Ahmednagar Jilha Maratha Vidya Prasarak Samaj's

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STUDY MATERIAL

FOR

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By

Prof. Rameshwar B. Dusunge

MA.LL.B. DLL. and L.W.

Assistant Professor

New Law College, Ahmednagar

LAW AND LITERATURE

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SEM –II

Objectives of the Course: The knowledge of English literature is important for everyone to develop new ideas and ethics standpoints. Therefore, the main object of this paper is to instill human values and concern among students of law through exposure to literary texts. This paper also intends to strengthen the students' listening. speaking, reading and writing skills by using literature and to enable the students to analyze the case laws from the perspective of language.

SYLLABUS/ INDEX

1. DRAMA WITH LEGAL THEMES

1.	The Significance of Literature in Understanding the Law
2.	The Merchant of Venice (focus on Act IV) - William Shakespeare
3.	Justice (focus on Act II) - John Galsworthy

Significance of Literature in Understanding the Law

Synopsis:

1. Introduction
2. Possible manifestations of literature in law
3. Legal interpretation and literature
4. Literature as a method of cultivating law
5. Law as narrative
6. Persuasiveness of law
7. Conclusion

1. Introduction:

The connection between law and literature can still affect surprisingly. The theme of this is to summarize some of the basic features of the movement, which is called "Law and Literature" and to to suggest some starting points with which it is associated. These starting points include for instance linguistic conception of law, narratology in law or the relations between law and culture. This offers an overview of the classical approaches connecting law and literature and mentions the reasons for this connection: e.g. cultivation of law and lawyers, improvement of judicial decisions or improvement of legal interpretation. Some of the findings resulting from the joint of law and literature can be used in practice and goes beyond "mere" theory. This is to be seen as an introduction to the movement of "Law and Literature", presentation of ideas on which this movement is based and offering the possibility of its further development

French sociologist Pierre Bourdieu claimed that law, which he considered to be strictly rational, is actually nothing but an act of social magic that actually works. Magic means magic words. Words that go along with magic. Law is mostly expressed in words. The most common task in law is playing with words. Modern European state governed by the rule of law, too, is based on written law. It is therefore absolutely crucial that a

lawyer be able to understand and comprehend a text, connect it with reality and, in some cases, transform it into action. That he be able to really work with a text. Basic contents of law are transmitted through a text the path leading from words, or said social magic, to narration, is actually very short indeed, law is not merely a text, but is also connected with reality. When German philosopher and essayist, Walter Benjamin, reflected in 1936 on the decline of narration, in which no one was interested anymore and which had been losing its epic dimension, he entirely neglected law. He thus left unnoticed an area which had been very closely interlinked with narration - description of history and of desired and wanted actions.

Law can be found on the point of intersection among several planes. From among these planes (or dimensions), the normative one plays a vital role. The law belongs to the sphere of norms rules of human behaviour. Another marked dimension, which ultimately forms the design of law, is the dimension of ethics. Legal rules include moral contents, values or ideas which society considers correct. Law would make no sense without values. However, law is also affected by aesthetics. Emotions must necessarily influence law. Reasoning is an inherent part of legal argument. Law represents a force that also has a symbolic dimension and its ultimate character should be formed accordingly. The present text focuses on the aesthetic dimension.

Indeed, this dimension implies a link between law and literature. It shall be therefore examined how law can relate to literature and vice versa. How literature can be of help in lawyer's work. How knowledge derived from fiction can be employed in law. Naturally, we will not claim that law cannot exist without literature, but we shall rather try to show how literature can help, or at least cultivate, law. This ability of literature is pointed out by Jeanne Gaakeer, who claims that the original mission of the Law and Literature movement was quite simple: to achieve intellectual and aesthetic goals, to improve the ability to interpret and to see things from someone else's perspective. None of the above is an inherent part of law. Nonetheless, these aspects can help law attain a closer link with the culture in which law is embodied.

1. Possible manifestations of literature in law:

The backdrop against which shall be the connection between law and literature approach lies in the assumption that law can be perceived as a type of language. Swiss linguist Ferdinand de Saussure understood law as a social product linked with the ability to speak. He considered it a set of social conventions adopted by society to

Actually implement this ability. At the same time, language can be conceived as a conventional system of signs that expresses certain ideas. Law, too, can be understood as a conventional system that expresses values and ideas, as well as the ensuing. Rules of proper behaviour. To this end, it uses a specific set of elements, rules which have certain fixed mutual connections. American expert in constitutional law, Robert Cover, assumed that law was actually a language. In his concept, a norm is a sign used depending on how addressees deal with it to communicate attitudes towards ourselves and towards others. By breaching (or setting) a certain norm, an individual makes a statement about himself and his relation to society. Together with further context, he can thus manifest his contempt for society or, on the other hand, conviction that its values are correct, etc.

It was already stated that law can be conceived as a language. Therefore its interpretation should be mentioned. Law as a social phenomenon is hidden in words and must be 'reconstructed' from them. It is important how legal norms are written, how the addressees understand them and what is hidden behind these words. All that is law. It is a linguistic phenomenon that reflects links of power as well as cultural contents. Law is characterised by battles for influence. Various actors try to obtain monopoly over the definition of individual notions and these battles have the nature of battles over language and interpretation.

An important role in the process of interpretation is played by the reader. Italian semiotic an Umberto Eco believes that a text can have no meaning without a reader as the latter contributes towards its meaning. A text is never complete without its relevant addressee. Pierre Bourdieu uses the term competent reader in this connection. Although both Bourdieu and Eco speak about art or the aesthetic aspect of a text, there is no reason to believe that law would be any different. Here, too, a certain text must be prepared for someone who will be able to understand it, for a reader who has sufficient qualified information that is necessary for understanding it. The reader acts in a context whose rules and values he must share with

others. The decisive role is played by the reader's actual or desired community, the community that forms the basis for legitimacy of legal concepts. Law finds its expression in public space and its existence is conditional on its acceptance by the public. Or at least by the professional public. By his own interpretation which is connected with his environment, the reader thus construes the legal text and gives it its meaning. It is the reader's intervention which enables the implementation of a normative text in real situations.

2. Legal interpretation and literature:

Consequently, it comes as no surprise that law can be interpreted as any other text. However, account must be taken of the context of power in which law exists, and also of the fact that a legal text is expected to be implemented. It is not a text intended for intimate reading. Law is a special system of signs that is reflected in the lives of specific people. In spite of its abstract form, it is an instrument that interferes with the functioning of the society. It does so in a special way that requires persuasion it is necessary to persuade the addressees of the correctness of the legal regulation and legal procedures. Jack M. Balkin and Sanford Levinson consider that this forms the basis for the close interconnection between law and music. In music, as well as in drama, and law, crucial role is played by performance. Law is an object that is presented to the public. The audience becomes a relevant element in the process of interpretation. When law is interpreted, it is necessary to transform the words by which a legal norm is expressed to functioning social relationships. It is imperative to transform ittoarule of behaviour and let this rule actually influence human behaviour.

