct, and the character and reputation so justly enjoyed by the Madras Bar throughout the profession are a proof that your Association have ever kept that ideal steadfastly before their eyes. The Federal Court is fortunate to have on its roll many Advocates from Madras. I hope that these links between your Association and the Court will not grow less and that they will not be without their influence in furthering the unity of India.

May the Association have before it many years of prosperity and usefulness, and may it always stand, as it does today, for honesty and justice and for all the principles which our common profession holds dear.

Rt. Hon. Sir John Wallis, P.C., Member of the Judicial Committee of the Privy Council, Formerly Chief Justice of the Madras High Court:—

"I am much obliged to your Association for giving me the opportunity of sending them a message of congratulation and good wishes on the occasion of the Jubilee which they are about to celebrate under the Presidency of one of my distinguished contemporaries and friends. I have always had a great respect for the Madras Bar, and have never forgotten how much I owed to their assistance and co-operation. As

a member of the Judicial Committee, I should have liked to see their leaders sometimes conducting their own appeals before the Board, and feel sure their presence and assistance would have been welcomed. India is not as far off as some of the other dominions where the practice prevails. With renewed congratulations and kind remembrances to all my old friends.

Sir Owen Beasley, *Retired Chief Justice of the Madras High Court*:—

I am very glad to send to the Advocates' Association, Madras a message of congratulation on its Jubilee Day.

This Association is one of the oldest Advocates' Associations, if not the oldest, in India. A glance at the names, many of them very distinguished, of those present at the meeting of the lawyers on the 1st of March 1889 at which the Madras High Court Vakils' Association, now the Advocates' Association, was first formed, shows that the Association was built upon secure foundations. It has stood the test of time and now 50 years later numbers no fewer than 630 members. It can claim, with justice, that it has prospered exceedingly. I am glad to feel that I have helped in some measure to provide certain of the amenities which the Association now possesses. When I first became Chief Justice the accommodation at the Association's disposal was sadly inadequate, and I was able to arrange for the removal to the present excellent position on the first and second floors of the western wing of the High Court and also to make provision for the cloak room. I learn that owing to the rapid increase in the membership of the Association even more accommodation is being asked for.

The Association, too, is to be congratulated on its possession of a well equipped and up-to-date Library. This is one of the Association's most valuable amenities.

It goes without saying that the Association, during its successful life, has taken a keen interest in all matters touching its own welfare and I feel sure will always continue to do so.

One cannot overestimate the importance of such an Association to its members. It has the advantage of

solidarity and the promotion of good-fellowship, and the latter to my mind is not the least of the benefits which its members receive. It provides a common meeting place where leaders and juniors can meet on equal terms. It has undertaken no light responsibility. But it has in its safe keeping the welfare of the profession. It is charged with the duty of resistance to any attempts to destroy or curtail its rights and privileges and has in its hands the maintenance of the honour and prestige of the profession, and for its success in these, much will depend upon the esteem in which those that direct its affairs, and its leading members, are held, and the confidence that can be reposed in them, not only by its members but those outside the Association as well.

To my congratulation to the Association on its Golden Jubilee I add every good wish for its continued success.

Sir D'Arcy Reilly, *Chief Justice of the Mysore High Court, Bangalore, Formerly a Judge of the Madras High Court*:—

I should like to offer my congratulations and best wishes to the Advocates' Association on the occasion of its Jubilee. Though I did not come to India until 10 years after the Association had been founded, I know almost all its founders and had the good fortune in my early days to listen to their arguments with pleasant instruction. And, both when I was Registrar of the High Court at Madras and afterwards when I was a Judge of this court, I received continued help and kindness from the members of the Association which I shall never forget. The Association has included a great array of able and distinguished men who have brought fame to the Madras Bar. May it long continue to exercise its great influence to protect the interests of its members and their clients and to maintain the best traditions of the Bar.

Sir Harold Derbyshire, *Chief Justice, Calcutta High Court*:—

I congratulate the Advocates' Association of Madras on the completion of fifty years of useful work. I trust that the celebration of its Golden Jubilee will be a successful function, and wish the Association every success.

Sir Arthur Trevar Harris, Chief Justice, Patna High Court:—

May I take this opportunity of congratulating the Advocates' Association, Madras, upon the completion of its first fifty years of existence. May the coming years be as successful as the past!

Mr. P. Neelakanta Menon, Chief Justice of the High Court of Cochin:—



MR. P. NEELAKANTA MENON,
Chief Justice of the High Court of Cochin

On this happy and significant occasion of the Golden Jubilee of the Madras Advocates' Association I desire to offer my warmest congratulations on its glorious achievements and also my best wishes for its continued prosperity and usefulness. The times are such that Associations of this kind have very great responsibilities in zealously guarding the maintenance of the rule of law in the administration of Justice which is being threatened by a tendency of modern legislation to introduce a kind of "New Despotism," the evils of which have been ably described by the Lord Chief Justice Hewart of England. The security of justice and the liberty of the subject—the two main objects for which both the judiciary and the bar exist in the land—depend solely on the maintenance of the rule of law. I have no doubt that the Madras Advocates' Association which has come to occupy a very unique position of influence will rise to the occasion and do all that it can to avert this evil.

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Sri W. B. Pradhan, B.A., LL.B., *President, Advocates' Association of Western India, High Court, Bombay:—*

On the auspicious occasion of the celebration of the



SRI W. B. PRADHAN, B.A., LL.B.,
President, Advocates Association of Western India, High Court, Bombay.

"Golden Jubilee" of your Association, it is my proud privilege to extend from here my fraternal greetings on behalf of a senior sister Association over which I have the honour to preside. My Association was founded on 24th January 1864 by lawyers of eminence and repute like Vishwanatha Narayan Mandlik, Nanabhai Haridas and others.

The fact that you have six hundred and thirty members on the roll to-day and the substantial progress that you have achieved with this "Team" is a clear condemnation of the "Dual System" from which we are suffering. Your Association has the good luck to escape from the artificial barriers leading to petty bickerings about Prestige and Privileges and ultimately resulting in loss of energy and hindrance to real progress.

I congratulate you not so much upon the existence of thirty thousand volumes on your shelves as upon the "use" that some of your members have made of them. Madras has produced lawyers of great eminence and high repute in the past, and it has to be acknowledged with pleasure that even to the present day that high standard of efficiency has been maintained if not improved; and in this connection, I may be permitted to recall the fact that when my Association, along with two other sister Associations in this city,

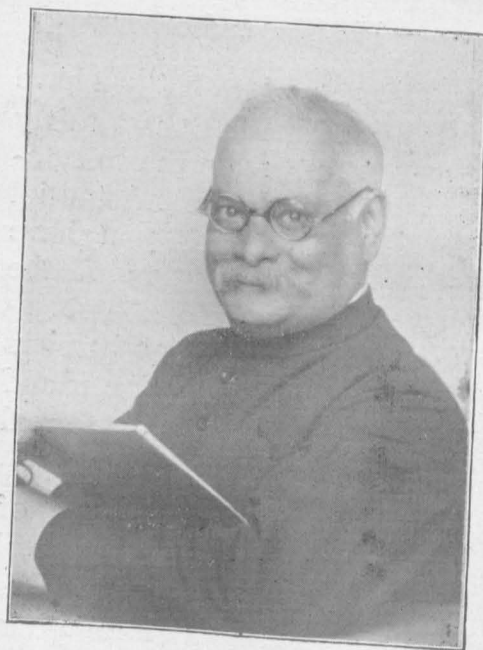
organised the first Advocates' Conference of the Bombay Presidency in 1931, it turned to Madras for its president, Dewan Bahadur T. Rangachariar.

The legal profession as such stands indebted for the various standard works which Madras has been putting forth on all important enactments and personal law and the busy practitioner has particularly to be grateful for the carefully and accurately prepared Digests and Ready References.

I hope and believe that in the near future when you will be celebrating your "Diamond Jubilee," expectations of a still better account will be fully realised.

Mr. N. K. Basu, *President, High Court Bar Association, Calcutta:—*

I very gladly respond to your wishes and send a message of good will and fellowship to your Association on the occasion of its Golden Jubilee.



MR. N. K. BASU.
President, High Court Bar Association, Calcutta

My Association, the lineal descendant of the Sudder Court Bar Association, started with 40 members on the 1st July 1862 on the establishment of the Calcutta High Court. It now has a membership of about 550.

The Bar in India has ever assisted loyally in forming a bulwark of individual liberty and prevention of aggression by man against man or by the State against a subject—And in this noble work the Advocates of the Madras High Court have always pulled their weight.

May they long so continue and may your Association prosper in the great work of assisting in the administration of Justice.

Mr. S. K. Dar, *Honorary Secretary, The Advocates' Association High Court, Allahabad:—*

I am desired to convey to your Association on behalf of mine its warmest greetings and congratulations on the occasion of celebrating the Golden Jubilee. The Advocates' Association of Madras is acknowledged to be one of the leading legal Associations. It has had a record of great distinction and it has produced a succession of eminent lawyers who have shed lustre upon the legal profession of the country. We are only too happy to recognise that the reputation of men like Sir Subramaniam Iyer, Sir Bhashyam Aiyangar, Mr. Krishnaswamy Iyer, Mr. Sundara Iyer, Sir Sankaran Nair and others, constitutes a most valuable asset not only of the legal profession but of the entire country. We are happy to note that Sir P. S. Sivaswami Iyer—a stalwart of an earlier generation—can be claimed by you, and by us, as a contemporary respected everywhere for his deep learning, varied accomplishments and unblemished character. We note with great pleasure that he is going to preside over the Jubilee of your Association and we would beg you to convey to him also our best felicitations.

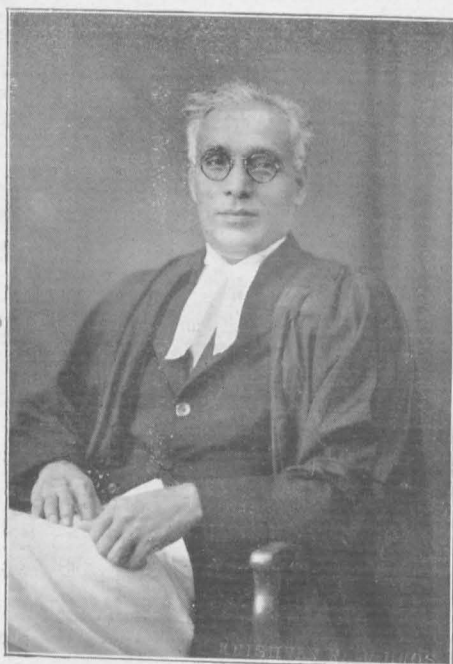
In conclusion I shall repeat our warmest congratulations to your Association on behalf of the President and Members of our Association and to express the hope that your Association will have as distinguished a record in the future as it had in the past and that it may make a valuable contribution to the task of building up an independent Indian Bar.

The President, *Advocates' Association, High Court, Patna:—*

On behalf of the Advocates' Association, High Court, Patna, I offer you our fraternal greetings on the occasion of the celebration of the Golden Jubilee of your Association. Your Association is not only the oldest and the largest but it has given to the country brilliant Advocates, eminent

jurists and distinguished publicists during the last fifty years. Your Association has also contributed to the Bench Judges whose monumental judgments shall ever remain the admiration of the legal world. You have maintained a very high standard of knowledge and exposition of law as well as of professional conduct. Your activities in other spheres have been no less remarkable. We, therefore, count it a privilege to associate ourselves with your Jubilee celebration.

Mr. K. P. Abraham, *President, Travancore Bar Association, Trivandrum:—*



MR. K. P. ABRAHAM,
President, Travancore Bar Association.

As a sister institution, we offer, with extreme pleasure, our most sincere congratulations to the Advocates' Association, Madras on the eve of its Golden Jubilee. We feel additional joy and closer kinship, and no little pride, in the fact that one of the sturdy founders of your Association namely the late Mr. Justice K. P. Sankara Menon of the Travancore High Court, was from amongst us.

You are singularly fortunate in having at your Golden Jubilee one of the founders themselves and a distinguished son of India, Sir. P. S. Sivaswami Iyer, to preside over the

Celebrations. Constituting as you do, the Bar of the leading High Court in South India, you have naturally been the torch-bearers of the ideals and traditions of the Bar, not merely to British South India but to all the South Indian States as well; and it is a matter for gratification that your contribution has been such as any similar institution could

well be proud of. We note with particular pleasure that it was your proud privilege to be the pioneer in Bar Associations in India. India is marching with almost incredible speed towards the realisation of its all round unity, which will culminate, we trust, in a healthy federation of all its members without distinction of British and Indian India; and it may not be too much for us to wish that your pioneering instinct will lead you on to the speedy realisation of that much-dreamt-of All-India Bar and Bar Association which appears the more feasible now that a Federal Court has come into being, promising, we hope, to become the supreme court as well, for a Federated India.

We fervently wish the Association a long life of continued and ever increasing usefulness.

Mr. C. Lakshmana Gouda, *President, The Law Association, Bangalore:—*

On behalf of the Law Association, Bangalore, I tender to you my heartiest congratulations on the occasion of the celebration of your Golden Jubilee.

Started under the initiative of a group of lawyers who had either attained eminence or did later attain eminence in the profession and in public life, your Association has had a splendid record of service during the last fifty years. Your Association has, besides creating amenities for its members, always promoted the interests of the Bar as a whole, striven for the upholding of their rights and privileges, and greatly contributed to the maintenance by the bar generally of a high standard of professional conduct. Nor is its service limited to the legal profession as is evident from the great influence it has brought to bear from time to time over the course of legislation both central and provincial.

You may well be proud of such a splendid record.

On behalf of the members of the Law Association, Bangalore, I once more tender to you my congratulations and send you my heartiest best wishes for the continued success and prosperity of your Association.

Rao Bahadur Sir C. V. Anantakrishna Iyer, Retired Judge, Madras High Court:—

Unless there be a revolutionary change in the mode of administration of Justice in the land, Advocates will fill a useful and honourable place in the system. With the increase in members, it behoves you to keep the High Ideal before you always, and at the same time, to expand your spheres of activity to every useful department of life where you could help and be active, but nevertheless always keeping the High Ideal before you. Be true to your Association and be always united; for while it is very easy to break a twig, it is rather difficult to break a well tied up bundle of the same. While always ready to fight to uphold right, never violate the rules of the game, and always remember that your learned friend on the other side and also the presiding Judge, are all playing their part of their game, under the same rules. Unless you help each other, you should not expect help from outside. Excel each other in upholding the best traditions of the Bar, and in helping each other. By doing so, we help the Association to grow stronger and stronger, to bear its proud share in the administration of Justice in the Land.

Dewan Bahadur K. Sundaram Chettiar, Retired Judge, Madras High Court:—

I consider it an honour as well as a privilege to express my appreciation of the progress which the Advocates' Association, Madras, has made during half a century. It is in the fitness of things that its Golden Jubilee should be celebrated as a hall-mark in its history. Having begun its career with a small nucleus of eminent lawyers, it has steadily grown in numerical strength tenfold and attained a stage of development, which it can justly be proud of. It has served to keep alive the high traditions of an honourable profession, and played the role of a powerful organisation for the achievement of its objects, useful and noble. A spirit of solidarity is engendered by such an Association, where Seniors and Juniors can come in contact with a sense of comradeship and with mutual good-will and understanding.

It is gratifying to see that a best equipped library now adorns the hall of this Association, and provision has been made for several conveniences and amenities for its members. Many brilliant lawyers of versatile talents have been and are among the ranks of its members. As a corporate body, it has rendered commendable service, by its suggestions and opinions on many a legislative proposal, and is bound to exercise a healthy influence with the weight of such opinions. As one who had the good fortune of a stay on the High Court Bench for a few years, I have had occasions to know and move with some of the members of this Association, and I cherish feelings of love and regard for them. May this Association grow in strength, usefulness, and prestige, and shed its radiance in the sphere of its activities under Divine Grace!

Mr. G. S. White, Formerly Registrar, High Court, Madras:—

"I have great pleasure in sending a message of congratulation to the Madras Advocates' Association on the occasion of its Golden Jubilee.

Having been in touch with the Association for over 3-5ths of its existence, during which time I made very many good friends amongst its members, and having been partly responsible for the suggestion that the Association should have accommodation in the first and second floors of the Western wing of the High Court, I think the best wish I can convey to your Association is that by the time it celebrates its Diamond Jubilee (60 years) it may be in occupation of the *whole* of the building—the downstairs portion being used as a luncheon room."

Sri S. Satyamurthi, M.L.A. (Central) Deputy Leader of the Congress Party in the Central Assembly:—

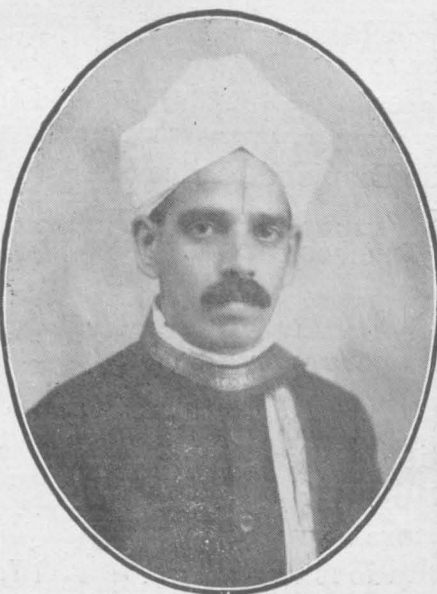
"I am very glad to learn that the Advocates' Association, Madras is celebrating its Golden Jubilee in February 1939. As a member of the Association for 25 years and more now, I rejoice on this occasion and convey my felicitations to all my fellow Advocates. May I take the



SRI S. SATYAMURTY, M.L.A. (CENTRAL)
Deputy Leader, Congress Party in the
Central Legislative Assembly.

Sri. K. Venkataswami Naidu, B.A., B.L., M.L.C., Mayor of Madras and Dy. President, Legislative Council:—

I am glad to note that the Golden Jubilee of the Madras Advocates' Association is being celebrated in a manner worthy of its traditions and its position. The large gathering of distinguished lawyers of Madras and others that is sure to be gathered at Adyar on the date of the celebration, the series of brilliant lectures arranged in this connection and the chorus of praise from all quarters will show to the world what the Advocates' Association stands for. I wish still greater future for the Association in the years to come.



SRI K. VENKATASWAMI NAIDU,
B.A., B.L., M.L.C., Mayor of Madras.

liberty of assuring my fellow Advocates especially my juniors that we have a very definite future in a free India. People may scoff at us but they will come to us. Sound legislation and sound administration of Justice are the basis of Democracy and we are the pillars of both. I would only request my fellow Advocates to take a keener interest in the politics and the public life of the country. I am convinced it will be mutually advantageous. I wish all my fellow Advocates the best things of life and I wish the Association many more decades of useful and corporate work."

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Sir Edward Wallace. *Retired Judge, Madras High Court:—*



SIR EDWARD WALLACE, *Retired Judge, Madras High Court.*

I congratulate the Advocates' Association on its remarkable record and wish it all prosperity in the future.

Rao Bahadur D. Appa Rao, *Registrar, High Court, Madras:—*

My hearty congratulations to the Madras Advocates' Association on the occasion of its Golden Jubilee celebration. It is noteworthy that the Madras Bar has contributed some of the ablest lawyers, eminent



RAO BAHADUR D. APPA RAO

Judges and foremost politicians. It has high traditions behind it and a bright future to look forward to. The Association is growing stronger day by day in point of efficiency as well as membership. Its wants in the way of accommodation and other amenities are naturally increasing but the members may feel assured that they have a Chief Justice who is always prepared to sympathetically consider any representations to improve the conditions.

Sir C. P. Ramaswami Iyer, K.C.I.E., Dewan of Travancore:—

On the occasion of its Golden Jubilee Celebrations I offer my sincere good wishes to the Madras Advocates' Association and wish the Celebrations all success.

The Hindu, Madras.

in its issue dated 20th February 1939 writes in the course of an Editorial on the Golden Jubilee of the Advocates' Association as follows:—

The Madras Advocates' Association celebrated its Golden Jubilee yesterday on the completion of fifty years of eventful life in the course of which, as its president pointed out, it has built up a reputation for itself, a reputation of which it can well be proud. Madras has been free from artificial distinctions among lawyers, which have been the cause of so much misunderstanding and confusion in other parts of India. And the Vakil section of the profession has, by the remarkable skill and ability of its leaders, proved beyond a shadow of doubt that it was not only quite equal to, but much superior to the Barrister class. In this connec-

tion, it was well observed by Sir Lionel Leach, the Chief Justice, that the dual system was unsatisfactory. In his interesting survey of the progress and development of the Association, Sir P. S. Sivaswami Aiyar narrated the difficulties which members of the profession have had to face in the last fifty years and the measures which have been taken from time to time to overcome them. Sir P. S. Sivaswami Aiyar also dwelt at some length on the question of overcrowding in the profession. A number of devices have been suggested in order to cope with this evil; but artificial remedies such as the addition of one year to the existing two-year course in the Law Colleges, a limit on the number of admissions, restriction in regard to the number admitted to practice, etc., cannot be expected to achieve the desired end. It has also been suggested that there might be a division of labour among Advocates, some specialising in chamber practice, advising, conveyancing and drafting and others practising in Courts. If it is adopted, it might minimise litigation.

Great responsibilities rest on lawyers. They have to advise the Government in regard to law and law-making, safeguard the rights and privileges of citizens, assist in the administration of law and justice, instil in the public respect for law and order and love of the rule of law. In India as in other countries, lawyers have made a mark in public life and have made a contribution to the building up of the nation, to an extent which has elicited the warm admiration and gratitude of the people. This great reputation of the profession can be sustained and consolidated only to the extent to which its members maintain its integrity and high character.

The Madras Mail.

in its issue dated 20th February 1939 writes in the course of an Editorial on the Golden Jubilee of the Advocates' Association as follows:—

The Madras Advocates' Association celebrated its golden jubilee yesterday. The original title of the Association was the Madras High Court Vakils' Association. The

change in title is significant of a change in status. As was pointed out in the speeches of Sir. P. S. Sivaswami Ayyar and others, vakils in Madras were always comparatively favourably situated. Their status has always been one of decided superiority to that of the vakils in the High Courts of Calcutta and Bombay. The improvements which have been achieved since the Association was started have, therefore, been brought about chiefly through breaking down practical monopolies for which there was no legal warrant. These triumphs have been accomplished, both because of the outstanding talents of individual advocates and because of the admirable corporate spirit displayed, as for example, when it was proposed in 1895 to divide Vakils into two categories. The Association has contrived to bring a feeling of solidarity into a profession which might easily have disintegrated. It has, at the same time, consistently upheld high standards of professional conduct. There is, however, one thing which it has not succeeded in doing, and that is to prevent overcrowding in the legal profession.

Felicitations were also received from the Bar Associations in the following places :

1 Ambasamudram	20 Kumbakonam
2 Peddapuram	21 Pudukottah
3 Nandyal	22 Calicut
4 Razole	23 Ellore
5 Tuticorin	24 Bellary
6 Periyakulam	25 Kollegal
7 Ranipet	26 Madura
8 Kodaikanal	27 Tanjore
9 Amalapuram	28 Arni
10 Bezwada	29 Trivellore
11 Nellore	30 Chicacole
12 Tindivanam	31 Tirukoilur
13 Kundapur	32 Rajahmundry
14 Devakottah	33 Paramakudi
15 Karkala	34 Sivaganga
16 Chodavaram	35 Tenali
17 Tirupathur	36 Villupuram
18 Kovvur	37 Bapatla
19 Kuttaparamba	38 Vridhachalam

39 Coimbatore	52 Dindigul
40 Palghat	53 Vizagapatam
41 Negapatam	54 Melur
42 Masulipatam	55 Narsapur
43 Erode	56 Vizianagaram
44 Pattukkottai	57 Dharapuram
45 Penukonda	58 Tinnevely
46 Chittoor	59 Guntur
47 Cuddalore	60 Tirumangalam
48 Trichinopoly	61 Badagara
49 Tenkasi	62 Trivandrum and
50 Mayavaram	63 Bar Library Association,
51 Conjeevaram	Rangoon.

LIST OF PRESIDENTS OF THE ASSOCIATION

1. Raja T. Rama Rao	1889—1891
2. Dr. Sir S. Subramania Iyer	1891—1895
3. Sir V. Bhashyam Iyengar	1895—1901
	1906—1908
	1901—1906
4. Sir C. Sankaran Nair	1908—1912
5. Sir P. S. Sivaswami Iyer	1912—1915
6. R. Sadagopachariar	1915—1917
7. J. L. Rozario	1917—1920
8. S. Srinivasa Iyengar	1934—1939
	1920—1921
9. Sir K. Srinivasa Iyengar	1921—1934
10. Dewan Bahadur T. R. Ramachandra Iyer	1939—
11. B. Sitarama Rao	

LIST OF SECRETARIES AND JOINT SECRETARIES OF THE ASSOCIATION

Mr. K. P. Sankara Menon	Provisional Secretary	1889—1901
Mr. V. Krishnaswami Iyer	Secy.	1897—1899
Mr. K. Krishnamachari	Jt. Secy.	1890
	Officiating Secy.	1899—1902
Mr. K. R. S. Sastri	Jt. Secy.	1901—1906
Sir P. S. Sivaswami Iyer	Secy.	1902—1903
Mr. K. Ramachandra Iyer	Jt. Secy.	1903—1906
Mr. V. V. Srinivasa Iyengar	Jt. Secy.	1916—1920
	Secy.	1906—1911
Mr. P. R. Sundara Iyer	Secy.	

Sir C. P. Ramaswami Iyer	Jt. Secy.	1906—1907
Mr. C. Venkatasubbaramiah	Jt. Secy.	1907—1908
Mr. K. C. Desikachari	Jt. Secy.	1908—1912
Mr. S. Srinivasa Iyengar	Secy.	1911—1912 1915—1916
Dewan Bahadur T. R. Ramachandra Iyer	Secy.	1912—1914
Dewan Bahadur V. Masilamani Pillai	Jt. Secy.	1912—1916
Sir K. Srinivasa Iyengar	Secy.	1914—1915
Sir Vepa Ramesam	Jt. Secy.	1916—1917
Mr. T. V. Gopalaswami Mudaliar	Jt. Secy.	1917—1921
Mr. T. R. Venkatarama Sastri	Secy.	1920—1921
Mr. P. R. Ganapathi Iyer	Secy.	1921—1923
Sir M. Venkatasubba Rao	Jt. Secy.	1921—1923
Mr. T. V. Muthukrishna Iyer	Secy.	1923—1928
Mr. P. Venkataramana Rao	Jt. Secy.	1923—1933
Mr. B. Sitarama Rao	Secy.	1928—1937
Mr. K. V. Krishnaswami Iyer	Jt. Secy.	1933—1937
Mr. K. Bhashyam	Secy.	1937—1938
Mr. K. Rajah Iyer	Secy.	1937—1939
Mr. K. Krishnaswami Iyengar	Secy.	1938—1939
Mr. K. Narasimha Iyer	Secy.	1939—
Mr. P. V. Rajamannar	Secy.	1939—

LIST OF HONORARY LIBRARIANS

Mr. S. Gopalaswami Iyengar	1891
Mr. P. R. Ganapathi Iyer	1906—1908
Mr. T. R. Venkatarama Sastri	1908—1911
Mr. B. Sitarama Rao	1911—1918
Mr. K. V. Krishnaswami Iyer	1918—1921
Mr. K. Bhashyam	1921—1924
Mr. Pappu Somasundaram	1924—1933
Mr. S. Panchapagesa Sastri	1933—1937
Mr. V. C. Viraraghavan	1937—

A FEW INTERESTING RESOLUTIONS OF THE ASSOCIATION

An interesting series of Resolutions was passed at the Vakils' gathering held on Sunday, the 14th December, 1919 at the Khushaldass Gardens under the auspices of the Advocates' Association with the Advocate-General Mr. S. Srinivasa Iyengar who was also the president of the Association in the chair.

The resolutions are given below :

1. It is expected that no Vakil of over 10 years' standing will ordinarily accept an engagement in any matter on the Appellate Side or the Original Side of the High Court of over Rs. 5,000 in value without another practitioner of less than 10 years' standing appearing in the case.
2. Whenever two Vakils appear in a case, the junior shall be entitled to not less than one third of the senior's fee when the senior's fee does not exceed the regulation fee and not less than one-third the regulation when the senior's fee is in excess of the regulation fee.
3. The High Court should be moved to make a rule allowing two Vakils' fees as costs in cases of the value of Rs. 5,000 and above.
4. When a brief is transferred from one practitioner to another, the latter shall be entitled to a reasonable proportion of the former's fee.
5. No Vakil shall suggest to the client the engagement of another practitioner as junior in the case, when the client himself suggests a junior or a junior has been already engaged.
6. No Vakil shall accept an engagement from a client who has already engaged a Vakil in the case unless the written consent of the latter is obtained.

**List of Pictures on exhibition at the Fine Arts Exhibition
conducted by the Advocates Association in the Olcott
Bungalow on Sunday the 19th February, 1939.**

Mr. K. P. Adiga, Advocate, Madras.

1	"Temple Entrance, Tiruvannamalai"	Photograph
2	"Calm Waters"	"
3	"A Creek"	"
4	"A Sylvan Stream"	"
5	"Homewards"	"
6	"The Ghat Road"	"
7	"Lifting Ashore"	"
8	"Sailing at Dusk"	"

Mr. A. Arunachalam, R.R.P.S., Advocate, Madras.

1	"Sri K. Bhashyam"	Photograph
2	"Pensive"	"
3	"The Morning Sun"	"
4	"Evening Glory"	"
5	"The Village Pond"	"
6	"The Village Temple"	"
7	"The Rick"	"
8	"Rural India"	"
9	"Pandit Jawharlal"	"
10	"The Two Chiefs"	"
11	"Wool Gathering"	"
12	"Sunny Smiles"	"
13	"Monsoon Preparations"	"
14	"The Helping Hand"	"
15	"Long Sight"	"
16	"The Wheel of Justice"	"
17	"End of the Day"	"
18	"Smile"	"
19	"The Rickshaw"	"
20	"On the Look-out"	"
21	"Storm"	"
22	"Liquid Eyes"	"
23	"Bored"	"

Mr. C. Devarajan, Advocate, Madras.

1	"Robert Browning"	Pastel Work
2	"The Village Stream"	Needle Work

Mr. Jagannathadas Govindas, Advocate, Madras.

1	"Rural Calm"	Photograph
2	"Thro' Nature's Bars"	"
3	"Adyar"	"
4	"A Bird's Eye-view of Tirukalikundram"	"
5	"The Temple Tank"	"
6	"A Bit of Old England in New India"	"
7	"The Solitary Sentinel"	"
8	"His Majesty Poses"	"
9	"Innocence"	"

10	"Summer Sun-beams"	Photograph
11	"The Silver Trail"	"
12	"An Eerie Group"	"
13	"Homeward"	"
14	"Forecastle"	"
15	"The Gathering Storm"	"
16	"Water"	"
17	"In An Hour of Idleness"	Pencil & Ink Sketches

Mr. L. Krishna Dass, Advocate, Madras.

