



WELCOME ADDRESS

by

SHRI M.C. SETALVAD
ATTORNEY-GENERAL OF INDIA

On behalf of the Indian Law Institute, I extend a hearty welcome to all who have assembled here to participate in its Annual Session and the All India Law Conference.

Though in its infancy, the Institute has, since its inauguration in December 1957, done useful work in the field of study and research. At the Seminar held in December 1957, it was decided that the Institute should take up certain research projects. Various project areas have since been taken up for study and you will, in due course, hear from the Secretary of the Institute about the work done on these projects. With the work of the Institute have been associated distinguished foreign lawyers and jurists. Under its auspices there have also been delivered a number of lectures by men distinguished in the field of comparative law and legal studies.

We are but a year old body and it is not surprising that our membership is only about 200 inclusive of 91 Founder Members. I am sure that as the work of the Institute grows and its studies and reports become available to the Government and the public the importance of its work will earn greater appreciation and its membership will grow.

As in most other fields of activity, the success of an institution of this character must depend largely on the personnel which it is capable of attracting to the carrying on of its work. Many of our institutions—educational, social and cultural—are experiencing the want of well equipped and suitable workers. The field on which we have launched ourselves is new. The difficulty in this respect therefore of an institution like ours is the greater. It is necessary, however, in this connection to point to, what I believe, is a basic consideration. The nature of the work to which the Institute stands pledged is essentially work which needs undivided attention given by wholtime workers. Men of affairs and practising lawyers can but lend a hand in guiding the activities of the Institute. An occasional speech or article repeating time-worn ideas in a new garb by persons busy in their vocation can be of little assistance in furthering research and study which are the main objects of our institution. Far more useful would be the larger association with it of the academic lawyer devoted to the study, development and teaching of law. I am conscious of the dearth of academic lawyers in our country but that,



in my view, is no reason for not making use of such as we have. The practising lawyers and the man of affairs exercising a watchful eye over the finances and the general progress of the work of the Institute should, I think, leave the actual working of it more and more to those devoted to the study of law as a science.

Another vital point of view which should guide us in our activities may also be noticed. We have to learn a great deal in the field of legal research from countries who have made immense progress in this direction. As in other fields we must needs derive assistance from foreign scholars and jurists whatever their nationality in order to set ourselves firmly on the right path. We have to understand their methods of organising and conducting research. Yet it would be fatal to lose sight of the fact that our activities must necessarily be moulded on our own pattern and directed to the investigation of our own problems arising under conditions which obviously cannot correspond to those in other countries. It is essential, therefore, that the trend and direction of our research should be mainly under the control of Indian minds applying themselves with an Indian perspective to the multitude of problems arising in the Indian body politic. If we forget this fundamental consideration we shall be but aping research studies in other countries exposing ourselves to subtle foreign influences and failing to fulfil the very objective of our institution.

We have planned in this session to further discuss in our committees the five problems of administrative procedure, judicial review, delegated legislation, inter-State movement of commodities and persons and Fundamental Rights under the Indian Constitution which were decided to be taken up as research projects by the Seminar. We are in addition dealing with two further subjects, namely, legal education and an Indian Bar Association.

I would like to draw attention to some aspects of the last subject so that attention may be focussed on them in our future deliberations.

It will be for our consideration whether the promotion of an Indian Bar Association, spectacular though the idea may be, falls within the scope of the activities of the Institute as defined in its objects. The cultivation of the science of law and the promotion of advanced studies and research in it and in its administration would appear to be far removed from the practice of law as a profession and the formation of an association of practitioners. We seem here to be reversing the process which led to the birth of the American Law Institute in the United States. The American Law Institute was founded nearly half a century after the formation of the American Bar Association. It was not unnatural that leaders in the legal



profession and legal education, after the national bar was well organized, should found and develop an Institute which might make a contribution to the study and development of the law and to the sound administration of justice. But would it be appropriate for an Institute whose main object is to further research in law to promote the formation of a professional association ?

In any case it would appear to be far more appropriate for the numerous Bar Associations spread all over the country and not for us to consider whether there is a need of a country wide organisation of professional lawyers and if such an organisation is needed what purposes, aims and objects it should have.

No doubt one is powerfully attracted by the notable achievements of the American Bar Association. Could we have a body in our country which would even in some small measure emulate its success ?

Born in the summer of 1878 at a gathering of about seventy-five men summoned to a meeting by about a dozen lawyers from eleven States that body has grown from strength to strength so that to-day it has about ninety thousand members comprising perhaps one-third of the practising Bar in the country. Notwithstanding its large membership it is felt that "it still does not touch and may not perhaps always speak for the whole profession." Attempts are being made to still further widen its membership so that it may, like the National Medical Association of the United States, have on its rolls as many as two-thirds of the active practitioners.

Apart from its large membership its activities have been vast and manifold. In 1900 it founded the Association of American Law Schools which has "for half a century * * * been the centre for discussion and action on the academic development of law." It has been described as "perhaps * * * the most successful and influential organ among those concerned with any sort of professional training in Universities." An early outcome of the activities of the Association was the birth of what is called the National Conference of Commissioners on Uniform State laws. Statutes drafted by this conference have from year to year been submitted for approval to the annual meetings of the Association. It is difficult to over-estimate the great work achieved by this conference. More than sixty statutes have been revised by it. It has also framed about twenty-five model Acts for adoption by the various States. A dozen or more statutes framed by the conference have been enacted in a large number of States. Thus the Association has rendered valiant public service through the conference.

The Association has, apart from a number of special committees,



sections and selection committees dealing with various subjects, as many as thirty standing committees dealing, among others, with such important subjects as American citizenship, Bill of Rights, judicial selection, jurisprudence and law reform, legal aid work, peace and law through the United Nations, professional ethics and grievances, and unemployment and social security. It has tried to set standards to the profession and the judiciary by formulating canons of professional ethics, an oath of admission to the Bar and also the canons of judicial ethics.

That indeed is a catalogue of outstanding work spread over three quarters of a century of which anybody may be proud. Can we aspire to establish a comparable body in our country ?

One cannot help advert to the very poor record of our numerous Bar Associations. Very few of them have made any effort to further even the interests of the profession. Such elementary needs of the litigating public as the rendering of legal aid to the litigant without means or the person accused of serious crimes have not been attended to by them. These Associations frequently fail to perform even the obvious duty of expressing their views on proposed legislation forwarded to them by the authorities for the expression of their views.

With this discouraging and dismal background made possible only by a lamentable lack of a sense of duty and responsibility, can we hope to found and work an All India body which will really render useful service ? We believe that a measure which will result in a unified Bar for the whole country is on the anvil. Such a Bar brought together in effective co-operation can be a powerful influence for the public welfare. It can be a powerful force welding the country together and counteracting all separatist influences. A countrywide unified Bar "organised and striving after true ideals could restore and even add to the influence that lawyers used to exercise in public affairs." These ends, however, can be achieved only if the Bar can produce men devoted not only to the betterment of the profession but to the advancement and promotion of law in the setting of our new way of life. In the absence of such public-spirited workers, an Indian Bar Association, if it comes into being, will only be an addition to the list of our many dormant and inactive societies ; and the only purpose it will achieve will be to put some of us as office-bearers on letter-heads and make some of us figure occasionally in newspaper headlines.

These are some of the aspects of the problem which will in due course fall to be examined by us. Let us hope that our deliberations on this and other questions will yield fruitful results.