Law is a culture of arguing and interpreting. This is way law can only be understood in view of the culture in which it is implemented and through which it meaning. This is not only about the given text, but also about its meaning that emerges in relation to culture. Consequently, law can be perceived as the art of rhetoric, consisting in the ability to convey specific meanings of a certain text to another person and convince the latter of the need to read it in a certain way. It is imperative to limit the possibilities of reading the text and limit the number of possible meanings.

Let's summarise the above: the manifestations of the aesthetic dimension of law can most often be found in interpretation, performativity and arguments, or more specifically persuasion. Law must be interpreted, it is necessary to determine the ways of correct perception of a legal text. This

text also needs to be implemented in a manner that corresponds to the expectations of the audience, or community to which it Is addressed. That is what is called 'performativity'. And it is also necessary to argue. To persuade, i.e. to enter the above battle for meanings. This is where 'legal imagination' plays an invaluable role. Legal imagination is the ability to work with abstract mental constructions on which law is founded The knowledge of legal imagination can improve the understanding of what law actually is, what place it occupies in society and in what forms it acts. With sufficient legal imagination, law can be examined in a broader context.

In this way, we can partly answer the question inherently embedded in this text: why connect law with literature? Literature provides useful guidance in the field of interpretation, as well as in the areas of performance and argument. A lawyer must read a text in the same analytical fashion as, for example, literary critics. He also must act in a strategic manner, determine what stands 'behind a given text' and be able to use this knowledge. This brings us to functions that literature can serve in relation to law. Literature has the ability of cultivating law and lawyers. This process of cultivation by literature also includes improved ability to create a text and interpret it Literature offers enough means for increasing the perception of narration and telling stories in a persuasive manner. However, it also refines the capability of understanding stories and texts.

4. Literature as a method of cultivating law;

Let us now focus on the ability of literature to cultivate law and the legal environment in general. John Wigmore is often ranked among the first authors forming the contemporary history of the Law and Literature movement. In 1907, he published an article titled "A List of Legal Novels", where he offered lawyers a list of literary works that should not escape their attention. In his opinion, lawyers must not neglect fiction which deals with law, because it is their general duty to be cultivated people. They, therefore, should also be educated in fiction. However, it is also their specific duty to master their own profession. They must know what expectations people associate with it A lawyer ought to be a cultivated person and must know what society thinks of his profession. This according to Wigmore, is the foundation of responsibility borne by lawyers.

John Wigmore was not the only one to strive to offer students literary works that could extend their general knowledge. Eugene Wambaugh can be considered one of his predecessors. In his short essay, Wambaugh is, in fact, much less radical than Wigmore. Wambaugh considers that it is up to each student whether or not he will become acquainted with selected literary works. At the same time, he adds that a proper and educated lawyer cannot he oblivious to literature even if this was an artistic description of the legal environment. Wigmore has a number of followers, who have been further extending his list or, in contrast, reducing it by removing works that are no longer attractive or revealing for nowadays readers. Similar lists are now even being draw up of other works of art, such as films.

In its early years, the Law and Literature movement tended to attribute to literature the ability to cultivate lawyers. Later, this element appeared to fade away, or is rather deemed a matter of fact given the major importance of law for society, however that we should not neglect this cultivating aspect of literature. This can now seems trivial there can be no doubt that fiction has a cultivating effect. However, in a situation where specialisation is prevailing in law and an increasing number of lawyers tend to perceive law in technical terms, it might be appropriate to return to a comprehensive perception of law associated with culture.

Benjamin N. Cardozo, too, considered that literature had the ability to educate. He, too, perceived the role of fiction in terms of cultivation. At the same time, he concentrated particularly on decision making by courts and especially on the concept and style of court decisions. For him, literature was a tool helping to establish a certain concept of judicial rulings. This is also a question of cultivation, but cultivation of expression, which necessarily if court decisions to have any weight, influences the results of judicial work. Therefore it is important to distinguish the contents and form of decisions, where form is by no means secondary. It is form what enables us to orient ourselves in a text. There is not the slightest reason why legal texts, including professional legal texts, should not be readable, why they should not try to meet general requirements placed on any text. And this includes comprehensibility and clarity, as well as, perhaps, certain aesthetic criteria. This, naturally, also applies to a normative text, which must not give up on readability.

5.Law as narrative:

Along with the art of composition, which can be sufficiently mastered by reading literature, Cardozo also pointed out the ability to narrate. In forming his decision, a judge must create a certain image of reality. It is clear that this image cannot be sufficiently comprehensible if both important an unimportant elements are assigned the same position. A judge must be able to choose. It is not his task to provide or obtain an absolutely accurate image of reality. He must focus on elements important for his decision. Literature shows a judge how to paint a comprehensive picture composed of material elements. A picture that will not be a perfect copy of reality, or even hyper realistic, but that will capture substantial elements of the given case, without omitting or adding any. Although Cardozo focuses primarily on the wording of court decisions, it can be stated that narration is part of many fields of law. Let us now deal with narration.

Language or rather cultivated and literary language can help establish a certain order that follows in a linear way from a certain starting point. lt has its origin. The ability to narrate, to create a chain forming an order and linked to a certain original state, is desirable in legal argument. Allison Tait and Luke Norris mention stories that are told in courtrooms, pertain to past events and serve to clarify facts. These stories provide a comprehensive picture of those parts of the history of events that have a legal bearing. When describing facts of the case, it is thus necessary to compose pieces of evidence to form a story. This procedure corresponds to what Neil MacCormick described as 'narrative coherence'. Although MacCormick tends to aim at analytical examination of court decisions. Jus concept that a description of facts .must-correspond to-what is usual or what is backed up by experience is actually very close to narrative examination of law.

6. Persuasiveness of law

Let us now return to Benjamin Cardozo. In his opinion, another reason why knowledge of literature is important lies in the desired persuasiveness of a decision. The reasoning of a decision needs to be persuasive and have a symbolic strength. These are elements that a judge can learn from fiction. From fiction, judges can derive procedures and techniques they will then use in composing their rulings. A persuasive decision must be functional by its own force. It must be a self standing document that will stand vis-a-vis the parties' judgement as well as that of

the public and of the superior authority, not to mention that it may affect society as a whole and its legal awareness. This is why court decisions certainly must not neglect the form in which they are provided. Cardozo strives to develop a certain architecture of reasons (or 'architecture of opinions') that would ensure clear arrangement, comprehensibility and literary quality of judicial decisions. It can be considered that if judges improve their literary abilities, they will be able to render more persuasive decisions, including appropriate use of decorative and ornamental elements.