1	"Lotus"	Painting
2	"Lily"	"
3	"Manas Kamal"	"
4	"In Tune with the Twilight"	"
5	"The Spirit of Art"	"
6	"Palni Hill"	"
7	"Evening Song"	"
8	"On the Banks of the Ganges"	"
9	"Kalidasa"	"
10	"Reverie"	"
11	"Tirukalikundram"	"
12	"A Street Sadhu"	"
13	"Deepam Jothi"	"
14	"Bhajan"	"
15	"To the River"	"
16	"Golconda Gumbaz"	"
17	"Mr. J. A. Pinto"	"
18	"Mr. U. Ramappa"	"

Mr. C. R. Krishnaswami Ayyar, Vakil, Tiruppathur

"Saravanabhava" Painting

Mr. L. V. Krishnaswami Ayyar, Advocate, Madras

"Dadhabai Naoroji" Pencil Sketch

Mr. C. Loganathan, Advocate, Madras

"Child Study" Photograph

Mr. C. R. Madanagopal, Advocate, Cuddappah

1	"Dr. Rangachari"	Oil Painting
2	"Diwan Bahadur T. Bujanga Rao"	"
3	"Sir Mohamed Habibullah"	Pastel Work
4	"Age & Jollity"	Photograph
5	"Beware"	"
6	"Granny"	"
7	"How do I look?"	"
8	"Funny"	"
9	"Sadhu"	"
10	"Kaliyuga Siva"	"
11	"Bizarre"	"
12	"Pain"	"

Mr. K. Muthurama Lingam, Advocate, Karur

- | | |
|----------------------|------------|
| 1 "What lies beyond" | Photograph |
| 2 "Man & Nature" | " |
| 3 "Lull after Storm" | " |

Mr. R. H. Ranga Rao, Advocate, Madras

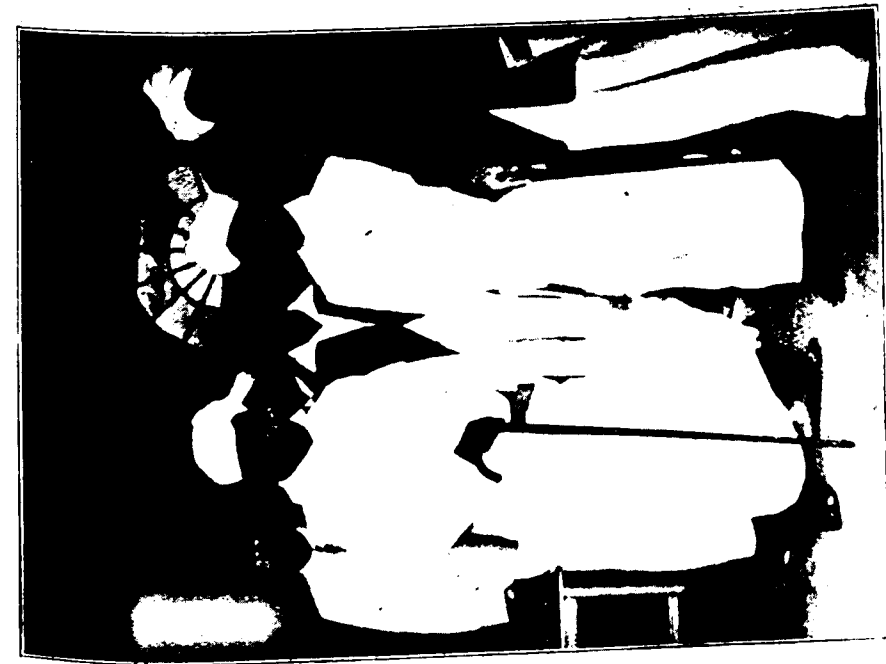
- | | |
|------------------|------------|
| 1 "Overhead" | Photograph |
| 2 "Tranquillity" | " |
| 3 "Tackle" | " |
| 4 "a la mode" | " |

Mr. S. Sankarasubramania Ayyar, Advocate, Madras

- | | |
|---|------------|
| 1 "Brindavan Gardens, Mysore" | Photograph |
| 2 "A Sunny Morn" | " |
| 3 "Dragging Ashore" | " |
| 4 "A Child Study" | " |
| 5 "Dressing up the Doll" | " |
| 6 "Sunset" | " |
| 7 "In Bombay Harbour" | " |
| 8 "Madras High Court" | " |
| 9 "Curves and Angles" | " |
| 10 "Equestrian Statue: Sir Thomas Munroe" | " |
| 11 "Evening Shadows" | " |
| 12 "Not A Snail" | " |
| 13 "Rough Sea" | " |
| 14 "Departure" | " |
| 15 "Tiruvannamalai, Tank & Temple" | " |
| 16 "Traffic Control" | " |

Mr. K. Sethurama Sarma, Advocate, Trichinopoly.

- | | |
|-----------------------------|------------|
| 1 "Coronation Celebrations" | Photograph |
| 2 "Madura" | " |
| 3 "Rock Fort, Trichy" | " |
| 4 "Reflections" | " |



Some Distinguished visitors to the Art Exhibition at the Olcott Bungalow



A snap of the guests arriving for the Garden Party



A general view of the Garden Party at Adyar on the Jubilee Day
at the Besant Scout Camping Centre, Adyar



"THE VILLAGE POND"
Photo exhibited at the Art exhibition.

A. Arunachalam, Advocate.
A R. P. S.



"HOMEWARD"
(Ooty)

JAGANNATHADAS GOVINDOSS,
Advocate.



"LIFTING ASHORE"

K. P. ADICA,
Advocate.



"SIR THOMAS MUNROE"

S. SANKARASUBRAMANIA IYER,
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MADRAS

(Started on Friday, 2nd January, 1914).

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(Ex-Judge of Madras High Court)

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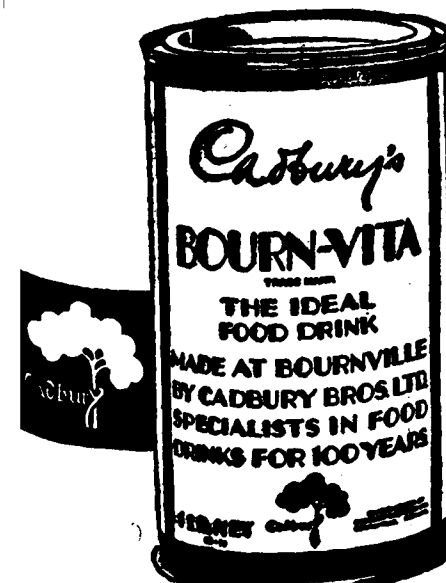
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GOLDEN JUBILEE LECTURES SERIES

In connection with The Golden Jubilee Celebrations, the Association organised a series of Lectures by eminent and distinguished men connected with the Law on Law in relation to various aspects of life.

The Hon. Sir Lionel Leach, the Chief Justice, inaugurated the series on Wednesday, 18th January, 1939, by presiding over the first lecture in the series delivered by Mr. V. V. Srinivasa Iyengar, the Chairman of the Jubilee Celebrations Committee, on 'Law and Art'.

Six Lectures in all were delivered and the titles of the Lectures and the names of the Lecturers are given below:—

No.	TITLE.	LECTURER.	CHAIRMAN.	DATE.
1	'Law and Art'	Mr. V. V. Srinivasa-Iyengar, Chairman of the Jubilee Celebrations Committee.	Hon. Sir Lionel Leach, the Chief Justice of Madras.	18th Jan. 1939.
2	'Law and Politics'	Mr. S. Satyamurthy M. L. A. (Central)	Sir Alladi Krishnaswami Ayyar, Advocate-General.	27th Jan. 1939.
3	'Law and Religion'	Hon. Mr. Justice S. Varadachariar	Hon. Mr. C. Rajagopalachariar, Premier of Madras.	31st Jan. 1939.
4	'Law and Liberty'	Mr. M. Ruthnaswami C. I. E., Member of the Madras Public Service Commission.	Hon'ble Mr. Justice K. S. Krishnaswami Iyengar	13th Feb. 1939.
5	'Law and Letters'	Sir C. P. Ramaswami Iyer, Dewan of Travancore.	Hon'ble Justice Sir Abdur Rahman	22nd Feb. 1939.
6	"Law and Life"	Hon. Mr. Justice P. Venkataramana Rao Naidu.	Sir M. Venkatasubba Rao.	9th March 1939.

The Association is deeply grateful to all those Gentlemen who participated in the series either as Lecturers or as Chairmen and offers them its sincere thanks.

The Lectures are printed in extenso below:

Inauguration by Hon. The Chief Justice

'LAW AND ART'

Mr. S. Srinivasa Iyengar, President of the Association, requesting the Chief Justice to inaugurate the series said that the idea in arranging the lectures was to have a comprehensive view of the profession from all its aspects. The first lecture would be on 'Law and Art' and the lecturer was eminently fitted for the task, for he was an eminent artist himself. It gave them great pleasure to have His Lordship the Chief Justice with them to inaugurate the lectures.

CHIEF JUSTICE'S OPENING SPEECH.

The Chief Justice thanked the Association for honouring him by asking him to inaugurate the lectures. The idea of celebrating the Jubilee in the manner in which they proposed to was excellent. The first lecture was to be delivered by an eminent artist on 'Law and Art'. He knew that Mr. V. V. Srinivasa Iyengar was a playwright of distinction, and he was sure the address would be most interesting and informative.

"Before I call upon Mr. Srinivasa Iyengar to deliver his address, I would like to offer," the Chief Justice continued, "my hearty congratulations to the Association on its attaining the Golden Jubilee year. The Association has a record of which it is justly proud. Its activities are confined to questions regarding the profession and they are highly commendable."

He understood that the Association was founded on 1st March 1889 with about 64 members. Out of the founder-members, four became Judges of the High Court, the late Sir V. Bhashyam Iyengar, Sir S. Subramania Aiyar, Mr. P. R. Sundara Aiyar and Mr. V. Krishnaswami Aiyar. The Association had now a membership of 634.

He knew that times had been bad for many years past, but he hoped and trusted that the coming half century would bring the members of the Association prosperity in a fuller measure, and he wished the Association, and its members, health, wealth and prosperity.

Congratulations are due to the organisers of the Golden Jubilee of the Madras Advocates' Association, on their having hit upon the idea of arranging for a series of lectures as part of the celebrations. I render my thanks to them for their having graciously accorded to me the honour of inaugurating the series.

I am aware that Tea and Refreshments, Lunches and Dinners will prove more attractive and popular items of such a celebration. I have often heard lecturers themselves describe the discourses they were about to deliver as inflictions on the audience. But I am not quite an adept in the art of infliction and I have further the assurance that my audience will sit out to the end, if only to hear my Lord the Chief Justice who has done us the honour of coming over and presiding at this inauguration.

I wish, however, I could be sure, what it is that my friends who were responsible for choosing me as the lecturer and also for prescribing to me the subject, wished me to speak and say under the caption of Law and Art. I have a suspicion that they bestowed no thought whatsoever on that aspect and left it to me to do all the thinking. In that case it must be a fair compromise, that I may say what I like and that they must like what I say.

I am afraid that thinking, especially thinking on abstract subjects, is not much in fashion at the present day and in the modern world. What is not fashionable cannot be popular, and what is not popular will not prove to be pleasant. I have searched all the library with the object of finding any book or treatise connected with the subject of the discourse, so that I may not be charged with being novel. But I could find no such book or treatise, and I have therefore to content myself with spinning out of my own mind.

We all know what is meant by Law. There is no need to define it afresh. We also understand what is signified by the term Art. Though Art is used both with reference to useful arts like the weaving of cloths or the making of the articles of furniture, I have no doubt that those who were responsible for the wording of the subject had in mind only the Fine Arts. I feel I could say a lot about Law and Lawyers. I know and can also speak a good deal about Art. But what I do not understand is the conjunction 'and'. At first I wondered whether the conjunction was really a disjunction. But then it struck me that I could not assume to myself to deliver a discourse by criticising the subject. I am free to confess therefore, that understand as I do Law and Art, the 'and' between them has entirely baffled me. And if I stand before you this evening courageously to deliver the discourse without running away from the baffling conjunction, it is not because I feel I have mastered the idea or the absence of any idea behind that 'and' but only because

I did not wish to own to a defeat by such a simple Anglo-Saxon word, and have preferred to present to you some ideas of my own.

Vast and various are the aspects of Law and Art which can be dealt with both usefully and attractively. But in this short discourse I have necessarily to confine myself only to a few of those aspects. I shall therefore content myself with treating about Art in Law and Law in Art and of Law and Art in Life.

The expression 'Law' has been used with different and oftentimes almost contradictory meanings. For our present purpose it is sufficient to say that we in this lecture are concerned only with what may, for shortness' sake, be called legal laws—that is to say, laws made by the sovereign authority for observance by the subjects of the realm.

There has been in every country and community, what has been termed common law or something corresponding to it more or less. It seems to me what is called common law is best indicated as the expression, conscious or unconscious, of the will of the community as a whole with regard to what is most calculated for the preservation of peace and for the prosperity and progress of the community as a whole. The essence of the common law is that it is unwritten, that it is not formulated. It binds even the sovereign. It is accredited to be based on certain fundamental principles. Those principles are said never to change; and in the administration of that Law in changing circumstances and in the face of new facts, it is the same principles that are in theory applied for arriving at decisions by the Judicial Tribunals.

Even in India the conception of what is called Dharma is higher than kings and even above God. It is eternal—Sanathana. The characteristic beauty of this kind of unwritten law, consists in the interpretation of it, as it is manifestly applicable in all cases however complicated and however new. That is why and how it comes about that a study of the judgments of the great English Judges is even today fraught with so much interest and instruction. There can be very little doubt that in those early days when there were no legislative changes of the common law, it was the Judicial Tribunals presided over by the eminent Judges with a strong grasp of the fundamental principles of law and precedence that contributed to the development and remodeling of law. In theory no doubt the law was unalterable but in practice it underwent changes on every application of it to new and newer circumstances and facts by Judgments of courts. It was a species of Judicial Legislation.

The origin and development of the law of Equity in England have a history of their own and though in later times equity became as crystallised and definitive as common law itself, still it is gratifying to note how much it was based on elastic principles. The saying about the

Chancellor's foot was only indicative of the personal element of the presiding judge in the discovery and application of equitable principles. The process by which the rigours of the common law were softened and made more acceptable to human sense of justice, by courts of equity, is one of the most fascinating chapters in the history of English Law. With regard to both these branches of the law it may at once be stated without hesitation that their gradual development and transformation have been entirely due to judicial decisions. It is the beauty of these decisions of ancient judges that I am anxious to emphasise on. If there is any art in Law you will find it there.

There is beauty every where, in every object of creation and it is the true function of 'Fine Art' to present that beauty to us through a medium and in a manner to be understood and appreciated by the layman. The beauty of a landscape is not perceived and appreciated in nature by the ordinary man, but when the artist paints that very landscape on the canvass, we all admire and enjoy it. Similarly in the other fine arts. It is when the poet treats in his poem or drama of human character, life and destiny that we begin to understand and realise. I claim that the judgments of the ancient judges have been real works of art in the sense that they have served to present and interpret to us the essential beauty of the fundamental principles of law and equity. They are real works of art in the truest sense of the term. The ordinary lawyer is the lay-man to whom it is given by studying these great judgments to appreciate and enjoy how one legal notion after another and one legal principle after another have struggled to gradual recognition and establishment.

We have also to remember in this connection the main fact that all law and all courts of law are only for the purpose of securing justice, if on one side to the community as a whole, on the other side to the individual subjects as well. The British struggle for the establishment, beyond any possible danger, of the sanctity the integrity and the liberty of the body, mind and soul of every individual subject of the realm is by far the most glorious in the history of the world. The conception therefore of justice is that it secures the paramount interest of the state on one side and of the citizens on the other without any undue invasion of the rights of the one by the other. The idea of justice in human society thus corresponds to the beauty in the Universe and if in the case of the latter the great works of great artists have expounded and illustrated to us and for our benefit and enjoyment the aspects of that pervasive beauty, similarly the ancient judgments of the great judges of common law and equity have served to expound and illustrate to us the essential ideas and ideals of justice underlying all the principles.

I shall next pass on to the realm and stage of statute law. The statute law has necessarily to be a codification in human language of

the fundamental principles of justice I just alluded to. The statute law undoubtedly represents a higher stage of self-expression in the body politic. But the very circumstance that law came to be recognised as changeable by the person in authority, opened the door once for all to political exploitation and party aggrandisement. In this view, on the advent of statutory law, law ceased to be an exposition merely of general principles by eminent judges learned in the law and imbued with almost a religious respect for precedence and possessed of a highly sensitive judicial conscience. It was claimed for the legislative authority that it was omnipotent, that it owed no allegiance whatsoever to any higher concept. If the law-maker said that white shall be black it was bound to be black for evermore. We all know that in America the legislature is not omnipotent and is subject to judicial review under certain circumstances. Similarly in India the accepted doctrine was that the absolute monarch was himself subject to Dharma. I shudder to think to what lengths the unbridled party legislatures of the present day may run. I also shudder to contemplate the spreading wide of the diseases of the totalitarian state and dictatorships and the sacrifice at their altar of all personal liberty and freedom. The individual citizen of such states is in imminent danger of all his individuality and personality being crushed out of him, and of all liberty and freedom taken away from him so as to make him a mere wheel in a vast machine. It is therefore time that the nations of the world realised the rushing danger and did something to base law again on justice.

At first even after the advent of the statute law, law was capable of being regarded as a mere statement, exposition and interpretation of the principles of justice, albeit according to the needs of time. But when it became, as it did in course of time, the expression and manoeuvre of a political party, it ceased to occupy the original high pedestal. When statute law thus became divorced from fundamental principles of justice, it ceased to be artistic. When Lord Macaulay drafted the Penal Code he belonged to no party and on account of his eminence as a man of letters that code stands even to day as almost reaching the distinction of a great work of art. I, for my part, am never tired of admiring its clearness, classification and comprehensiveness. I regard it almost as a standard treatise on human ethics in the form of a beautiful picture of a good citizen in an ideal state.

I cannot however omit to refer in this connection to the legislative enactments of modern days as compared with those of former times. Most of the present day legislation (mainly confining my attention to this country) is hasty, ill-considered, ill-worded and often unprincipled. They can scarcely claim to be regarded as works of art. The members of modern democratic legislatures are not chosen for their knowledge of the law, language or logic. The legislatures have no time to legislate.

Acts are passed at a single sitting. The speed is the speed of the express trains or aeroplanes. We have read in judgments that certain sections under consideration were not artistically worded. But what about the wholesale enactments of the present day?

I cannot but, in this connection, say a few words about modern judgments. I regard some of the old judgments especially in the House of Lords and in the judicial committee of the Privy Council as masterpieces of literature suffused by lucid restatements of principles of law and abounding in the logic of common sense. I confess that I do not feel much attracted in that way to modern judgments even in England. It may partly be due to most of the decisions turning, not on first principles as formerly, but on the construction of special Acts and sections. I apprehend it may also be attributable to the pressure under which most courts of law have to work against time. Not a little may be due to the present day stenographer who is asked to take down then and there judgments delivered extempore which in former days might have been reserved for consideration, and careful wording. Somehow I cannot help regretting the passing away of the age of great judgments with the chosen word and the balanced expression and the meticulous correspondence between thought and word. I doubt very much whether the world is destined again to witness those spacious days.

I shall now proceed to deal with the only remaining aspect of the law considered from the point of view of art viz., the art of advocacy. Time and space prevent me from dealing with this interesting subject at such length and in such detail as its importance would justify. It almost seems, that the days of great advocates and great advocacy were long ago and have now ceased to be. That advocacy is an art and an art that has to be learnt will not, I believe, be disputed. But whether at any stage it reaches the dignity and distinction of a fine art may be doubted. I am inclined to take the view that with certain great advocates and on certain occasions it does rise to the height of fine art. The art of persuading a judge or jury by reference to legal principles, by logic, by eloquence and above all by the creation in the judicial mind of a sense of justice is undoubtedly a great art. But its real nature as a fine art, it seems to me, consists in making the judicial mind see and feel even as the advocate would like it to be seen and felt. Even as a great painter by putting on some colours on the canvass makes the looker-on realise that sense of beauty with which the painter was himself impressed when he saw the scene painted by him, even so the advocate by his art creates in the judicial mind the sense of the justice of his client's cause for which he is pleading. What makes it indeed more akin to fine art is the large scope for individual genius, for individual ways and means. The reasons have been many that have resulted at the present day in the decline and deterioration of advocacy as an art. The

speed and hurry of modern times have reached even our courts of law. Mere eloquence as such is resented by trained judges. I have a shrewd suspicion that even a jury composed of businessmen look askance on mere appeal to sentiment, or mere eloquence in argument. In a sense advocacy has tended to become very business-like. But above all I am inclined to think that a large measure of the reason is to be traced to the unwillingness or incapacity of the modern advocate to take a pleasure in the work, in the art of advocacy, and to pursue it for its own sake which is the secret of all high art.

So far I have dealt with law considered from the point of view of art. There is also conversely, law in art. Every one of the arts has got its laws, its rules and conventions. It is by a proper and thorough understanding of the laws relating to any art, that any one can achieve proficiency in it. It is not my purpose in this discourse to dwell in detail on the laws pertaining to each of the fine arts. It would prove a long and laborious task : nor do I possess the necessary qualifications for any such undertaking. I feel however bound to draw special attention in this connection to the place and purpose of these laws of art. It is of great significance to see that the laws of art are in many respects like the laws of human society. If a person is anxious to secure to himself the protection of the state and all the untold benefits of citizenship, he has to submit himself to the laws of the state which are in the nature of restrictions and limitations on his freedom. In the same manner it is by submitting himself to the limitations and restrictions imposed by the laws of the respective art that one can hope to attain eminence in its pursuit. The artist as the citizen has to die to live. A would-be poet cannot hope to produce any poetry without observing the rules of prosody ; nor can a musician attain to any merit in his art by singing just as he pleases. It is indeed very much to be regretted that in recent times on account, perhaps, of the mere craze for novelty there has been witnessed in almost every art the casting aside and throwing to the winds, of all established traditions and conventions relative to that art. I may be old fashioned but still I venture to think that much of what has been claimed to be art in these days will soon cease to be. I need only instance some of the latest forms of so-called modern poetry and modern painting. It will thus be seen that as in many branches of the law the eminence of art can be reached only by following the principles of art, similarly eminence in art can be reached only by a due recognition of the fundamentals of the law relating to it and by due submission thereto.

I shall now pass on to the last part of my discourse viz., the place of law and art in life. This again is a vast theme and I feel I can only just glance at some of the more important aspects. In this connection an old couplet comes to mind. It runs thus ;—

I slept and dreamt that life was beauty,

I woke and found that life was duty.

It will be admitted generally that life is not one long pleasure-seeking but mainly a bundle of duties. "Life is a discipline", so it has been said.

It is by following the laws of life strictly and wisely that one can hope to be healthy and happy. Ancient Indian Dharma has classified the ideal human life into four stages or Asramas. The first stage is that of the Brahmacharya or the student—the peasant and prince as well living on enforced poverty, learning to do service, intent upon developing character and strength of will and seeking after knowledge and the highest truth. Then succeeds the householder living a married life bringing up a family, in the enjoyment of the innocent pleasures of life and eager to devote himself and his means to the service of the world. This stage of life is in its turn succeeded by what is called Vanaprastha Asrama in which in ripe old age the man satiated with the pleasures of ordinary life takes himself off, far from the madding crowds' ignoble strife and betakes himself to the contemplation of the glory of God and His creation. The last stage of all is reached by the Sanyasin when the person renounces all family connections and worldly ties and prepares himself to cast off this mortal coil whenever the call should come, devoting himself in the meantime to the active and selfless service of humanity and God.

In this beautiful scheme or map of life which is not only ideal for the Indian but for all mankind, there is vast room and scope for the discovery and observance of numerous other laws of life. Is it to be the struggle for existence and survival of the fittest or else the loving of your neighbour as yourself? Is it to be the pursuit of sensual pleasures or of higher spiritual happiness? Is it to be the endless pursuit of conquest over the material world and bringing about the realisation of all the wonders that would be or else the attainment of the highest possible spiritual power, of true Swarajya as it has been called in the Upanishads? These and a hundred similar questions and problems confront us and he alone is a wise man that, understanding thoroughly all the laws of human existence, so conducts himself as to attain to the possible heights of health, happiness, success and prosperity. This is human life from the point of view of law. But it strikes me that there is greater truth and wisdom to be found if the couplet I quoted should be reversed and made to run thus :—

I slept and dreamt that life was duty,

I woke and found that life was beauty.

Here life comes to be regarded from the point of view of fine art. Speaking of man the greatest dramatist of the world has said :—

What a piece of work is man! how noble in reason! how infinite in faculty! in form and moving how express and admirable! in action how like an angel! in apprehension how like a god! the beauty of the world! the paragon of animals!

Man however has ceased to admire man, because man is so commonplace. But there is the divine in him. He ought to live the life beautiful. Ought implies can. He can, if he will, build up his life like the beautiful Taj. He can make out of his life a grand and great symphony. He can work it into an epic poem. He can develop it to the grace, beauty and proportions of a Greek statue. He can, by painting on the canvass of his life-story present a most wonderful and beautiful picture. Or else he can on the stage of life discover the hero's part reserved for him and act his part to perfection and make his exit receiving the applause and admiration of the world audience of the present and of posterity as well. This aesthetic view of human life is not antagonistic to the moral view of service and sacrifice. It comprehends the whole of it but only transcends it. The life beautiful is also the life of truth and goodness.

I have now dealt with art in law and law in art and law and art in life. I am conscious that I have been able to deal with each of these subjects only in brief outline. I have but indicated aspects which I have no doubt, may advantageously receive more thought and elucidation. But before I conclude this discourse it seems to me that I must refer in particular to our lawyers, to the members of the Madras Advocates' Association and the extent to which interest in fine arts enters into their daily lives. I know of members of this Association who have proved themselves to be extra-ordinary architects. A number of them have attained even eminence in music both practical and scientific. Though there have been no statuaries I have known at least one who achieved remarkable success in the moulding art. There have of course been poets and poetasters, dramatists and men of letters. There have also been a few amateur painters and there is at least one to-day whose achievement in the art of painting is indeed remarkable. The Bar in Madras has produced a number of actors of no mean merit on the stage. But when all is said and recounted, it seems to me that all the cases I have mentioned would almost seem to be what are called the exceptions that prove the rule. I regret to note that in the standard life of the follower of the profession of the law, there has been no devotion to any of the fine arts. The profession, so to say, has generally consisted of three classes. The junior always overpowered by a dominating anxiety to eke out a decent livelihood and as the phrase goes "make both ends meet." To him unfortunately, there is no quarter for inclination to fine art in the tribulation of his mind and soul. By such persons however it is not apparently realised that continued care and worry cannot by themselves make for success in the profession, and that some respite secured,

some happy moments snatched from the humdrum of life, far from derogating from the achievement of the success they are yearning for, is only calculated to sweeten and strengthen the soul.

The next class consists of those who are struggling in the profession and in the thick of the race. Of this class I may say that the prevailing view seems to be that struggling for existence leaves no available time or leisure for the pursuit of any such hobbies. Unremitting toil and moil in the profession may no doubt be regarded, as I am afraid it is regarded by most, as necessary for preventing the other competitors in the race-course from pushing you out of the course or leaving you far behind. This is due to a fundamentally false and fallacious idea. The members of this class have apparently not realised that they should each make for themselves a map of daily life and set apart two or even three hours out of the twenty four, for what is most aptly termed 're-creation' and that re-creation is only calculated to improve the quality of the professional work turned out. In this respect I am glad to have been able to form and fashion my own life after the ideas and ideals of some of the greatest English Barristers who were, when I was enrolled, still practising in this Court. With every one of them almost it was the rule to throw up all work after the court or office hours and forget entirely for a brief couple of hours or so that there is such a thing as a client or a case or a court.

The last of the three classes, of course, consists of those at the top. No doubt they are in a position to command the calls on their time and regulate their hours. But even in the case of many of them I have a shrewd suspicion whether there is not a haunting fear in their minds that if they tried to rest on their oars, they might be left behind. But what I do believe is generally the cause of their not taking, by way of re-creation or otherwise, to fine arts seems to be that they find themselves unable to turn their minds for the first time in those directions at the stage of life they have reached, having neglected previously to do so.

Just as we say that cricket, tennis, golf, and other outdoor games serve as recreation mainly for the body and partly for the mind, similarly a pursuit of fine arts as a hobby is a greater means of recreation mainly for the mind and soul and thereby also for the health of the body. It is the greatest tonic for the human soul. The selfless and unalloyed happiness that flows from the pursuit of fine arts must be regarded in the light of the ambrosial food on which our inner life should be nursed and brought up. It may be that what I have referred to is regarded by many as a mere fetish and by others as a mere counsel of perfection. But let me assure them that it is neither.

I have spoken from my experience and that is my solemn testimony regarding the art of life.

In our schools and colleges we are taught many things and the only thing that we are not taught and we do not learn, is the art of living, the most important of arts. And for the rest of our life we have somehow or other to muddle or blunder through it all, leaving it to chance and fate to take charge of us.

During the livelong day we think of many things and of some things very deeply indeed. But it strikes me that too little thought is bestowed on our own lives and the moulding and fashioning of it. It is never too late. One has only to begin and persevere. A touch of thought makes things golden. And I promise that a life enlivened by a love of art makes life richful, beautiful and blissful. I cannot therefore but regret that amongst the generality of the members of the profession, devotion to the higher arts has not been or become a cult.

So we find that through all these stages and in all these spheres, there has been no conjunction of law and art and that the word 'and' in the title of this discourse stands not indeed for a fact but only for a hope.

It would thus be seen that law and art far from being separate should be closely related to each other. In days long gone by they were indeed wedded to each other. But in the course of centuries, on account of various historical and other causes and accidents, they became divorced from each other. But to-day I have made bold to bring them together again and proclaim the banns. And may My Lord the Chief Justice pronounce a decree absolute for the reunion of Law and Art.

CHAIRMAN'S CONCLUDING REMARKS

The Chief Justice, in bringing the proceedings to a close, said that they had listened to a very interesting and informative lecture. It would be well if Law and Art were associated together. But he felt that there was very little time for that association. He endorsed what was said by the lecturer about the old judgments. The lecturer had also given some reasons why the present judgments were not so brilliant as the ancient ones. "In the old days, they had more time", the Chief Justice said, "and it was much easier for them to put their judgments in picturesque language when they were laying down first principles of law than when they had to decide whether the decision of Judge A in 33 M. L. J. or so can be distinguished from the decision of Judge B in 34 Law Weekly. Art in judgments nowadays lies in distinguishing between cases and so keen is the perception of some of the Judges, that they see differences where other people cannot. The real reason why judgments in these days are not so well-worded is want of time. Cases are far more in number than in the old days. The call for speedy justice both from the State and more particularly from the commercial community is another reason."

What they wanted was ready and quick justice, and if the decision was right, perhaps Judges might be forgiven if the phrases were not so rounded as they might be.

Proceeding, the Chief Justice said that he agreed with the lecturer of the evening that there had been a decline in the standard of advocacy. Nowadays, the Jury system was less and less followed. It was all right having a ready flow of eloquence and of well-rounded phrases when dealing with a jury whose verdict was awaited, to play upon their senses. Times had changed during the last quarter of a century and things were not what they were years ago. But nowadays, advocacy was more directed to playing on the minds. The Advocate, who could address himself to the point and keep to the point was to his mind as great an artist as the Advocate who appealed to the senses.

The Chief Justice said that he greatly enjoyed the lecture, and said that if only they had time, they could all live up to the standard set up from the artistic point of view.

VOTE OF THANKS.

Sir Alladi Krishnaswami Aiyar, the Advocate-General, proposing a vote of thanks, said that Mr. V. V. Srinivasa Iyengar was one of the oldest members of the Association, but was the youngest in spirit and it was in the fitness of things that he should inaugurate the Golden Jubilee lectures. The Advocate-General wished that he could command the enthusiasm which the lecturer had shown.

It was in the fitness of things that His Lordship the Chief Justice who was taking keen interest in the profession and who felt proud of the Bar, should preside on the occasion. The Bar had given on the whole a very good account of itself and the Advocate-General hoped that with the co-operation and goodwill of the Bench, the profession would prosper in the future.

The Advocate-General announced that in connection with the celebrations, an exhibition of fine arts would be held and appealed to the members to make the exhibition a success by sending in exhibits.

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LECTURE II

‘LAW AND POLITICS’

BY SRI S. SATYAMURTHI

CHAIRMAN : SIR ALLADI KRISHNASWAMI AIYAR,
Advocate-General.

OPENING SPEECH OF THE CHAIRMAN

Gentlemen,

I am put down here for some introductory remarks, but I think it will be presumptuous on my part to introduce one of ourselves to this Association. At the same time it is as well to remind ourselves that Mr. Satyamurthi who is one of us is one of the foremost public men of India (hear, hear.) He is a great debater one who is feared and respected in the Legislative Assembly, and is one of those who mould the law of this land by being himself an important legislator of this country.

With these words, I call upon my friend Mr. Satyamurthi, in whom we all take pride, to deliver his address (Cheers).

SRI S. SATYAMURTHI

Chairman and Friends,

I am very glad to be here in your midst and I say it in no conventional sense, but from a real and sincere sense. “Man proposes, God disposes”. But first loves remain always first loves, and I therefore repeat that I am very grateful indeed for the great honour in asking me to address you for a few minutes. My preoccupations elsewhere have deprived me of your exhilarating company. To me, fellow advocates, it has been one of the pleasantest things in my rather chequered life. I am glad that this Association is celebrating its Golden Jubilee, and its Golden Jubilee is being celebrated after the unification of the Madras Bar, and I, being an optimist in more difficult matters, venture in spite of contemporary phenomenon, to predict a bright future for the Bar in Madras and even India altogether. Conditions to-day are rather depressing, so depressing that it seems to me that the state of the profession to-day presents a problem which no government, no public opinion, no legislature dare ignore. The most tragic part of it is there is plenty of latent talent available to-day in the legal profession to enter the field of politics or legislation—talent not only in law but in many other arts—fine arts, literary arts. I do hope that there will be some solution by which all this young energy and talent will find adequate expression. In the new nascent India, which we are all trying to build up, the future of litigation seems doubtful. It may be a somewhat depressing remark, but I am one of those who believe that India is going to be free much

sooner than the most optimistic of us dare hope and when India is free, when our commerce and trade develop, when our industries flourish, believe me my friends, there will be more money in this country and with it inevitably comes business. More business means more litigation. It may be poor comfort to those who do not share my political optimism but I want you all to be of good cheer.

