

Dr. Rajendra Prasad, First President of India

Extract from the speech of Dr. Rajendra Prasad, President of India on the inauguration of the Indian Law Institute in the Central Hall of Parliament on December 12, 1957.

It is necessary that there should be a body which works quietly in an atmosphere which is free from the din of courts and also away from the controversy of the legislatures, where attention is paid to the various implications of a particular kind of legislation and where legislation which has already been adopted is studied for the objects it has achieved and for the way in which it has been worked. This can be done by an Institute like this.

**PRESIDENT DR. RAJENDRA PRASAD'S SPEECH WHILE
LAYING THE FOUNDATION-STONE OF THE BUILDING
OF THE INDIAN LAW INSTITUTE, NEW DELHI**

28TH NOVEMBER, 1960

Just nearly three years ago I had the pleasure and the privilege to formally inaugurate the academic work of the Indian Law Institute and today I am here to lay the foundation-stone of the building in which the Institute will be housed. The President of the Institute who is no other than the Chief Justice of India had explained to us the progress that the Institute has made and the work that it has accomplished within this period. We are all much pleased and interested to know the success so far attained and we look forward to further and greater success and achievement in the future. It is a matter of congratulation that the Institute has been able to enlist the co-operation of many lawyers whether practitioners, judges or jurists in its work and that encourages the hope that its future will be as fruitful as the past has been. I need hardly express on your behalf as well as mine the gratefulness of the Institute to the Government for the piece of land it has allotted and the grant of 5 lakhs of rupees which it has made for the building of the Institute. It is indicative of the measure of the interest the Government takes in the Institute and its activities and the Institute may well count on such support as it may need from the Government in the future.

It is essential that an Institute like the Indian Law Institute should have a house of its own. It was undoubtedly comfortably located in rooms generously allotted by the Supreme Court for the purpose but the need for independent premises of its own was always felt and it is only in the fitness of things that need should be fulfilled and a suitable house well-furnished and well-equipped with a library and other things necessary for such an Institute be provided.

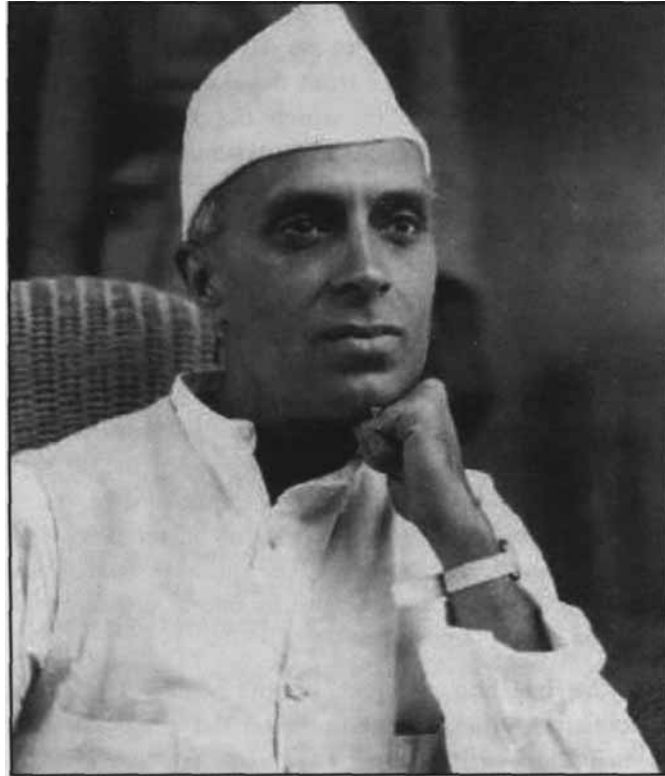
This is perhaps the third occasion when I have been given the privilege of addressing the Institute. As you have permitted me on previous occasions to speak on some matter or other connected with your activities, I may take the liberty of putting forward a suggestion for study and investigation by the Institute.