It follows from the above that knowledge of art in case of the authors mentioned above, especially literature will provide a lawyer with an overview of law itself and its functioning in society, without losing the ever present appeal for values that are embodied in law and society. Literature cannot replace law. That would be the same nonsense as believing that law is identical with a statute (or the law in narrower sense). The ability of literature to provide inspiration was also dealt with by James Boyd White, who is considered the ideological founder of the Law and Literature movement. In his book, The Legal Imagination, published in 1973, he provided an analysis of certain literary works and attempted to capture their inspiration for jurisprudence and especially for teaching law. In his opinion, study of literature should become an inherent part of not only legal education, but also of the entire science of law. At the same time, Boyd focused primarily on interpretation. He considered that law and literature were interlinked by a similar method of interpretation. It is irrelevant whether a certain text is a legal text or fiction.

In view of this concept, Boyd did not limit himself only to a system of rules, which, in his opinion, was unable to fully capture the notion of law. He aimed at conceiving law as the world of ways in which people perceive their surroundings and by which they ultimately create their world. For him, law is inherently linked with language. It is also art, it creates something new from existing elements. It is based on human creativeness and the ability to transform the natural world the way people wish. Symbolically, take control over our surroundings. If a lawyer wants to interfere in a qualified manner in fights among human conscience, creativeness and the world surrounding us, be cannot avoid using and showing his mental competence. He cannot avoid using and proving his imagination. This brings us back to intellectual challenges ensuing from the combination of law and literature.

7 .Conclusion:

literature can increase the ability to perceive a text and thus, in turn, improve interpretation and composition of legal texts. Topics, such as the role of the reader, or audience in general, factualism, originalism and narrative procedures, are only some of the procedures that are analysed in detail by literary critics and also find their image in law. Literature can also provide protection against over interpretation. Robert F. Blomquist claims that over interpretation is caused by the high number of tests established by courts to dissect each individual notion used in a legal regulation and attach to it a meaning that is considerably distant from usual and normal interpretation. The basic meaning of a certain notion is often lost under the layers and loads of tests, settled interpretations and notional constructions. Umberto Eco speaks about texts becoming sacred when describing the issue of over interpretation. A text becomes so important, known or widespread that everyone provides its interpretation and everyone wants to be interesting in some way. If the obsessive desire for originalities added, then every text becomes accompanied by numerous interpretations. It becomes overshadowed by the search for individual details, examination of every single word both in and without context and a search for individual theories (including bizarre ones) that would explain all its conceivable and inconceivable aspects. Interpretation thus veers towards a technical endeavour, which is not always desirable.

However, literature also offers tools that can be utilised in legal argument. It can improve the persuasiveness of legal arguments, even if serving merely as an ornamental element. Suitable composition can ensure the symbolic meaning of court decisions or, indeed, any other sources of law. By reading literature, a lawyer can improve his ability to describe and narrate the facts. It was already stated in the introduction that, we do not venture to claim that law cannot exist without literature. Literature rather enables law to avoid tendencies towards technocracy and bureaucracy. By returning to cultivation, including cultivation of the creation and interpretation of a legal text, as well as improved legal imagination, the Law and Literature movement responds to both historic and current challenges.

1. Overview:

The Merchant of Venice is a play written by William Shakespeare in c. 1596-97. The Merchant of Venice may refer to the character Antonio, a wealthy Venetian merchant whose trade and relationships intersect in ways that place him in mortal danger when he makes a deal with a moneylender. However, an alternate title that appears in early records, The Jew of Venice, calls this reading into question. The original double title raises questions regarding the identities of the play's hero and villain and the play's stance on anti-Semitism.

2. Context:

The Merchant of Venice was first printed in a quarto edition in 1600. A quarto was a small book-sized edition of a single play, similar to any individual edition of William Shakespeare's play available today. Some early quarto editions were of questionable quality and accuracy - the result of an audience member copying down the lines during a performance, but the quarto for The Merchant of Venice is of higher quality. It seems to have been produced from one of Shakespeare's own scripts. The Merchant of Venice appeared in a definitive version in the First Folio, a large-format collection printed in . 1623 of all Shakespeare's plays.

A. Lews in Renaissance Europe:

The Merchant of Venice reflects common European Christian attitudes toward Judaism rooted in conflicts dating back almost to the origins of Christianity itself. Christianity began as a sect within Judaism, the ancient monotheistic religion of Jewish people which became divided around the 8th century BCE. Issues contributing to the division were related to continued dominance from other cultures most notably those of Greece and Rome and related questions as to whether spiritual salvation should be regarded as something available to all or to only to a select group chosen by God. Early Christianity evolved from this rift as much as from the events surrounding the life of Jesus of Nazareth, whom Christians regard as the Messiah or saviour for all humankind. The Christian church grew rapidly during its first thousand years, with the Catholic church achieving cultural and political dominance in western Europe after its break with the Orthodox churches of eastern Europe in 1054.

B. Beginnings of Anti-Semitism:

Pope Innocent III was the most prominent of the medieval popes. Innocent III was elected pope in 1198 and led the church until his death in 1216. He authored many rules that would define the structure of the church and its influence over European politics for centuries. He instigated the Fourth Crusade to re-assert the control of the European Christian church over Orthodox Christians and the Middle East. He endorsed the persecution of "heretics “essentially non-Christians, including Jews and Muslims. These rules consolidated the church's power and made anti-Semitism a matter of doctrine. In 1205 Innocent III stated in a letter, "the Jews, by their own guilt, are consigned to perpetual servitude because they crucified the Lord." In 1208 he followed with a letter stating Jews should "as wanderers remain upon the earth forced into the servitude of which they made themselves deserving." Other early Christian leaders had expressed similar sentiments, but as one of the most influential leaders in Europe at the time, Innocent Ill's position that the Jews were responsible for Jesus's death and should be punished for it became the basis for centuries of oppression directed at Jewish populations across Europe.

C. <u>Exile:</u>

While Jewish populations found tolerance and acceptance in some areas, as these populations became prosperous in trade and banking, they inspired jealousy among other citizens, and the prejudices reinforced by Christian doctrine allowed an easy means to eliminate the economic competition. Jews were exiled from England in 1290, from France in the 1300s, from Germany in the 1350s, from Portugal in 1496, and from Spain in 1492. Jews who remained in Spain after 1492 were subject to the Investigation, a series of brutal tortures perpetrated by Christian church officials to root out and destroy those considered heretics. In other areas Jews were prohibited from owning land and tended to gravitate toward trade, money lending, or medicine as means for making livings. Money lending was prohibited by Christian doctrine as sinful; similarly, many medical practices were discouraged because they sought to thwart the will of God. Persecution and violence were not uncommon. These incidents were often based on unfounded accusations of human sacrifice or desecration of Christian churches, but Jews were often scapegoat for more mundane crimes as well. For example, in 1594 shortly before The Merchant of Venice was performed for the first time Roderigo Lopez, a Jew and the chief physician to Queen Elizabeth I of England, was falsely

accused of treason and executed. The Lopez incident likely influenced The Merchant of Venice, though the extent of that influence is unclear.