Whatever party be in power or in opposition, there is bound to be the rule of law, and the rule of law, as all of us are bound to realise, is the supreme mark of civilised society and so long as the rule of law remains, the role of lawyers will remain, the role of judges will also remain. Otherwise, we shall go back to the primitive state of society where might is right and the strong rules the weak. But, if you want to establish what is right, it is a difficult question. Statutory laws are man-made laws which define right or rights. But there are besides these Dharma as it is known in our country, Common Law as it is known elsewhere, Equity, Custom in other countries. Therefore, I suggest that courts, lawyers and laws will be necessary and laws there will be and let us therefore look forward with confidence to the future and at any rate with no fear. I know there have been recent statements in this Province by the high and the mighty deprecatory of the lawyers. I do not share that view. I feel that lawyers are playing a distinguished part, a useful part not only in their own spheres but in the public life of the country and of this presidency and I am very grateful to the lawyers. But I do suggest to those in power, the high and the mighty to speak respectfully of the lawyers and of their contribution to society to law-making, law administering and civilisation and to welcome them as co-partners in the building up of a free India and a very united and just community. But I want to give one piece of consolation to my friends. These occasional attacks upon lawyers are not peculiar to this age or to our country. Let us realise as Prof. Harold Laski pointed out that 'lawyers are not a popular race with the English People.' The rebels in 1831 hanged the Chief Justice. The first impulse of an attack upon lawyers was also in evidence in the Cromwellian Period. There is, he says, a wide-spread feeling among the disinherited of the earth that the lawyer is their natural enemy and that he moves both in his principle and in his technique the protective element of the present social system and order. This hostility, like most hostilities, is blind and not wholesome. And may we not take some consolation from the fact that in spite of these periodical attacks on the English Bar, lawyers in England have survived and, from all accounts, they seem to be flourishing. Let me express the hope that we shall also survive and even flourish.

The future of law, in so far as it relates to politics lies not in the normal day to day work of lawyers, trying to interpret the laws made by others and in merely trying to see that the law is interpreted and administered as the law-makers defined the law. They must take the

fore-most place in legal reform, social reform in the smaller as well as the larger sense in securing economic justice. That way lies the future of lawyers in relation to contemporary and future politics as I see it. A wise conservatism which is a characteristic of lawyers is a good force—a preservative force. Some of you may think it comes very inappropriately from a radical politician. I am a conservative myself. My quarrel is not with my country's institutions but with somebody else and there I am a radical. I plead that this wise conservatism is a good preservative force for society. We dare not do away with it. But at the same time, we lawyers must meet the challenge of modern democracy unless we are going to plump in for Hitlerism or Dictatorship. "One man, one vote,"—that is the challenge of modern Democracy. But as opposed to this, we have a wide, deep chasm, an almost unbridgeable chasm between the rich and the poor, the landlord and the tenant, the capitalist and the labourer. These have got to be bridged, have got to be narrowed, unless Democracy is to become Fascist or Communist. We have to reconcile political equality with social and economic equality. As lawyers, we are peculiarly fitted to discharge that task. To take an example, there is the "Prakasam Committee Report" on the Zamindari system in this presidency. We have had speeches galore and fairly well reported in the Madras newspapers. I sincerely hope that all of you have read the report better than I have. But the report raises questions of vast interest and importance to lawyers. What is the sound system of legislation and how is it to be enacted? These are questions on which lawyers must give a lead to public opinion. I have given only one illustration wherein lawyers can exercise their undoubted talents.

Besides these, there are cries for radical reforms in the air. Almost every institution is sought to be attacked. Property, Marriage, Parenthood, Guardianship and what not? We are living in a challenging age. There is no use of sighing and thinking we were all very happy or thought we were. We must meet these challenges by reason and not by force. What is to be our reaction to these demands for radical reforms? We must deal with them as lawyers and what is the supreme interest to lawyers? Yes, I agree—Law and Order. But what is Law and what is Order? I will try to answer it. I agree that society will go to pieces and there will be anarchy in the place of the present society if order is not preserved. Order is not an end in itself. It is only a means to attain human and higher ends. That is why I prefer Democracy to Dictatorship. Of course, there is perfect order under a dictatorship but the higher and more human ends are not served. What is that human end? It is the greatest happiness of the greatest number without injustice to any or if there must be, the minimum necessary injustice. All that I want of you is that you should apply your minds so that we may have our solutions to the challenging problems of Indian politics to-day. I appeal to you in all sincerity to

apply your trained minds to the problems so that we might have ready our reply to the challenge.

We must also realise that law by itself cannot command the willing obedience of all those who are bound by that law. The strong arm of the law may not be as strong as we wish, and may not continue to be strong unless we recognise that the requirements of the formal law and the interests which are encountered are not always the same. Institutions established by law can only secure obedience in terms of the values that obedience creates. If the values are denied, then obedience will also be denied. In short, we can and must make a necessary bridge between the formal demands of law and those of other concepts ethical, economic, political and psychological which give legal claim its validation. Above all, on such a view is based the law, where it truly belongs to that concept of mind. Here, we come to those human problems which are always with us, unless, as I have said, we merely rely upon the passive consent of the mind to whatever laws are made. Mere majorities, mere politicians cannot decide this question as to the respective requirements of the formal law and the consent of those who are governed by that law. There are many implications of that which only the trained mind of the lawyer can recognise and weigh.

In this connection, Sir, without trespassing on politics, I will deal with the limits of civil disobedience against the laws made by even a democratic state. There is a limit at which it has been claimed, in the history of England and in the history of our own country, circumstances arise when even law is unjust and man's conscience says that he cannot obey it, but must take the consequences resulting from a breach of that law. How far that could be allowed in a democratic society is a paramount problem, on which I am not prepared to say anything now. It, however, involves a legal problem. Our law-making should be such that we must make it more and more impossible for any man or woman to find that his or her conscience is greatly offended by law, and that he or she must disobey and take the consequences.

Now another problem which confronts lawyers in this country in view of the rapid political development of India, is how far we can secure, for the rich and the poor alike, equality before the law—that is, equal opportunity to get redress provided by the law. Secondly, there is also the more important question of the freedom of justice from the political complexion of the state. A remark has been made that in a Bourgeois state, we get Bourgeois type of justice and in a Communistic state, that type of justice. One has heard or read of trials in Soviet Russia, where judgments were already written out and the administration of justice reduced itself to a farce. One reads from the French Revolution and also from movements in other countries, that political passions and prejudices shake the very foundations of justice and equity. Whether it is true or not that the administration of justice takes after the

political complexion of the state in which the law is administered, we lawyers must take steps and see, as far as it lies in human power, that we are well removed from that temptation. That is why, I am a confirmed believer in the separation of the executive and the judiciary even in a democratic state. On the question whether there is equality before the law, the answer has been in the affirmative. But in most aspects, law, like many other commodities, is subject to purchase in terms of the financial status of the litigants. This may appear a strong and even cruel remark. Mr. Harold Laski points out how the rich can have the services of abler and more experienced lawyers and how the very attitude of those who administer the law to a case coming before them differs with the financial status of the litigants. What are very often called high spirits in university students becomes serious misconduct in the poor! The contempt with which a poor man is regarded when drunk, vanishes in the case of a rich man who can indent on medical conveniences. The different treatment according to the station in life of the litigant, that characterises the administration of justice is unworthy of our State. I think that the modern persecutions of law have been directed against the poor man; yet there can be no doubt that the rich and the poor come equally within the arm of the law. Now, I think applying that to our own country, I will not say that these evils do exist to the same extent in this country as they exist in England, but I am not prepared to admit that they do not exist to some extent and there is no reform necessary in this direction. Lawyers must take and give a lead to politicians by way of adequate and efficient help to the poor litigants which is already recognised in our system of trials. The cost of litigation ought not to go up and if possible ought to be reduced. I do not want to embarrass the Madras Government but at any rate I do not want that they should try to improve their finances by the administration of justice and if it is self-supporting any civilised state ought to be content. There are other sources of revenue which can be tapped.

The next point at which lawyers come into touch with politics is how far the always superstitious reverence for precedents which lawyers swear by, is consistent with the demands of modern politics. I suggest that it is the superior function of the lawyer to make his doctrine keep step with the spirit of the times. After all, common law, is only a function of the expression of the sentiments and the feelings of right or wrong on the part of men and women and we must keep step with the spirit of the times. In this connection, I want reforms such as marriage and divorce should be left to the Provinces and not to the Central Assembly as at present, which really make the task of the legislators more difficult than it need be. There is much more intimate touch with the people in the Provinces, where the popular legislators are responsible to the people. Before we can reform all these based on isolated

desires of various peoples, I suggest lawyers should give direct and constructive lead as to how far and in what direction we should progress. There is also a move in certain quarters that the Hindu Law should be rewritten and a new and better code of Hindu Law be formulated. I am not so confident as all that. I recognise that there are defects, but for a society which is very old, such an attempt is not going to be fruitful or very constructive. But there is a higher sphere of social reform, the adjustments of inequalities between the rich and the poor and there the lawyers can play a great part in bridging these inequalities. Believe me, we can prevent revolution only by steady evolution. If lawyers are going to be content merely arguing cases on the wording of each section there is no future for this country except an economic revolution. But the genius of my country is not revolutionary. In order to prevent a revolution and its consequences, I think that lawyers must come forward with suggestions for readjusting our inequalities on the basis of equal justice for all.

Now, Sir, I want to say another thing and I say it out of full conviction. I have fairly wide experience of public life in this country extending by now to 25 years. I want to claim, not merely as a compliment to this distinguished audience before me, but as I have asserted elsewhere, that the lawyer has got peculiar and unique gifts for politics and public life. Compare him with any other person, for instance, the teacher. He carries out his daily routine duties and all the time his pupils are wondering that such a small head could carry all he knows. Take the doctor. We are all afraid of doctors. We dare not come into touch with them. The doctor prescribes for all. I am a chronic patient and he tells me but for his treatment I would get worse. The ordinary politician is a demagogue, who preaches to, or sometimes at audiences except in recent years when questioning at meetings has become more aggressive. Sometimes, even he has only to face audiences which really despise what he says. Compare all that with your work day after day under the merciless gaze of the press, the public and judges. Of judges, I must and I will speak respectfully; but most judges feel that the lawyers before them ought to be kept in their place and they should not be allowed to say things which they think ought not to be said. Again you have advocates before you appearing for the opposite side and you have to answer them somehow or other and at once seniors and juniors are discussing what you have said, what you have not said, what should have been said, what arguments should have been adduced, in and around the corridors and above all, last but not least, there is the litigant public, present and prospective, present in the court hall. Such surroundings produce in the average lawyer a sense of humility along with a sense of robust self-confidence in himself. I claim for the lawyer that he has acquired these great qualities. He will know his limitations. He will not be arrogant. He will not be put down by anyone. He will have self-

confidence and for a public man no greater virtues are more necessary than humility along with thorough self-confidence.

The art of public speaking, the *sine qua non* of public life, is being exercised from day to day by the lawyers. A quick repartee is a great asset to the politician as well as to the lawyer. The lawyer who could not answer the Bench immediately is no good. He is the best lawyer who can anticipate the arguments of the other side in a particular case and be ready to meet them before they are advanced. In politics also, especially, in the Legislative Assemblies, he is the politician or the public man, who has his arguments and his facts and figures ready to meet his adversaries. So long as democracies continue, so long as assemblies exist, we, as democrats should try to convince others by speech; and I suggest that the talent which you exercise day after day to convince judges and make them accept your position is a good intellectual exercise. All these qualities which are developed in a lawyer are qualities, which are most important in the public life of our country.

On the work of legislation, I want to say that it is a very difficult art. I refer to my experience as a legislator. I have been in the Indian Legislative Assembly as member of Select Committees and as member of the House, and I have taken part in the discussions on the Payment of Wages Bill, the Companies Act Amending Bill, the Insurance Act Amending Bill and the Income Tax Bill. But I have very often grave doubts whether I am doing the right thing. When a Bill is sought to be amended, we have got the Bill, that is the Bill as introduced, and then the Bill as amended by the Select Committee, by substituting, adding or omitting words. Now you try taking the amendment and taking the Bill to understand the meaning as amended. I have tried my best to understand and I hope I have succeeded in most cases. But, I say for the task of legislation, without meaning any offence to my very esteemed colleagues in the Madras Assembly, very few of us are competent to the task of legislation except to vote as the representatives of the people on large questions. We are laymen. While the intricate discussions are going on, three-fourths of the house are either dozing or sleeping excepting a few members of the opposition who take interest and members of the Government Benches who are alert. Let me acknowledge in this connection, as a compliment to lawyers all over India, the invaluable help of Sir N. N. Sircar and my leader, Sjt. Bhulabhai Desai, which cannot be exaggerated. But for the presence of these two eminent lawyers, these laws would have been very different. We are obeying the whips and very often we do not know for what we are voting. The voting must be done in two minutes and before all our partymen know what the amendment is, the division will be over. Be that as it may, I am merely suggesting that legislation is a very difficult art and I want in this matter of legislation the valuable help of lawyers more and more. I personally wish for more members of the legal profession in our Legislative Assemblies, but whether you are

there or not, you should not fail to give your opinions and publish them in the press. I can say that we shall be only too glad to welcome your views and reactions to the proposed bills.

In a parliamentary house, you will find that the Speaker's role is that of a judge. There are some contemporaries, who forget that fact and I will not comment on that fact. The Speaker has got to decide points of order and I want to tell you that in arguing points of order, you argue pure law. There are Standing Orders, there are Acts and there are Rules. As a mere question of law, you must make up your mind and decide. Precedents are not binding on the Speaker, not even his own, and he can give a fresh ruling. I may also tell you that under the Government of India Act, the Speaker's functions are very difficult. Frequently, he has to decide whether what we claim to be Federal Subjects touch the Provincial Subjects and we argue that on any Provincial Subject the Chair ought not to give its ruling.

Lawyers are very necessary in the sphere of modern legislation. Even in democracies, while people agitate for equal rights, the few lead and the many follow and the few that lead are generally lawyers. In British Cabinets, they have always held a very strong place. In the Working Committee of the Congress, even more than half are lawyers. Our opposition in the Assembly consists mainly of lawyers and in the Madras Cabinet too, the lawyers are in a majority. Therefore, let us not be very apologetic about the heritage of lawyers and their contribution to society and public life in this country. When once a law is made, it is interpreted by courts, and even Governments, including Congress Governments must seek the help of the lawyers. If, to-day, the provinces are able to levy a Sales Tax, it is mainly due to the powerful arguments of my eminent friend, who occupies the presidential chair to-day. Even on the Debt Relief Act, I believe that the case for the Government has been placed in such a manner that the judgment will be for the Relief Act as it stands.

Above all, let us remember, in Federation, the Federal Court has got to play a very important role and we have in Sir Maurice Gwyer, a great Judge, a man who is bound to make a distinct contribution to the development of Federation in India and with his colleagues in the Federal Court it is going to be the bulwark of the citizen, of the State and of the Provinces in administering justice.

In a democratic India, there is place for government by the party system, not of course for personal or communal cliques, and lawyers must play their full part in shaping the principles and policies of parties.

To-day, we have read in this morning's papers the victory of General Franco in Spain. The future of international law is indeed very dark. Even there I suggest that lawyers have got a great part to play. The sense of right or wrong is as much essential to nations, as it is to individuals and without the sense of justice, society becomes impossible.

I have shared with you a few thoughts which came to my mind on the nature and relations between law and politics. I beg of you, my friends, to take a continuous and deep interest in the legal aspects of public life and public life generally. Legal and constitutional questions are occupying more of our time. Politics is no longer a game at odd hours. It exacts 24 hours in a day, for 52 weeks in the year. Therefore I hope that as a result of my talk with you, at least the younger among you may take some cheer and hope. At any rate, you may count upon me as a friend of the lawyer, a man who believes that the lawyers have made a signal contribution to the public life and I trust that they will make even a more striking contribution to the public life of a free and self-governing India.

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CHAIRMAN'S CONCLUDING REMARKS

As is to be expected, we have listened to a most interesting and instructive discourse upon the place of lawyers in society. Within the space of less than an hour, our esteemed friend has travelled over a very wide field, and has expatiated on topics which are worthy of our serious consideration.

The central problem which he has dealt with in the course of his address is a continuous adjustment between law and politics. Law cannot be static if society is to be dynamic. Law must change with the times while it is also to be a great preservator of society and that is much more important in a democratic state as the learned lecturer has pointed out, than in any other state. There is so much of cry to-day about Fascism and Dictatorship striking at the foundations of liberty and conceptions of liberty which we have held sacred for a very long time. If we are to be true to that conception, we must also remember that the enfranchised many are not likely to rest content unless there is economic readjustment following upon the new privileges that have been conferred upon the many. It is unreasonable to expect the man in the street to exercise his franchise and trust himself to fate. He would necessarily demand that the present system of economic distribution must undergo a thorough examination. Therefore, it behoves us, lawyers, to think to some extent in terms of modern social and economic conditions. There is the danger also of the lawyer running to the other extreme and trying to put forward theories which we have never heard of before. In the course of legal history you know very well that an attack has been levelled against lawyers from the days of Bentham that the lawyer has not stood in the vanguard of reform. There is a tendency in the lawyer, it is said, to think too much in terms of the past, too little in terms of the present and very little in terms of the future. In recent times the lawyer has retrieved his position, and as our distinguished lecturer has pointed out, he has taken a notable part in sponsoring legislation which is sure to alleviate the conditions of the masses of the country. Whether a particular solution in any particular case appeals to other lawyers or not, it certainly redounds to the credit of the legal profession that the people who are sponsoring legal reforms are lawyers themselves. A lawyer who is sponsoring measures of legal reform in the councils of the country would be estopped from saying that the lawyer at the present day is not in the vanguard of social reform.

My esteemed friend also referred to several topics in the course of his very interesting lecture, and the great part which the lawyer has played in the past in the building up of the national structure of this country. The great Presidents of the Congress and the men who have been in the vanguard of political freedom were most of them lawyers.

It may be that the time comes when the lawyer must be willing to part with power and rest content with merely being an educator of the populace and of democracy. In times ahead, it is likely that the profession so far as numbers go, may not be in a position to claim the same strength in the Legislative Assemblies as in the past. But the lawyer must train himself to think in terms of society and not merely in terms of Year Books and in terms of Case law over-ruled or not over-ruled. That is the substance, as I understand, of the interesting and instructive address of our friend.

Our friend has given his best to the service of this country. We have only to go to Delhi, and meet the Government members to realise how much he is feared by members of the Government particularly at question time. I have therefore great pleasure in commending the lecture to this distinguished audience here, and I have no doubt we will have in future more Satyamurthis in this assembly who will make a genuine contribution to the public life of the country while at the same time distinguishing themselves in the profession of which they are members.

Mr. K. Krishnaswami Iyengar, Secretary of the Advocates' Association proposed a hearty vote of thanks to Mr. Satyamurthi and to Sir Alladi Krishnaswami Iyer.

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With A Foreword by
HON. SIR B. L. MITTER

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LECTURE III

'LAW AND RELIGION'

MR. JUSTICE S. VARADACHARIAR

CHAIRMAN: HON'BLE MR. C. RAJAGOPALACHARIAR
Minister.

"Law and Religion" was the subject of a lecture delivered, on Tuesday the 31st January by the Hon. Rao Bahadur S. Varadachariar at the Advocates' Association premises in connection with the Golden Jubilee celebrations of the Association. The Hon. Mr. C. Rajagopalachari, Prime Minister, presided on the occasion. The hall was packed to its utmost capacity with advocates and law students.

Mr. K. Krishnaswami Iyengar, on behalf of the Association, extended a welcome to the Premier, Mr. Varadachariar and other guests, and offered hearty felicitations to Mr. B. Somayya on his elevation to the Bench. He was glad that the Government and the Secretary of State had responded to the resolution passed some time back by the Association that an Indian Advocate should be appointed to succeed Sir C. Madhavan Nair on his retirement. The Association was hopeful that before its next meeting, it would have the opportunity of extending similar felicitations to another gentleman from Madras on his elevation to the Federal Bench.

CHAIRMAN'S OPENING SPEECH

Hon. Mr. Rajagopalachariar expressed his pleasure at being able to be present in their midst on the occasion of what they appreciated as an announcement of good news and he added his own felicitations to those of the Advocates to Mr. Somayya. Referring to Mr. Krishnaswami Iyengar's expectation of more good news, the Prime Minister said that he was one of those who believed that it was always better to expect little so that the fulfilment might in proportion bring greater joy. It was best not to expect anything until the announcement was made which would please them.

Mr. Varadachari was one of whose capacity and fitness for handling the subject of the evening those assembled had personal knowledge unlike himself who had knowledge of him by repute. He did not think

there was any other among them who could lay equal claim to both Law and Religion as Mr. Varadachari could. And he wondered why he (Mr. Rajagopalachariar) had been chosen to preside over the meeting.

THE HON'BLE MR. JUSTICE S. VARADACHARIAR

The subject of this lecture is not only a topic of historical and theoretical interest, but also one of some practical importance at the present day. Many a well-meaning reformer in this country attempts to seek the aid of the legislature to quicken the pace of reform. Such attempts are sometimes opposed as endangering religion. A dispassionate study of the relation between law and religion is thus of more than academic interest. It is however necessary to recognise, at the outset, that the matter is one on which there is likely to be honest difference of opinion.

The word "Religion" has been used and understood in different senses, and in the present discussion, I refer to religion in the sense of a faith in an unseen Power which controls the destinies of mankind, and whose existence, powers and commands are unknowable except through some kind of revelation. The inter-relation between Law and Religion has arisen or has persisted in many ways and from many causes. The belief of any community as to the origin of law, the theories prevalent in the community as to the origin and functions of the State, the ideas accepted by that community as to the meaning and purpose of life, the sanctions by which social duties were or had to be enforced in the community, the classes or authorities who were the repositories of legal knowledge and were responsible for the development of law and the tribunals by which justice was administered,—these are the principal factors to be considered in this connection. Religion not merely consists of a bundle of creeds and dogmas but inculcates a particular way of life arising out of and consistent with its philosophy as to the meaning of life. In so far as that way of life involves theories as to man's duties to himself and to his fellowmen, these theories must profoundly influence the concepts underlying the system of law by which its followers govern themselves. A vague religiosity or a mere sentiment of religion without a definite philosophy of life is hardly likely to have much influence on man's social behaviour.

The conception of law has undergone change from stage to stage of human history. We have been so used to the Austinian conception that we are apt to forget its limitations and historical contradictions. A study of the works of the historical and comparative schools of jurisprudence will be a useful corrective to this tendency. Vicissitudes of political history in different parts of the world brought in their trail radical changes in some places in the connection between Law and Religion. In the West, the separation between Law, Religion and Morals, between the Church and the State, between legal tribunals and ecclesiastical

tribunals proceeded apace. The history of the East was different. There can be little doubt as to the necessity and advantage of a certain degree of separation between religion and law. The growing secularisation of life, the necessity for administering and enforcing the law through temporal tribunals with the aid of temporal sanctions and the inevitability in modern conditions of legislation by temporal authority emphasise the need for such separation. This, however, is different from postulating the divorce of law from religion. The author of the *Sukra Niti* observed that a minister should recommend to the King the enactment of laws calculated to secure happiness both here and hereafter. With this might be compared the statement of a recent western writer that a scientific statesman who would attempt to prescribe codes for human conduct without regard to the religious nature of man was as likely to fail as the religious reformer who prescribed codes without regard to human nature.

INTER-RELATION OF LAW AND RELIGION.

The intimate connection between religion and law, was a characteristic of the early stages of many systems of law. Among the Hebrews the connection between the two will be evident from the Pentateuch. Even in the case of systems like the Roman and the English, which in their advanced stages have been held up as models for the world, the inter-relation between law and religion in the earlier stage has been recognised, and traces of the influence of religion on law are still to be found in some branches of the English law, especially those relating to marriage and descent of property, wills, etc. Among the Mahomedans, the *Qur'an* and the sayings of the Prophet are regarded as authoritative sources of law. Among the Hindus, the *Vedas* and *Smritis* form living sources of law and the connection between religion and law had continued so long as to form almost a ground for condemnation of the Hindu Law according to one school of thought.

It will be scarcely possible to deal with the historical aspects of the subject within the limits of this lecture. Some aspects have been dealt with by Sir Henry Maine in several of his lectures. One lecture reprinted in "Early Law and Custom" bears the very title of to-day's lecture. Interesting and historical information will also be found in Pollock and Maitland's "History of the English Law." The development of Mahomedan Jurisprudence has been described by Sir Abdur Rahim in his Tagore Law Lectures. There are many who think that some of Maine's theories cannot be accepted as universally true and that others require to be qualified. Some of Maine's observations about the Hindu Law it would be impossible to accept as fair or correct. He seemed to regard the Hindu Law as full of "monstrous iniquities" and as having been "perverted in different directions by the priestly class." Such observations, I venture to think, can be the result only of imperfect

acquaintance with Hindu Law books as only very few were available to Maine in those days. It was further not easy for a European critic to view these books with a sympathetic imagination. Maine also seems to me now and then to have yielded to a temptation to enunciate neat antithetical propositions by way of contrasting the Hindu Law with the Roman Law of which he was a great admirer. For this reason and also on the ground that the history of the Hindu Law, its present condition and the lines of its future development are of more direct interest to us here, I propose to devote the rest of this lecture to the relation of Law and Religion in that system.

It is common knowledge that the *Vedas* and the *Smritis* are held to be inspired sources of Hindu Law. Though these are regarded as embodying the portion ordinarily referred to as *Vyavahara*, it will be scarcely right to think that Hindu scholars treat every statement in the *Vedas* or the *Smritis* as standing on the same footing as every other statement. It is the misconception on this point that has led to erroneous ideas about the unalterability even of the *Vyavahara* portion of Hindu Law. The Mimamsa School has made an attempt to analyse the various portions of the *Vedas* under different categories, such as statements embodying *Vidhi* and *Nisheda* and statements in the nature of *Arthavada* and *Anuvada*. It is only portions classified as *Vidhi* or *Nisheda* which are unquestionable and unalterable. In regard to the others, even the orthodox school recognises that they are not equally authoritative as *Vidhi* and *Nisheda* portions. Sankara found no difficulty in putting aside not merely *Purvakandas*, but even considerable portions of the *Upanishads* as being only in the nature of *Arthavada*. The author of the *Smriti Chandrika* has stated in one place that all directions contained in the *Smritis* with reference to *Vyavahara* are in the nature of *Anuvada*. (Ch. 1, Pl. 27.)

Numerous passages are to be found in the Sanskrit authorities suggesting some kind of 'compact' (if not contract) in relation to political society but in the main the Hindu theory of the state was monarchical. The king was the gift and the representative of God: but the Hindu conception of the divine origin of kings was very different from the theory of the Divine Right of kings prevalent in Western countries. The Hindu concept never placed the king above the law in the sense in which the Divine Right theory did. It was never the Hindu theory that the king could change the law as he pleased. He was merely expected to enforce law. That accounted for the great difficulty that later Hindu lawyers felt in changing Hindu Law even where they felt re-adjustments necessary to meet changing conditions.

In the theocratic State the king was responsible for the due observance by his subjects not only of the precepts of law but also of the precepts of religion. This accounted for and helped the intermingling of civil and religious duties and temporal and religious sanctions.

In regard to the scope and purpose of law there is a difference between present-day concepts and earlier ones. Separation of Law, Religion and Morals is much more characteristic of modern thought than it was of ancient thought and life. There is no word in the Sanskrit language which has the same connotation as the word 'Law.' The Hindu conception of *Dharma* represented obligations and duties prescribed by the *Shastras* for man's conduct in life as much towards God as towards his parents, wife and children, brothers and sisters, king and fellow-men. In the earlier *smritis*, these obligations were discussed together and it was only the later *smriti-kartas* that made the differentiation between *Achara*, *Vyavahara* and *Prayaschitta*.

Comparatively scanty information is available as to the kind of judicial system that was in vogue in ancient India. There are no doubt elaborate descriptions in Manu and Kautilya about courts of law, but except some kind of arrest and suretyship for the performance of the decrees of court, there is very little information as to the way in which decisions of courts, for instance, were enforced in those days. As regards procedure, they seemed to have to some extent employed the system of examining witnesses. Whether there was appreciation of evidence in the modern sense, or whether evidence was weighed by the number of witnesses on either side, or whether a tribunal depended on its own knowledge of the details of a case, it is not easy to determine. But one thing is certain; judges, parties and witnesses all were in fear of lying and they proceeded on the footing that the oath had some value. Hindu theory always associated a *drishta-phala* and an *adrishta-phala* with every act of man; hence the recognition of religious sanctions even for civil duties. That at one stage religious sanctions must have been found on the whole effective even in enforcing civil duties can scarcely admit of much doubt. I am free to own that I entertain grave apprehensions as to the efficacy of temporal sanctions in these days; for temporal sanctions so far known to man seem to be losing their force. Imprisonment for debt has practically been abolished. The facilities afforded by the Insolvency Laws are freely availed of by debtors to benefit themselves at the expense of their creditors. The oath or affirmation administered to witnesses by our courts does not seem to ensure truthfulness. Even imprisonment for crime has no value as a deterrent. Modern criminology has indeed little place for *sanctions*; it only seeks to correct or reform the criminal.

As regards the tribunals that administered law in ancient days, we find that panchayats existed from ancient days. I cannot say much as to its being of Dravidian or other origin, but there was certainly the analogue of the panchayat in the *Dharma Shastras*. Whatever a man did was assumed to be done—that was clear from the Hindu's *sankalpa* before beginning any act—in the presence of a *parishad* with a personality distinct from that of the individuals composing it. The *parishad*

was assumed to be one of learned, at any rate honest, men and whether it was concerned with a civil dispute or a *prayaschitta* or other ceremony, the influence of a *parishad* was there and was felt. The idea of a judge distinct from the jury does not appear to have emerged very clearly in the ancient Hindu legal system. In some books there were references to appeals to and administration of justice by the King. But one could not gather that all this was of such a nature as to promote a system of law as such. It was not until there came into existence some kind of centralised empire and centralised administration of justice that there could be anything like the development of a scientific system of law in the modern sense.

HOW CHANGES WERE EFFECTED.

As I have already stated, law according to the Hindu conception was not considered as something which a king or other temporal authority could alter. It was only on the lines suggested, *viz.*, of classification into *Vidhi* and *Nisheda* or *Arthavada* and *Anuvada* that they could at all bring it within the power of commentators to make changes by either attempting a reconciliation of different texts or laying emphasis on one or the other of the texts, or by emphasising the theory of *Anuvada* so as to say that even what was stated in the sacred books might be changed, or by insisting that law was after all worldly and should, therefore, every now and then be brought into conformity with practices and conditions prevailing in the country. In the *Mitakshara*, for instance, there is a definite statement to the effect that, notwithstanding the *Vedas* authorising or insisting upon a particular act, nothing abhorrent to the ideas of the world should be done. (*See* Ch. I. S. 3, Pl. 4.). It was by such processes of interpretation that changes of law had to be attempted.

The *Nibandha* works come into more modern history. The attempt to find out what exactly was the state of society in the days of Manu must, largely be speculative. But the view of many European writers that the state of society described by Manu must be something in the nature of an ideal society was a mistaken one. No fair-minded reader could say that the twelve classes of sons or the eight kinds of marriages, the numerous kinds of inter-marriage, the classification of descendants of such marriages or similar other provisions of the Code could be deemed to represent an imaginary state of affairs. A close study would show that what was stated therein was a set of facts that prevailed at the time, though the preferences indicated showed really what the *smritikarta*, would suggest as the better course. The most important point to remember in following the changes in law was that far from religion, or religious ideas having ever put back legal ideas, it was under colour of religion that the best advance was made so far as Hindu Law was concerned. The way in which the law-givers of those days brought about a change from the unapproved forms of marriage to approved forms of marriage

was by insisting that wives taken in the unapproved forms of marriage were unfit to participate in religious ceremonies. Many other reforms in law were effected by appealing to religious considerations. For instance, the way in which polygamy was discouraged by the *smritis* was by a refusal to accord a status for purposes of religious ceremonials to any wife, other than the first. Much the same process was adopted to supersede the subsidiary sons, except the Dattaka. Religion was thus the one sanction and an effective sanction that law employed in its own amelioration. In view of all this, the criticism that

"In the East, the religious oligarchy, with a view to increasing and consolidating its own influence presented to the world a code, not so much of rules actually observed as of rules which the priestly order considered to be proper to be observed,"

betrays utter ignorance of the history of the *Dharma Shastras*. In the very beginning of the *Sutras of Apastamba*, there is a reference to *Samayacharika*, rules derived from the practice of the world and of the community. This showed the factor that largely influenced the contents of the *Sutras*.

As to the familiar diatribe against the priestly order, I am compelled to say that it rests on an imperfect knowledge of the standard of life that the *Dharma Shastras* insisted on for the members of that order. If that standard has not always been lived up to, it is not the fault of the *Dharma Shastras* or of the founders of the system contemplated by them. I cannot do better than invite a comparison between the conception of that order as developed in the *Smritis* and Plato's concept of the philosopher-statesman. The idea underlying both conceptions is that there should be a class of citizens:

"Who shall have no wealth, want no wealth, take no interest in wealth, but live entirely for other things: their physical needs shall be supplied by a lower class of functionaries who shall go on desiring wealth and working for rewards of wealth". (E. J. Urwick, *The Social Good*.)

The period from the ninth or tenth century to the seventeenth or early eighteenth century may roughly be taken as the era of the appearance and growth of the *Nibandha* works. The different commentators who flourished in different parts of India reflected in their works the ideas and conditions prevailing in their respective parts of the country at or about the time that they lived and wrote. One must remember the history of the times in which they lived, when estimating their work or passing opinions about them. Otherwise, one is apt to be carried away by the criticism that, "In Europe the thirteenth century marks the beginning of the ascending movement; in India it was the beginning of the dark ages." Even great empires like Vijayanagar, despite their glory and splendour, did not achieve anything like a judicial system that could at all compare with modern ones. In many parts of

India there was Moslem rule. So far as Hindu law was concerned, there does not appear to have been much of State administration of the Hindu law, though some of the well-known commentators seem to have been in some way associated with particular rulers. The administration of justice must, in all probability, have been the work mainly of panchayats. In such conditions, it was impossible to expect anything like an ordered development of legal administration or of systems of law and jurisprudence. It was therefore to the greater credit of the commentators that they did so much, in spite of adverse circumstances, to keep up a continuous attempt to adjust the law to changing conditions and to dissociate civil law as far as possible from religious observances. They did not and could not altogether turn away from the ideas deeply rooted in the system. But, consistently with those ideas, they tried their best to develop a kind of jurisprudence which could stand comparison with any of the corresponding age in other countries.