Our Constitution is a comparatively new Constitution. It is based largely on the model of the British Constitution. As such it has a history, if not an ancestry, which may well go back to centuries. It is being worked, I venture to presume, successfully and to the satisfaction of all concerned although within the short period of 10 years it has had to undergo no less than 7 amendments. As I have stated, the Constitution is very largely founded on the British Constitution. There are certain differences which are obvious. The British Constitution is a unitary Constitution in which the Parliament is supreme, having no other authority sharing its power of legislation except such as may be delegated. Our Constitution is a federal Constitution in which the powers and functions of the Union Parliament and the State Legislatures are clearly defined and the one has no power or right to encroach upon the rights and powers reserved to the other. The Head of the State in the British Constitution is a Monarch and the Crown descends according to the rules of heredity. In India the Head of the State is an elected President who holds office for a term and can be removed for misconduct in accordance with the procedure laid down in the Constitution. It is generally believed that like the Sovereign of

Great Britain the President of India is also a constitutional head and has to act according to the advice of his Council of Ministers. The executive power of the Union is vested in the President and shall be exercised by him either directly or through officers subordinate to him in accordance with the Constitution. The Supreme Command of the Defence forces of the Union is also vested in him and the exercise thereof shall be regulated by law. There are in the articles of the Constitution many provisions which lay down specific duties and functions of the President. The question which I should like to be studied and investigated is the extent to which and the matters in respect of which, if any, the powers and functions of the President differ from those of the Sovereign of Great Britain. Further, it may also be considered if the procedure by which the President is elected and is liable to be removed or impeached introduces any difference, constitutionally speaking, between the President and the British Monarch. Generally, what are the points in respect of which the powers and functions of the two are the same and what are the points, if any, and the extent to which they differ? In this connection it may be pointed out that there is no provision that the President shall be bound to act in accordance with the advice of his Council of Ministers. The relation between the President and his Ministers is laid down in articles 74 and 75. Article 74 lays down that there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions. The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court. Article 75 lays down that the Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister. The Ministers shall hold office during the pleasure of the President and the Council of Ministers shall be collectively responsible to the House of the People. Other provisions may be said to be subsidiary or ancillary to these provisions. The question which has to be investigated is how far these and other provisions go towards making the functions and powers of the President identical with those of the Monarch of Great Britain.

In this connection a wider question of much import is how far we are entitled to invoke and incorporate into our written Constitution by interpretation the conventions of the British Constitution which is an unwritten Constitution. All this will necessarily involve a consideration of the question how far the words and expression used in our Constitution shall be treated as words and expressions of art which have a meaning attached to them which is fixed and which is not necessarily the literal meaning of those expressions. This is necessary in view of the fact that our conditions and problems are not on par with the British and it may not be desirable to treat ourselves as strictly bound by the interpretations which have been given from time to time to expressions in England. We have got used to relying on precedents of England to such an extent that it seems almost sacrilegious to have a different interpretation even if our conditions and circumstances might seem to require a different interpretation. I do not think it is necessary for me to formulate the problem precisely or in definite terms. I hope I have given an indication of the questions which I have in my mind and I leave it to the Institute to define more precisely the scope of the investigation so that more or less precise answers may be formulated. I may add that in making this suggestion I do not have any particular question in view much less any incident. I put forward this subject purely as a subject of study and investigation in a scientific manner so that we may know exactly what the scope of the powers and functions of the President is.

I can only hope that I have not transgressed on your patience or exceeded the limits of my function here this afternoon to which you have so kindly invited me. I need hardly assure you that I value my contact with you and I am deeply conscious of the honour you have done me.



Pt. Jawaharlal Nehru, First Prime Minister of India

Extract from the speech of Pt. Jawaharlal Nehru, Prime Minister of India on the occasion of the inauguration of the Indian Law Institute in the Central Hall of Parliament on December 12, 1957.