D.Jews in Venice:

The history of Venice, where the play is set, has a clear influence in The Merchant of Venice. During the 1300s and 1400s Jews from all over Europe, often driven out of their home countries, settled in Venice. Modern Venice is a city in Italy, but during the medieval and Renaissance periods Venice operated as an independent city-state ruled by a dog, or duke. Venice's autonomy and relatively progressive population, along with its position as a centre of trade, made it an appealing settlement for displaced Jews. However, in 1516 Venice relegated its entire Jewish population to a small area of the city called the geto nuovo, or ghetto, and this is where The Merchant of Venice unfolds. Residents of the ghetto were required to abide by a curfew, as the gates were locked at night, and until 1703 they were prohibited from using wells outside the ghetto because of fears Jews might poison the city's public water supply. Venetian Jews were also required to distinguish themselves by wearing a yellow circle on their clothing or a yellow or red hat. The ghetto was officially dismantled in 1797, but the area remains a central part of Jewish life in Venice and a popular tourist attraction.

E. Continuing into Modern Times:

The Protestant Reformation in the 1500s, when Christian groups across Europe split from the Catholic church, did little to affect anti-Semitism. Exile from various countries ended--for example, England allowed Jews to return in 1656--but by this time, Europe's largest Jewish populations had settled in eastern Europe, where the political and religious climate tended to be more hospitable. Still, expressions of prejudice and incidents of violence continued through the 20th century, culminating in the rise of Nazism in Germany and the Holocaust of the 1930s and 1940s. Only after these events did both the Catholic Church and Protestant denominations officially renounce longstanding anti-Jewish positions.

F. Characterization ofShylock:

Shakespeare's Shylock is written as a much more complex character than some of his predecessors. Barabbas in Christopher Marlowe's The Jew of Malta is presented as a purer villain than Shylock, filled with murderous rage and few redeeming features. While Shylock is bent on revenge, he also presents evidence of the ways society has wronged and wounded him

deeply. His anguish is palpable in his words/and depending on the presentation in performance, Shylock is written as a figure with high potential to elicit sympathy.

Because the source material is open to interpretation, the play's reception has been closely tied to its presentation. Given the anti-Semitic sentiment present in English culture at the time of its first production and Shakespeare's monetary success as a playwright, it's possible early portrayals of Shylock as the play's villain were less sympathetic to the character than modern productions. King James I was a patron of Shakespeare's company and a staunch Roman Catholic best known for his zealous persecution of suspected witchcraft and as the originator of the King James translation of the Bible. He saw the play at court in 1605 and requested a repeat performance two days later. What James I found intriguing or likeable about The Merchant of Venice is not documented, but given his religious devotion, it is safe to assume these early performances provided a positive portrayal of Christianity. Doubtless he was gratified to see that the two main Jewish characters--Shylock and his daughter, Jessica--both convert to Christianity by the end of the play.

Continuing up to the 1800s performances likely portrayed Shylock as a cartoonish stereotype, and the stereotypes inherent in the role gave the play a reputation as anti-Semitic. Underscoring this reputation, Shylock's very name has become a derogatory slang term to describe an unscrupulous loan shark. However, starting with Edmund Kean's performance at the Drury Lane Theatre in 1814, later actors began bringing more nuance and sympathy to the role. Such portrayals were not unusual, but they were also not sufficient to dispel the play's anti-Semitic overtones, especially when productions of The Merchant of Venice became popular in Germany in the early 1930s, coinciding with the rise of Nazism. Still, even the Nazis were put off by Shylock's humanity in his speeches and his daughter's marriage to a Christian, resulting in its confiscation from some libraries in 1938.

While The Merchant of Venice remains controversial for audience members, scholars, and critics, the play has become a rallying point for tolerance in recent productions. In a notable example, a 2004 film adaptation, directed by Michael Radford and starring AlPacino as Shylock, received praise for presenting a balanced version embracing the contradictions in the text and placing all the characters' various flaws, prejudices, and virtues on full display. Further evidence of the play's

rehabilitated reputation emerges with its part in Venice's commemoration of the ghetto's 500th anniversary in 2016, which included a performance of the play on the ghetto's square as well as a mock trial in which Shylock appealed his verdict to United States Supreme Court Justice Ruth Bader Ginsburg and a jury of dignitaries and Shakespeare scholars.

3.Characters:

A. Shylock:

Shylock is a moneylender in Venice who seeks revenge for a lifetime of persecution and insults for being a Jew.

B. Antonio:

Antonio is a merchant who confidently borrows money on his friend Bassanio's behalf only to find his life in danger when he is unable to repay the loan.

C. Bassanio:

Bassanio is a Venetian gentleman who has racked up a lifetime of debt in his leisurely pursuits but hopes to marry the wealthy and beautiful Portia,

D. Portia:

Portia is a gentlewoman who lives near Venice; her father has devised a complex riddle challenge for her suitors, which makes courtship difficult for her.

E. Gratiano:

Gratiano is Bassanio's friend who supports him and accompanies him to Portia's estate, where he finds a wife of his own.

F.Nerissa:

Nerissa is Portia's waiting woman, friend, and confidante. She encourages Portia as Portia copes with the woes of courtship and marriage.

G.Jessica:

Jessica is Shylock's daughter, his only child, who breaks her father's heart by eloping with the Christian Lorenzo.

H. Balthazar:

Balthazar is Portia's servant who helps her obtain the disguise she uses to pose as a man and defend Antonio in court. She uses his name while in disguise.

I. Doctor Bellarto:

Doctor Bellario is Portia's cousin, a law scholar from Padua, who supplies Portia with letters of introduction and clothing to gain admission to court in Venice.

J. Duke of Venice:

When Antonio defaults on his loan, Shylock demands payment of a pound of flesh, and the Duke of Venice must preside over the trial that ensues.

K.Launcelot Gobbo:

Launcelot Gobbo is Shylock's jester; he tires of his employer's abuse and goes to work for Bassanio as a servant.

L.Old Gobbo:

Old Gobbo is Launcelot's elderly father, who convinces his son to leave Shylock' semploy and work for Bassanio.

M.Leah:

Leah is the name of Shylock's deceased wife and Jessica's mother.

N. Leonardo:

Leonardo is one of Bassanio's servants.

O. Lorenzo:

Lorenzo is a friend of Bassanio and Gratiano; he falls in love with Jessica arid elopes with her.

P. The Prince of Arragon:

The Prince of Arragon is the second of Portia's suitors to accept her father's riddle challenge; he fails.