So far as I have read and understood the Hindu law books, I have found no basis for the charge that the priestly classes stood to benefit by the changes that were made for ill or well in the Hindu law. I can understand the priestly class being interested in the *prayaschitta* and *achara kandas*. But I have never been able to understand the remark so frequently made by the people of the West, and repeated by others here also, that it was for the purpose of consolidating its influence and augmenting its emoluments that the priestly class subordinated the interests of the Hindu law to its own interests. I have, for instance, found it sometimes stated that the priestly classes encouraged partition, because after partition each of the divided coparceners has separately to perform the *Shradha* of his parents and this increased the gifts to the priestly classes. This seems to me, even if true, to amount to no more than the remark that one sometimes hears that lawyers are interested in the institution or multiplication of partition suits. It may be regrettable if this is so; but it has no bearing on the development of the law itself. It only helps the tendency latent in human nature to prefer the individual advantage of the coparcener to the corporate benefit of the joint family. After all, few of our critics seem to be enamoured of the joint family system and one wonders why they should blame the priestly classes for the breakdown of the joint family system. On the other hand, it has sometimes been pointed out, in explanation of the *Dayabhaga* system, that it was the exigencies of growing trade and business that led to the earlier disappearance of joint ownership of property in Bengal. In one place, Sir Henry Maine observes that by connecting the ownership of property with the performance of funeral rites, Hindu jurists became more and more reluctant to place property in the hands of women; but when he came to deal with the texts recognising the rights of inheritance of women and heirs descended through women, he would not give credit to the authors for more liberal ideas but would

prefer to attribute these texts to the desire of sacerdotal lawyers to multiply the number of persons from whom they could receive presents by extending to them the privilege of offering sacrifices or *pindas*. Against such prejudice, there is, of course, no arguing.

One service that the author of the *Mitakshara* rendered to the Hindu law was to dissociate religious considerations from civil law as far as possible. This is clear from his definition of *Daya* and from his scheme of inheritance. By a long disquisition at the commencement of the chapter on partition, Vignaneswara seeks to establish that the conception of property is of secular origin, though property may have its use in the performance of religious rites and sacrifices. He defines *Daya* as wealth which becomes the property of another *solely* by reason of relation to another. With this may be compared the definition given by Jimutavahana, according to whom *Daya* is wealth in which property dependent on relation to the former owner arises *on the demise of that owner*. The latter definition better accords with modern ideas of inheritance; but the author of the *Mitakshara* did not treat *Daya* as identical with "inheritance," because in the case of inheritance properly so called, the propositus will ordinarily be the full owner—this is the Bengal theory—whereas, according to the *Mitakshara*, the ownership of the propositus has in some cases to be qualified by the recognition of the son's right by birth even during the father's life time. Death of the propositus is not, according to Vignaneswara, the *origin* of the successor's right, but only the removal of an obstacle (*pratibandha*) in his way. Hence his classification of *Daya* into *apratibandha* and *sapratibandha* (unobstructed and obstructed). What is important in the present connection is that by thus dissociating death from the definition of *Daya*, and ascribing *Daya* to relationship, he was able to carry the principle of secularisation further, so that when he came to the law of inheritance he could wholly base it on the doctrine of consanguinity as distinguished from the theory of spiritual benefit. The *Smritis* had enumerated the heirs specifically only up to the end of what is known as the "compact series," that is, up to the brother's sons. Beyond this followed the two groups of *Gotraja* and *Bandhu*, and in fixing the order of succession amongst heirs falling within these groups, Vignaneswara has given full scope to his doctrine of "consanguinity." There can be little doubt that "consanguinity," as the basis of the right to inheritance, is more in accordance with modern ideas than the theory of spiritual benefit.

Even in the *Dayabhaga*, there was some attempt to dissociate religion from civil law; Jimutavahana's doctrine of "Factum Valet" is of special significance in this connection. Even where he brought in arguments based on religious efficacy, he seems to have done so, not out of a desire to make Hindu law more archaic, but with a view to advance it and liberalise it, with the aid of the accepted religious notions. In

this way, he succeeded in making the father absolute owner even of property inherited by him from his father, in making brothers tenants in common of property inherited from their father and in improving the chances of succession of women and of *Bandhus*, bringing in some *Bandhus* even before *Gotraja Sapindas*.

The one charge that has to be made against the author of the *Dayabhaga* is in respect of the nature of the estate which he accorded to women in his scheme of inheritance. In this matter the *Dayabhaga* and the *Mitakshara* differ. Vignaneswara was prepared to treat property inherited by a woman as her *Stridhana*, but Jimutavahana was not prepared to do so and insisted on the "reverter" of the estate to the heirs of the last male owner, treating the woman's succession as a mere interposition. It is unfortunate that the Privy Council preferred Jimutavahana's views to those of the author of the *Mitakshara* in this matter, even so far as some of the areas governed by the *Mitakshara* are concerned. If the trend of development appearing in the *Mitakshara* and other works following it had been allowed to grow in the ordinary course, there is no reason to think that Hindu law would not have reached a plane of development comparable, if not superior, to modern legal systems. Take, for instance, what is now known as the Bombay School. The author of the *Mayukha* found no difficulty in reconciling the Hindu law texts with more liberal views as to the rights of women. (See also the work of *Balambhatta*). In Bombay, scholars are now attempting to compile a work known as the *Dharma Kosa*, arranging therein under various heads, all relevant extracts from the earliest *Smritis* and even from the Vedas to the latest commentaries—a bird's eye-view of Hindu law, as it were, under given headings. This work, when completed would help to give one a clear idea of the evolution of Hindu law from time to time. It is the absence of facilities for a study of that kind that has led to a great deal of misconception about the Hindu law.

The prevalent misconception about the attitude of the Hindu law towards women compels me to make more than a passing reference to that topic. About fifty years ago, Sir Gurudas Banerji observed (in his Tagore Law Lectures):

"Nowhere are proprietary rights of women recognised so early as in India and in very few ancient systems of law have these rights been so largely conceded as in our own."

Strangely enough, it was about the same time that Sir Henry Maine spoke of the excessive harshness of the Hindu law to the personal and proprietary liberty of women and he referred to the sustained effort on the part of the Brahminical writers on mixed law and religion to limit the privileges of women which they seem to have found recognised by older authorities. In another connection, Maine stated that the Hindu law as to *Stridhana* has undergone progressive deterioration. Even in

our days, it is not uncommon to hear it said that women have been treated as chattels under the Hindu law. A familiar couplet पिता रक्षति कौमारे भर्ता रक्षति यौवने । पुत्रश्च स्थाविरे भावे न स्त्री स्वातन्त्र्यमर्हति ॥ (the father protects her when she is young, the husband when she has grown up and the son when she has become old. Women do not deserve to be independent) has frequently been relied on as justifying much of the above criticism. It is not in my province this evening to discuss the problem of the social, economic or cultural position of women in Hindu society. I am concerned only with the legal aspect of the question. But to those who lay undue emphasis on the above *shloka* I must point out that it should be understood as part of a system which by its Upanishads taught the student to treat his mother as divine. [मातृ देवा भव] Even the much maligned Manu has laid down that women must be honoured, that where they are not honoured no sacred rite yields rewards, that where the female relations live in grief, the family soon perishes and that men who seek welfare should honour women. (Manu—Buhler's Translation III, 55 to 59.) For the moment, I propose to restrict myself to the significance of the term *Swatantrya* as it is of importance not merely in dealing with the social aspect above referred to but also in the legal aspect, and as I am of opinion that the omission to appreciate the distinction between *Swamya* (ownership) and *Swatantrya* (dominion or power of independent disposition) is responsible for much of the misapprehension about the attitude of the Hindu law towards women. The modern conception of ownership includes, besides the notion of proprietary right, the elements of (1) the right to transmit the property to the heirs of the owner and (2) the power of unlimited disposition. The Hindu law conception of ownership was different; according to it, *Swamya* did not always imply *Swatantrya*. Not merely was this distinction kept up in the case of women, but it was equally important in the *Mitakshara* scheme as to the rights of the father in a Hindu joint family. By a system of checks and balances, Vignaneswara postulated the equal ownership of the sons in the ancestral property of the father, but recognised limited powers of disposition over the joint property only in the father. None of the joint owners had, according to him, an unlimited power of disposition; it is indeed doubtful if he at all contemplated a transfer of the undivided share by any coparcener. It is remarkable that even in the case of the self-acquired property of the father, the sons had, according to the *Mitakshara*, a kind of ownership during the father's lifetime and though the sons could not interdict a disposition of the same by the father, the latter was nevertheless directed not to dispose even of his self-acquired immovable property unnecessarily or to the prejudice of his sons. It is in the light of this peculiarity of the Hindu law conception as to ownership, especially of immovable property, that the Hindu law relating to the rights of women should be appraised.

It will be convenient to consider the subject under four heads: (1) woman's power to acquire or own property; (2) her power to inherit

property ; (3) her power to transmit it to her own heirs ; and (4) her power to dispose of property. Whatever might have been the position in the pre-Smṛiti days, even the earliest Smṛitis deal with *Stridhana* as a well-known category, thus recognising the woman's right to acquire or own property. Even as regards her right to inherit, I am not aware of any Smṛiti which in terms excludes a woman from succession on the ground of her sex. On the other hand, the earliest texts recognise in specific terms the right of inheritance of at least some women, namely, the widow, the daughter and the mother. As regards the heritability of a woman's property, the law relating to *Stridhana* clearly recognised that a woman might be a fresh stock of descent but, notwithstanding the elaborate description of the several kinds of *Stridhana*, the earliest Smṛitis did not expressly deal with the succession to property inherited by a woman. They did not in terms state the later doctrine of "limited estate" or "reverter." It must also be remembered in this connection that even in the case of *Stridhana*, the property devolved (except in the case of unapproved marriages) on the husband's heirs in default of certain descendants of the woman, whether male or female. It is thus nothing strange that the early Smṛitis did not attach the same importance as the commentators did to the question whether in respect of property inherited by a woman, she was herself to be treated as a stock of descent or not. As I have already observed, the author of the *Mitakshara* and some other writers who followed him were prepared to treat her as a stock of descent even in respect of property inherited by her. But it is the *Dayabhaga* school that insisted on the theory of "limited estate" and the doctrine of "reverter". As pointed out by Mr. Golap Chandra Sarkar, there was, even apart from the doctrine of the inferiority of the spiritual benefit conferred by a woman, justification for Jimutavahana insisting on the theory of reverter. According to his system, a widow or daughter inherited her husband's or father's share even in joint family property, because he did not recognise the theory of survivorship. It was, therefore, natural for the other members of the family to feel that in default of certain kinds of issue, the share in joint family property thus inherited by the widow or daughter should not pass out of their family. It will thus be seen that so far as these three heads are concerned, there is little justification for the criticism that the Hindu law has been opposed to the rights of women. When we come to their powers of disposition, the distinction already pointed out between *Swamya* and *Swatantrya* is of special importance ; and it must be borne in mind that even in respect of *Stridhana* property, the Hindu law texts did not give an unrestricted power of disposition to a woman.

A further source of misconception has been to regard the Hindu law respecting the rights of *widows* as typical of the Hindu law relating to women. The decisions of the Judicial Committee are to some extent responsible for this view ; but this is not consistent with the true spirit of the Hindu law. Its provisions relating to the *widow* were to some

extent coloured by the Hindu view as to the kind of ascetic life that a widow was expected to lead ; it was unfair to generalise therefrom as regards the position of all Hindu women. The misconception above referred to was in some early decisions carried so far as to hold that a gift to any Hindu woman, even if it be, for instance, to a daughter or mother or sister, would *prima facie* convey only a limited estate ; and it was only later recognised that there was no justification for any such presumption except in the case of gifts to a widow. It is a curious feature of legal history that while the Hindu law imposed disabilities on the widow, the law of mediæval Europe and even of modern Europe till comparatively recent times imposed disabilities on married women during coverture. Sir Henry Maine recognised that Christianity introduced a reaction against the liberalism of the later Roman law as to the personal and proprietary independence of women. How different the position was in India may be seen from the fact that not merely in the law books but even in the *Mimamsa* works, there is a distinct recognition of the equality of ownership of both husband and wife in the property of the *husband*. It is on this ground that in sacrifices it was insisted that both husband and wife should join, as otherwise the *Swatwa Nivritti* (that is, the extinction of the donor's ownership) in the sacrificial offering will not be complete. The legal position is thus stated in the *Smṛiti-Chandrika*.

"It must be understood that in a husband's property the wife by reason of her marriage always possesses ownership though not of an independent character, but that the husband does not possess even such ownership in his wife's property." (Chapter IX, S. 2, pl. 14.)

Lower down, the author observes (in pl. 16) that :

"Sons and the like possess no ownership whatever over the *Stridhana* of their mother. Hence it is settled that there is no partition of *Stridhana* during the lifetime of the woman."

I do not forget that a few Sanskrit writers have attempted to restrict the rights of women within narrow limits and even sought to exclude them as covered by the term *Nirindriya* in the text of exclusion. But I see no justification for treating them as representing the Hindu law in preference to a writer like Vignaneswara and his successors.

Before an audience of lawyers I do not propose to expatiate on the present state of the Hindu law. The result of a century's administration of the Hindu law by the British Indian Courts has been such that if to-day one of the Smṛiti *Kartas* should come back to life he would hardly recognise in the present Hindu law anything like what he gave to Hindu society. What is now administered as Hindu law in this country is neither the law of the Smṛitis and the *Nibandhas* nor one wholly based on principles of reason, utility or equity. In *Mohori Bibi's case*, [(1903) L. R. 30 I. A. 114 : I. L. R. 30 Cal. 539 (P. C.)] the Judicial Committee recognised that there could be no equity in favour

of a person dealing with one who had no power to borrow or sell. But it is the application of some principle of equity in favour of mortgagees and purchasers that has made the Hindu law relating to joint families anomalous and illogical. We have, further, one rule of law for voluntary alienations and another rule for involuntary alienations, in the *Mitakshara* as administered in Bengal and in the United Provinces. We have interesting problems as to whether the transferee from a coparcener acquires a *jus in rem* or a *jus in personam*, whether the interest transferred becomes fixed or is variable with death and births in the family and whether the transferring coparcener ceases to be a coparcener or not. The introduction into law of the theory of "pious obligations" is another source of confusion; and we have had conflicting and indeed irreconcilable pronouncements as to antecedent debts, trade debts and so on. The humorous part of the situation arising out of the enforcement of the son's pious obligation to pay his father's debt is that even when the son has no objection to the father going to Hell and the father is quite ready to go there rather than pay his debt, it is the creditor who has to pretend to be anxious about the father's salvation and accordingly ask the Court to enforce payment of the debt out of the property of the joint family. These illustrations will suffice to show the truth of the criticism of Sir James Stephen that judicial legislation in India has much more of the drawbacks of that kind of law than similar growth elsewhere, because it is in the long run legislation by foreigners who are under the thralldom of precedents and analogies belonging to a foreign law.

That the scheme of inheritance under the Hindu law requires radical changes to bring it into line with modern needs and ideas is scarcely likely to be disputed, though there may be differences of opinion as to the changes to be introduced. The rationalistic principle of inheritance is that the law of intestate succession should, as far as possible, correspond to the probable sentiments of the propositus as to the objects of his bounty and the expectations that may be reasonably entertained by certain of his near relations of help from his estate. Whatever might have been said in justification of the Hindu table of inheritance in relation to times when the grouping of relations who lived together or in close proximity was different and when there was a living social tie even as between remote relations, the position has now become entirely different.

Since the spontaneous development of Hindu law has been prevented by external causes, the remedy as well as stimulus for further development has to come from external sources. Legislation is now the recognised method of improving any system of law that has ceased to advance with the times. I have endeavoured above to show that the *Vyavahara* portion of the *Smritis*—certainly so much as relates to the law of property—is recognised by the Hindu lawyers themselves to be

secular and as such capable of readjustment from time to time. But a system which was the result of a long historical development cannot be reconstructed at pleasure or in a moment. Legislation should not be inspired by a mere spirit of reaction from existing evils or a revolt against traditional ideas. Undue stress ought not to be laid on the purpose to be immediately achieved. More heed should be paid to lasting ideals of justice and morals:—

"The task of the legislator is a study of social facts by way of diagnosis and prescription not according to *a priori* formulæ but according to the requirements of the social disease."

Correction of one evil should not be allowed to lead to some other unwelcome by-product. There must be a clear grasp of the end desired and ascertainment after careful investigation of the best means of attaining it. The mere fact that a proposal seemed to offer a present or immediate advantage should not lead one to support it without due consideration of its possible conflict with the wisdom of the past or its possible effects in the future.

Take, for instance, the familiar case of attempts to redress injustices to women in respect of rights of inheritance. The latest proposal was to give an absolute estate to the widow in the whole of her husband's property. The reformers have no objection to making the father and the mother of the propositus helpless, driving them to seek maintenance at the hands of the widow. It is common knowledge that where a Hindu widow takes her husband's property, she is almost invariably persuaded to give it away to her relations in the family of her birth. How could she be expected to have sympathy for a step-daughter or towards other near relations of the husband in preference to her parents and brothers? But can it be said that the step-daughter and other near relations of the husband had no reasonable claim on the bounty of the deceased? My objection is not to a liberal treatment of the widow, but to the attempt to achieve this object by tinkering with one bit of the law.

In existing circumstances piecemeal legislation may be unavoidable, during the transition stage; but the proposed legislation should be conceived as part of a logical and comprehensive scheme to be introduced in due course. If people are anxious to make the Hindu law of inheritance logical and perfect, they must put aside the theory of the "nearer excluding the more remote" among the heirs and go in for a scheme of *distribution* of the property of the deceased among different groups of heirs, as under the English Statute of distributions or the Indian Succession Act. I decline to believe that any Hindu would prefer to give away all his property to his widow and leave his mother, father, daughter and other near relations to starve. Inheritance may be limited to a narrow circle of near relatives. Escheat in default of such relatives would be quite in accordance with the views of advanced thinkers like Bentham, Mill and Sedgwick and would give definite advantage to the

public exchequer. Hard cases ought not to make bad law, whether in the administration of justice or in legislation. After all, the idea of *distribution* is not unknown to the *Dharma Sastras*, for at one stage of the developmet of the Hindu law, partition consisted of a "distribution" of the estate of the father between sons, daughters and the mother.

Marriage is another question in regard to which liberal changes are being attempted. According to the Hindu conception, marriage is a *samskara* or a sacrament and is intimately connected with the religious rites to be performed by the spouses in their later life. I can understand liberal changes being made in regard to civil marriages and I see no objection to people being allowed freer recourse to civil marriage laws. But those who wish to conform to the sacramental form of marriage should not go in for radical departures from the prescribed rules. The Hindu law books have dealt with marriage under the head of *Acharya* and not as part of *Vyavahara*. It has been observed by a Western writer that

"Instinct marriage, emotion marriage and intellect marriage has each its dangers and the problem is how to work out a synthesis of the three component parts."

The traditional ideals associated with the hallowed names of Sita and Savitri seem to me too sacred to be lightly disturbed—at least before society has definitely decided what ideals are to be substituted in its place. It seems scarcely fair that in respect of an institution of such vital importance, the method of "trial and error" should be advocated.

So far as adoption is concerned, it is necessary that the spiritual aspect of it should be dissociated from its civil aspect. There is no reason why the law of adoption should not be made more logical and all the quibbling about "divesting" be put an end to. The decisions of the Judicial Committee in *Bhoobun Moyee's case* [(1865) 10 M.I.A. 279] and *Padma Kumari's case* [(1881) L. R. 8 I. A. 229 : I. L. R. 8 Cal. 302 (P.C.)] relating to the termination of the widow's power to adopt and the invalidity of an adoption after such supposed termination are not consistent with Hindu ideas and are frequently departed from in practice.

Before concluding this discourse I deem it my duty to notice an argument that one frequently hears in these days. It has been sometimes said that the ideals of Hinduism are unprogressive, individualistic and anti-social. The implication is that any system of law suitable to a progressive society, which must be based on the recognition of the need for active social service, as distinguished from the pursuit of individual salvation, must of necessity part company with Hindu religion. I venture to think that this proceeds on a misapprehension of the true principles of Hinduism. I do not here propose to enter into a discussion

of the merits or demerits of particular social or religious institutions. Taking the highest ideals prescribed by Hinduism, I assert with some confidence that it is difficult to conceive of a system which has more successfully combined the pursuit of temporal and spiritual ends. At particular stages, and for particular classes of people, our sacred literature might have laid more stress on individual salvation (*Nivritti Marga*), or, as it has been described by Western thinkers, the principle of "world and life negation." But, as observed by Schwietzer, the conflict in the history of Indian thought between the principle of "world and life negation" and the principle of "world and life affirmation" has been decided by the former ever making greater concessions to the latter. On the other hand, whatever emphasis we may sometimes choose to lay on temporal ends, it is neither possible nor desirable to ignore spiritual ends, understanding the expression "spiritual ends" in its most comprehensive sense. As Dean Inge said

"If man is not entirely willing to give up this world for the next, he is at heart equally unwilling to give up the next world for this."

The ideal of service is not foreign to Hinduism. The very conception of *Grihashthasrama* is that it should be one of service to fellowmen. It may be that modern notions of service are somewhat different and the demands of society may vary from those that obtained in the past in Hindu society. But to say that the ideal of service is unknown or foreign to Hinduism is absolutely untenable. Two statements familiar to most Hindus may usefully be referred to here: one which says *परोपकारार्थमिदं शरीरं* (this body has been given to us only for service to others), and the other which makes service to fellowmen a part of religion: *परोपकारपुण्यस्य पापाय परपीडनम्* ||. As Sir S. Radhakrishnan once observed, civilisation in this country has been a sustained effort to embody the highest philosophical truths in social life.

THE CHAIRMAN'S CONCLUDING REMARKS

Hon. Mr. C. Rajagopalachariar, in bringing the proceedings to a close, said that the net impression of the learned lecture on him was that he was very glad indeed that he had no property. Most people, he thought, would be happier than they were if they had no property at all. The lecture showed that even conservative Mr. Varadachariar was convinced that the law was imperfect, especially in regard to the Hindu Law of property. He was a believer in the personal law of each people having its own good points and that changes, however logical, might not always fit into the consciousness of the people. He had argued strenuously with friends that they might attempt to change the law of survivorship, but the Hindu consciousness would not understand it, and at vorship, but the Hindu consciousness would love to leave his property to his dying moment, a Hindu father would love to leave his property to the next surviving kinsman representing the family. Anything else they might try to bring about would not fit into the people's instincts and

age-long habits of thought. But the lecture had shattered much of this feeling. If a conservative like Mr. Varadachariar should plead so hard for a thorough overhaul of the Hindu law of property,—though he was a bit hard on marriage reformers—it indicated that things needed change. Mr. Varadachariar seemed convinced that the Hindu Law of property should be put on a proper basis, that it was not bound up with religion and could be changed if they had sufficient determination. The object of the whole lecture, as the Prime Minister saw it, was to extricate the Hindu Law from Religion. Mr. Varadachariar, conservative as he was, had established that the Hindu Law of property had nothing to do with Religion and that the author of the *Mitakshara* proceeded on that express theory. He, therefore, urged all reformers to set to work and make “this complicated jungle of Hindu Law of property” into “a decent, well-ordered garden.” The spirit of Hindu Law or Religion, Mr. Varadachariar had stated, was not opposed to such reform.

He was glad, Mr. Rajagopalachariar continued, that such a hopeful future had been placed before legislators and reformers of Hindu Law by one who was on all hands recognised to be “the safest guide at hand.” “If a conservative guide like the learned lecturer,” Mr. Rajagopalachariar said, “holds such views, I am sure, there is great hope for the future.”

“As regards marriage”, Mr. Rajagopalachariar continued, “I am afraid our modern ladies will not agree with the views put forward by Mr. Varadachariar. There is much in what he has said, but these people will not agree with him! I am more in contact with some of them than Mr. Varadachariar is. They commit all the mistakes to which he has referred—they are carried away by some immediate idea, something near at hand which they have seen and which has left an impression on them and beside which everything else recedes into the background. But in spite of all that, there is, I think, an essential conservative spirit in Hindu society which, I may assure my friend, will safeguard the laws even of marriage in our country. There is no fear of any very great change. Some statutes may be enacted, some sections inserted or removed; but things would continue substantially the same. The old systems which are so dear to us will not be destroyed by the mere legislative hurry of reformers. I am in perfect agreement with the principles of reform of Hindu Law that Mr. Varadachariar has laid down and with his ideas in regard to the principles of Hindu social organisation. However much appearances might belie, I am in entire agreement with the principles of reform he enunciated towards the close of his lecture.....All this, I hope, will be remembered by lawyers who will guide changes of law.”

“Religion and Law,” the speaker continued, “are not two different things. Probably, originally Religion was the only Law. Gradually, Law came in as a daughter-in-law does into a Hindu family. There was the inevitable conflict between the daughter-in-law and Religion, the

mother-in-law. Who should rule the house, that was the issue between them. Gradually, the authority of the mother-in-law decreased due to old age, and the authority of the daughter-in-law increased. In the intermediate period of conflict, the servants of the household did not know whom to obey. If they obeyed the one they might cause offence to the other. The position was difficult during the period. But now the mother-in-law is practically gone and Civil Law rules so that even Mr. Varadachariar wants reforms along lines of civil law. The servants are absolutely ready to give homage to the daughter-in-law. That is the history of the connection between Religion and Law.”

The beginnings of Law, Mr. Rajagopalachariar said, were, in most cases, in Religion. It was so in regard to Jewish, Muslim and Hindu law. It was only later on that commentators, lawyers, and judges came into the scene and evolved the law. The foundations laid in Religion were good enough for anything that might be built on them. He would plead that the debt they owed to Religion should not go unpaid altogether. Law, he said, should come to the assistance of Religion. Originally, Religion made Law; it was time that Law came to the aid of Religion and helped to keep it alive. Otherwise the poor mother-in-law, old and weak as she was, might disappear altogether. He would therefore plead on behalf of the mother-in-law that she might be helped to live.

“I had a notion when I came to the meeting”, Mr. Rajagopalachariar continued, “that Mr. Varadachariar might touch on this aspect of the matter. By an instinct of conservatism, he has altogether refused to do so. He has taken the wind out of my sails by not referring to the subject. I thought I would have a little fighting to do, but he has made it impossible. Therefore, I am now only putting forward a plea that too much objection should not be raised if some people appeal to Law to come to the rescue of Religion. It is wrong to oppose any law being made in connection with religion. It is no doubt true that abstract religion does not need the help of legislation, law or anything else. “True religion is too sacred to be touched by law or legislation”. But, he added, what he referred to as religion was religion in the sense of external forms and practices. It was true that one's house was one's own castle even if it be an Indian house and nobody could violate it. But when the house had a drain or a chimney through which those in the house let out foul effluents or bad odours, certainly neighbours might sometimes invade the sanctity of the house. Or if there was a beautiful garden attached to the house wherein grew beautiful fruits and flowers, neighbours might love to come in and sit there awhile. If there be something good in it, they might want a share of it; if there be anything bad, they might want restrictions imposed. That was how religion had come in for attack by law in modern days. That was the principle on which people who wanted to make legal changes in order to safeguard or improve external relations arising out of religion wished to proceed. Conservative lawyers

and followers of Hindu religion should not object. That was the plea he wished to make on the occasion.

"But allow me to tell you, friends, and particularly my esteemed friend, Mr. Varadachariar," Mr. Rajagopalachariar continued, "that I am nearly as conservative as he himself. I do believe in all that he believes in. I may not know as much as he knows, but I do believe in most of the things he believes in. I may say that I have just come from the Legislative Council where I heard very very harsh references made to Manu. I was indeed very pleased when I heard Manu quoted here. Nobody here thought that Manu was a bad tyrant who came into the world in those early days to deceive mankind and put posterity in trouble. 'You have quoted Manu, in support of your position; therefore, it cannot be right'—that in effect was the reaction in quoting Manu in the Legislative chamber. Manu, they thought, was an abominable person. 'Your report may be good; but for God's sake do not quote Manu in support of it'—that was the attitude of some gentlemen in regard to the Estates Land Report. These people might not have read Manu; they might not have read anything beyond a few diatribes against parts of the Code running in his name, in some printed sheets written by some scribe, but they thought it was enough authority. You are all good people, you people in law courts; you quote Manu and Judges listen respectfully to you. Manu is quite safe here. But outside, Manu is in a very bad state. He greatly needs your assistance. I hope lawyers would come out one day and tell these people how great a man Manu was, how much wisdom there is in his work and that their anger at Manu is like that of children getting frightened of the jack fruit because of its prickly skin or of the rose because of the thorn, little knowing that these are there for protection of the fruit and the flower, and not for hurting people."

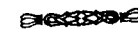
He had come, the Premier continued, from the Chamber where, sometime earlier, the Public Health Bill was under discussion. Everybody congratulated the Hon. Dr. Rajan when it was passed into law. It was a phenomenal record indeed that the big Bill should have passed through the two chambers in such a short time. But he felt all along that the Bill became necessary only because "the very good Public Health Act which they all had had in the shape of their religion" was no longer effective. That Public Health Act was full of more effective provisions backed by more powerful sanctions. It was effective till yesterday. In regard to the most minute details of daily life of the individual, a code of conduct backed by religious sanctions had been followed and these had provided a most excellent code of public health. But their force had relaxed. They had now to make provisions in the law, introduce Bills discuss amendments, seek to take powers and above all Dr. Rajan had to ask for more and more money to enforce the provisions. No contaminating of vessels when eating or drinking, no polluting of water sources or reservoirs, no contact with washed and dried clothes even by

oneself not to speak of others, no eating wherever you found food, no carrying about of food, and no defiling of public places—these and numerous other injunctions, enjoined as part of religious observances, provided a perfect code of public health which people obeyed without feeling the need for a sanitary or public health staff to enforce it. "If I could bring back the old religious code into effect with all its segregational and isolation laws," Mr. Rajagopalachariar said, "I would certainly have asked Dr. Rajan to withhold the Bill as unnecessary. But it is impossible. We had to go as far as we could in the matter with the measure. After all, when we look carefully into these matters, we would find our people were not quite so 'religious' as might appear at first. They had a very high sanitary conscience, they had a sane mundane conscience just as much as they had high religious ideals. They were as worldly—in the best sense of the term—as they were other-worldly. They knew life was real, however unreal it was at the end of it all in the higher spiritual sense. They lived a life in which there was no conflict between Religion and Law."

"While I applaud and appreciate all this," Mr. Rajagopalachariar said in conclusion, "I request that you take a liberal attitude in the matter I have placed before you and help in bringing about such legal changes as may be necessary for the protection of religion. Otherwise there can be no future for our religion. It will go from bad to worse, there will be no respect for religion. After all, what is the greatest safeguard for any religion? It is the respect that people have for it. That is the only sanction. It is not authority that will save it nor decrees nor Papal Bulls. It is the respect for it that people have that can save religion. When it deteriorates, people should do something to rejuvenate that respect and for that purpose it may be necessary to get the help of law."

The Prime Minister congratulated the Advocates' Association on its completing its fiftieth year and said it gave him great pleasure to have taken the chair at that meeting.

Mr. T. M. Krishnaswami Aiyar proposed a vote of thanks to the lecturer and the chairman.



