



WELCOME ADDRESS

By

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Chief Justice of India and the President of the Indian Law Institute

I have great pleasure in extending a hearty welcome to all of you—Judges, practising lawyers, administrators, legislators, law teachers and others—who are here to attend this Conference.

It is remarkable that it was at the first All India Law Conference, under the auspices of the Indian Law Institute, that the Bar Association of India was born, and I am particularly happy to welcome the members of that All India body which has acquired an added importance after the enactment of the Advocates Act of 1961. It is in the fitness of things, therefore, that this 3rd All India Law Conference is being sponsored and organised under the joint auspices of the two bodies.

The organisation of the Bar of the whole country was a great desideratum for the advancement of the Rule of Law, and for the proper organisation and control of the legal profession, which is now becoming more and more important with the growth of our body politic, under our Constitution. We have all gathered here to put our heads together to see that the advancement of legal knowledge, through research, and the strengthening of the legal profession as an organised body, are placed on a sound footing. This partnership of the Institute, which is dedicated to the all-round development of academic work in advanced studies and research in law, and the All India Bar Association, whose endeavour it shall be to see a well-organised legal profession, is an extremely significant development for the future of democracy in our country.

It is in the fitness of things that the Attorney-General for India should have been requested to inaugurate this Conference. He is not only the official leader of the legal profession in the country as a whole, but is, in his own right, the doyen of the bar, the principal legal adviser of our nation, and the first jurist outside the United Kingdom to have been invited to deliver the Hamlyn Lectures. The high quality of his work as the Chairman of the Law Commission is known to all in this country and even beyond. He is beyond question the acknowledged leader, in fact, of the bar of the country, and is



universally respected not only for his great forensic abilities but also for his unimpeachable integrity and fearless independence in advocating the cause of Law and Justice. The legal profession has to be congratulated on its having one who has reached the maturity of age and wisdom to guide the profession on right lines and to insist on the high traditions of the bar being fully maintained.

As this is essentially a gathering of lawyers, both academic and practising, I should say something about legal education and the equipment of lawyers to enter the profession. We have quite a large number of law schools, including separate law colleges affiliated to different universities in India, which have been imparting education in law. But, I may be permitted to make some general observations as to what the present state of legal education in our country is, what are its drawbacks and in what way we can hope to improve upon it. In most of the universities and law colleges, the course of studies in law is spread over two years; there are some with three years' course also. But, I am afraid, it has to be said that the education and training imparted in those institutions are not of a high order, to put it mildly. This may be due to several reasons, for example, the inadequacy both in quality and quantity of the teaching staff, the low standards of university examinations and the initial equipment of those who seek admission to such institutions. There has been a growing feeling that too many law graduates, ill-equipped for the legal profession, are being turned out by the law colleges.

During my recent travels in the United States of America, I was able to visit the leading universities and law schools, like Harvard, Yale, Columbia, Stanford, to name only a few of them. These visits have led me to believe that the education and training given in those law schools are far more intensive and extensive than those in our own country. The teachers there, particularly at the top, are persons of very high academic distinctions, whose salary, if anything, generally speaking, is higher than that of Judges in the highest courts in the states. The tuition fee per student would come to about seven thousand five hundred rupees a year, in terms of Indian currency. This is besides the other expenses that a student will have to bear. Generally speaking a law student has to spend anything between one thousand to fifteen hundred rupees a month in order to get properly trained. The candidate has to undergo very intensive training spread over a period of three years, for his bachelor of laws degree. A student, in order to cope with the work in the classes and seminars,