Q. The Prince of Morocco:

The Prince of Morocco is the first of Portia's suitors to accept her father's riddle challenge; he fails.

R. Salerio:

Salerio is a Venetian messenger who comes to Belmont to tell Bassanio Antonio has forfeited on the loan.

S. Salarlno:

Salarino is one of Antonio's fellow merchants in Venice who offers less-than-encouraging comments on Antonio's life events.

T. Solanio:

Solanio is another of Antonio's fellow merchants in Venice who, like his counterpart Salarino, tends to offer unhelpful advice.

U. Stephano:

Stephaho is one of Portia's servants; he's an adept musician.

V. Tubal:

Tubal is Shylock's fellow moneylender and friend.

4. The Merchant of Venice Summary;

The Merchant of Venice is set largely in the wealthy city-state of Venice a hub of Renaissance trade. Some scenes take place at the nearby estate of Belmont, where Portia lives.

Antonio is a prosperous merchant in Venice, but he has overextended his fortunes in his most recent venture, sending ships to several different ports. Thus, he is unable to lend his close friend Bassanio money when Bassanio asks him for a loan Bassanio need money to help him appear impressive when he goes to Belmont to court the beautiful heiress Portia. Bassanio has no credit of his own, but Antonio does not want to refu his friend, so Antonio sends Bassanio to borrow the money from Shvlock on Antonio' credit.

Shylock is a Jewish moneylender whose relationship with Antonio has been overwhelmingly negative. Antonio has insulted him in the streets and interfered with his business. He also knows Antonio's own fortunes are stretched thin so Shvlock is reluctant to lend him money. He finally agrees when Antonio offers a pound of his own flesh to secure the loan. With the money secured, Bassanio begins preparations to travel to Belmont, Portia's estate near Venice.

In Belmont Portia has her own problems. She is coping with an abundance of suitors she finds completely unacceptable. Her wealth and beauty have attracted dignitaries from all over the world, but they all

seem deeply flawed. She fears she will be forced to marry one of them because her father, before he died, created a challenge to choose suitor for her. He set up three caskets, or boxes: one gold, one silver, one lead. The man who chooses the casket with Portia's portrait inside gets her hand; Portia is understandably nervous about leaving her choice of husband up to what she considers a game of chance. Two suitors, one from Morocco and one from Arragon (part of Spain), try and fail in the challenge before Bassanio arrives. Portia knows and loves Bassanio, so she is relieved when he chooses correctly. They exchange rings, and Bassanio's companion Gratiano reveals he plans to marry Portia's waiting woman, Nerissa.

Meanwhile, in Venice, Shylock's daughter, Jessica, makes plans to escape from her overprotective father and marry Lorenzo, a Christian friend of Bassanio, Gratiano, and Antonio. After her only friend in her father's house, Launce lot Gobbo, leaves to work for Bassanio, Jessica disguises herself as a boy, takes her father's jewels, and sneaks out in the night to run away and marry Lorenzo. Shylock is anguished by the loss of his daughter and his jewels, especially the ring he gave Jessica's mother when they married. He is cheered when he learns Antonio's ships have been lost at sea and he may be able to exact revenge for Antonio's wrongs and the wrongs he has suffered from all Christians, including the one who took Jessica by collecting the pound of flesh promised in their contract.

Shylock and Antonio appear before the Duke of Venice for their case to be heard. Bassanio and Gratiano return to Venice, leaving their wives in Belmont, to support Antonio in his time of need. At the hearing Shylock first appears to have the upper hand because both men entered into the contract freely. Then a young lawyer named Balthazar comes to read the contract and save Antonio's life. Balthazar is actually Portia, disguised as a man, who has come to the court to help her new husband's friend, She makes an impassioned plea to Shylock to show mercy to Antonio, to be the better man. Shylock refuses, so Portia reads the contract carefully and declares Shylock is entitled to his pound of flesh, but the contract does not allow Shylock to spill any of Antonio's blood. Should Shylock take Antonio's blood, which is not part of the contract, his own life will be forfeit Since it is impossible to take a pound of flesh without spilling blood, Shylock's claim is void. Because Shylock's intention to take a pound of his flesh would have killed Antonio, the duke finds Shylock guilty of plotting to murder the merchant. He spares Shylock's life but takes his fortune, giving half to the state and half to Antonio. Antonio

places his share in trust for Jessica and further demands that Shylock convert to Christianity.

After the trial, Bassanio and Antonio express their gratitude to Portia, still thinking she is Balthazar. As a test of Bassanio's loyalty, Portia asks for the ring she gave him as a reward for her service. Bassanio refuses at first, but Antonio convinces him to change his mind, so Portia now knows her husband will part with his wedding ring when Antonio asks him. Nerissa plays a similar trick and gets her ring from Gratiano.

Bassanio, Gratiano, and Antonio return to Belmont, where Jessica and Lorenzo have come to visit. Portia and Nerissa return as well, now appearing as themselves again. Portia tells Bassanio she got his ring from Balthazar after sleeping with him, and Nerissa tells Gratiano a similar story. Bassanio and Gratiano are outraged until Portia gives them a letter that reveals the truth. The happy couples retire to bed as the sun rises.

5. <u>Critical Note:</u>

Trial Scenes Characterize many of Shakespeare's plays and therefore the interdisciplinary study of the Law and Shakespeare is pursued in many universities all over the world.

Legally Speaking, The Merchant of Venice is Concerned with contract law, but issues relating to moiety (Parcel, part, half) and conveyance are also raised, and the trial scenepresented below fundamentally illustrates the differences between "equity" and "the" strict construction of the law". Equity is "Justice according to principles of fairness".

In this play law and 'faimess stand in- conflict. In fact in Shakespeare's time, there were separate courts in England for law and Equity. One could appeal to the Court of Common Law to seek redress under codified law, or to the Court of Equity to avail of the judgement of men. It was only later, during the reign of James I (1603-1625], that the two came together for the resolution of disputes.

Contract comes within the purview of Common Law. That is why Portia emphasizes the "lawfully by the contract", the Jew may have his pound of flesh. Shylock clings to the contract. In fact in some performances, Shylock was shown entering with a large knife and a pair of weighting scales all ready for the act! But Portia cleverly proves to the Jew that strict adherence to the law will go against him. He can take a pound of flesh, but no blood for skin,

Shylock is defeated on a legal technicality. But a lawyer may argue today that any granted right also necessarily entails the powers to its execution.

Note also the strongly anti-Semitic note in the play, which may not culturally go down with audiences of this post-Holocaust period.

Act IV scene 1, excerpted below, is a central one in the play and takes place before the duke in the Venetian court. Shylock is seen carrying in a balance and a knife.