GITA LECTURES

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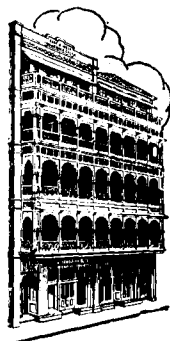
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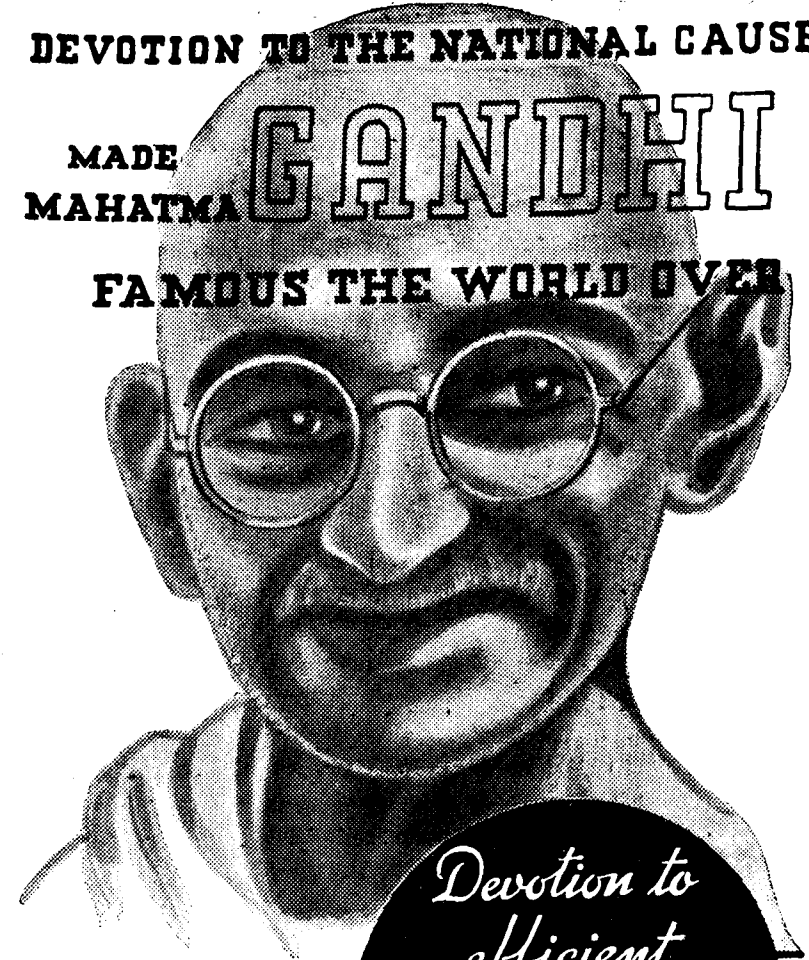
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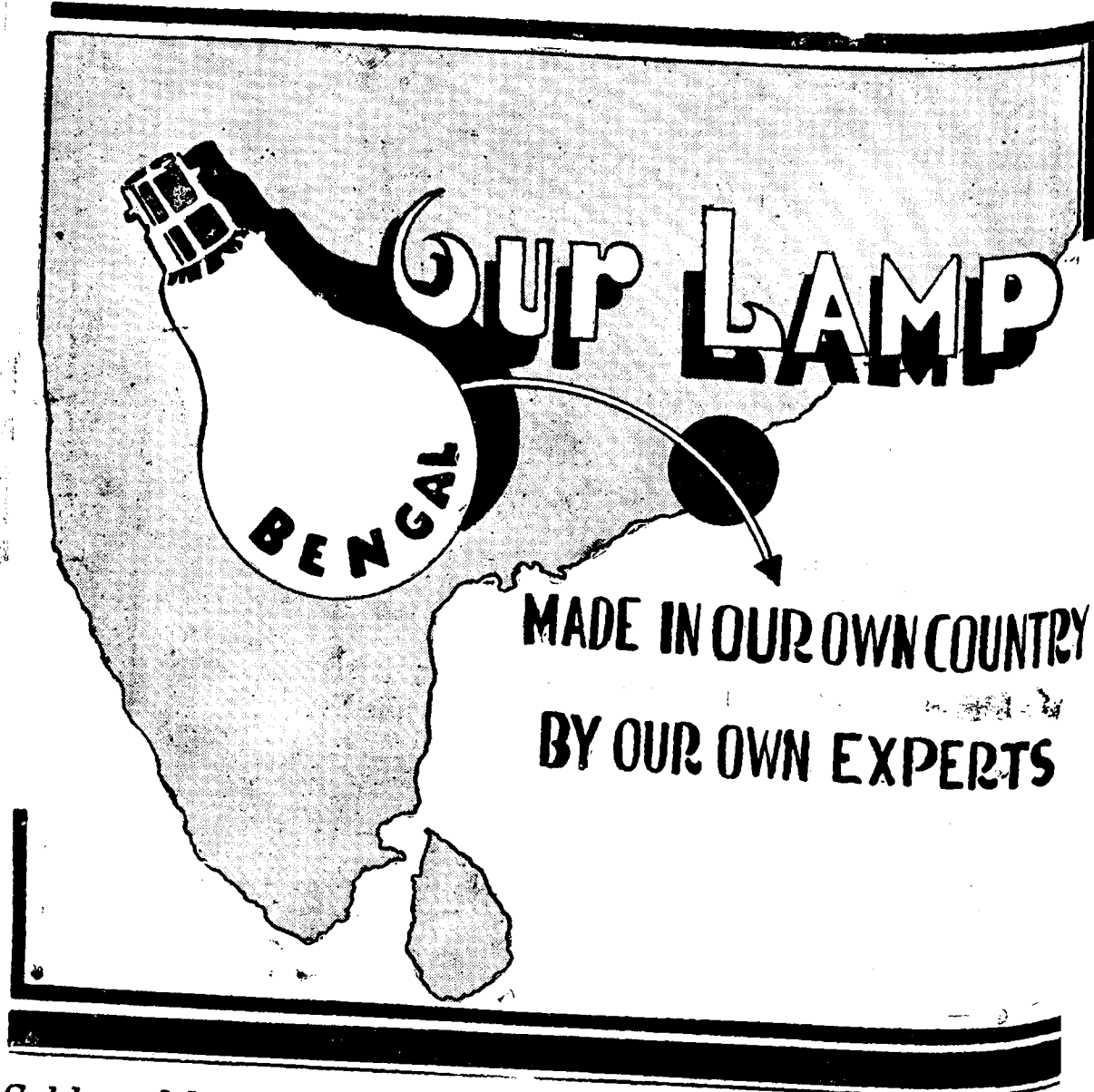


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LECTURE IV

'LAW AND LIBERTY'

BY **Mr. M. RUTHNASWAMI, M.A., C.I.E.,**

OF GRAY'S INN, BARRISTER-AT-LAW,

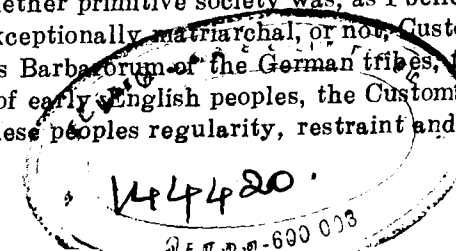
Member, Public Services Commission, Madras

CHAIRMAN: THE HON'BLE MR. JUSTICE K. S. KRISHNASWAMI
AYYANGAR.

The fourth of the Madras Advocates' Association Golden Jubilee lectures was delivered on Monday the 13th February, 1939, at the Association premises, by Mr. M. Ruthnaswami, on 'Law and Liberty'. The Hon. Mr. Justice K. S. Krishnaswami Ayyangar presided. There was a large gathering of advocates and others.

After a few introductory remarks from the Chair, **Mr. M. Ruthnaswami** delivered his address:—

Law is the condition of Liberty. Where Law is not, Will prevails, whether it be the Will of the One or of the Few or of the Many. Law is not the foundation of the State but the norm and regulation of the Force or Power that founds and maintains the State. Law makes it possible for the State and the people of a State to live a life of Liberty. Law is not a restriction on Liberty, it makes an arena, a canal for Liberty and thus energises it so that it may not overflow its banks. Whether, as in early times, in the form of Custom or later, in more political times, in the form of written Law, made by the deliberate and conscious action of man, Law has prevented the arbitrary will of man or any body of men from governing and regulating the life of the State. For, the properties of law, as Burke pointed out, are, *firstly*, that it should be known; *secondly*, that it should be fixed and not occasional, and, if we may add a *third* characteristic from Aristotle, that it is observed, for, to enforce obedience to the law, which it makes, is a proof of a good constitution of a State. While Law can be without Liberty—there can be systems of law made and developed by despotic governments like those of the ancient East and the later Roman empire—Liberty cannot exist without Law. The history of Liberty is in a large measure the history of the influence of Law in the government of man. At first whether primitive society was, as I believe, largely patriarchal and only exceptionally matriarchal, or not, Custom was the law of society. The Leges Barbarorum of the German tribes, the Torah of the Jews, the Doms of early English peoples, the Customs of Indian castes and tribes gave these peoples regularity, restraint and routine.



The rulers of custom-bound peoples were hardly despotic. They were as much bound as the peoples whom they governed. And then, when as a result of war and conquest, the authority of the chief increased, Custom gradually was transformed into Law. It came to be written, and codified. The Code of Hammurabi, the Twelve tables of Rome, the Brehon Laws of ancient Ireland, and the Code of Manu were still further steps in the growth of the influence of Law in human society. And this growing influence was in the direction of Liberty. For, however much restraint these ancient systems of Law may have placed on the activities of individuals or groups, they left still considerable areas of human activity to the freedom of individual initiative and movement. Even when they ruled a large part of man's life, as in the Code of Manu, yet they served the cause of Liberty, for, being written, known for certain and of general application, they freed man and society from the tyranny of the arbitrary will of individuals or groups.

No further step forward in the promotion of Liberty by Law could be taken as long as Law, as a result of this codification, was itself unfree. The principle of freedom had to be introduced into Law itself before Law could serve the cause of freedom. This work had been done for Europe in the later history of Roman Law. The Praetor's Edict, the Responsa Prudentium, and the Emperor's Rescript applied Reason to the development of the Law. But the Reason was that of a despot who legislated according to the maxim *Quod principi placuit, legis habet vigorem*. The will of the Prince had the force of law. Progress, but not freedom, could be served that way. It was with the coming of new peoples and of a new way and philosophy of life that Freedom was to enter into the history of Law. It was with the coming of the German tribes and of Christianity into Europe that the history of the relations between Law and Liberty begins. The primitive republicanism of the German tribes, their corporate life and self-government, their attachment to custom, and their ignorance of the State, would not tolerate the centralized despotism of the later Roman empire. And Christianity which came to meet the Roman empire as a corporate Church, and with claims to the freedom of religious life was fundamentally opposed to absolutism in Law or Politics. These two influences combined soon began to operate on the Law of Europe in the direction of Liberty. The German tribes brought with them the idea and the practice of the people having a part in the making of law and the administration of justice. And the seeds of parliamentary government and the jury-system, these two props of English Liberty, were sown, though through royal Norman drills. Christianity, with the novel institution of the Church, unknown to pre-Christian times, and its own law, Canon Law, cut away large slices from the jurisdiction of the State and secular law. As you know, till late in English history Marriage and Will were under the jurisdiction of ecclesiastical courts. The principles of Equality, Liberty and Justice

came gradually to be introduced in the tribal law and customs of the Saxons, the English and the Danes and slowly humanized and rationalized the administration of criminal justice. The rules of equity and good conscience influenced the decisions of the Court of Chancery. That, according to Maitland, saved Liberty against Roman jurisprudence and despotism. The Will, that instrument of liberty and progress, came to modify the rule of the dead hand of the customary disposal of property by Primogeniture or Borough English.

The Roman Imperial polity did not fail to influence the constitution of the early mediaeval monarchies. It was especially in the field of judicial administration that this was felt. The Normans in England, Southern Italy and Sicily, the Capets in France took their idea of a royal, centralized administration of justice from the traditions of Roman imperial rule. To confine ourselves to England from whom we derive our modern system of administration of Justice, it was in the first place good for the development of Liberty that the court of justice was the first form of administration to shoot itself out of the royal court and household. The Judiciary thus acquired prestige and power which was to stand it in good stead and serve the cause of Liberty. The centralisation of the royal courts, which also went on eyre or circuit all over the country, the staffing of the judicial bench by professional justices, the building up of a common law out of the laws of the English as well as of ideas from Canon Law, French capitaluries and from the Roman law books, and the superiority of this royal justice in speed and satisfaction to the old courts of the hundred and the shire, and to the new manorial courts of the feudal barons, brought about the legal unity of England.

The jury which was in its origin "French rather than English, rather royal than popular, rather the livery of conquest, than a body of freedom," brought popular representation into the administration of justice. Not only the Bench, but the Bar was early organized in England. The Bar in England also began its existence under royal auspices under Edward I, a process the details of which are still very obscure, and was instituted by the king. This brought the professional pleaders and the professional attorneys under the control of the judges and began to secure a monopoly of practice to those that had been and began to secure a monopoly of practice to those that had been conformally ordained to the ministry of the law. The Inns of Court consisting of practising lawyers combined themselves into a guild of lawyers and had a monopoly of legal education. About that time lawyers and had a monopoly of legal education. About that time members of the Bar began climbing to the Bench and the judges were ceasing to be ecclesiastics. About that time, the old Curia of the Norman kings was dividing itself into the King's Bench, the Court of Norman kings was dividing itself into the King's Bench, the Court of Common Pleas or the Common Bench, the Court of Exchequer, and the great Court of Chancery. Another cause that contributed to the development of the Judiciary as a free and powerful institution was that the development of the law was largely in its hands. Parliament was

not in those days so fond of making laws as it is to-day. Although the Parliament of the 13th and 14th centuries did legislate in general, they left the ordinary law of the land and the development of the common law to the lawyers. Even in the time of the Tudors and the Stuarts the Star Chamber and the Chancery, although they were dangerous for Liberty, served to preserve Common Law for, but for these institutions, as Maitland has shown, the old-fashioned national, law unable out of its own resources to meet the requirements of the new age of commerce, maritime development and colonization and international intercourse, would have utterly broken down and the "ungodly jumble," as Cromwell called, it of English common law would have made way for Roman jurisprudence and for despotism.

It was these traditions of a centralized, free and independent Judiciary that came to India when the foundations of the British administration of justice were laid in the country. As in England, the Judiciary was the first offshoot of the administration away from the counting house of the East India Company. The establishment of the Supreme Court of Judicature by a Charter issued under the provisions of the Regulating Act of 1773 was the first step in the direction of introducing the English system of judicial administration. The vagueness of the Act and the Charter as to what law the Supreme Court was to administer and to whom this law was to be administered led to claims by the Court under Sir Elijah Impey to jurisdiction over the whole population of Bengal defeated by the Company's Council in the *Cossijurah* case and over the judicial officers of the company allowed in the *Patna case*. As the Judges of the Supreme Court were appointed by the Crown and held office during the pleasure of the Crown, the Supreme Court was independent of the Executive. The amalgamation of the Supreme court and the old Company Court of Sadr Dewani Adalat into the High Court eighty years later, which thus acquired appellate and revisional control over the country courts, made the independence of the judiciary still more general. The vagueness of the Act allowing the establishment of the Supreme Court as to the law to be administered allowed principles of English common law to percolate into the country. The charters constituting the Courts of Justice in the Presidency towns of Madras, Bombay and Calcutta introduced the English common and statute law in force at the time, in so far as it was applicable to Indian circumstances. Hindu and Mahomedan law in the civil sphere were rationalised and consolidated by judicial interpretation and by Regulations, till the period of the great Codes, passed soon after the assumption of government of India by the Crown, allowed free play to the principles of English common law as modified by statute and the circumstances of India.

It is on a good system of criminal law, says Montesquieu, that the liberty of the citizen chiefly depends. The Indian Penal Code and the

Code of Criminal Procedure and the Indian Evidence Act, in spite of their short-comings and the statutory modifications in restraint of Liberty, contain many of the chief safeguards of Liberty. The principles that an accused person is presumed to be innocent until he is proved to be guilty, that the deposition of one witness is not enough to deprive a man of his Liberty, that each crime has its own punishment specifically allotted to it, punishment not depending on the caprice of the Judge or Magistrate, the definition of the crime of treason which does not leave it in the vague old Chinese form of "lack of respect for the emperor", the publicity of trial, the trial taking the form of a debate between opposing counsel, and the distinction between Torts and Crime, are some of the principles applied in the administration of criminal justice in India that safeguard Liberty.

In the field of civil law, protection is given to the communal laws of the Hindus and Mahomedans. We must remember that communalism in law is more ancient than communalism in politics and traceable to the same source, i.e. the imperfect national unification of the people. It dates from the old plan of Warren Hastings confirmed by the Act of 1781 according to which "inheritance and succession to lands, rents and goods and all matters of contract and dealing between party and party, shall be determined in the case of Mahomedans by the laws and usages of the Mahomedans, and in the case of Hindus by the laws and usages of the Hindus." This protection, although it has formed a bar to progress and is liable to be modified by statutory enactment, as by the Indian Contract Act, the Hindu Wills Act, and the Lex Loci Act, has served the cause of Liberty, as it has taken away so much from the jurisdiction of the legislative and executive action of the State. Similar protective colouring has been afforded by the regard Indian courts of law pay to the customary law of various classes and communities. One important part of the civil life of the people, represented by land revenue has been taken away to a certain extent from the jurisdiction of the ordinary courts. Revenue cases are still decided largely by revenue officials and revenue boards. A large slice is thus taken away from the jurisdiction of the Courts. But even here, the Government of India Act of 1935 has provided for the setting up of separate quasi-judicial tribunals for the adjudication of such land revenue cases.

If from the Criminal and the Civil Law we turn to the Constitutional Law of India we find no express safeguarding of individual rights and liberties in the Government of India Act, as in other written constitutions like that of the U. S. A. But the common law rights of freedom of speech, of meeting and of the press obtain here as in England, although here, they have been subject to large and frequent limitations by legislative enactments like Criminal Law Amendment Acts, Seditious Meetings Acts, Defence of India Acts and by the use of old Regulations like that of 1818 to be explained by peculiar and temporary conditions

and circumstances. Yet the core of Liberty stands. In India, as in England, whatever restrictions on fundamental liberties exist, are to be found in the civil and especially in the criminal law and not in administrative powers or discretion. The separation of powers is not provided for, but is recognised by the Government of India Act, though the independence of the Judiciary is assured by the provisions in regard to the tenure and salaries of Judges of the High Courts and the Federal Court. The separation of powers is not absolute and rigid in British India. Nor is it in England and in the U. S. A. Montesquieu's doctrine which was based upon a misunderstanding of the facts of the English constitution, has to be interpreted in the sense of Madison, one of the makers of the constitution of the U.S.A., namely, "that the whole power of one department should not be exercised by the same hands which possess the whole power of another department." Otherwise the Ministry could not be part of the Legislature as in England and the Senate could not take part in the executive act of appointment of judges and other high officials in the U.S.A. And on the *vexata quaestio* of the separation of the Executive from the Judiciary in India, this argument I have not found used by the supporters of the small admixture of judicial and executive functions, which obtains in the case of English justices of the Peace as in that of Indian Collectors and Magistrates. But the strongest shield of Liberty, the independence of the Judiciary is secured. It would be still more secure if, except in regard to appointments which, everywhere is the function of the Executive, administrative functions in regard to postings, transfers and promotions lay in the hands of the Head of the Judiciary; but since the Head of the Judiciary is not part of the Executive as in England in the person of the Lord Chancellor, executive influence in these matters could be secured by regular consultation between the Head of the Judiciary and the Head of the Executive.

Following the traditions of the English Courts, Courts of Law in India have acted as defenders of individual Liberty. In the great line of English judicial decisions that have secured the rights and liberties of the subject may be added cases decided in the Indian Courts. The decision in *Secretary of State for India v. Moment*⁽¹⁾ secured to the subject the right to sue the Secretary of State in Council in any case in which he could have similarly sued the East India Company. In *re Ameer Khan* ⁽²⁾, although the judges allowed that common law rights and liberties could be suspended by statutory enactment they granted that the Liberty of the subject was the unwritten law of the constitution. The case of the *Inhabitants of Mahalingapore v. Anderson*, like *Philips v. Eyre* ⁽³⁾, established the principle that a Governor is liable to an action in England for a wrong done by him during his government. *Arnold v. The King Emperor* ⁽⁴⁾ affirmed the principles of the freedom of the Press for, "the

(1) (1910) 40 I.A. 48.

(2) 6 B. L. R. 392.

(3) (1870) L. R. 6 Q. B. 1

(4) (1914) A. C. 644.

freedom of the journalist is an ordinary part of the freedom of the subject and to whatever length the subject generally may go, so also may the journalist, but apart from statute law his privilege is no other and no higher." These are illustrations of the way in which in India, as in England, the Courts of Law have come to the defence of the Liberty of the subject.

It is not merely against the Executive that the Judiciary acts as the shield of Liberty. As a consequence of the modern democratic theory, the Legislature which is the representative of the people is considered to be the supreme power in the State. And, as the modern State, according to the same theory, is omnipotent and omniscient, so the Legislature also is said to possess omnipotence and omniscience. It is against such a powerful legislature that defences have to be thrown up in the interests of Liberty. This was realized not the other day but at the time the constitution of the United States of America was established. There, for the first time in the history of the world, the people of a large modern State had charged themselves with the right and duty of government. And jealousy of executive power which their relations with the English monarchy had taught them, directed that they should make their legislature powerful. Some of the makers of their constitution already realized the risks of a powerful legislature dependent on democratic election. One of them, George Cabot, said, "There will be neither justice nor stability in any system if some material parts of it are not independent of popular control." Alexander Hamilton said while the constitution was in the making in the Convention, "the members most tenacious of republicanism are as loud as any in declaiming against the evils of democracy. Give all the power to the many and they will oppress the few." One of the most powerful means by which the framers of the constitution of the United States of America hoped to check democratic tyranny was the establishment of an independent, impartial, and stable Judiciary. The Judiciary was made independent of the Executive and of the Legislature. "It was their duty", said Mason of Massachusetts, "to expound not only the laws but the constitution also; in which is involved the power of checking the Legislature in case it should pass any laws in violation of the constitution." That constitution made the Judiciary its defender for, in Article VI it was laid down that "this constitution and the laws of the United States which shall be made in pursuance thereof and all Treaties made or which shall be made under the authority of the United States shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." Thus the Judiciary was made defender of the constitution; it was given the right to pronounce judgment on the constitutionality and legality of any law passed by any legislature or by any executive order or direction. Although the people were the ultimate

makers and amenders of the constitution, the Judiciary was made the guardian of the constitution as it exists. Thus the Judiciary became the balance wheel of the constitution. And from the beginning the Judiciary fulfilled this duty of defending Liberty against the invasions of the Executive or of the Legislature. Chief Justice Marshall stands out as the defender of the constitution and of Liberty during his long tenure of 34 years of the office of Chief Justice of the Supreme Court. From the case of *Marbury v. Madison*⁽¹⁾ when the writ of mandamus was awarded against the administration for the performance of executive acts which they refused to perform, although they were required by the constitution to perform them, through the case of *Aaron Burr*⁽²⁾ when he destroyed the attempt to set up a law of "constructive treason," and *Fletcher v. Peck*⁽³⁾ when the Court declared a state law impairing the obligation of contracts invalid, down to *Worcester v. Georgia*⁽⁴⁾ when he declared that the Cherokee nation "is a distinct community occupying its own territory in which the laws of Georgia can have no force and which the citizens of Georgia have no right to enter but with the consent of the Cherokees themselves or in conformity with treaties and with the acts of Congress." Marshall defended individual Liberty against the onslaughts of the Executive, the States, and the Legislature. And the tradition set up by Marshall has been followed by the Judiciary of the United States of America ever since—to the detriment of progress perhaps, but in the interests of Liberty.

Like the United States of America, India also has a written and a federal constitution. Although the federal constitution set up by the Government of India Act of 1935 is *sui generis*, extraordinary, peculiar and unique, like nothing on earth in the history of federation, yet it has some of the fundamental principles of federal constitutions. It is a written, rigid constitution, with an efficient but not absolute separation of powers, with checks and balances, no power being sovereign, Indian States and British Indian Provinces brought under one umbrella and the whole system of government being placed under the protection of a constitution which is the supreme law of the land. And the defender of this constitution and therefore of Liberty against the interference of Executive or Legislature is the Judiciary. The High Courts and Subordinate Courts have always had the right and the power to pronounce on the validity of laws passed by the not sovereign legislatures of India. But the Government of India Act of 1935 has placed the constitution under the special protection of a new Court for all India—the Federal Court. It is a Court of record like the High Courts; it is to have, to the exclusion of any other Court, an original jurisdiction in any dispute

(1) Cranch, 137, 2 L. ed. 60.

(2) See account of the trial in Beveridge's Life of John Marshall Vol. III.

(3) 6 Cranch, 87, 3 L. ed. 162.

(4) 6 Pet. 515, 8 L. ed. 483.

between the Federation or any of the Provinces or any of the Federated States and in so far as the dispute involves any question (whether of law or government) on which the existence or extent of a legal right depends, although the extent to which the Court has jurisdiction over disputes to which a State is a party, is limited by the terms of the Instrument of Accession by which the State agrees to enter the Federation. As from High Courts in Federated States appeals are to lie to the Federal Court on questions of law concerning the interpretation of the Constitution Act or of an order in Council made thereunder or the extent of the legislative or executive authority vested in the Federation by the Instrument of Accession of the State or which arise under an agreement made in relation to the administration in that State of a law of the Federal Legislature. In spite of the serious limitations on the jurisdiction of the Federal Court in the Indian States that federate, it is a great step forward that disputes between individuals and individuals and States and States and Provinces and Provinces and all of them and the Federation in regard to matters provided for in the Act should become justiciable in a Court of law common to all India. It is not only the first step towards the legal unity of India but a long step forward in the protection of Liberty in India. Although Treaties are not *ipso facto* the law of the land in the British Empire as in the United States of America, yet the consideration that they may become evidence in cases before the Federal Court in which the States are interested may bring them up for judicial interpretation. One provision in the Act may detract from the repute of the Federal Court as a Court of law. It is Section 213 which empowers the Governor-General to consult the Federal Court on questions of law of public importance. This, although allowed by the analogy of the Judicial Committee of the Privy Council and Dominion practice, infringes the principle of the separation of powers and the salutary principle that Courts of law should adjudicate only on specific issues raised as a matter of fact before them. It is no part of the business of a Judiciary to act as the adviser of the Executive. The Executive must take responsibility for its acts; enough legal advice is available to it, and it must not be allowed to justify its action in shelter behind the Judiciary and the Judiciary must not in any way or to any extent mix itself with executive action.

The inconveniences of this consultation have been pointed out in the Dominions but the danger to Liberty was sensed by Chief Justice Marshall who, when asked by President Washington to give an advisory opinion as to the validity of certain treaties with France, held, "that the Supreme Court was merely a legal tribunal for the decision of controversies brought before them in legal form." The Missouri Compromise delimiting the regional legality of slavery declared unconstitutional by the famous *Dred Scott case* 37 years later which precipitated the greatest civil war in history, is an illustration of the danger to which a country

may be subjected by the resort to consultation by the Executive of the Judiciary in justiciable matters. The controversy over the Missouri Compromise and the *Dred Scott case* would have been still more disastrous if the action of the Government had been supported by judicial opinion.

The place of the Judiciary in a federal constitution as in a State where the Rule of Law obtains makes for eminently a "government of laws and not of men." A government of laws is a free Government because it is above the caprice and will of one man or a body of men. The "law of the land" was the battle cry of those that won the Magna Charta in England and the "due process of law" is the American guarantee of Liberty. "Liberty to be enjoyed must be limited by law," said Burke, "for law ends where tyranny begins and the tyranny is the same, be it the tyranny of a monarch or of a multitude—nay the tyranny of the multitude may be greater as it is a multiplied tyranny." It is only

"Where Sovereign law, the State's collected will,
Over Throne's and globes elate,
Sits empress, increasing good, suppressing ill,"

that Liberty is secure.

Perhaps an apology is needed for placing these elementary truths and facts connected with the administration of Law and Justice before a body of lawyers. I find an excuse for this exploitation of the obvious, as some of you may be tempted to characterise my observations, in developments in Law that have taken place in certain countries in our generation. We have lived into times when the old notions of the supremacy of Law over government, of the guarantee of individual Liberty by Law, of the State being under the Law have been questioned and treated with scorn. The characteristic note of the juridical life of the State of the Dictators is that Law is not so much the guardian and defender as the faithful and obedient servant of the State. Here, in regard to Law under the National Socialist State of Germany, is the authoritative statement of Dr. Franz Gurtner, Reich Minister of Justice who contributed an article to a collection of essays by leading members of Party and State called "*Germany speaks*" recently published in England. "The doctrine," he says, "that demands that the interests of the individual must be regarded as the principal subject matter of all legislation and that a comprehensive system of controls must be established to protect the individual against an excess of interference by the State," is no longer upheld in Germany. National Socialism, we are told, "looks upon the community and the nation as an organism which has its own rights and duties and whose interests come before those of the individual." The lawyer under the Nazi regime is to espouse not the interests of the individual but those of the whole nation. But the climax of this dangerous development of Law was reached on 28th July 1935, when a law was passed which abolished the maxim according to which no offence can be

punished unless it is specially mentioned in the existing Code. This law entitles the judge to inflict punishment for acts which, although not specifically mentioned, are yet "of such a nature as to demand punishment in pursuance of the general terms of the law and in accordance with healthy, national sentiment." This doctrine of 'constructive crime' is the *ne plus ultra* of a lawless system

May I end with an appeal from one who is a citizen rather than a lawyer, to this eminent body of lawyers? According to the English system, the Bar is an integral part of the judicial administration. Judicial enquiry into a dispute consists, for the main part, in a debate between learned counsel representing the two parties to the dispute. In the United States of America they have an expressive phrase to describe this process. The lawyers are said to be engaged in "trying the case". The integral and efficient part played by the Bar in the administration of justice in England and in the United States of America has been made possible by the learning, the high tone, and the independence of the Bar. The independence of the Judiciary, so necessary in a free State, is dependant on the independence of the Bar. And independence of the Bar can be attained only if members of the Bar keep to the highest standards of professional conduct and character. All these qualities of the Bar in England and the United States of America are to be traced to the unity and corporate life and status they have enjoyed from the earliest times. That the Bar in Madras may grow in that incorporated unity, freedom and independence so necessary to the free and progressive administration of Justice must be the wish of every one that believes in the vital connection between Law and Liberty.

CHAIRMAN'S CONCLUDING SPEECH

Hon'ble Mr. Justice K. S. Krishnaswami Ayyangar in his concluding remarks, said that he was only voicing the feelings of the gathering in saying that they had listened to a very interesting discourse on "Law and Liberty". He did not know if they could think of two other words in the English language which meant so much for the well-being of society. It was but fitting that in the lectures organised to commemorate the Jubilee of the Association they should give prominence to Law and Liberty, which might, with great justification, be said to be the very breath of life for the community. The lecturer of the evening had studied deep the theories of law, and much more than any of them who were more concerned with the practical administration of law. It was necessary, that for the proper understanding and application of Law to the varying conditions of modern life, they should know the history of Law. It was only proper that those who were engaged in a common task should remember what important part Law and Liberty played in the ancient as well as in the modern world. The

lecturer in the course of his address, had given a great deal of information and had dealt in detail with the various stages of the development of Liberty and Law.

The lecturer had touched upon the reign of Law established and introduced into this country by the British nation. "If there is a single thing for which we must ever be thankful to the British nation," the Chairman said, "it is this: they established the supremacy of Law and enthroned it as a great principle to which all must render obeisance. The lecturer has referred to the laws of the despotic governments of the East. I do not believe that he intended to include in that category the laws embodied in the sacred Smrithis handed down to us. Despotism of a type there might have been. But it was always acknowledged that the so-called despots must obey the superior Law, the Law of Dharma. This is the conception that prevailed in ancient India. The idea of Law being superior to the individual will, to the will of even Princes, is not new to this country and it cannot be said to have been introduced for the first time in this country. But it will be proper to say that after the troubles through which the country had passed that supremacy had been re-enthroned."

"It is only right to say," the Chairman proceeded, "that Liberty is not to be confused with freedom to do what any man wills, but it is only freedom to do what he ought to do. It has got to be remembered that the freedom of the individual is necessarily to be hedged in and limited by the freedom of the people among whom that individual lives. Indeed, one can very truly say that the measure of culture and civilisation attained by a community is reflected in the laws enacted and obeyed by that community, and among the laws none are higher and none more potent than the laws which give the individual freedom of action, freedom for self-expression and freedom for the development of his personality. Law can be tyrannical. It is the duty of the public, more especially of the lawyers, to stand as a bulwark against any encroachment on individual Liberty. It is their duty to resist encroachment either by the legislature or by the executive into the residual Liberty which is necessary for the well-being of Society. Of course, the extent of Liberty of the individual will necessarily depend upon the ideals which the community has. Ideas of Liberty may vary in a totalitarian state where it may come to minimum point. If you want to organise yourselves as a nation of warriors, to conquer and to possess neighbouring States, the Law that is necessary for that purpose will be different from the Law for the development of human personality. Unfortunately, the tendency in the modern days is to ignore the individual and to divide the world into warring compartments. Whether this system is going to last or whether it is going to give place to a better and nobler ideal is a question for the future. For my part, I can only hope that the militant nationalism of the West, which has run riot, will

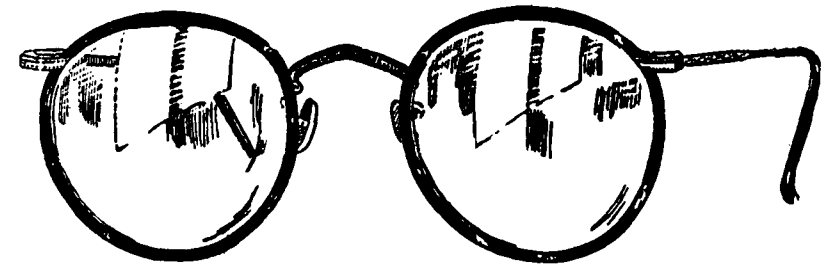
soon disappear. It is high time that the great thinkers of the world began to bestow their thoughts upon the problem and find out solutions. I am not sorry that our country has not progressed along those lines to the extent to which some persons desire. I am not sorry that we have not been able to imitate Japan or Italy and to pursue the ideals chosen by them. I hope that those new ideals will not submerge and overwhelm altogether the ancient ideals which we still cherish and hope to continue to cherish for ever and ever."