conducted by their senior teachers, has to put in an average of 10 hours of work per day. In the course of the very first few months of their entering the University, a considerable number of those who enter the law schools have to drop because they are found to be deficient in their intellectual equipment to cope with the work. In the United States there is no distinction between lawyers who can only act and those who can only plead. In the absence of such a dual system as obtains in England, the attorneys at law, who leave their law schools after taking their law degrees are persons who have been highly trained not only on the academic side but also in the forensic art through sittings of their moot courts, which are very often presided over by judges of the Supreme Courts of the states concerned, and also sometimes by the Judges of the Supreme Court of the United States of America. With such all-round equipment, the best graduates of the universities are taken over by the judges of the Supreme Court of the United States of America, the Federal Court of Appeals and by the District Courts, as also by the courts of the States and the leading law firms who compete with the courts in making their recruits to the law offices. Thus, the fresh graduates from the universities get paid a salary equal to eight to ten thousand dollars a year. The young lawyers taken by the judges are called law clerks. These law clerks are expected to help the judges of the highest courts for collecting the materials for the preparation of their judgments. This is some indication of the high quality of the training in their law schools. I was given to understand that in the United States there are no briefless lawyers, because those who do not set up active practice in the courts are absorbed in the law offices and other business houses which give preference to law graduates, because of their high calibre and their intensive training in subjects like Commercial Law, Taxes, Tax-law, law of Advanced Accounting and Mercantile Law, besides efficiency in drawing up little deeds and documents for the use of corporations, etc. In other words, the market value of many graduates in law turned out by the American Law Schools is far higher than those who take their law degrees in most of our Indian universities.

This, I think, is due primarily to the fact that in our country there is practically no education and training in Commercial and Mercantile laws, in the art of conveyancing and drawing up Income-tax and Sales-Tax returns, etc. Our legal training is far too bookish and much less practical than what is absolutely essential. The All India Bar Council, aided by the Bar Association of India, will have, I hope, to



devise ways and means of giving the right type of legal education, both academic and practical, in order to befit the law graduates to be better able to discharge their responsibilities as legal advisers to the community. I would suggest further that it is worthwhile considering whether or not the holding of a law degree alone should be a passport to the practice of the profession of law, whether or not a more severe test from the practical point of view is called for, in order to weed out those who are not fitted for the forensic art. Unfortunately, in our country most of the lawyers' work lies in courts, very much unlike the state of affairs in America where most of the work of lawyers lies in the offices. This is not only because oral arguments are not so much in demand as written arguments in the shape of briefs for the Judges, but also, because a good part of the work of many lawyers' firms in the U.S.A. consists in advising corporations and other bodies in the details of their everyday activities.

Another aspect of the legal profession which will require the active consideration of the leaders of the profession would be the amelioration of the condition of the beginners in the profession of law and of the need for legal advice to poor and indigent litigants. Could the State or the profession so organise legal aid to the poor as to bring to competent lawyers, who are ready and willing to devote their time and energy to the help of indigent litigants such financial encouragement as they deserve? In the United States of America these aspects of the needs of the the community and of the beginners in law have been solved by their legal system permitting what is called "Contingent fees". Many poor litigants would not have been able to seek redress through courts but for this system which permits a lawyer to enter into a contract to share the fruits of the decree between the litigant and his legal adviser in certain proportions, according as the legal adviser is successful in getting for his client redress either through negotiations and compromise, or through litigation in courts, at different stages. This system has its evils, as recognised by the profession itself in the United States. The American Bar Association, which is a very active and powerful body, is vigilant in laying down rules and regulations controlling the terms and conditions on which such contingent fees are paid and received. There is no doubt that much can be said on both sides in respect of this system, which is wholly un-recognised in England or in the countries of the Commonwealth, including our own. But human ingenuity has got to devise ways and means to bring succour to poor



litigants and afford the very necessary relief to beginners in the profession of law, who are able and willing to render competent service to those who require it. The leaders of the bar in this country, through their State Bar Councils and the All India Bar Council strengthened by public opinion in the profession, have to shoulder the responsibility to solve the problems indicated above.

Another problem which faces the legal profession is the question of having a well-equipped working law library. It goes without saying that a well-equipped library provides the working tools for a practising lawyer in our system in which adjudication is very largely governed by case law interpreting statute law or the Common Law which has not been codified. It is essential that a legal practitioner should have the use of a good working library. In our country, so long as the movement for establishing law firms by several lawyers combining does not become a reality, individual lawyers would continue to require their case law within the shortest possible space. The law courts also similarly stand in need of a working library. To solve this problem and to provide them with ruling cases, the Indian Law Institute has sponsored a scheme for revising the law reports, case-noted up-to-date with a view to weeding out the unnecessary ones and printing the selected in the form of revised reports so as to economise space and time. The Committee on this project, I am glad to say, will be presided over by one who is an authority on this branch of the subject, and I hope that with the co-operation of the State Units and the Union Government the Institute may be able to come to some conclusions which may prove to be of great benefit to the legal profession, including the judges.