6. Merchant of Venice Act IVI Scene 1:

A. Summary:

Shylock and Antonio appear before the Duke of Venice. Shylock demands fulfilment of the letter of their contract, and Antonio believes it is pointless to argue or try to reason with Shylock. The duke hopes Shylock will relent and show Antonio mercy at the last minute, but Shylock makes it clear he has no such plan. He says he wants the pound of flesh because it is "[his] humour," and he refuses when Bassanio offers him twice the sum of the original loan. Shylock compares his entitlement to Antonio's body to the way other Venetians feel entitled to do as they will with the bodies of their slaves and animals.

The duke calls Doctor Bellario from Padua and Balthazar, Doctor Bellario's colleague from Rome, who is actually Portia in disguise. She first appeals to Shylock to show Antonio mercy because mercy is its own reward. She goes on to respond to Shylock's calls for justice by say ing, That in the course of justice none of us/Should see salvation. We do pray for mercy." Shylock remains unmoved, just as he remains unmoved by Bassanio's repeated offers to pay twice or 10 times the sum of the loan. Portia looks at the bond and urges Shylock to accept three times the amount of the loan. When he refuses again, Portia bids Antonio to prepare for Shylock's knife. She waits until Shylock approaches Antonio with the knife before stopping him and informing him that the bond allows him a pound of Antonio's flesh, but it does not allow him any drop of Antonio's blood. It is impossible for Shylock to take his pound of flesh without spilling blood, so Shylock is found guilty of conspiring to commit murder against a citizen of Venice. He could receive the death penalty for this crime, but the duke spares his life. The duke takes half Shylock's fortune for the state and gives the other half to Antonio. Antonio asks the court to drop the fine of half his goods to the state and says he will give I his own half of Shylock's fortune to Lorenzo and Jessica upon Shylock's death. He requires Shylock to leave any of his own possessions to Lorenzo and Jessica upon his death as well and that Shylock convert to Christianity. Shylock agrees to these terms and leaves the court

After Shylock departs and Antonio is freed, he and Bassanio thank Portia still believing her to be Balthazar for her assistance. They insist on giving her some payment for her trouble, and she takes Bassanio's gloves. She then asks for his ring, the one she gave him when they were wed. Bassanio refuses to part with the ring, and she scolds him for not giving her the ring and takes her leave. Antonio then convinces Bassanio to send the ring to the legal scholar saying, "Let his deserving's and my love withal/Be valued against your wife's commandment." Bassanio sends Gratiano to catch up with Portia and give her the ring. .

B. Analysis:

Antonio's trial represents a confrontation between ideas that define the two religions at the heart of The Merchant of Venice. As presented in the play, Judaism is a religion focused on rules, following law, obedience, and justice in the form of punishment and atonement for wrongdoing. This reflects the Old Testament idea expressed in Exodus, I Chapter 21: 23-25: "But if any harm follow, thou shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe." Shylock represents this point of view. On the other hand, Portia, the duke, and others represent the Christian ideal of mercy and salvation even for those who do not deserve it. Portia says this directly in her speech to Shylock. She admits no one deserves mercy but says we show mercy because it is a human good. At the same time, there are at least two Christians present in the court who have no desire to show Shylock any mercy at all. Gratiano tells Shylock if he were in charge, he would see Shylock hanged. A different moneylender might have shown Antonio mercy when asked; a different moneylender might never have asked for a pound of flesh as collateral.

For all the Venetians' attacks on Shylock for his trickery in the matter of his contract with Antonio, it is Portia whose trickery is most effective and potentially deadly. She practices deception beyond the disguise she wears in the courtroom. After Shylock refuses to show mercy to Antonio, she goads him into moving to collect his pound of flesh. She urges him to sharpen his knife and move toward Antonio, even though she has read the bond and knows the loophole about spilling blood that she will invoke at the last minute. She does this to provide no doubt that Shylock is operating through malice and does intend to kill Antonio. In doing so she sets him up to lose the case and possibly receive a death sentence. Perhaps she suspects the duke will make an example of the mercy Shylock has refused to show, but she can't know that for certain. If she wanted Shylock to receive mercy, she might have warned him of the loophole in his contract. She might have warned him he would be subject to the death penalty if he pursued his present course. Her decision to

entrap Shylock with his own contract seems based on a desire to punish his unwillingness to show mercy.

The themes of prejudice and mercy are most obvious in this scene. Shylock will not show mercy; he probably does not feel Christians have ever shown him any. But when Portia turns the tables, it first appears Antonio is willing to show mercy. Perhaps he has learned something from his experience. But, although he is happy for Shylock not to be condemned to death and asks that the state's half of Shylock's fortune be returned to Shylock for the duration of his life, he makes a demand that shows how deep his prejudice goes. Shylock must convert to Christianity, giving up the faith and custom that have formed the centre of his life. Shylock agrees, but it is likely his agreement is only superficial. The audience cannot know what Shylock thinks of all this since he does not appear again in the play.

Portia's attempt to trick Bassanio into giving the ring she gave him to "Balthazar" appears designed to set him up for a later punishment for parting with his ring. It may be a punishment for Bassanio telling Antonio he would be willing to sacrifice his own wife to save Antonio's life. Portia is both clever and kind. Her ability to save Antonio when all the men around her have given up on doing so shows her wisdom is superior to that of all the other characters in The Merchant of Venice. Yet even Portia is no immune to the human desire for justice when she feels wronged by Bassanio.

7.Merchant of Venice Act IV Scene 2:

A. Summary:

Portia instructs Nerissa to go to Shylock's home and have him sign the deed that gives his property to Jessica and Lorenzo. Before she leaves, Gratiano arrives to deliver Bassanio's ring and invite her to dinner. She turns down the dinner invitation but accepts the ring and asks Gratiano to show Nerissa the way to Shylock's house. Nerissa tells Portia she will try to get her own ring from Gratiano. Portia believes she will get the ring easily and assures Nerissa they will have the last word on their husbands.

B. Analysis:

Portia plans to return to Belmont with Nerissa immediately after Shylock has signed the deeds associated with his trial, which provides a practical reason for her to reject Bassanio's invitation to dinner. To preserve their ruse, the women need to return to Belmont before their husbands. However, Gratiano's delivery of the ring provides an additional reason for Portia to avoid Bassanio. She now knows his loyalty to Antonio has

persuaded him to part with the ring she warned him never to lose or giveaway. The doubts this exchange raises about her marriage prompt Nerissa to subject Gratiano to a similar test of his affection for her. Portia believes Gratiano will also give up his ring, reflecting a cynical state of mind in response to Bassanio's blunder.

This brief scene offers a bit of comic relief after the high drama of the previous scene. The two women will have tricked their husbands in two ways: first, by convincing their own husbands they are men and complete strangers and second, by persuading them to give up the rings. When they meet again in Belmont, this will be revealed to have been a joke, albeit a pointed one. But it will also give the women ammunition to use against their husbands throughout their marriages.