The Chairman thanked the Association for having asked him to preside on the occasion.

Rao Bahadur K. V. Sessa Iyengar, proposed a vote of thanks to the Chairman and the Lecturer.



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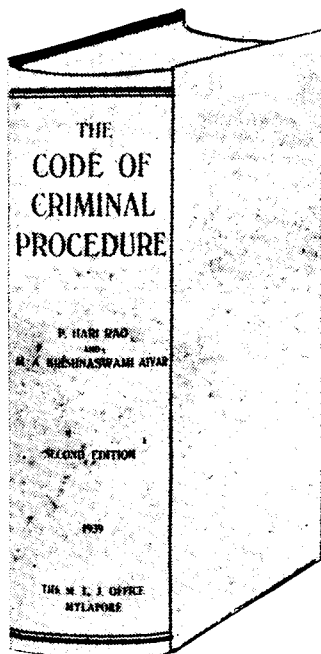
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LECTURE V

'LAW AND LETTERS'

SIR C. P. RAMASWAMI IYER, K.C.I.E.,

Dewan of Travancore.

CHAIRMAN : HON. JUSTICE SIR ABDUR RAHMAN.

After a few introductory remarks from the chair Sir C. P. Ramaswami Iyer, delivered his address.

SIR ABDUR RAHMAN, MY LORDS, FELLOW MEMBERS OF THE BAR AND FRIENDS,

A few days ago a very welcome invitation was extended to me to take part in these celebrations. I was called upon to address the Advocates' Association in connection with the Golden Jubilee celebrations and I was given the choice of the subject. I chose this particular one, 'Law and Letters', for a reason which may be familiar to some of you, but, which, I think, requires some explanation. Unlike some others at the Bar, I have not been a specialist in recondite branches of the law. It has not been given to me to share in those intenser raptures partaken of by those to whom law is not only a jealous but a peremptory mistress. Great men of that type have been amongst us and have flourished and shed lustre on the Bar. I remember the story of an illustrious lawyer who afterwards became a Judge, who, having seen a copy of Morley's 'Compromise' on the table of a friend of his, wanted information as to whether the latest cases were reported therein. (laughter) I am not mentioning this for the purpose of detracting from the learning of that Judge, but only for the purpose of illustrating my thesis that, to some, Law comes with such a special and affectionate appeal that they will not allow literature to share in the throne of their favourite deity. To me, law came as one of many things I felt impelled to learn. At the beginning of my career, I thought of becoming, and I was disappointed in that I did not become, a teacher of English in the Presidency College and my first and foremost preoccupation then was, and always has been, Literature to the extent that the pursuit of literature was compatible with the exigencies of an exacting profession. Therefore, speaking to an august assemblage like the present, with an experience which is somewhat obsolete now, because the active practice of the profession is some years behind me, if I undertook to speak to you on the law or do what is even more daring, to expound unto you any legal subtlety, I shall be greatly daring and venturesome. It therefore occurred to me that I should strike the happy mean and speak as the gentleman who was asked to speak on "Chinese Metaphysics" did. Not knowing how to begin, he looked up the article on China in the Encyclopaedia Britannica and also that on Metaphysics and combined the two into Chinese

Metaphysics. (laughter) Somewhat like that adventurous man I am going to speak to you on "Law and Letters" just now.

But before I do so, I shall take you in retrospect to the giants of law here and elsewhere in India to whom it was given not only to be profound lawyers but also to be considerable men in matters appertaining to literary expression. In this court we had Sir T. Muthuswami Aiyar, a person who owed every thing to very carefully designed and disciplined self-education. That self-education involved, not only the study of the law as expounded in treatises of English and Continental jurisprudence but also a study, painful, meticulous and exact, of the sonorous rhythms of the English language of the Victorian period. He began to learn these very late, but he mastered them. In his judgments you will find the style which was in vogue in those days, classical, somewhat ponderous, but very accurate and expressive. His judgments in Hindu Law cases, in cases connected with Religious Endowments and in various cases involving intricate points in Malabar Law, were masterpieces. In them, as in almost every other field of the law he brought to bear a cultural outlook while elucidating legal principles.

In those days Judges had better chances than now of embarking on literary refinements because they had the leisure and the opportunities. It appears that in those days, on account perhaps of the lesser number of official and non-official reports and the absence of sudden and hasty delving into unreported judgments found in the record rooms for discovering apposite precedents, it was possible for Sir T. Muthuswami Aiyar to resort to great books and evolve first principles. He was perhaps the most illustrious of the Madras Judges and he along with some others, like Sir S. Subramanya Aiyar, Mr. P. R. Sundara Aiyar, Sir T. Sadasiva Aiyar and Sir C. V. Kumaraswami Sastri took trouble over their language. A galaxy of legal talent lent distinction to Madras and put it at least on a par with any other High Court. There were also Englishmen like Justices Turner and Innes and Holloway. Perhaps only next after Sir T. Muthuswami Aiyar came Sir S. Subramanya Aiyar. He was as emphatic in style as his very attitude and appearance, full of emotion and apt to be filled with generous impulses and occasional flashes of indignation. When he was able to get enough leisure, he wrote judgments which for their aptness of style and epithet ranked with the foremost examples of the juristic art. Then came many great men like Sir V. Bashyam Aiyangar to whom language was a painful necessity and a refractory instrument for expressing the subtlety of legal exploration; and the intricacies of the legal language were like hard granite to be chiselled out in sharp and often unornamental outline.

Probably, in recent times, the greatest master of legal exposition in India was Mr. Justice Mahmood. Those who have read the Allahabad Reports of the early days know that, whether he dealt with the adjectival law and its relation to substantive law, or

whether he spoke in relation to the idea of adoption of an only son, or whether he expounded and quoted from the Islamic authorities or the Smrithis or whether he insisted upon the rights of individuals against the State, there was the lambent style and the force and dignity of exposition. Wherever his mind travelled, whatever his hand touched, he adorned with his sense of style, with his knowledge of the Sanskrit language which he learnt with great trouble, with his knowledge of Persian and Arabic and his culture in many European literatures which he owed to the very careful discipline he underwent at the instance of his great father. Justice Mahmood was an excellent example of the art of legal expression in apt language.

Then we come to lawyers like Telang and Ranade and the Mitters and Gurudas Banerjee and Sir Ashutosh Mukerji, who, when they chose to, could and did write fine and expressive judgments. Sir Ashutosh was a master of many sciences and arts and he rose to such supremacy in the exposition of case law that it did not matter to him very often whether he wrote exemplary English or not. But when he wanted, he could write with vigour and terseness of expression and some of his judgments are specimens of good English. Perhaps Dr. Rash Behari Ghosh was facile princeps in India as a literary lawyer and in a rare degree there was united in him a thoroughness of many sided culture and grasp of legal truth with the facility of happy expression for the like of which you must go to the great English, French, and American Jurists. He was able to put legal principles in language at once accurate and illuminating. And of course J. D. Mayne and his work on Hindu Law cannot be lost sight of. But if one had to study good English, as well as good law, one could do no better than explore that wonderful mine—Moore's Privy Council Judgments. The Judges who presided over the Privy Council in the 19th century were giants of law and their language was always above criticism. They were very thorough, very accurate. But behind and above all that, there was a patient research and freedom from turmoil, literary or legal, either imposed from within or from without, and an exposition which can be compared only with the best specimens of literary art.

Now, to go back to the beginning, I am going to address you, for some time on Law and Letters, but before I do so let me recall to your minds one or two excerpts from those who have attempted a similar task. In order that I may not be behind the times, I have brought some of my authorities with me. But I may assure you that I have not followed my own previous example, especially when I was opposing my friends at the Bar like Mr. V. V. Srinivasa Aiyangar and Sir Alladi. I often used to keep my authorities underneath the table, to be used only as torpedoes in case of need.

Giving evidence before a Royal Commission, Lord Fitz Gibbon stated that "the knowledge of a lawyer is the acquiring of superficial

knowledge quickly [for use of a temporary kind." What he meant was this. As a lawyer one may have to deal with a nautical question to-day, and one may have to speak on the ocean currents. Mr. Justice Varadachariar who is present here and who is in the midst of his Federal transmigration may have very soon to listen to elaborate expositions of the conflicts between State's jurisdiction and Central jurisdiction. I may have to make it appear before the Judge that all my life I have been reading nothing but the nautical almanac and the principles of Hydrodynamics. To-morrow I may have to deal with medical or engineering problems and exhibit a facile, if superficial, knowledge of technical minutiae. All the time moreover the lawyer must be an apt commentator and a critic of language. The great point of the lawyer is that he must forget almost sooner than he learns because if he keeps in his mind all that he learns, he will go mad. (laughter). He must first of all appear to know all that he is talking about and secondly he must replace this temporary knowledge with other categories of learning. That is exactly what Lord Fitz Gibbon meant. The style of legal address now is very different from what it used to be. Even in my younger days there was not developed that very telegraphic and very utilitarian style which is forceful but not always elegant and which is characteristic of to-day. What is often done is simply to quote a few cases from out of reports and then ask for a judgment. The advocate on the other side quotes something else and the argument deals more with numerals and interjections than with exposition. In those days there were men like Mr. Norton who, although he unwillingly quoted authorities sometimes, always spoke sparkling English. Mr. Norton also often lost his cases by reason of his neatly expressed and sometimes stinging jokes. If it was possible to make a joke at the expense of a Judge or a witness he could never refrain from it. It was from him that I first heard the witticism, "The extreme penalty for bigamy is to have two mothers-in-law." He once repeated before a local court the historic joke of Curran, the great Irish lawyer who was speaking before a pretentious Judge. The Judge was dogmatic and said, "Sir, if that is the law, I would burn my law books." Curran took the ball at the rebound and said, "Why not read them, My Lord." I remember a similar remark being made by Mr. Norton in the Sessions Court to a particular Judge. Naturally he lost his case. The present position is that a combination of what you might call literary excellences is not associated with the legal career because we are all in a great hurry now. We must finish a certain number of cases within a certain fixed period, as Governments call upon the courts to submit certain returns and the question of arrears arises. And further the multiplicity of reports and precedents is not conducive to a cultivation of individual style. It needs some leisure to be able to polish your phrases. When a lawyer of the old days was elaborately perorating on

the doctrine of warranty and on the question of damages when certain bags of oil-seeds were short-delivered, Justice Day said: "Yes; there may be full-bags and half-bags and also wind-bags." We are too afraid of the last criticism. Thus before the lawyer begins his 'alapana' he is asked to be short.

Now, I propose to talk to you for a few moments of what has been the literary appraisal of the law, what the literary man has thought of the law and what the lawyer has been as a literary man. So far as the first portion is concerned, the task is very easy. The lawyer has too often been the butt of the author and the artist. It was decided—the case is referred to in a note in 14 Madras Law Journal—that the lawyer had a right to shed tears! (loud laughter). The point arose in this way. The lawyer tried to argue. He made in his argument extravagant gestures and appealed to the jury. But the jury were obdurate. The question about his right to appeal to the sentiments and passions of the jury arose and it was decided, after lunch, that the shedding of a few well-chosen tears was not a contempt of court. History does not chronicle the result. Similarly Lamb, referring to the great Roman lawyers, justified what may be called bringing the *corpus delicti* into the court. The Romans used to wear a toga similar to our gowns. In a particular case the question related to infanticide and after the normal arguments in the case, the lawyer dramatically took the infant's body from beneath the folds of his toga and appealed to the Jury to acquit the accused because the infant was alive and kicking. The question was very simple for the Judges. These are instances used to show that the lawyer would go to any lengths to succeed in his cause.

In Chaucer we find the lawyer who is full of tricks. Then we come to Shakespeare who was a lawyer by instinct. Lord Penzance in a brochure has stated the reasons compelling him to the conclusion that Shakespeare must have been bred up in an attorney's office. As he knew so much about conveyances, and not only the language but the spirit of the law, was so familiar to him, that Lord Penzance favoured the view that Bacon must have been the author of the Shakespearean dramas. But Lord Penzance apart, there is no question that, speaking generally, Shakespeare was not particularly partial to the lawyer. Portia in the Merchant of Venice, the first female lawyer in English literature was an exception but, I am afraid, was undoubtedly guilty of bad law. I am speaking subject to correction. Her pleading was entirely against the right theories of alienation and conveyance. The question arose in the case argued by her whether a person who had under contract the right to cut off a certain portion of the flesh from the human body had a right to draw blood. Persons who know personal or real property law, know that whatever is given by

means of a document is given with all the necessary easements, benefits and appurtenances and the requisite blood and flesh must have passed together under the document. Anyhow Portia's bad law held the field and we have got it chronicled in one of the masterpieces of European literature. In Henry IV, Falstaff was guilty of the violation of the prohibition laws and he was admonished by the Lord Chief Justice. Falstaff was a great friend of the Prince of Wales and he boasted that the laws of England were at his beck and call. The Lord Chief Justice upheld the majesty of the law and condemned him to the Fleet Prison. This same Lord Chief Justice had proceeded against and sermonised Henry V when he was Prince of Wales, and for his action, instead of being dismissed as he well might have been, he was greatly praised by the then Sovereign of the country. Barring, then, Portia in the Merchant of Venice and the Lord Chief Justice in Henry IV, Shakespeare practically treats the lawyer as a bad specimen of humanity. Generally speaking, a lawyer in Shakespeare is a designing and rapacious person, although we lawyers know that he has never been so. Crabbe describes a lawyer as "a peace-maker who keeps in awe, contending parties by threats of law." His is one of the sympathetic legal portraits, but Justice Greedy in Massinger's "New Way To Pay Old Debts" is a typical picture of a hard-hearted and corrupt lawyer.

It is a very curious thing and the point is worthy of investigation by some research student that a man when he succeeds in the law, becomes a dry-as-dust person. At the same time it is true that many eminent literary men have approached the portals of the law but have not succeeded in getting entrance. Bacon, Macaulay and Sir Henry Maine are exceptional cases. Scott, Dickens, Thackeray and Boswell were confessed failures at the Bar. Disraeli, for instance, joined the Gray's Inn. But we find that he wrote to the authorities of the Gray's Inn that he was chronically ill and that he could not afford to keep his name on the rolls and so his name was struck out. Seven years after Gladstone was enrolled, his other avocations were so engrossing that he could not pay attention to law and his name was removed. Thus two of the foremost Parliamentarians were unsuccessful barristers. Scott was, as is well known, a scrivener. He is the only man, excepting Crabbe, who has more or less uniformly written well of the lawyer and his Mr. Pleydell is one of the finest illustrations of the good, kind, benevolent and acute lawyer. Recently some of the great figures in politics have been successful lawyers as for example, Asquith, Haldane, Lloyd George, Birkenhead, Reading, Carson and Sir Edward Clarke.

When we come to later literature, there are Dickens and Thackeray. Dickens was a man who tried many things and he learnt a great deal of law by the force of circumstances. But of him, it may be said, that neither he, nor Thackeray has been either antipathetic or ungenerous

to the lawyer. The attorney in Pickwick pretending friendship with the Lord Chancellor, Serjeant Buzfuz with his chops and tomato sauce, Serjeant Snubbin and many others are instances in point as well as David Copperfield himself. In the continent the case is worse. In Moliere, Voltaire and Balzac, we find the lawyer portrayed as a person full of wiles and tricks and greedy and unscrupulous. It is nevertheless an outstanding fact that very few persons of great eminence in European literature have been found to be without some grounding in the law. Robert Louis Stevenson, one of the most attractive of recent writers and a master of prose, attended some lectures in Roman Law in a Scottish University. Students of Roman Law know what *emphyteusis* and *stillicide* mean. The former is a kind of land tenure while the latter is an easement of necessity. Stevenson who attended these lectures summarised his knowledge as amounting to nil as he was not even certain whether *emphyteusis* was not a disease and *stillicide* a crime like *matricide* or *patricide*. (laughter) After having undergone this kind of legal apprenticeship Stevenson emerged as a polished writer of English prose and a splendid writer of ballads. I venture to attribute to his legal training his accurate thinking and clear narrative. An American lawyer describes what legal culture, and legal training can do and what its value is. What he says is:

"Modern sermons, debates in the House, newspaper leading articles and correspondence have a certain note of pompous futility which point too clearly to a growing lack of intellectual discipline and a sad ignorance of logic. The law Courts at least preserve a sort of intellectual gymnasium the efficiency of which is perhaps best advertised by the oburgations of those who wish to solve every political problem by the short cut of violence".

Whether it is for a life of letters or for a life devoted to the arts, a legal training, the habit of marshalling your ideas, the habit of putting first things first and last things last, the habit of analysis and the habit of classification have got their undeniable advantages. Legal knowledge is of the utmost value in the conduct of public and administrative life. Lord Haldane's is an illustrious example in recent times. He combined in himself a profound knowledge of philosophy, of law and letters and he was further a man of action in the real sense of that term. He it was who reorganised the English Army amidst obloquy and calumny, until at last he was practically hounded out of his place in the Cabinet. It took ten years for the people to realise his great services, but he surely owed to the law that versatility and that strenuousness which enabled him to familiarise himself with military matters and to prepare England for the War of 1914. To him these lines of Kipling may well be applied.

"If you can dream and not make dreams your master,

"If you can think and not make thoughts your aim,

"If you can meet with triumph and disaster
And treat those two imposters just the same."

To obtain such an outlook, legal training is a great aid. We have very little evidence in ancient Indian literature as to the place of the law and the training of the lawyer and his position in the polity of the different ages, but we have glimpses here and there of the value attached to immutable law. The idea of Rtha, the idea of Dharma, were ideas akin to the fundamentals of the Roman Law. The deity is regarded essentially as a law-giver and often an omnipresent witness. Let me bring to your mind what the Atharva Veda says:

yastishtati carati yasca vancati
yó nilāyam carati yah pratankam
dvau Sannishadya yanmantrayētē
Rājā tadveda varunas tritīyah

"Who stands, who moves, who goes crookedly, who goes stealing this way, who lives desparately, what two, sitting together, conspire, (all) that, Varuna, as the third knows"

In Greece and Rome law and life were interdependent, and the idea of law as the energising, fertilising element in all true culture was ever present. Cicero, Demosthenes and the great jurists who founded the Jus Civile were the progenitors of Machiavelli, Grotius, Puffendorff and Savigny and of Napoleon's Code; and the glory of Rome is that law and the practice of the law went hand in hand with oratory and the sedulous cultivation of style in the spoken and written word.

So far as we are concerned, our Dharma Sastras and later on the great Smritis and still later Kamandakeeya, Kautilya's Artha Sastra—all these were not great works of literary art but they developed a special style of their own—succinct and clear and free from ornament or floridity.

In Greece, thanks to the circulation of public offices, everybody in the City States may be plaintiff, everybody was likely to be defendant and everybody had to be a Judge. The link between law and letters was profound, intense and continuous. Nowadays, there is not much reference either to Demosthenes or Cicero and so I shall, with your leave give you an idea of the kind of arguments which were heard in those days. I may instance Demosthenes' Orations against Philip of Macedonia which gave rise to the term Philipic.

Here is an example:

"As to the defeat, that incident in which you so exult! (accursed wretch! who should rather mourn for it.) Look through my whole conduct, and you shall find nothing there that brought down this calamity on my country. Let it be considered that there is no one instance in which the ambassadors of Macedon ever prevailed against me, in any of those states where I appeared as the

ambassador of Athens; not in Thessaly, nor in Ambracia, nor in Illyria, nor among the Thracian princes, nor in Byzantium; in no one place; no, nor in the last debate at Thebes. But whatever was thus acquired by my superiority over the ambassadors of Philip, their master soon recovered by force of arms. And this is urged as my offence. My adversary, even at the very time that he affects to ridicule, that my weakness, is so shameless as to require, that I, in my single person, should conquer all the powers of the Macedonian, and conquer them by words. What else could I command? I had no power over the life of any one citizen, over the fortune of our soldiers, or the conduct of our armies, for which thou art so absurd as to call me to account. In every particular where a minister is accountable, there let your scrutiny be strict and severe. I never shall decline it. And what are the duties of a minister? To watch the first rise of every incident; to foresee, to forewarn his fellow-citizens. And this did I perform. To confine those evils within the narrowest bounds, which are natural and necessary to be encountered in every state; to restrain the fatal influence of irresolution, supineness, prejudice, and animosity; and, on the other hand, to dispose the minds of men to concord and unanimity, to rouse them to a vigorous defence of their just rights. All this did I perform; nor can an instance be produced in which I proved deficient. If a man were asked what were the means by which Philip effected most of his designs, the answer is obvious: It was by his armies, by his bribes, by corrupting those who were at the head of affairs. As to his armies, I neither commanded nor directed them. I am not, therefore, to account for any of their motions. As to his bribes, I rejected them. And in this I conquered Philip; for, as the purchaser conquers when a man accepts his price, and sells himself; so, the man who will not be sold, who disdains to be corrupted, conquers the purchaser. Well, then, with respect to me, this state remains still unconquered."

His oration on the Crown was an attempt made by him to accomplish the union of Greece for the defence of independence.

Here is another example:

"There are two distinguished qualities, Athenians, which the virtuous citizen should ever possess—(I speak in general terms, as the least invidious method of doing justice to myself)—a zeal for the honor and pre-eminence of the state in his official conduct: on all occasions, and in all transactions, an affection for his country. This nature can bestow. Abilities and success depend on another power. And in this affection you find me firm and invariable. Not the solemn demand of my person; not the vengeance of the Amphictyonic council, which they denounced against me; not the terror of

their threatenings; not the flattery of their promises; no, nor the fury of those accursed wretches whom they aroused like wild beasts against me could ever tear this affection from my breast. From first to last, I have uniformly pursued the just and virtuous course of conduct; assertor of the honors, of the prerogatives, of the glory of my country; studious to support them, zealous to advance them, my whole being is devoted to this glorious cause. I was never known to march through the city with a face of joy and exultation at the success of a foreign power; embracing and announcing the joyful tidings to those who, I supposed, would transmit it to the proper place. I was never known to receive the successes of my own country with tremblings, with sighings, with eyes bending to the earth, like those impious men who are the defamers of the state, as if by such conduct they were not defamers of themselves; who look abroad, and, when a foreign potentate hath established his power on the calamities of Greece, applaud the event, and tell us we should take every means to perpetuate his power.

"Hear me, ye immortal gods; and let not these their desires be ratified in heaven! Infuse a better spirit into these men! Inspire even their minds with purer sentiments! This is my first prayer. Or, if their natures are not to be reformed; on them, on them only, discharge your vengeance! Pursue them both by land and sea! Pursue them even to destruction! But to us, display your goodness in a speedy deliverance from impending evils, and all the blessings of protection and tranquillity!"

Cicero in his orations against Catiline and Marcus Antonius and in defence of Mylos has afforded wonderful examples of forensic eloquence. Prosecuting Verres for criminal breach of trust he indulges in the following language:

"Oh, for the good faith of gods and men! What is the meaning of all this? What a cause is this? What impudence is this? The statues which I am speaking of, before they were taken away by you, no commander ever came to Messana without seeing. So many praetors, so many consuls as there have been in Sicily, in time of peace, and in time of war; so many men of every sort as there have been—I do not speak of upright, innocent, conscientious men, but so many covetous, so many audacious, so many infamous men as there have been, not one of them all was violent enough, or seemed to himself powerful enough or noble enough, to venture to ask for, or to take away, or even to touch anything in that chapel. Shall Verres take away everything which is most beautiful everywhere? Shall it not be allowed to anyone besides to have anything? Shall that one house of his contain so many wealthy houses? Was it for this reason that none of his predecessors ever touched these things, that he might be able to carry

them off? Was this the reason why Caius Claudius Pulcher restored them, that Caius Verres might be able to steal them? But that Cupid had no wish for the house of a pimp and the establishment of a harlot; he was quite content to stay in that chapel where he was hereditary; he knew that he had been left to Heius by his ancestors, with the rest of the sacred things which he inherited; he did not require the heir of a prostitute. But why am I borne on so impetuously? I shall in a moment be refuted by one word. "I bought it", says he. O ye immortal gods, what a splendid defence! We sent a broker into the province with military command and with the forces, to buy up all the statues, all the paintings, all the silver plate and gold plate, and ivory, and jewels, and to leave nothing to anybody. For this defence seems to me to be got ready for everything; that he bought them. In the first place, if I should grant to you that which you wish, namely that you bought them, since against all this class of accusations you are going to use this defence alone, I ask what sort of tribunals you thought that there would be at Rome, if you thought that anyone would grant you this, that you in your praetorship and in your command bought up so many and such valuable things—everything, in short, which was of any value in the whole province."

So far I have been discussing, what may be called the general reaction of literature on law. Now, I propose to conclude what I have to say with the mention of some of the great lawyers who have produced things which are worth reading and which are contributions to literature properly so-called. The first of them, so far as England is concerned, is Sir William Blackstone to whom fine tributes have been paid by Fox and Gibbon and Lord Mansfield, and of whom Bentham said that he was the first man who taught Jurisprudence to speak the language of the scholar and gentleman. One of his most illustrious disciples was Abraham Lincoln. Another was Austin, to whom we owe a treatise which is more thorough than beautiful but which has had a profound influence on law and society. Next comes Jeremy Bentham himself. He was responsible for a tremendous stimulus to legal reform and as Sir James Fitz James Stephen said, his rationale of evidence was a shell bursting in a powder magazine. His influence on writers like Bryce was very great. Smith's *Leading Cases*, although not a great literary treatise, brought home to lawyers in England the underlying principles of the law and this treatise was the precursor of Story and Marshall.

An English politician and lawyer of the 18th century called Arbuthnot wrote a book entitled, "*Law, a Bottomless Pit*". It was a kind of pamphlet in which he denounced an impending war against France. It was one of the very first treatises on international peace and is remarkable also for its literary quality. Nicholas Frog, John Bull,

and Lewis Baboon typifying France, England and Holland are represented as litigants who spent all their money in law suit.

"A lawyer without history or literature is a mechanic, a mere working mason. If he possesses some knowledge of these, he may venture to call himself an architect". These are the words of Pleydell, the most attractive lawyer portrayed in Scott's Waverlay Novels. One of the greatest literary lawyers in England was Sir Thomas Moore the writer of Utopia. He outlined doctrines of political economy which are very different from those which are now current in the world and that book is worth studying on the theory of politics as well as in what may be called the art of writing simple and cogent English. Then, of course, we have one who has been called the greatest and meanest of men and who was at his best as a writer when he was under trial for corruption and bribery—Francis Bacon. His speeches in defence of the charges against him are literary gems, and his Essays stand in a class apart. May I quote just a few words showing legal English at its best, concise, clear, inspired and suggestive:

"Preserve the right of thy place, but stir not questions of jurisdiction; and rather assume thy right in silence, and defacto, than voice it with claims and challenges. Preserve likewise the rights of inferior places; and think it more honour to direct in chief than to be busy in all.

"The vices of authority are chiefly four; delays, corruption, roughness, and facility. For delays give easy access; keep times appointed; go through with that which is in hand, and interlace not business but of necessity. For corruption, do not only bind thine own hands or thy servants' hands from taking, but bind the hands of suitors also from offering; for integrity used doth the one; but integrity professed, and with a manifest detestation of bribery, doth the other; and avoid not only the fault, but the suspicion. Whosoever is found variable, and changeth manifestly without manifest cause, giveth suspicion of corruption; therefore, always when thou changeth thine opinion or course, profess it plainly and declare it, together with the reasons that move thee to change, and do not think to steal it. A servant or favourite, if he be inward and no other apparent cause of esteem, is commonly thought but a byeway to close corruption. For roughness, it is a needless cause of discontent; severity breedeth fear, but roughness breedeth hate. Even reproofs from authority ought to be grave, and not taunting. As for facility, it is worse than bribery; for bribes come but now and then; but if importunity or idle respects lead a man, he shall never be without; as Solomon saith: 'To respect persons is not good; for such a man will transgress for a piece of bread.'"

His was probably the finest example of legal writing. It is wonderful to contemplate that confronted with implacable adversaries and in the midst of turmoils he was able to hew his words and chisel his phrases. Lord Clarendon, the historian and the friend of Ben Johnson and Seldon,

Lord Jeffrey who edited the Edinburgh Review and attacked impartially, Wordsworth, Keats, Byron and Scott, Lord Brougham who has been caricatured by Samuel Warren in Ten Thousand a Year, and by Peacock were other notable literary lawyers of whom the latest were Lords Campbell, Selborne, Coleridge, Macnaughten and Darling. Lord Mansfield one of the brightest ornaments of the English Judiciary was the founder of the English Commercial law and the Law Merchant as Lord Stowell was the founder of Maritime Law. Both in his judgments and in his obiter dicta you will find finished examples of clarity of expression and elegance of thought. Mansfield was one of the greatest of English orators and his speech on the Right of Taxing America is a classic. Abraham Lincoln, Daniel O'Connell, Patrick Henry and Daniel Webster in addition to being great lawyers were also some of the greatest orators who used the English language. I do not know whether any of you have read O'Connell with regard to the rights of the Catholics. He has displayed not only profound knowledge of the law but oratory the like of which has not been often heard in England if we except the speeches of Burke and Sheridan. Then we come to Macaulay who, in addition to being an orator, was also an administrator and was responsible for a piece of splendid codification—the Indian Penal Code—a good example of accurate and cogent English prose. In the continent, wherever there is codified law there seems to be much more scope for great eloquence. It is worthy of remark that the French and generally speaking the continental system as well as the American Courts have tended to produce great and impassioned advocates and stylists. Great as have been the contributions of Hardwicke, Erskine, Romilly, Cockburn, Herschell, Cairns, Selborne, Halsbury, Lushington and Birkenhead in some of the Prize Court cases and Bowen and Fletcher Moulton in some of their notable judgments, they are eclipsed by Lincoln, Henry, Ames, Story, Webster, Choate and the French and Spanish advocates of whom one of the most eminent was Senor Castelar whom Gladstone called the greatest orator he had heard next to Mrs. Annie Besant. The greatest specimens of English eloquence are perhaps to be found in the writings and the speeches of the American orators and in the judgments of Chief Justice Marshall, and Justices Story and Holmes. I would like to invite the special attention of members present here to Webster's reply to Hayne dealing with the limits of the jurisdiction of the State Government and the Central Government.

Thus, therefore, we find that so far as Europe and America are concerned, whereas men of letters have been rather jealous of the law and whereas they have been using the lawyer as a butt and as a victim of caricature, as enemies or at the best as parasitic members of society, the lawyer and the judge have made great contributions both in judgments and philosophical thought to the onward march of the oratorical and literary procession in both the continents. I can claim therefore

that law and letters have been intermingled in the history of the world. All through the history of the world there have been lawyers and judges who by their knowledge and practice of literature have enriched what may be called the idioms and the genius of their several languages in addition to enriching the legal lore of their countries. Long may law continue as the handmaid or rather the familiar companion of the arts and literature so that law as a philosophy of life, as a balancing force in human existence and as a regulating and dynamic factor in human society may not be divorced from but may be united with all varieties of that basic and essentially spiritual ideal which beautifies, enlightens and ennobles human life. (Loud and continued applause).

CHAIRMAN'S CONCLUDING REMARKS

Hon. Justice Sir Abdur Rahman said in the course of his concluding remarks that the theme of Sir C. P. Ramaswami Aiyar's address was, as he understood it, that legal training was a combination of so many experiences and that a literary person should have some amount of legal training also. A literary man could express himself clearly if he had some knowledge of law. To be a successful lawyer, one must possess felicity of expression. Literature and Law must go hand in hand.

Mr. A. Westmoreland Wood proposed a hearty vote of thanks to the lecturer and the Chairman.

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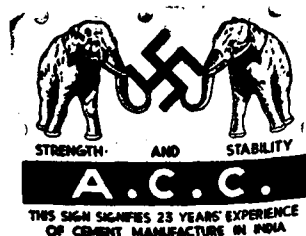
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LECTURE VI

"LAW AND LIFE"

BY

THE HON'BLE MR. JUSTICE P. VENKATARAMANA RAO

CHAIRMAN: SIR M. VENKATASUBBA RAO.

"Law and Life" was the subject of a lecture delivered on Thursday the 9th March 1939 by the Hon. Mr. Justice P. Venkataramana Rao at the Advocates' Association premises in the High Court. The Lecture was the sixth and the last in the series of Lectures organised by the Association in connection with its Golden Jubilee Celebrations. Sir M. Venkatasubba Rao presided on the occasion. There was a large gathering of advocates and others present.

CHAIRMAN'S OPENING SPEECH

Sir M. Venkatasubba Rao, in the course of his introductory remarks observed:—

The other day Sir P. S. Sivaswami Iyer, a distinguished member of our fraternity, spoke of the legal profession in glowing terms and referred to lawyers as the cream of human society, indeed, as the salt of the earth. But, should we not for a moment look at ourselves as others look at us? "Law is a mouse trap," said a worthy man, "easy to enter but not easy to get out of." There is a Chinese proverb which says that going to Law is losing a cow for the sake of a cat. Here are two proverbs one of hoary antiquity, the other from the present age. In no epoch and in no country did Law fail to be a target of ridicule or of hostile attack. "To go to Law," says a writer, "is for two persons to kindle a fire, at their cost, to warm others and singe themselves to cinders." That does not seem very complimentary to lawyers. But they have been condemned in yet more scathing terms. "Lawyers on opposite sides of a case," says a distinguished American, "are like the two parts of shears; they cut what comes between them but not each other." It does a lawyer good to reflect sometimes how he is looked upon and how his profession is viewed by the common man. If Mr. Justice Venkataramana Rao will therefore dwell on matters such as these, he will be quite in order.