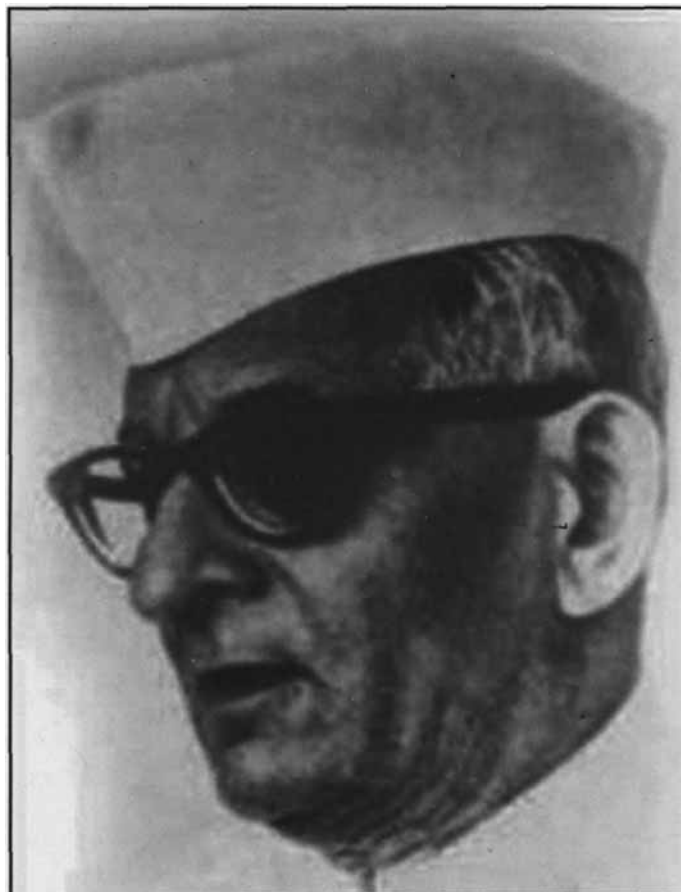
Laws had to be framed, adapted and changed. Therefore, it was well to remember that laws were not immutable, unless we think human society was immutable, which it was not. To be immutable was to be stagnant. In any progressive society therefore, law had to be adapted to the changing order.



Hon'ble Mr. Justice S.R. Das, Chief Justice of India

Extract from the speech of Hon'ble Mr. S.R. Das, Chief Justice of India, First President, Indian Law Institute on the inauguration of the Indian Law Institute in the Central Hall of Parliament on December 12, 1957.

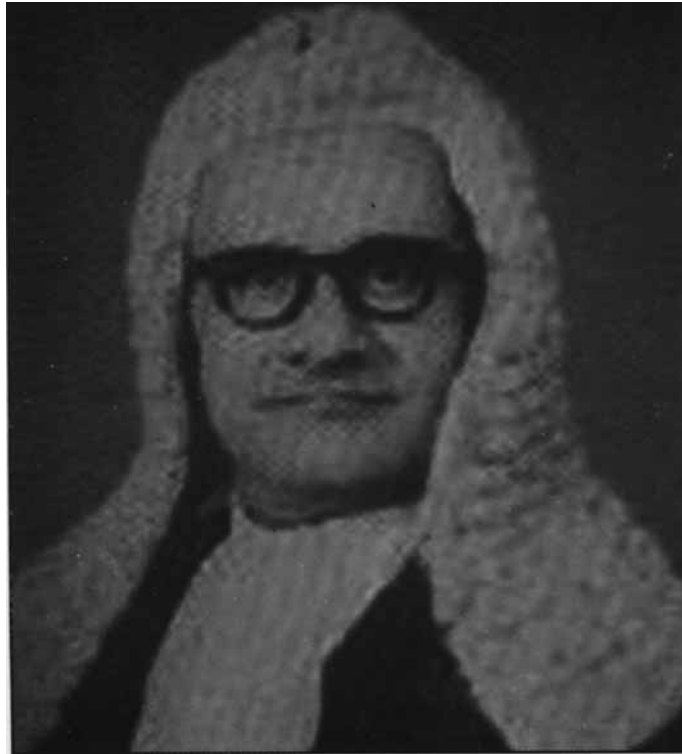
We are, thus, launching the Institute on its career of usefulness, full of hope that it will take its rightful place as one of the great centres of legal research.



Dr. K.M. Munshi, Executive Chairman, ILI

Extract from the speech of Dr. K.M. Munshi, Executive Chairman, ILI on the inauguration of the Indian Law Institute in the Central Hall of Parliament on December 12, 1957.

The foundation of the Indian Law Institute is an important event in the legal history of this country since, for the first time, the judiciary, the practitioners and the teachers connected with law, have come together in a common organization for the purpose of conducting research in law.



Hon'ble Mr. Justice B.P. Sinha, Chief Justice of India

Extract from the speech of Hon'ble Mr. Justice B.P. Sinha, Chief Justice of India at the Third All India Law Conference organised by the Indian Law Institute on August 12, 1962.

I need only point out certain salient features in relation to the Indian Law Institute with which I am closely associated. The Institute is having increasing recognition by the Government of India and the State Governments.... The Union Government has also been gracious enough to grant a long lease of a very valuable plot of land in front of the Supreme Court building for the construction of the headquarters of the Institute; and towards the building fund an initial grant of five lakhs of rupees has already been given.