



ADDRESS

By

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It was a happy idea indeed to arrange the assembly of the second annual session of the All-India Law Conference in this ancient city with its hallowed and world-famous neighbourhood.

It is gratifying that since the last conference met in Delhi in March 1959 the Institute has done considerable and varied work. I do not wish to anticipate the detailed survey of its activities which will be put before you by the Secretary of the Institute. But I cannot help referring to the valuable research work in various fields which has been completed and the final reports of which are being placed before this conference for discussion. The Institute has, in organising and furthering its research work, been able to obtain the guidance of distinguished professors from England and the United States. One of its activities has been the publication of a quarterly Journal which has attracted considerable attention in India and in foreign countries. The Institute has also been able to induce distinguished lawyers visiting the country to deliver lectures on matters of interest to the legal profession. Our membership has also substantially advanced. Perhaps, the most important achievement of the Institute has been the interest which it has awakened in matters concerning law in different parts of the country. We are thus meeting at the end of a year of useful and substantial activity conducted by the Institute.

It will be remembered that one of the resolutions passed at the All-India Law Conference held at New Delhi last year was in regard to the formation of the Bar Association of India. That institution was registered in September 1959 and was inaugurated by the President of India in the beginning of April. An immense field of work lies in front of that body. However, as I stated at the conference in New Delhi, useful service can be rendered by such an association only if the Bar can produce workers devoted not only to the betterment of the profession but also to the advancement and promotion



of law in the setting of our new way of life. Its inauguration by the head of the State was but the laying of the foundation of the organisation. The real task lies ahead in the adoption of a structure by laying stone upon stone so that it may ultimately grow into a magnificent edifice. As the President of the newly formed Association, I seek their co-operation in promoting the activities of this newly formed body. But we must not forget that an organisation of this nature cannot be successfully built by a few leading people. If it is to be a body humming with activity rendering useful service not only to the profession but to the country as a whole its membership as well as its activities must be broad-based finding support in all parts of the Country. I, therefore, appeal to my younger brothers in the profession to come forward with an all-out effort so that we may be able to convince our countrymen that the profession of the law is not a narrow trade union consisting of people seeking their own gain but a profession which has a duty to educate public opinion and lead the Country in its effort to be a great and prosperous nation.

Turning to the work before this session it will be noticed that we are to meet in committees dealing with research projects, constitutional law, administrative law and teaching methods of legal education. In addition we are also having a committee on the "First Decade of the Indian Constitution". I wish to say a few words about the last-mentioned Committee.

I do not quite know how the activities of this committee are going to shape. But our purpose should, I think, now that ten years have elapsed since the coming into force of our Constitution, be to take stock of its working in different aspects.

We shall have, I think, first to examine the over-all working of the Constitution in relation to the objects expressed in its Preamble. The people of India resolved to constitute India into a Sovereign Democratic Republic and to secure to its citizens liberty, equality and fraternity in the manner mentioned in that Preamble. Has the working of our Constitution during its first ten years promoted these objects? Are our Union and state Governments functioning as true democracies? We are thinking not of forms but of the actual working of the formulas which find a place in our Constitution.

We have based our democracy on a countrywide adult suffrage. Has the adoption of such a suffrage resulted in bringing into our legislatures the true representatives of the people? Are the legislative bodies under which we have been functioning truly democratic



or representative of the people ?

An examination of these and a number of allied questions would yield results which would be useful not only to the lawyer but also to the citizen and the Governments. What I am thinking of are not mere expressions of opinion by a number of individuals. Such opinions would undoubtedly have value, but what is needed is the collection of information by the issue of questionnaires or other methods in a systematic manner, the collection of such information and the drawing of conclusions in regard to various topics based on the data so collected

Another aspect of the functioning of our Constitution which may usefully form the subject of detailed research and study would be the ascertainment of its trends in regard to the exercise of National or Union power as contrasted with state power. We have designed our Constitution in a federal form but given it a distinct unitary bias. There are those who hold that such a unitary bias should be still more emphasised. What does the working of the Constitution in the last ten years indicate ? Are we moving towards the greater concentration of power at the Centre ? Answers to these questions can only be furnished by trained minds collecting information and making inferences from the materials so collected.

A further head of investigation may be the working of the emergency provisions of our Constitution during the last ten years. This is only an aspect, but a very important aspect, of the division of power as it were between the Union and the states. Have the emergency provisions been adequate and fulfilled the purposes for which the Constitution-makers designed them ? How far are the conditions of the actual exercise of these emergency powers been consistent with the democratic nature of our Constitution ? Have these emergency powers been exercised in conformity with the principles embodied in the Constitution ? There again we have a field for factual investigation and research on which alone answers to the questions which I have indicated can be given.

The operation of constitutional remedies for the infraction of fundamental rights is another important head of research. The makers of the Constitution designed these remedies in order to secure to the citizen the enjoyment of these freedoms and secure him against these being invaded either by legislation or by executive action. The point for investigation would be whether these remedies have adequately served their purpose. A conclusion can be deduced only from data which has been elicited as a result of detailed enquiry



and questionnaires widely circulated and answered.

These few aspects are but illustrative of the basic and the important problems in respect of which study and investigation may be thought to be necessary or useful by the Committee. It will be for the Committee to consider whether these or other like problems lie within the ambit of its work and a study of which of them may usefully be undertaken.

We must not forget that the basic and the fundamental purpose of the Institute is to cultivate the science of law and to promote advanced studies and research in law and its administration. We have to consider whether the Institute is devoting the bulk of its energies of this basic object. No doubt the holding of these law conferences has promoted general interest in law and legal subjects and served other useful purposes like the founding of the Bar Association of India. But, are we not deviating as it were from our main purpose by promoting these no doubt very useful other activities? India radically lacks the spirit of research and study in the legal field. Should not the activity of a body like the Indian Law Institute be wholly devoted to the promotion of studies and research in law and its administration?

A further matter for our consideration is the insufficient association with our activities, of the academic lawyer. I had occasion to refer to this aspect of our working at the last gathering of our conference. If one examines the names of persons associated with the Institute one finds a large number of practising and very busy men of the profession but only a few interested in the science and the teaching of the law. I think this balance has to be redressed and the help and cooperation of the academic lawyer have to be enlisted in a much larger degree. If the Institute is to be effectively conducting research in the science of law we need a preponderance of academic lawyers in its organisation and governance. The practising lawyer can certainly tender useful advice and lend a helping hand but the preponderating voice must, I think, be that of the jurist and the teacher of law. It is said that our country lacks capable academic lawyers who can shoulder the responsibility of running an Institute like ours. If this is true it furnishes in my view no reason for not bringing in and making use of such academic lawyers as we have. Above all, at the head of an institution like ours we must have a capable academic lawyer who alone can succeed in inculcating in the workers of the Institute that spirit of study and research in law which will make it an organisation worthy of our Country.



Finally I may observe on the paucity of young men in our team of workers and advisers. As in many other activities in our country we seem to pin our faith on age and experience. It is, I think, time that we shook off this tradition and took advantage of the vision and energy of the young lawyer by associating as many young men with our work as possible. The adoption of such a course will ensure that continuity of activity which is essential to the stability of a body like ours.

Let me wish this session of our Conference success and achievement.