Look at the subject again from another angle. How a lawyer views Life. Are there motives of human conduct, springs of action, hidden from the penetrating eye of the lawyer? Day by day, and all day, he comes across every form of baseness—greed, ingratitude, pride, hate,

infidelity, selfishness—what a splendid opportunity he has of studying the human mind. He becomes aware that vice often succeeds and virtue goes unrewarded. He becomes painfully conscious that justice meted out by human tribunals is very imperfect justice indeed. Judges and lawyers witness tense human dramas—of agony, of unspeakable anguish, of treachery beyond words—relieved, may be sometimes, by some bright act of kindness or charity. The lecturer has not taken me into his confidence but may probably dwell on matters such as these.

Or again, Law reflects life, or to amplify the same idea, Life moulds and is moulded by Law. That, for aught I know, may be the theme of his address. You know the famous couplet,

“When Adam delved and Eve span;
Who was then the gentleman?”

When these words were uttered in 1381 by John Ball he was nicknamed by Churchmen, “the Mad Priest of Kent”, imprisoned, excommunicated and put to death. Supposing you turn to the laws of those days would you find in the West any trace of human equality? No doubt the Christian Church taught that man was created in God's image; but this applied to equality of souls and not to earthly equality. Equality in the affairs of men was a new conception introduced by John Ball. History speaks of earlier out-breaks, for instance, slave revolts in classical times; but these outbursts were prompted not by any idea of human equality but by a desire to reverse the roles. If a rebel leader triumphed, he assumed the role of his hated master and began to oppress in his turn. Before this claim of John Ball to equality could take shape in legislation and constructive state policy, a long period had to elapse.

John Ball was followed by several rebels in Germany, Hungary, Bohemia and so forth. If Catholic Churchmen had nicknamed John Ball a lunatic, the leaders of Protestant reformation showed no better appreciation of the idea of human equality. Thomas Munzer who led the German Peasants' Revolt was described by Luther as “possessed.” Calvin no more favoured earthly equality. “Common folk must always be kept poor, to teach them obedience,” he said. It was Rousseau who said that one man is as good as another and the French Revolution with its “Liberty, Equality and Fraternity,” brought into existence a new era. The doctrine of the Rights of Man found concrete expression in the Code Napoleon which the great conqueror carried from country to country, such as Holland, Poland, Belgium, Italy and Germany.

Who does not know that Jeremy Bentham became the legislator of the world? If you wish to know what ideas dominated men's minds in those days, read the constitutions framed by Bentham. From his home in England he gave constitutions to Europe, Africa and America.

It is unnecessary for me to go on at this rate. All I wish to say is that Mr. Justice Venkataramana Rao may speak on such and allied

matters and yet he will not be stepping over the line. I shall have therefore no occasion to give rulings on moot points of relevancy. So I mused and mused and came to the conclusion that you wanted me here in order to demonstrate that you still treat me with affectionate regard. Let me assure you on my part that it gives me the greatest pleasure to spend sometime among my old and valued friends.

Let me in conclusion point out that the history of law shows that it is constantly growing and that its condition is not one of static rigidity. It was Sydney Smith, I think, who said, “when I hear a man talk of an unalterable law, the only effect it produces on me is to convince me that he is an unalterable fool.”

HON. MR. JUSTICE P. VENKATARAMANA RAO.

I must first thank the organisers of the Golden Jubilee celebrations of the Advocates' Association for this opportunity to come into your midst and to talk to you though I would have relished a more informal occasion and manner.

The subject which Mr. K. Krishnaswami Ayyangar, your energetic Secretary, chose for me to talk to you about is “Law and Life”. In an unguarded moment I consented because I could not deny a knowledge of law having been in the profession for over 30 years as an Advocate and Judge and of course I could not deny a knowledge of life having spent over fifty years of it. But later when I sat down to think about the subject I found it was indefinitely vague on the one hand and infinitely comprehensive on the other hand.

And then the final blow came or rather, a series of blows. Eminent lecturers had discoursed before me on law and every conceivable department, activity and aspect of life. “Law and Art”, “Law and Politics”, “Law and Religion”, “Law and Liberty”, “Law and Letters”. All these meant law and a greater part of life had been exhausted and I had to talk on “Law and the Remainder” and the Remainder looked as fruitful as an Equity of Redemption.

So I thought I could fall back on the more general aspects of law and life and their inter-relations. Perforce I do not and cannot attempt to be exhaustive. I shall just express a few ideas which have struck me and which probably have struck you all some time or other.

Law is a word of very wide connotation. Apart from its application to scientific rules and theories—e.g., law of gravitation—even in the field of legal terminology we meet with terms like “Law of Nature”. But speaking to an audience of lawyers under the auspices of this Association I cannot but use it in a very restricted sense—as we lawyers understand it, i.e., the law of the land—an aggregate of statutes, rules of common law, and other personal law and judicial decisions; not only as a mere

aggregate of all these but "as a great unifying and controlling institution placing upon each his duties, giving to each his rights, and enforcing from each his obligations".

Place of law in our life.

If only you begin to analyse critically and deliberately your most trifling actions and doings in your daily lives you will be surprised to find how law permeates all those actions. Each act has its legal basis and framework, each act has its legal implications. Each relationship is governed by rules of law. "Without the framework of law in which our lives are set, it would be impossible to carry on the infinitely diversified activities of modern humanity". To give a familiar example, so many of you come to the court in a motor car. Now listen to this passage from a recent book "Civilisation and the growth of Law" (Robson).

"It is by no means easy to realise fully the ramifications of the jural order to-day. If one stands in a city street watching the traffic go by, the law seems to impinge on each motorist, *qua* motorist, at about half a dozen points; he must obtain a licence for the car and its driver; he must light his lamps at night; he must not drive negligently; he must not park his car in forbidden places; he must observe certain speed limits and insure himself against third party risks. This appear to be the sum of motorists' legal obligations. But to appreciate the influence of the law in its true perspective one should consider the enormous legal framework which enables the car itself to be produced. The machinery of production includes not only the physical equipment and the raw materials but also the law of patents securing property rights in inventions and legal provisions of many other kinds designed to stimulate activity or ensure peace and safety in industry. The ownership of raw materials and finished goods; the enforcement of certain standards of commercial honesty, the securing to workers, managers, entrepreneurs and rentiers of their respective wages, salaries, commissions, profits and interest, the regulation of the relations between employee and employer, vendor and purchaser, banker and customer, landlord and tenant—all these and much else had to be regulated by the law before the production of the motor car was effected".

In the same manner if you take any of your numerous daily activities, you will find it regulated, affected and conditioned by law. Thus you are almost every moment of your life dependent upon and influenced by law. Law is the very atmosphere of all our being. As Lord Macmillan says in a recent book of his, "Law is the very foundation of human society, the very basis on which our civilisation is founded".

When we reflect on the infinite complexity of human life and the extraordinary intricacy of social relations and the illimitable diversity

of situations consequent thereon, it will become evident what a great function law is fulfilling. In every human community, be it small or large, why, in every family even, there are elements of discord and possibilities of conflict which so long as human nature is what it has been, we cannot ignore. Greed, passion for power as well as other animal passions and all the variegated manifestations of one of the fundamental traits of man—selfishness—these are all sources of conflict. And conflict inevitably leads to disorder.

One of the immediate objects of the law is the solution of such conflicts. It is impossible in to-day's brief discourse to trace historically how law in different countries in different ages has attempted this solution and with what success. Part of the ground is covered by rules of conduct and social regulations which will not be comprised in law in the narrow sense I am using that word. The word 'Dharma' probably will be comprehensive enough to cover such regulations as well as law proper.

Nor shall I enter into a detailed examination of one of the major questions of jurisprudence, viz. how far and up to what limits and in what spheres law proper should attempt at a solution of social conflicts, though at a later stage I shall have to stress one aspect of this in brief.

As I said, law attempts at a solution of social conflicts by a regulation of human relationships. As society advances and life becomes more complex and complicated and varied in activity, law too becomes complex and complicated.

One can look at law also from a slightly different aspect, i.e. different from its aspect as a system of threats and punishments by which social conflicts are solved. That is, to look upon law as a "formulation of the pattern of social behaviour." For, law does shape our outlook and conduct, quite apart from any hope of reward or fear of punishment, by inculcating certain habits and building up traditions, setting up certain standards and supplying us with ideals. The law provides us "with a mechanism of life whereby all the incidents of our relations with our fellow beings are regulated and the element of friction eliminated by definite and familiar adjustments".

Of course actual conduct and behaviour of the citizens of a State is never the same as the law of the State which is the formulation of the pattern of conduct and behaviour. The truth is, there are interactions continually going on between law on the one hand and life on the other with all the physical, economic, moral and political forces acting on it. While there is broad correspondence between the social conduct actually followed by the community and the pattern formulated by the law, the relation between law and social conduct or life is essentially dynamic. It is ever changing. Law forms habits. Equally, habits form law. New situations arise, new needs emerge and they lead to new laws or adapta-

tion of existing laws. Who would have in the 17th and 18th centuries dreamt of a law relating to Airways and a law relating to Wireless Transmission?

The law must be certain but it cannot stand still. A very great truth was uttered by Justice Oliver Wendell Holmes when he said "The life of the law has not been logic but experience". If you turn to the pages of Dicey's book, "Law and Opinion in the 19th Century", you will find how public opinion has influenced law in England.

In our own country you are aware how law is trying to keep pace, so to say, with life. Judges have often held several rules of Hindu law as laid down in the Dharma Sastras to have become 'obsolete' in the present day; in other cases, they have held that particular injunctions are only recommendatory and not imperative, that certain rules are moral precepts and not legal provisions. I have not given illustrations because there is no time and at least a few will be familiar to everyone of you. But after all Judges can do only little though in a way they shape the law and the rest is being left for legislation. And look at the variety of new laws we have had within the last quarter of a century. Apart from personal laws there have been laws in the departments of health, education, trade, insurance, partnership, joint stock companies and religious endowments.

What I have said is sufficient to impress upon you the necessity of a general study of law and acquaintance with its broad principles to an average citizen of the present day. They are necessary not only to regulate one's daily conduct but also to fulfil one's duty to one's neighbour and to the State. The general study of law and its development would reveal one important feature which every citizen should particularly remember. In the early systems of law there is no such thing as a universal rule of law. There was not the same law for every one or for every class. Distinction was made between class and class (vide the difference in the punishment provided in the Code of Manu). But the development of law has all along been on the lines of removing this distinction and establishing an important principle, that is, to have one law for all classes, rich or poor, peasant or prince and one court to deal for all classes. This principle of equality in the eye of the law by maintenance of a principle of universal rule of law is absolutely necessary to be zealously guarded by every citizen in India where social and caste tyranny dominates our daily lives. In the present state of hectic legislation in every department of social activity it is necessary to know where one is and how far any law would affect him and his rights in his normal activities. At any rate whatever may be the shortcomings of our present political system, the principle of democracy is recognised and a wide franchise has been conferred and a citizen who has got a right of franchise must see that he is as much responsible for

any law that is enacted as the legislature which enacts it. It is from that point of view necessary for every citizen to know the broad principles of law. As Lord Macmillan rightly observes,

"Full citizenship, as Aristotle defined it, lies in the right to take part in legislation and the administration of justice. Although in the modern State the citizen cannot take so direct a part in the making of the laws as the citizens of Athens did, he has still a share in the process. If he is dissatisfied with the law as it exists he is entitled to use his vote and his influence for its reform. All reform of the law is ultimately brought about by the aggregate effect of the wishes of the people expressed through the exercise of the franchise. So the citizen has a duty to think about the law and to form his own opinion about it."

Therefore the importance of a study of law as an indispensable part of education cannot be under-estimated.

The function of the lawyer in life

I shall now proceed to deal with the profession of law in so far as it bears upon life and the part played by it in actual life. In no profession does one come into contact with life and its problems in its varied aspects as in this. When I say 'profession', I include both the judiciary and the bar. Both form complements of each other in the actual administration of justice; one can never be viewed without relation to the other. There has recently been a good deal of talk about law and lawyers. Much has been said about the overcrowding at the bar and remedies for unemployment among lawyers. Eminent Judges and Statesmen have suggested ways and means. I do not propose to deal with them except only by way of a passing reference. But I propose to dwell on certain other aspects of the profession, that is, the part which a lawyer ought to play and does play in actual life. There has of late been a tirade against law and lawyers and you will just pardon me for referring to it. There have been recently statements by responsible persons whose utterances are listened to with bated breath that lawyers and law courts are hindrances to progress and but for them there would have been a healthy development of law. I must state with due respect to all of them that they betray lack of information and ignorance of the historical development of the law and the part played by the lawyer from the dawn of history. The tirade against lawyers and courts is as old as civilisation itself and the lawyers have been made the subject of sarcasm. Every one knows that in ancient Egypt lawyers were prohibited from pleading in courts on the ground that they darken the administration of justice. I would only refer you to 'Wasps' of Aristophanes about the way in which the lawyers were subjected to ridicule. Plato said that it is a great sign of a corrupt commonwealth when lawyers abound in it. Every one of you remembers the cheap gibe

of Swift who described lawyers as men who proved that white was black and black was white according as they were paid and in more modern times there are instances of this opinion held of the lawyers. Some years ago in the city of London a volunteer army was organised. Regiments were formed from different professions and occupations. One regiment was formed from the solicitors' clerks and law students. Some of the regiments bore the name of 'The King's Own', 'The Queen's Own' etc.; but when there was a parade of the regiment formed from the solicitors' clerks and law students, the people called that regiment 'The Devil's Own'. In this connection I would like to repeat to you two lines from an American poem which show the feeling which prevailed against lawyers in that country :

"These lawyers from the courts expel,
Cancel our debts and all is well",

Our legislature has in a way satisfied the demand in regard to debts but they have not as yet attempted any legislation regarding the expulsion of lawyers from courts and I do not know that when that day comes you will have the courage to protect yourselves. The lawyers have outlived such obloquy and the fact they have done so is proof of their worth and value. But even from the very early days lawyers were looked upon with a good deal of reverence. They are an indispensable part of the body politic. From a study of the history of the various civilisations it will be seen from the earliest times that the priests, the doctors and the lawyers have been absolutely necessary for the well being of any community or State. You remember on the occasion of the Jubilee celebrations of this Association Hon. Dr. Subbaroyan said that half the members of the Madras cabinet are lawyers. It is not possible to get on without them. In France, before the Revolution the lawyers occupied a very dignified position. They attained great eminence. They formed a distinct order of nobility called the Nobles of the Robe and the pledge taken by them was very significant. In fact, the pledge revealed that the lawyer was regarded as the guardian of the rights of the people and their privileges. All the sarcasm levelled against the lawyer is due to an imperfect understanding of his duties and obligations under which the lawyer lies and the failure to recognise that to the observance of such is due in a large measure the progress of the present day. A lawyer has got a threefold duty to perform ; (1) his duty to his client, that is, absolute fidelity to him ; (2) his duty to the court, that is, absolute fidelity to the court in aiding the administration of justice ; and (3) his duty to the public. It is the neglect of the last duty by a lawyer that has been the cause for misapprehension of the true vocation and function of a lawyer. The reason is that the profession of a lawyer is undertaken more as a commercial venture for making a living and earning profit therefrom and in this pursuit the ideals of the profession are forgotten. Almost all his time is pre-occupied in earning his living.

The present day lawyer may very well say, "It is all very well to preach high ideals but we must first make a living before we think of other things." There is justification for such a view because the signs of the times do not indicate that at any rate for some years there could be a change of outlook. In spite of the depression and in spite of the bad conditions in the profession, still young men would flock to the profession as there is no other outlet for them and no outlet will be provided for them for many a year to come. The only thing suggested for them is to go to villages and my esteemed friend the Chairman also has taken this view. But it must be said this is only one of the remedies he suggested. With very great respect, I beg to differ from this view. This suggestion is due to a misapprehension of the present day psychology of a villager. The villager lives as much in the city as in the village having regard to the facilities for transport now available, and there is absolutely very little scope for any lawyer to do much in a village. This slogan of "back to the village" is suggested not only for remedying unemployment among lawyers but also as a panacea for all distress now prevailing. This only shows the utter lack of imagination on the part of our statesmen and their despair in not being able to devise ways and means for tackling the problem in accordance with modern conditions.

The lawyer has always played an important part in the social and political life of every country. It is he who has been responsible for the development and the progress of a country by taking part in all its public activities and in the promulgation of laws suited to the changing social conditions. He always has borne the brunt of trouble and travail at every stage of reform in any country. Great lawyers always conceived their true vocation lay in their duty to the public as much as their duty to the client. If in the present day this ideal is neglected, it is not due to the fact that the lawyer is not alive to it but due to other conditions. But still, I would ask every lawyer in spite of his struggle for a living not to forget the duty he owes to the public, because he has chosen a profession which carries with it heavy responsibilities which it is his duty to shoulder even against odds. In this connection I will put before you the remarks of the Vice-Chancellor Kent :

"The responsibilities attached to the profession and practice of the law are of the most momentous character. Its members by their vocation ought to be fitted for the great public duties of life, and they may be said to be *ex-officio*, natural guardians of the law, and to stand sentinel over the constitutions and liberties of the country".

That is the true function of a lawyer. He is, in fact, a quasi-public official, interested both in the administration of justice and in the safeguarding of the rights of a citizen. So far as the administration of justice is concerned, the importance of a lawyer can never be under-rated and

we as Judges know its value. Without a lawyer no court can properly function. Without the help of lawyers no Judge can properly administer justice. I do not want to dwell upon this aspect at length except to refer you to the observations of Lord Shaw on Lord Macnaughten. The learned Lord is reported to have said :

"The Bar was in constant contact with human life and knew the possibilities of the forms of procedure for good or evil and might the time never come when Judges would be foisted on this country who had not undergone that wholesome training of the Bar. There was not one living day of his life when he did not feel grateful to the Bar of England and of Scotland for their learning, their assiduity, their helpfulness and woe be to the fool upon the Bench who thought he could do justice without their splendid and able help".

Judiciary.

Coming now to the other part of the profession, namely the judiciary, the complaint about courts, as I have said, is as old as civilisation. I will just cite to you a passage from a speech of an American Judge :

"Are the courts properly doing their work ? Are they usurping power ? Criticism of the courts is not peculiar to any age or people. It is as old as civilisation. In the translation of an old book 'Mirror of the Justices' we read that King Alfred in one year hanged forty-four judges because of their false judgments. James the First of England in a personal controversy with Lord Coke as to the King's right to review the judgments of the courts argued "that he and others had reason as well as the judges". In an old book published in 1641 entitled "A Speech Against the Judges for Their Ignorance" a member of Parliament asserted that instead of lopping off the branches of the legal system they should grub it up by the roots..... The abuses of the Court of Chancery had been the curse of England for centuries. For 25 years Lord Eldon sat in that court surrounded by misery and sorrow and never held up a finger to alleviate it."

So it will be seen that this criticism is not uncommon but history has shown that the courts have outlived this criticism. No one can deny that the maintenance of law courts for preserving order in society and enforcing the laws of the State is absolutely necessary and no State can exist without law courts. As Harold Laski points out in his latest book, 'Parliamentary Government in England,' "Acts of Parliament are not self-operative. They have to be applied by men. And application involves interpretation by a court." It is undeniable that one of the main agencies by which law has been improved and developed is by means of the judicial decisions in courts. Every one of you would have read the interesting chapter on legal fictions in Maine's 'Ancient Law'. But above all the maintenance of an independent judiciary is a

sine qua non of maintenance of individual liberty in any State and without an independent judiciary there can never be democracy. As I said on another occasion, it is the boast of an Englishman that to the independent judiciary they owe the principle of liberty of the subject. I cannot help repeating a passage from the lecture delivered by Justice McCordie before the Honourable Society of the Middle Temple in 1927 :

"It is equally vital to realise that His Majesty's judges are not a branch of any Government department. They aim only at the ascertainment of truth and the declaration of law as they think it to be. They recognise no political party. They bow to no suggestion of passing expediency. Lord Mansfield's words are as real to-day as when spoken by him in the eighteenth century : 'The judges', said he, 'are totally independent of the ministers that may happen to be, and of the King himself.'"

In regard to the character of justice administered by them you listen to what Lord Shaw says : "Justice was administered in this country by a Bench which would not bow to Royal favour, which would not bow to popular clamour and which would not bow even to the Executive but which had a higher and nobler task—to preserve against them all the liberty of the subject and the peace and security of the people." I think I can usefully refer you to another passage from Lord Macmillan :

"Once the administration of justice is tampered with, once it becomes swayed by fear or favour, the whole fabric of society is threatened. Let me quote the words of Viscount Cecil of Chelwood. Speaking in the House of Lords on 28th November 1934, he said : 'For my own part I believe that the independence of the judges is by far the most important guarantee of the liberty of the subject in this country that can possibly be devised, and that the moment you allow, as in some foreign countries recently has been done, the judges to be at the mercy of the political power, you are destroying the great guarantee of the freedom of the people of this country' "

Therefore it behoves every citizen and every lawyer to see that there is no legislative encroachment on the independence of the judiciary and this aspect of it is one which cannot but be too strongly emphasised and remembered by every one interested in the administration of law as it has got a very important bearing on our lives. To quote again Harold Laski, "In every period of social difficulty, the test of public freedom is the quality of the administration of justice."

I should now refer in passing to one important consideration which must not be lost sight of in these days of omniverous legislation, i. e., the limits of law. By limits, I do not mean the limits to which it *can* go but the limits to which it *ought* to go and no further. For, then, law ceases to be beneficial ; it may become even oppressive. There is a large region of human conduct which is not the province of law and there are

spheres of human behaviour and activity in which spontaneity and individuality should not be sacrificed to the hidebound consistency and uniformity of law.

I realise that though I am on safe ground so long as I am indulging in such generalisations I shall tread on dangerous ground if I descend to the concrete. For instance, listen to what a learned Law Lord in England says on this subject:

"The law does not prescribe as yet at least what we shall eat and drink or whether we shall or not smoke or how we shall spend our leisure or how we shall conduct our ordinary family life. With such matters the law is unsuited to deal....."

I am sure, at least in this country, at the present day this statement will not go unchallenged. Suffice it to say that law has not yet prescribed what we shall not eat but law does prescribe, at least in some districts in our presidency, what we shall not drink.

The duty of every civilised Government is to secure to its citizens happiness and no citizen can live a life of happiness unless freedom of mind is secured to him. From this it follows that as far as possible law should not encroach on a man's innermost life, his thought and belief; for then you are going back to the days of the Inquisition and the barbarities of religious persecution. The power of the State ought not to be utilised to curtail the freedom of thought and belief. When power is highly concentrated in the hands of a few persons their zeal to dictate to others how they shall live their lives is likely to lead to the subtlest but most pernicious form of intellectual slavery.

Before I conclude this short discourse on Law and Life I must say this. Life is something bigger than the law. As Sir John Simon said in a famous speech of his, "I am the last person to suppose that law is the whole of life; I never thought so."

And one must guard against developing a too great reverence of law as such. It must not be forgotten that though all laws are to be obeyed "there are good laws and bad laws; and even the best of laws fall short of perfection." You should never forget that fact in blind unquestioning respect for the existing law. If circumstances have changed which make any particular part of the law no longer just, it is your duty to voice your protest. You, particularly lawyers, are most well equipped to discover the flaws and lacunae in existing law. It is you that should educate and mould public opinion.

Lawyers are always looked upon as leaders of public opinion and they have it in their hands, as Lord Haldane once said in an address to the city solicitors of London, "to make or mar much of the future". A great opportunity is now open to the lawyers of this country and the country is passing through a crisis and great and rapid changes are bound to occur in the near future. In a recent book called 'Law and the

Lawyers', Robinson, a professor of psychology in an American University, designates the lawyer as a social engineer. He says that that is his true function but that is not being realised by the present day lawyer. He charges the lawyers with being conservative in their outlook and says they constitute a conservative force blocking the advance of social thinking. Though one may not agree with what he says of the charge of conservatism, one can join with him in the appeal he makes to the present day lawyer. This is what he says:

"And yet the men of law still have before them the opportunity to become leaders in social thinking instead of guardians of outworn ideas. The method of science has been applied to social problems thus far only by the academician and specialist. There is greatly needed a social engineer who will apply that method over a wide front and in the practical solution of urgent social problems. There is greatly needed a social engineer who, through the application of the best available knowledge, will teach men new and better ways of meeting their problems—of settling their disputes. There is no doubt of the opportunity. There is simply a question as to whether the lawmen will grasp it or whether the opportunity will itself create a new type of public servant—a real social engineer."

I finally close my lecture with a request to keep in mind the great truth which is sometimes forgotten, namely, "The law was made for man and not man for the law."

CHAIRMAN'S CONCLUDING SPEECH.

Sir M. Venkatasubba Rao said he agreed with Mr. Justice Venkataramana Rao, who in his brilliant address, said that there was a duty on the lawyers to promote sound political thought.

"There is, an inter-connexion between democracy and reign of law. In truth the two conceptions are inseparable, but I would go further and say that the danger to-day lies not so much in democracy losing some of its essential attributes, but in democracy degenerating into dictatorship. This is a tendency which unfortunately is visible to-day in Indian political life.

"As to legislation, there is a fundamental difference which ought not to be lost sight of.

"There are laws which interfere with the development of human personality, and those again which invade economic liberty.

"What may be permitted in the latter sphere ought not to be permitted in the former.

"No legislator, no state, no dictator will be entitled to say: 'You shall eat this and shall not eat that.' As to what one may drink or may not drink, I shall make no pronouncement to-night, as that touches on current politics.

I cannot let this occasion pass without adverting to the lecturer's criticism of my statement made elsewhere that lawyers would do well to settle in rural parts. The other day, I was astonished to hear a lawyer of the eminence of Sir P. S. Sivaswami Aiyar say that if lawyers went to villages they would foment litigation and promote strife. If that were true, it would be a matter for shame to the entire Bar in India. It was incredible that lawyers to whom Sir P. S. Sivaswami Aiyar paid a glowing tribute could be guilty of such baseness. Surely it was not a compliment to the Indian Bar. I take a loftier view of the lawyers of our country, and I still maintain that if India is to be regenerated, lawyers like doctors and other cultured people, should go and settle in villages. This was necessary both for their own sake and for the sake of the country. This is a matter which I had elaborated in my address and if you wish to know my considered view that address in its entirety has to be read.

Mr. E. Vinayaka Rao proposed a vote of thanks to the Chairman and the Lecturer.

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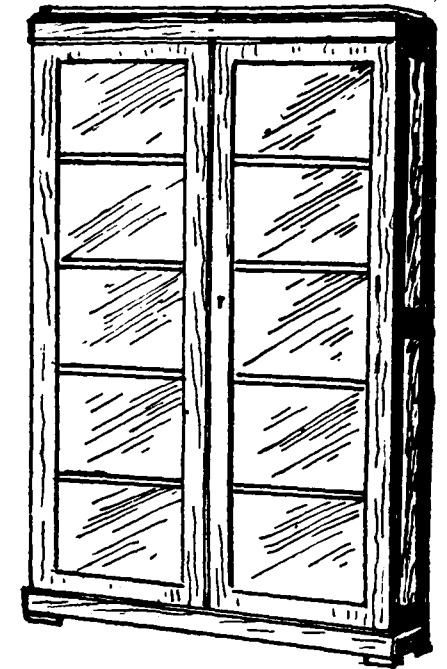
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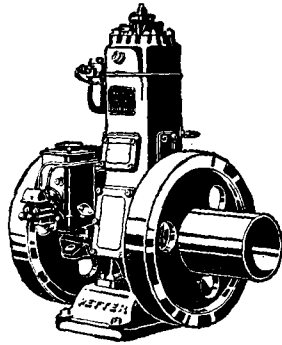
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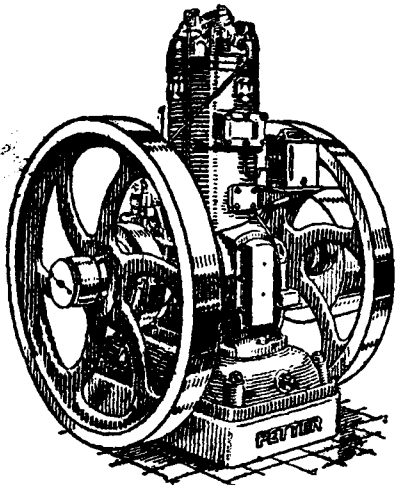
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ADVOCATES' ASSOCIATION, MADRAS

(1889—1939)

GOLDEN JUBILEE CELEBRATIONS

The Advocates' Association, Madras, celebrated its Golden Jubilee on Sunday the 19th February 1939 at the Besant Scout Camping Centre, Elliot's Beach Road, Adyar. There was a very large gathering of members of the Bar from Madras City and from the mofussil. The various Bar Associations throughout the Presidency had sent fraternal delegates to represent them in the celebrations and to participate in the informal conference of Lawyers held in the afternoon.

Sir P. S. Sivaswamy Iyer, one of the founders of the Association and a former President presided over the Celebrations.

Bhajana

After Chota Hazri early in the morning there was a Bhajana conducted by **Mr. T. M. Krishnaswami Iyer** and Party in the main hall of the Olcott Bungalow. A large gathering of members and guests was present and participated in the Bhajana.

Fine Arts Exhibition

The Fine-Arts Exhibition conducted by the Association in connection with the Jubilee Celebration was opened at 9-30 A. M. by the **Hon'ble Mr. Bulusu Sambamurthi**, speaker of the Madras Legislative Assembly. **Mr. V. Govindarajachari** requested the speaker to open the exhibition and in doing so paid a tribute to the splendid and enthusiastic services of Messrs. Arunachalam, Adiga and Jagannathadoss Govindas in organising the exhibition at very short notice. **Mr. K. V. Rangacharlu** a member of the Association sang a few telugu songs composed by him in honour of the Jubilee.

Hon. Mr. Bulusu Sambamurthy then made a long speech on the place of Art in life in the course of which he exhorted his audience to take to some interesting art so that life may be made richer and more enjoyable. He invited everyone to attempt to live the life beautiful. Then he declared the exhibition open. **Mr. A. Arunachalam** proposed the vote of thanks. Members, visitors and guests then went round the exhibition and viewed it.

Sea-bathing

Adequate and satisfactory arrangements had been made under the supervision of **Mr. K. Sanjiva Kamath** for seabathing and a large

number of visitors availed themselves of the facility and keenly enjoyed an exhilarating seabath.

Dinner

At 11-30 A.M. a sumptuous and thoroughly enjoyable dinner consisting of several courses was served and a company of about 600 sat for Dinner, in the two floors of the Olcott Bungalow. Great hilarity and holiday spirit prevailed.

After Dinner the whole gathering adjourned to the grounds for rest under the shade of the big trees. A number of tents had also been erected and members and guests spread themselves out in parties, big and small, for cards and other games.

Beginning from 1 P. M. a programme of entertainments consisting of musical and other items was gone through.

Informal Conference of Lawyers.

At 2 P. M. The informal conference of the Advocates' Association Madras and the representatives from the mofussil Bar Associations met at the Hall of the Olcott Bungalow. **Mr. S. Srinivasa Iyengar** presided. About 70 representatives from mofussil Associations were present.

Mr. S. Srinivasa Iyengar offered a most cordial welcome on behalf of the Association to the representatives who had come to convey in person the fraternal greetings of the various Bar Associations throughout the Presidency. He stressed the necessity of having a central organisation of lawyers, provincial in the first instance, so that the representations made by the organisation in matters affecting the profession as a whole might weigh with the authorities concerned. He said that by having a Central Association, the District Associations would not lose their individuality.

After a full discussion, in which several of the mofussil members also took part, it was decided to frame a constitution for the Central Association at the ensuing Provincial Lawyers' Conference. It was also decided to hold the Provincial Conference during Easter in Madras.

Mr. D. G. Dalvi of Bombay who came to the Jubilee Celebrations as a fraternal delegate representing the Western India Advocates' Association, Bombay addressed the Conference and pointed out that attempts at forming a provincial organisation in Bombay had not been successful so far and he hoped that Madras would lead in this respect as in the others.

There was a general discussion in which a large number of members participated. The majority of those present expressed the opinion that any legislation affecting the legal profession should be undertaken only after consultation with the Madras Advocates' Association which would

include affiliated Associations. Several gentlemen spoke on the various problems before the profession.

The question of having a Central Council of affiliated Associations was also discussed and it was decided to consider this matter further at the ensuing conference. A draft agenda for the ensuing Conference was also discussed. Reduction of Court-fees, the problem facing the junior members of the Bar, the organisation of Lawyers' benevolent fund, the evils of touting and underbidding, the composition of the High Court, recruitment of the judiciary, separation of the executive and judiciary, additional and subsidiary occupations for the Lawyer etc., etc. were all discussed.

Mr. S. Srinivasa Iyengar thanked all those who participated in the conference for their suggestions and hoped that something substantial would be done to bring about the solidarity of the profession. With a group photo the Conference terminated.