With a view to assisting the work of the research side of the Institute with reference to different topics, some of the committees of the conference will get busy to assess and to chalk out future plans of work. I wish those committees all success.

The importance of a Conference like this, which I hope will be held at least once a year, can hardly be over-estimated. Our country at present is at an important stage in its growth, both constitutional and sociological. The lead given by the 'Directive Principles' of our Constitution to all the organs of the State, the Legislature, the Executive and the Judiciary, and the building up of a homogeneous and egalitarian society is a *sine qua non* for our survival as a nation. In this process the administrative organs are of necessity to be given more and more discretionary powers to manage the material resources of



our country. This in its turn brings in 'planning and administrative discretion'. But it is also necessary in the present context of our backwardness that we do not forget the other necessary condition for the successful building up of a nation, namely, the sense of freedom that every citizen should feel in the enjoyment of his liberties guaranteed by the Constitution. Hence, side by side with the concept of increasing efficiency of administration, we have to devise ways and means for the proper control of that machinery. This problem of properly balancing the considerations of governmental efficiency and the liberty of the citizen has been a most difficult task, which the people have to face and very often the courts are called upon to adjust.

Let me hope that these problems of proper legal education, with particular reference to academic studies and cultivation of forensic skill will be kept in view so that those who are entrusted with the task of advising the State agencies and of adjusting difference in viewpoints are enabled to meet the growing needs of the community in the new set up.

It is very heartening, indeed, that so many leading members of the Bench, the Bar, the academic profession and the administration should have found it worthwhile to join hands to advance the work of the Indian Law Institute and the Bar Association of India, and should have taken the trouble of coming from far-flung places like Kerala, Kashmir, Madras and Bengal, at the sacrifice of their other duties.

It is not necessary for me to refer in detail to the activities of the Indian Law Institute and the progress of the Bar Association of India, the details of which will be placed before you by the Research Director of the former and the Secretary of the latter. I need only point out certain salient features in relation to the Indian Law Institute with which I am very closely associated. The Institute is having increasing recognition by the Government of India and the State Governments. The Union Government has always been gracious in its support to the finances of the Institute, which has been receiving substantial grants every year, and recently the grant has been doubled and made recurring for five years. 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. Besides those material grants in land and money, the Government of India have been issuing directions to the various Ministries and Departments to co-operate with the



Institute in its different activities. The example of the Government of India has been followed by some of the State Governments who have come forward with grants of money and allotment of accommodation for the functioning of the State units, and other State Governments are actively considering the grant of such assistance to the Institute. I should take this opportunity to thank all the authorities aforesaid for their generous grants and for promises of help and to assure them that it will be the endeavour of the Institute fully to deserve this confidence.

The Institute has also been fortunate in having enlisted the sympathy and support, and in having the guidance and co-operation of so many eminent persons on its Governing Body and its Executive Committee. I have particularly to mention, in this connection, our Executive Chairman who was generous enough to respond to the call of the Institute and to leave his home in far South to come here to shoulder the responsibilities of directing the activities of the Institute. I have, therefore, to acknowledge the active help and co-operation of those valuable colleagues and I have to thank them for the same.

I have also to mention the Ford Foundation, which has always encouraged our Institute and has come out with generous financial assistance and has made available the services of scholars from other countries and for giving financial aid to Indian scholars carrying on their academic studies abroad. I have every reason to believe that the Foundation will continue to help us, as it has done in the past.

I must say something also in appreciation of the pioneering work undertaken by the learned Chief Justices and Judges of the various High Courts and members of the Bar, as also the law teachers, in the matter of organising and developing the State units in their respective jurisdictions.

And finally let me wish you all a very busy time over the intellectual fare that will be spread before you by the different committees for your deliberations and valuable conclusions. I have no doubt that you all will be fully kept engaged in matters of great importance to the community in which the Institute and the Association are also jointly interested.

Once more I cordially welcome you all to this learned gathering. I wish it all success.