3. Justice (Act II) By Jon Glasworthy

Synopsis:

1. Overview
2. Characters
3. Detailed Summary of Justice
   - A. ACT I
   - B. ACT II
     1. The Trial and Conviction of Falder
     2. The Evidence and Cross-examination of cokeson
     3. The Evidence and Cross-examination of Ruth Honeywill
     4. The Cross Examination of Falder
     5. Frome's Address to the Jury
     6. Cleaver's Address to the Jury
     7. The Judgment

   C. ACT III & IV

1. Overview:
   Justice is a crime play by John Galsworthy (1867-1933), a well-educated English play writer from a wealthy family who himself trained as barrister. It was first performed at the Duke of York Theatre in London on 21 February 1910.

2. Characters:
   - James How and Walter How: Solicitors / Partners in the Law Firm
   - Robert Cokeson: Their Managing Clerk / William's Boss

- William Falder: A Junior Clerk [who loves Ruth Honeywell]
- Ruth Boneywell: A Woman [an abused wife in love with Falder]
- Sweedle: Their office-boy
- Wister: A Detective
- Cowley: A Cashier
- Mr Justice Floyd: A Judge
- Harold Cleaver: An Old Advocate
- Hector Frome: A Young Advocate
- Captain Danson, VC: A Prison Governor
- The Rev Hugh Miller: A Prison Chaplain
- Edward Clement: A Prison Doctor
- Wooder: A Chief Warder
- Moaney: Convict
- Clifton: Convict
- O'Cleary: Convict
- Ruth Honeywill: a woman
- A number of Barristers, Solicitors, Spectators, Ushers, Reporters, Warders and Prisoners.

3. Detailed Summary of Justice:

AACTI:

The play opens in the office of James How & Sons, solicitors. The senior clerk, Robert Cokeson, discovers that a check he had issued for nine pounds has been forged to ninety. By elimination, suspicion falls upon William Falder, the junior office clerk. The latter is in love with a married woman, the abused and ill-treated wife of a brutal drunkard. Pressed by his employer, a severe yet not unkindly man, Falder confesses the forgery, pleading the dire necessity of his sweetheart, Ruth Honeywill, with whom he had planned to escape to save her from the unbearable brutality of her husband. Notwithstanding the entreaties of young Walter How, who holds modern ideas, his father, a moral and law-respecting citizen, turns Falder over to the police.

B.ACT II:

l.The Trial and Conviction of Falder:

The First speech of Frome, the Defence Counsel: Falder alters the cheque on 7th July and is discovered on 8th. He is arrested on the same day. He remains in prison for two months. His trial takes place in the month of October. The trial court is full of barristers, solicitors, reporters etc. Frome is the defence counsel. Cleaver is the counsel representing the

Crown. James Walter, Cowley and Wister have already given their evidence. Cleaver has also stated the case against Falder.
Now Frome rises to speak on behalf of Falder for the first time. He does not deny the fact of forgery committed by Falder. He further says that Falder is a young man of 23 years. He has committed the crime in one of his weak moments. He has altered the cheque in a moment of madness under the pressure of circumstances. While committing this crime he was not really responsible for it due to the distressed state of mind. He had fallen in love with a woman named Ruth whom he wanted to save from her cruel husband. This miserable woman could not get a divorce from her husband. The only way for Falder to save her was to take her to South America or some other land. This action would have been illegal and immoral; but there was no other way out. They needed money to execute their plan of escape. Thus Falder altered the cheque to get the needed money when he was possessed by a desperate impulse. While altering the cheque Falder was not sane. To prove this thing Frome produces the evidence of Cokeson and Ruth Honeywill.

2. The Evidence and Cross-examination Of Cokeson:

While giving his evidence, Cokeson says that he has known Falder for the last two years He is a nice and cultured man. There is no reason to suspect his honesty. On the morning of 7th July he was rather unsettled in mind. He walked up and down the room His collar was not buttoned. When he asked Falder to button his collar, he stared at him with a peculiar funny look in his eyes. On the 8th July Ruth came with her children just before the discovery of forgery was made. He permitted her to meet him for she wanted to see him on "a matter of life and death". After this the counsel for the Crown Mr. Cleaver rises to cross-examine Cokeson. He demolishes Frome's plea that Falder was not sane when he altered the cheque. He made Cokeson say that he did mean 'mad' by the word "funny'. He accepts that on being asked Falder buttoned his collar.
He further says that Falder's usual habit is tidy. He is pleasantspoken youth who has impressed everybody in the office favourably and well.

3. The Evidence and Cross-examination of Ruth Honeywill:

Ruth says that she is a married woman. She has two children, but she does not live with -her husband. She has not been living with her man for the last two months or so. She * further says that Falder is her lover. She is treated cruelly and brutally by her husband. _ Falder wants to take her away to South America to save her from him. He was arrested r on the very day when both of them were to leave for South America at night. She remembers 7th July, for it was on the morning of this day that her husband had almost c strangled her to death. She managed to escape and

to reach Falder to tell him everything. He said that he had no money to take her away. .On the following day Falder r gave her some money for making the necessary purchases. He told her that he had got t the money by luck. She saw him for the last time when he was arrested. On being questioned by the defence counsel Ruth said she and Falder loved each other very much. The thought of her misery and danger disturbed the peace of his mind. She saw Falder very much upset on 8th July. She told Cleaver that he was not mad on 7th July. When the judge questioned her as to why she was unhappy in her life, she told him that she did not disobey him nor did she displease him even when Falder had begun to love her.

4.<u>The Cross Examination of Falder:</u>

In reply to some questions Falder tells Frome that he has beenknowing Ruth for the last six months. She is a married woman, but he loves her truly. She is treated by her husband cruelly and in a brutal manner. On 7th July she came to him gasping for breath. She showed him the marks of injury caused by her husband. This thing upset his mind so much that he thought that her husband would torture her again. He saw no way to leave her. He came to the office with an excited or agitated mind. When Davis gave him a cheque to be cashed, it struck his mind that he could draw some money for helping Ruth by adding 'Zero' and 'ty' to the figure 9 and the word 'nine. A momentary impulse made him alter the cheque. He ran to the bank with the pass book. He had no sense of what he was doing in haste. He came to his senses only when the cashier enquired of him if he would take notes. On his return he wants to commit suicide, but he does not kill himself due to his love for Ruth. He took four minutes only in running from the office to the bank. While cross-examining Falder, Cleaver points out that he remembers how he ran but not how he altered the cheque by adding a 'zero' to the figure '9' and 'ty' to the word 'nine'. He made this change so well that the cashier was deceived. It was

after five days that he altered the counterfoil also on Wednesday. He did so when he got a chance to do it He knew that Davis would be suspected. When the judge emphasized this point Frome tried to show that Falder made no attempt to implicate innocent Davis. The judge did not accept Frome's argument in this respect. Then Cleaver said that Falder returned nine pounds out of ninety without remembering that he had altered the cheque. Then Frome tried to prove that Falder remembered nothing during the four minutes he ran to the bank.