Garden Party

At 4-30 p. m. there was a grand Garden Party in the grounds adjoining the Olcott Bungalow and covers were laid for nearly 800 guests. There was a distinguished gathering of eminent and prominent gentlemen representing all walks of life in the City. The catering was in the hands of the Advocates' Association Co-operative Restaurant and the Mysore Cafe.

Golden Jubilee Public Meeting

Immediately after tea, the Golden Jubilee Public Meeting was held under the shade of the big tree in the Besant Scout Camping Centre. Excellent arrangements had been made thanks to the co-operation of the Engineering Department of the Theosophical Society. An amplifier had also been fixed and the illumination over the whole grounds had been attractively and neatly done.

Sir P. S. Sivaswami Ayyar presided over the Golden Jubilee Public Meeting. There was a large and representative gathering consisting of lawyers and others prominent in the public life of the city and leading lawyers from the districts. Prominent among those present were, the Hon. Dr. P. Subbaroyan, Minister for Law, the Hon. Sir Lionel Leach, the Chief Justice of Madras, Hon. Mr. Justice Varadachariar, Hon. Mr. Justice V. Pandrang Row, Hon. Mr. Justice Venkataramana Rao, Hon. Mr. Justice K. S. Krishnaswami Iyengar, Sir Alladi Krishnaswami Iyer, Sir V. Ramesam, Sir M. Venkatasubba Rao, Dewan Bahadur V. Bashyam Iyengar, Sir K. V. Reddi Naidu, Mr. M. Ruthnaswami, Mr. Mahomed Moosa Sait, The Sheriff of Madras, Dewan Bahadur T. Rangachari, Mr. D. G. Dalvi of Bombay, Mr. B. Bhima Rao, M.L.C., Mr. T. C. Srinivasa Iyengar, M.L.C., Mr. K. Madhava Menon, M.L.C., Mr. T. A. Ramalingam Chettiar, M.L.C., Mr. A. Rama Rao of Rajahmundry, Mr. P. K. Wattal Accountant-General, Mr. D. Appa Rao, Registrar of the High Court,

Mr. N. Sriram of the Theosophical Society and Dr. Mrs. Muthulakshmi Reddi and others.

The proceedings began with prayer and music by the girls of the Olcott Memorial School, Adyar.

WELCOME BY THE PRESIDENT OF THE ASSOCIATION

Mr. S. Srinivasa Iyengar, President of the Advocates' Association, extended a hearty welcome to the members of the Bar both from the city and the mofussil and to the other guests who had honoured them by being present there that evening at the Jubilee festivities. In particular he was happy to welcome to the Jubilee the fraternal delegates sent by the various mofussil Bar Associations from all over the Presidency and from Bombay. He said that the Association ought to be proud of its career of uninterrupted prosperity—almost unexampled in the history of Indian professional associations. It had ascended from one stage of development to another. It had shown remarkable freedom from prejudice, remarkable capacity for efficiency and for raising the standards of professional integrity, skill and advocacy, and remarkable unity. He believed that Madras was the only High Court in India in which on the Original Side, the members of the profession, without any distinction between Advocates and Barristers, could practise. He had heard of the difficulties in this respect felt in the Bombay High Court and he had been told that the same difficulties existed in Calcutta. They in Madras were ahead of other provinces in the matter of professional solidarity.

What had given him the greatest pleasure on the occasion, Mr. Srinivasa Iyengar said, was that the junior members of the profession had shown themselves that they were not inferior to the seniors in technical efficiency and in advocacy and he was glad to note that the Judges of the High Court had not been slow to recognise this. The speaker believed that when a Judge refused adjournment of a case when it was stated that the senior was engaged in another court, it was for the purpose of helping the junior to go on with the case. Mr. Iyengar expressed his joy that the relationship between the senior and the junior members of the Bar in Madras had always been cordial, and he hoped that such relationship would continue.

Mr. Srinivasa Iyengar was particularly glad to welcome to their midst Sir P. S. Sivaswami Aiyar, one of the originators of the Association. Sir P. S. Sivaswami Aiyar had achieved a great reputation and was a perfect gentleman. He was a distinguished exponent, though in a silent way, of Indian culture. Sir P. S. Sivaswami Aiyar had presented the speaker with a copy of his Kamala Lectures and the lectures showed the wonderful way in which the author had dealt with the various problems facing India. Some might not agree with his views and the speaker himself differed from some of the views expressed, but everybody would admit

that in spite of his age, Sir P. S. Sivaswami Aiyar remained young in spirit.

Mr. Iyengar wished the members of the profession increased success not only in their profession but in the varied activities they had undertaken. From a visit to the Fine Arts Exhibition organised in connection with the Jubilee, he had come to realise that there was ample hidden talent among them. In this connection, he wished to emphasise that they must have ability, generosity and freedom and above all, they must have character, for character was the sure foundation of all success whether in public life or in private life.

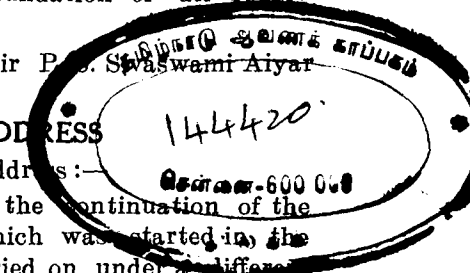
Mr. Srinivasa Iyengar then requested Sir P. S. Sivaswami Aiyar to take the chair.

PRESIDENT'S JUBILEE ADDRESS

Sir P. S. Sivaswami Iyer then delivered his address:

The Madras Advocates' Association is but the continuation of the Madras High Court Vakils' Association which was started in the eighties of the last century, though now carried on under a different and more comprehensive name. The completion of fifty years of existence in the life of an institution is an event which deserves to be celebrated, especially in this country of short-lived Associations, and must be a matter of rejoicing to the members of the Association. Though it is twenty-seven years since I left the Bar and I have been out of touch with the members of the profession and have not entered the precincts of the High Court more than four or five times during this period, I have not lost my interest in the welfare of the Association. Advancing years and the incidental infirmities have made me very chary of undertaking any onerous tasks. But I was reminded by my friend Mr. V. V. Srinivasa Aiyangar that I was the seniormost surviving member of the Madras High Court Vakils' Association, and he pressed upon me the propriety of my presiding at this function. As I could not deny the soft impeachment of my seniority, I had to overcome my reluctance and accept the penalties of my standing.

The High Court Vakils' Association, which is now functioning under the name of the Advocates' Association, Madras, was started in March, 1889, though it was incorporated under the Literary and Scientific Societies Registration Act only in March, 1908. It must not, however, be supposed that the Vakils had not formed an association before 1889. To the best of my recollection, there was a Vakils' Association in existence at the time of my enrolment in April, 1885, and Mr. S. Gopalachariar was its Secretary. When he left Madras on his appointment as a Sub-Judge, Mr. K. P. Sankara Menon, who subsequently became a Judge of the High Court of Travancore, was appointed as Secretary. For some reason or other the Association ceased to function and became defunct. In March, 1889, we wished to revive and reorganise the Vakils'



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Association for the purpose of mutual co-operation and better safeguarding of the interests of the profession. The objects of the Association were declared to be, to maintain a high standard of professional conduct, to protect and promote the interests of Vakils, to make representations to the authorities on matters affecting the profession and to form and maintain a library. My friend the late Mr. V. Krishnaswami Aiyar was the first Secretary of the new Association, and he continued to be the Secretary till 1901. The organisation and successful working of the Association was in large measure due to the personality and boundless energy of Mr. Krishnaswami Aiyar.

One of the first fruits of the activities of the Association was the privilege accorded to Vakils to wear gowns. This was the first step taken to remove our grievance that though the Vakils were in no way inferior in learning or ability to the Barristers who were regarded as the senior branch of the profession, we were treated as occupying an inferior status. The representations that we made from time to time met with a sympathetic response from the Chief Justice, Sir Arthur Collins. The formation of a library for the Association, which has now expanded to respectable proportions, the total number of volumes being over 30,000, was the result of the members' subscriptions and donations, and helped to draw the members together closer and impart a sense of proprietary interest in the properties of the Association and an element of permanence to the Association. Towards the end of 1889 we succeeded in getting from the Chief Justice two rooms in the Court House for the accommodation of the Association and its library. When the Association was founded in 1889, the High Court was located in the block of buildings opposite the harbour in which the Income-tax Office, the Collector's Office and a number of other miscellaneous offices are now housed. The two rooms assigned to us were on the ground floor near the northern end; and of the two, the room facing the sea had to be vacated during the trial of sessions cases for the accommodation of jurors. There was no room in the old High Court for Vakils' offices and we had our offices in rented buildings in the streets and lanes in the purlieus of the High Court. When the High Court was shifted to the palatial buildings which now adorn the Esplanade and the sea front, the Government were good enough to construct chambers for the Vakils within the precincts of the High Court.

In my earlier remarks I referred to the grievance of Vakils with regard to the status of inferiority assigned to them, compared with the Barristers' branch of the profession. This grievance was very keenly felt, though it was of a sentimental character. It has now been practically removed by the Bar Councils Act which has brought about the unification of the different branches of the profession. In passing, I may mention that in 1895 a proposal was made that Vakils of a certain standing might be allowed by the High Court to be enrolled as Advocates.

This proposal was rejected by us, and in my opinion rightly, on the ground that it would relegate the large majority of Vakils to a distinctly lower category and would militate against our attempts to win a position of equality with the Advocates' branch of the profession for the whole body of Vakils.

In respect of substantial rights and privileges, the position of the Vakils in Madras has always been one of decided superiority to that of the Vakils in the High Courts of Calcutta and Bombay. When the High Court of Madras was constituted in supersession of the old Supreme Court and the Sudder Court, rules were framed by the High Court for the admission of Advocates, Vakils and Attorneys, and under these rules Vakils were entitled to plead and act on the original and appellate sides and on the criminal side of the High Court. The right of Vakils to appear in appeals from the decisions of the Insolvency Commissioner to the High Court had been recognised, but their right to appear before the Insolvency Commissioner was not recognised for many years, until after it was raised and thrashed out in the sixth volume of the Madras Law Journal.

The qualification laid down for admission as a Vakil in the first set of rules framed by the High Court, were the attainment of the B. L. degree and, in addition, (a) a certificate of having subsequently studied for six months with an Advocate of the High Court or a Vakil entitled as such to practise on both the original and appellate sides and for a further period of six months in the office of an Attorney, or (b) a certificate of having studied for twelve months either with an Advocate or a Vakil entitled as such to practise as aforesaid or in the office of an Attorney, or (c) a certificate signed by the Registrars on the original and appellate sides of regular attendance upon the sittings of the Court in accordance with the rules prescribed in that behalf for two years subsequently to the attainment of the degree. An alternative qualification was the production of a certificate of having kept six terms at one of the inns of Court in London and of regular attendance on the course of law lectures while keeping such terms, as also a certificate of having passed one of the examinations provided for students, together with a certificate of subsequent study for nine months with an Advocate of the High Court at Madras or a Vakil entitled as such to practise on both the original and appellate sides or in the office of an Attorney. A certificate of good character and conduct signed by the Advocate, Vakil or Attorney was an essential requirement in all the aforesaid cases.

Except in the matter of precedence and pre-audience, Vakils of our High Court were on a footing of equality with Advocates who were then regarded as the senior branch of the profession. There was no question as to the eligibility of Vakils for any of the law offices of the High Court, but as a matter of practice, all the law offices were treated as a

close preserve for European Barristers. The first time that a High Court Vakil was appointed as Government Pleader in the High Court was when the late Sir S. Subrahmanya Aiyar was appointed to act as Government Pleader during the absence of Mr. E. B. Powell, the permanent incumbent. So far as the Advocate-Generalship was concerned, there was a delusion, bred by the use of the term 'Advocate' as part of the designation of the office, that Vakils were not eligible for the office. This belief was exploded by the appointment of Sir V. Bhashyam Iyengar as officiating Advocate-General in 1897. The credit of the discovery of the eligibility of Vakils was due to Sir Bhashyam Iyengar, and the merit of the courage to act upon this discovery belonged to Sir Arthur Havelock who was one of the most liberal-minded Governors of this Presidency. Various protests against this appointment were made by the Barristers who contested the eligibility of the Vakils, but they failed as they deserved. By an irony of fate, Sir Bhashyam Iyengar was not appointed to the office when a permanent vacancy arose, and on the next two occasions Barristers were appointed by the Secretary of State. But since 1907 the office has been always held by a Vakil, except once. It is a matter for satisfaction that except the Government Solicitorship, the Public Prosecutorship and the Chief Law Reportership all the law offices are now held by Vakils.

After the passing of the Bar Councils Act and the unification of the different branches of the profession, there were no invidious distinctions between Vakils and Barristers with regard to their eligibility to any law office. Doubts as to their eligibility for the Chief Justiceship have been removed by the Government of India Act of 1935.

The higher status of the Vakils in Madras in the legal profession as compared with the Vakils in Bombay and Calcutta is due to the broad-minded spirit of the rules framed by the High Court of Madras when it was formed in 1862. The improvement in the status of the Vakils is due to the abilities and attainments of the members of this branch of the profession from the earliest times, not a few of whom rose to eminence. No Vakils contributed more to raise the esteem and prestige of the Vakil Bar than Sir V. Bhashyam Iyengar, the prince of lawyers, and Sir S. Subrahmanya Aiyar his illustrious rival.

A few facts about the High Court as it was first constituted may be of interest to you. The High Court consisted only of five judges including the Chief Justice. The number of judges was raised by one in 1896, by one more in 1907 and another was added in 1908. It has since been raised from time to time until it now stands at fourteen including the Chief Justice, being only one less than the maximum fixed by the Government of India Act of 1935.

The first volume of the Madras High Court Reports contains some interesting information about the number of cases decided by the High



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Court during the period of 16½ months which elapsed from the opening of the High Court to the 31st of December, 1863. On the original side 179 suits and 174 sessions cases were disposed of. On the appellate side 112 regular appeals, now called first appeals, and 1201 special appeals, now called second appeals, were disposed of. The number of regular appeals pending at the end of the period was 63 and of special appeals, 239. I omit any reference to the figures relating to civil and criminal petitions and other miscellaneous matters. In the year 1937, the number of original suits disposed of was 385, of first appeals 826, of second appeals 1049, of civil miscellaneous appeals 409 and of original side appeals 48. Whether any and what inferences can be drawn from these statistics as to the increase or decrease in the volume of litigation, the requisite strength of the High Court and the prospects of the legal profession are matters which must be left for investigation by those who have more curiosity and patience than I possess. I express no opinion on the question whether the decrease in the volume of litigation is due to causes affording room for satisfaction to the public or the reverse and whether they are of temporary or permanent operation. I must refrain from further discussion of a delicate question which may possibly have a repercussion on the happy harmony that prevails between the Bench and the Bar.

The rights and privileges of the Vakils branch of the profession in Calcutta and Bombay compare unfavourably with those of the Vakils in Madras. Though there have been Vakils' Associations in Calcutta and Bombay, I have not been able to obtain any account of their history and activities. As regards Bombay, I learn that a Vakils' Association was formed in January, 1864, with the object of raising and maintaining the professional status of its members, diffusing professional information and promoting amelioration of the laws affecting the constitution of the Courts and forensic practice. Mr. Dhirajlal Mathuradas, Rao Saheb Visvanath Narayan Mandlik, Mr. Shanta Ram Narayan and Mr. Nanabhai Haridas were among the foundation members of the Association. The second and third gentlemen became Government Pleaders and the last became a High Court Judge, and their names are all well known to readers of the Bombay Law Reports. The first native of India to be appointed to the High Court of Bombay was Mr. Janardan who was a judge of the Court of Small Causes. It is curious that the terms of the congratulatory address which was given to Mr. Justice Janardan when he took his seat on the Bench were previously considered and approved at a joint meeting of the Pleaders' Association and the Vakils' Association of Western India.

It may be of interest to you to learn something of the conditions of the Vakils' profession, its opportunities, the incomes of the members at the top and the struggles of the juniors. To a large extent my information is based upon hearsay. So long as Sir V. Bashyam Aiyangar was at

the Bar, he commanded the most lucrative practice, and I have been told that at the height of his practice his income did not much exceed an average of Rs. 10,000 a month. The post-war-boom in prices greatly raised the fees of lawyers and I believe the peak in lawyers' incomes was reached by the late Sir K. Srinivasa Aiyangar, who told me himself that he was making Rs. 20,000 per mensem. I have heard that in England also the income of the top-most men in the Bar during the post-war years reached heights never before known in the history of the Bar. The income of Sir John Simon when he was the leader of the Bar was far higher than that of Sir Rufus Isaacs who afterwards became Lord Reading. I do not know whether the economic depression which set in ten years ago has affected the incomes of leading Advocates in Madras. So far as the juniors are concerned, it would be wrong to imagine that the juniors of the previous generations did not have to face any struggles. In one respect conditions were less unfavourable. The number of Vakils practising in Madras in former years bears no comparison with the number of those practising at the present time. The number of Vakils practising in Madras in the first year after my enrolment in 1885 was about 75. In 1889 when the Vakils' Association was formed, the number was somewhere about 100, of whom 59 were members of the Association. According to the Annual list for 1938, the total number of persons enrolled as Advocates is 3790, and the number of those practising in Madras is said to be about 1600, of whom 610 are members of the Association. *Prima facie* the number of practitioners is far in excess of the volume of litigation coming before the Courts which seems to have been steadily going down. Even so early as 1897, the Madras Law Journal complained of the overcrowding at the Bar. How much more is that complaint justified at the present time? The causes of overcrowding are well known, the principal of them being the dearth of alternative walks of life suitable for our educated young men. Another cause is the attraction held out by the large incomes made by the great leaders of the profession. Many a fond parent wishes his son to enter a profession which holds out prospects of making a fortune or at least a substantial income. Our people are great believers in luck, and a parent often asks why his son should not be lucky enough to attain the same success as Sir V. Bashyam Aiyangar or Sir S. Subrahmanya Aiyar. Probabilities do not enter into his calculation and he is not deterred by risks of failure. Too often he thinks that his son has as good qualifications as any of the men at the Bar who have risen to eminence. It is not realised that success at the Bar does not depend merely upon one's qualifications or intrinsic merits, but upon the opportunities that a man can get for the display of his abilities and attainments. Limited as such opportunities were in my time, they are obviously far more limited to-day. Unless a beginner has influential relations or connections or can get the chance of devilling to appreciative and generous leaders in the Bar, he has no means of making himself

known to the client world or to the judges of the Courts. The rules of professional ethics forbid recourse to questionable practices like touting, canvassing, soliciting or advertising. You are often told that patient merit will be eventually rewarded. Is it surprising that the struggling junior regards this saying as a mere pious platitude? Merit without opportunity is destined to languish and suffer the agony of blighted hopes and a wasted life. The spectacle of hundreds of young men suffering from unemployment and without any reasonable prospect of success is positively distressing. Is it possible to hold out any message of good cheer to lift the burden of their worries and anxieties? This aspect has recently engaged the attention of eminent lawyers and judges all over India. So far as future entrants are concerned, the most helpful suggestion is the restriction of the numbers of lawyers. How the restriction is to be brought about is a matter for earnest consideration. The result will be achieved to a large extent by the relentless operation of economic laws and the cruel principle of survival of the fittest, a principle which, in spite of its truth, involves great difficulty in framing a satisfactory definition of fitness. The number of candidates for admission to the Law College or to the Bar will necessarily decline when our young men and their parents are convinced that the profession is enormously glutted and that there are other walks of life offering comparatively better chances of remunerative employment. As regards the young men who have already joined the Bar and are struggling for their livelihood, advice has been tendered with the object of alleviating their position, in the presidential address of the Rt. Hon'ble Sir Tej Bahadur Sapru at the Allahabad Lawyers' Conference held in November last and in the presidential address of Sir M. Venkatasubba Rao at the Krishna District Lawyers' Conference held at Bezwada two months ago. The question of overcrowding at the Bar has been considered at length and various suggestions have been made which provoke thought and demand careful consideration. The extension of the B. L. course to three years would enable a more intensive and adequate study of the subjects included in the curriculum and would also have the incidental advantage of reducing the number of entrants to the Law College. Sir Tej Bahadur Sapru is in favour of instruction being provided in such branches of law as commercial law, including company law and industrial law, constitutional law, international law and conveyancing. In so far as a knowledge of these subjects will enable lawyers to specialise in particular kinds of work, such instruction would be useful and valuable. I believe it could not have been the intention of Sir Tej Bahadur Sapru to include these subjects in the list of compulsory subjects for the B. L. course. The addition of these subjects to the compulsory list would heavily overburden the course and interfere with the intensive study of the more essential subjects which now find a place in the curriculum.

I entirely agree with the suggestion made by Sir Tej Bahadur Sapru and by Sir M. Venkatasubba Rao that a voluntary division of labour may be made by our Advocates and that some of them may specialise in chamber practice, advising, conveyancing and drafting. But as admitted by Sir M. Venkatasubba Rao, our people have not learnt to appreciate the value of previous legal advice for the purpose of avoiding litigation. Ignorance of the desirability of consulting experts beforehand is a characteristic of our people not merely in legal matters, but also in matters like health and housing.

The suggestion made by Sir M. Venkatasubba Rao that young lawyers should settle in village parts and contribute to the work of rural reconstruction may be suitable to the lawyers who wish to spend their retirement in rural areas, but cannot possibly appeal to the budding lawyer who wishes to earn a living by the exercise of his profession. I do not believe that there is remunerative work in the way of advising and conveyancing waiting for the lawyer in the village, and sufficient to attract him. There may be some scope for employment in larger areas like the Taluk headquarters. As pointed out by Mr. Justice Varadachariar, the result of encouraging the young lawyer to settle in villages will be that he will lose no time in discovering that his only chance of earning a subsistence would consist in fomenting litigation. While the advent of the doctor to village parts would be beneficial by promoting health, the settlement of the lawyer in a village is more likely to prove a curse than a blessing.

Another interesting suggestion is the provision of legal aid for the poor litigant to be financed by a tax on the higher legal incomes. The suggestion will have to be considered from many aspects, including the danger of encouraging the passion for litigation, the prolongation of delays in the administration of justice and the difficulties attendant upon the selection of competent lawyers without favouritism.

In the course of his remarks on unemployment in the legal profession, Sir Tej Bahadur Sapru seems inclined to recommend an increase of the judiciary to be recruited from the Bar. No increase in the number of Courts or judges could possibly provide employment for the hundreds of unemployed Advocates in the profession. But even if it could, the increase of Courts or judges will have to be decided with reference to the needs of the administration of justice and the financial resources of the country, and not from the point of view of employment for lawyers.

The problem of unemployment in the legal profession is not more acute than in the case of other professions and occupations. It is only one aspect of a problem affecting the whole country and the only solution is the opening up of other avenues of employment which must depend upon an increase in the wealth of the country by the creation of new industries and increase of production and the diversification of occupations incidental to the complex economic structure of a modern State.

In conclusion, I must thank you for the honour you have done me in inviting me to preside on this glad some occasion in spite of the fact that I am not on the roll of Advocates. It only remains for me to offer my heartiest wishes for the long life, prestige and prosperity of the Association to which we are all proud to belong, and to express my hope that the members of the profession may exercise a salutary influence on public affairs and contribute to the orderly evolution of a strong and united nation and the all-round progress of this great country. (Loud and prolonged cheers).

MESSAGES

Mr. K. Raja Ayyar, one of the Secretaries of the Association, read the messages received by the Association on the occasion of its jubilee. Messages had been received among others from Rt. Hon. Sir John Wallis (a former Chief Justice of the High Court, Madras), Hon. Sir Maurice Gwyer, the Chief Justice of India, the Rt. Hon. M. R. Jayakar, Sir D'Arcy Reilly, Sir Owen Beasley, (a former Chief Justice of the Madras High Court), Sir Gilbert Jackson, Mr. H. D. Cornish, Sir Edward Wallace, Dewan Bahadur K. Sundaram Chettiar, Sir C. V. Anantakrishna Ayyar, all ex-Judges of the High Court, Mr. G. S. White, formerly Registrar of the High Court, Sir C. P. Ramaswami Ayyar, Mr. S. Satyamurthi, Mr. K. Venkatasami Naidu, Mayor of Madras, the Archbishop of Madras and others. Messages had also been received from the Chief Justice, Calcutta High Court; Chief Justice, Patna High Court; Chief Justice, Cochin High Court; President Bar Association, Calcutta; President, Western India Advocates' Association, Bombay; Secretary, Advocates' Association, Allahabad; and President, Travancore Advocates' Association; and the various Bar Associations throughout the Province.

TOAST OF THE GUESTS

Sir Alladi Krishnaswami Aiyar, the Advocate-General, in proposing the toast of the guests, said that it was a source of great encouragement to the profession that so many distinguished members, who did not belong to the profession, Judges, Ministers and others, should be present at the function. It was a signal proof that the profession in Madras was taking a very wide view of its functions and that it had not confined itself to presenting before the authorities their grievances but was in close touch with the active life of the country. There was no subject with which Law was not connected. The Association and the Bar Council had always taken interest in the great things that affected the life of the country. They had put forward suggestions for the improvement of the existing legislative enactments and had criticised the Government and the administration when anything wrong had been found. They were glad that the function was attended by the Chief Justice and other Judges, the Minister for Law and others. They in the profession would

have to maintain a necessary equipoise between the interest of the Government to see that law and order were preserved and the demands of justice. They had to see that justice was properly administered by the Courts. The proper administration of justice to a very substantial extent depended upon the proper functioning of the profession. The Courts could play their part only if the Bar helped the Bench. He also expressed their great appreciation of the presence of representatives one from Bar Associations all over the presidency and from Bombay. The Advocate-General coupled the toast with the names of Hon. Sir Henry Lionel Leach, the Chief Justice and Hon. Dr. P. Subbaroyan, Minister for Law.

CHIEF JUSTICE'S REPLY.

The Chief Justice Hon. Sir Lionel Leach, responding to the toast, said that the President of the Association and the Chairman of the meeting had touched on the subject of the dual system and had remarked how the Madras system was better than the system in Bombay and Calcutta. He was glad to find that the abolition of the Dual system (Barristers and Advocates) in Madras was very much liked. That was not so in Bombay or Calcutta. He agreed with what the Chairman had said. The Bar in Rangoon shared the honour with the Madras Bar in that respect. Before he came to Madras as Chief



Hon. Sir Lionel Leach, Chief Justice

Justice, he practised in the Rangoon High Court for over 18 years and, therefore, he could speak with knowledge of the working of the system there and here. He considered that the dual system was not suited to India. He could see no reason for any distinction whatsoever between the Barrister and the Advocate. There was no difference in Madras and there would never be.

In the message sent to the Association, his immediate predecessor Sir Owen Beasley had made a reference to the accommodation enjoyed by the Association. It had been brought to his notice that it was insufficient. He fully realised that and if he could give them further accommodation, he would be very happy to do so. Additional buildings would have to be constructed and he hoped that the Government would have no objection to that. But Government, of course, would require a return on the capital outlay. He had discussed the matter with the Secretary of the Association last year and he was hoping to hear from

them further. If the Association would put forward a scheme in this respect, he would assure them that it would have his strong support.

Sir Lionel said he knew that the crying need of the Association was the installation of a water-carriage system. He hoped that he would be able to do something in this respect this year. He hoped that before long the Association would have suitable accommodation provided for them.

The Chief Justice, continuing, said that he had enjoyed viewing the Exhibition which, he thought, answered the criticism of Mr. V. V. Srinivasa Iyengar that the members of the profession had not taken to the development of the fine arts.

The Chief Justice offered his felicitations to the Association on the occasion of its Golden Jubilee and wished it continued prosperity. He thanked the organisers for having given him an opportunity to be in their midst on the occasion of the celebration of the Golden Jubilee of the Association.

LAW MINISTER'S REPLY



The Hon. Dr. P. Subbaroyan

The Hon. Dr. P. Subbaroyan said that he belonged to the other fraternity of lawyers who, on the original side of the Madras High Court could not appear except through a solicitor unlike in other Courts in India. He did not go in for practice in those courts but remained in Madras and later on took his part in politics. He was glad to be present at the function. The Madras Advocates, as had been stated already, had really contributed to the knowledge of Indian Law and the Madras Bar had produced most illustrious lawyers like Sir V. Bhashyam Iyengar, whose tradition of learning was now being borne by his son-in-law, Mr.

S. Srinivasa Iyengar. The recent book on Hindu Law, edited by Mr. Srinivasa Iyengar, was a reminder to them of his learning and it was a tribute to the legal knowledge found in this Presidency. His Leader once remarked that it was a danger to put a lawyer in charge of law. He hoped, however, that he would not fail in the discharge of his duty to the legal profession as a Minister in charge of Law. He knew the difficulties of the lawyers and the interests of lawyers were safe with the Government, as the Madras Cabinet was fifty per cent. a Cabinet of lawyers. (Mr. S. Srinivasa Iyengar: That is the trouble.)

Continuing, the Minister said that it was not unusual for law and politics to go together. For a long time the leaders of the legal profession occupied the position of Prime Minister in Great Britain. Mr. Asquith was the last of the Prime Ministers in recent times who had risen from

the legal profession. There were three things which a lawyer could do. He could play at law, he could play at politics and if he failed in both, he could always play his part in religion. He had played his part in law and he was now playing his part in politics, but the last resort was still to come.

Their revered President Sir P. S. Sivaswami Iyer had traced the troubles and tribulations through which the legal profession in this part of the country had gone and they in Madras could be proud that they had in their midst learned lawyers like Mr. Justice Varadachariar, who, they were glad, had been appointed Judge of the Federal Court.

Dr. Subbaroyan went on to say they were following the English Law and, as Dicey had stated, law was made not only by the legislature but was also the result of the interpretations of law given by judges who had thus contributed gradually to the growth of law in this country. "I am sure," the Minister added, "that the Madras Advocates' Association is proud of its achievement during the past fifty years because the members on the Bench had made valuable contribution to the growth of law in their country and that, in the days to come, it will continue to produce men who will contribute to the growth of law. Lawyers have contributed much to the gradual evolution of Indian polity and to its revolutionary evolution. We have had enough of evolution and evolution has led us nowhere. I believe revolution will lead us somewhere."

FRATERNAL GREETINGS

Mr. D. G. Dalvi, Advocate, Bombay, who came to Madras as a fraternal Delegate to represent the Advocates' Association of Western India, Bombay, in the Jubilee Celebrations of the Advocates' Association, conveyed the fraternal greetings of the Bombay Association to the Madras Advocates on the auspicious occasion of this Golden Jubilee. He referred to the plight of the Bombay Advocates who were considered inferior, in the Bombay High Court, to the Barristers and he hoped that with the co-operation of the Madras Bar, where there was no such invidious distinction, such distinction would ere long be abolished in Bombay also. He said that the Madras Bar had been an object of admiration, pride and emulation for the rest of India in general and for Bombay in particular. "We have," he added, "benefited much from the exposition of law that has come from the South. Whenever a judgment of the Madras High Court was cited it has been generally accepted by the Bombay High Court."

Mr. T. A. Ramalingam Chettiar, M.L.C., on behalf of the mofussil lawyers, congratulated the Madras Advocates' Association on the celebration of its Golden Jubilee and stated that the Madras Bar had set an example to the mofussil lawyers to follow. The time had come, he said, when they had to pull together and find solutions for the various pro-

blems confronting them. It was necessary that the Madras Association should find accommodation within its fold for mofussil associations also and thus bring about solidarity among the lawyers. They must be united so that they could voice forth their grievances through one agency.

Mr. T. C. Srinivasa Iyengar, M.L.C., of Madura on behalf of the Madura and Ramnad Bar, conveyed felicitations to the Madras Advocates' Association and expressed the hope that the Lawyers' Conferences would be revived and that such conferences would be held in mofussil places also.

Mr. K. Bhima Rao M.L.C., from Bellary, associated himself with the sentiments expressed by the previous speakers and added his congratulations and best wishes to the Association, on behalf of the Bar in the Ceded Districts.

Mr. A. Rama Rao from Rajahmundry said that the Madras Bar had always maintained the prestige, independence and solidarity of the Bar and offered his felicitations on behalf of the Bar of the Northern Circars to the Advocates' Association on its record and on its Jubilee.

Mr. K. Madhava Menon, M.L.C., from Calicut next spoke offering congratulations on behalf of the Bar on the West Coast and expressing the hope that the Madras Bar would continue to be a source of inspiration and encouragement to the mofussil lawyers.

Vote of thanks

Mr. V. V. Srinivasa Iyengar the Chairman of the Jubilee Celebration Committee thanked the President of the day, Sir P. S. Sivaswami Iyer, who had so kindly presided over the celebrations. He offered his sincere thanks also to the Chief Justice, the Minister for Law and to the other Judges of the Court and the members of the mofussil Bar for participating in the function. He hoped that this function would imbue the members of the Association with the sense of solidarity necessary for their profession and with its high ideals. He also expressed his deep appreciation of the services of the Secretaries and the members and various others who have contributed to the successful organisation of the celebrations. He expressed in particular the thanks of the Association to Dr. G. S. Arundale, the President of the Theosophical Society, for his great kindness in having placed the premises at the disposal of the Association and for various other kindnesses and consideration shown to them in organising the celebrations successfully. He also conveyed their thanks to all the guests who responded to their invitation and honoured them by their presence and participation in the Jubilee Celebrations.



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Orders booked from all parts of India.

Motto: Quick Execution, Easy Terms and Perfect Satisfaction.