5. Frome's Address to the Jury:

While speaking to the members of the jury Frome said that he believed that they conceived Falder had altered the cheque at a time of mental or moral weakness caused by a state of emotional excitement. It was due to this temporary madness that Falder was not legally responsible for the criminal action. He had not tried to invest the case with romantic glamour. Like every other young lover Falder was upset by the cruelty and brutality shown to the woman he loved due to his weak and nervous nature. This nervous state was shown by the funny look in his eyes. Falder was, therefore, free from the mental responsibility for his crime. Being weak and nervous he was to be treated not as a criminal but as a patient. The forgery was the work of a few moments of Falder's madness. All things done later followed this action, He lacked the strength of character and mind to confess the crime or to return the money. He was in the grips of law. If he was not treated as patient the machine of law would crush him to death. Being a weak man Falder could not remain alive after his imprisonment. That he had already passed two months in prison was a sufficient punishment for him.

6. Cleaver's Address to the Jury:

While addressing the jury Cleaver set all of Frome's arguments at naught. He demolished his plea of insanity also. He defeated his arguments based on romance and temptation. He said that the defense counsel had taken the plea of temporary madness only because he did not want to appeal for mercy. By bringing in a woman he had thrown over the whole case a colouring of romance and youth. The argument of short lived madness could not stand upon its legs. Like Cokeson Ruth had said that in spite of his being upset Falder was not mad. He remembered the words of Davis. Cowley had said that he was in his senses when he took the money from him. It was foolish to say that he was mad at the time of altering the cheque. He tried to throw suspicion on innocent Davis, so his crime was serious. His relation with a married woman was also illegal. Therefore, the jurors would declare him guilty. At this, Frome appeals to the judge for mercy. On being questioned Falder says that he does not want to say anything else.

7.The Judgment:

Like the jurors, the judge says that Falder is guilty of forgery. Rejecting the plea of madness he said that the defense counsel has been making an appeal for mercy only. The judge is mindful of the seriousness of the crime. By deliberately altering the cheque Falder has allowed the suspicion on innocent Davis also. The judge accepts that Falder is young and that his character is good. He admits that Falder must have passed

through some emotional excitement at the time of committing the crime. Falder was an assistant clerk in the office of a solicitors' firm, so he must have known the nature of his crime. He was carried by these emotions only which were caused by an immoral love for a married woman. Though his relations with this woman were not practically immoral, yet he had an immoral design in the mind. As this case is based on social immorality, so the judge rejected the plea of mercy also. The law was a majestic edifice which was to give protection to all the members of the society. Therefore, it was the duty of a judge like him to administer the law properly and well. He could not show any mercy to a man like Falder, for he was for the protection of society from further harm. Then the judge sentenced Falder to serve a term of three years in the prison house. When Falder heard this judgment, he became desperate. Ruth was filled with grief. In the end the judge asked the press reporters not to disclose the name of Ruth. Ruth did not care. The judge called for another case, for he wanted to sit and work rather late.

C.ACT III & IV:

In prison the young, inexperienced convict soon finds himself the victim of the terrible "system." The authorities admit that young Falder is mentally and physically "in bad shape", but nothing can be done in the matter: many others are in a similar position, and "the quarters are inadequate."

The third scene of the third act takes place in Falder's prison.
Falder leaves the prison, a broken man. Thanks to Ruth's pleading, the firm of James How & Son is willing to take Falder back in their employ, on condition that he give up Ruth. Falder resents this.

It is then that Falder learns the awful news that the woman he loves had been driven by the chariot wheel of Justice to sell herself. At this moment the police appear to drag Falder back to prison for failing to report to the authorities as ticket-of-leave man. Completely overcome by the inexorability of his fate, Falder throws himself down the e stairs, breaking his neck.

The socio-revolutionary significance of "Justice" consists not only in the portrayal of the in-human system which grinds the Falders and Honeywills, but even more so in the utter helplessness of society as expressed in the words of the Senior Clerk, Cokeson, "No one'll touch him now! Never again! He's safe with gentle Jesus!"

The gravity of folder's crime.

Falder, the hero of the drama, is an employee in the Solicitors' Firm of James How andWalter How. Falder is a very well-behaved, dutiful, honest, conscientious and a responsible young man. Everyone in the office is much pleased with his nature and working.

All of a sudden, the cycle of Fate turns the table against Falder. Falder loves the young Ruth Honey will deeply even to the extent of sacrificing everything for her sake. Ruth'shusband is a tyrant, who is ready to kill her by strangulation under the influence of wine, Ruth has to tolerate all these torturous acts of her husband as law does not allow legal separation merely on the ground of cruel treatment. So Ruth meets Falder to seek solution of her problems from him. Falder feels a lot of sympathy with her and tries his best to help her. Their intimacy gradually develops into a deep sympathy, sincerity and passionate love for such other.

One morning Ruth comes highly agitated in torn clothes alongwith her two little children to meet Falder in his office. She tells Falder that her cruel husband under the influence of wine tried to strangulate her and that she will not return to her home. If she does so, she may not remain alive. Falder is very much shocked to see the pathetic plight of his beloved. He becomes almost mad with great agony and terror. His mental balance is completely disrupted. He has not sufficient money but he begins to contemplate to save Ruth anyhow from the clutches of her cruel husband. He makes a plan to elope with her to some foreign land so that they may start living like husband and wife there with peace, contentment and safety. Falder thinks all the time the ways and means to save his beloved by procuring money anyhow.

Feeling deeply distressed, Falder goes to his office. He does not take any interest in office work. His mental worrying so deep and acute that he almost becomes mad, losing his clear thinking and understanding. He moves in the most baffled state. In such a great emotional crisis, he loses all his reason and discretion of just and unjust, right and wrong. At that very moment, one of his colleagues, Davis, hands him a cheque for nine pounds to get it enchased from the firm's Bank. In his uneasy mental state, as he already was, an evil or malicious idea flashed across his mind. He thinks if he adds 'zero' after the figure of '9' and 'ty' after the word 'nine', already written on the cheque, he can get ninety pounds from the bank which would be enough for him to take his beloved abroad. So he acts according to this momentary flash and makes fraudulent alterations on the cheque in a fit of temporary insanity. He does not even recollect when he made alterations and how he cashed the cheque. This was all a

four minutes job, i.e., since the time of making alterations on the cheque up to the time he cashed it from the bank.

After withdrawing the money, ninety pounds, from the bank fraudulently, he comes to his normal senses. He curses himself for what he has done, desires to throw off the money on the open road and even to fling himself before a running bus. But then the gloomy face of Ruth appears before him with the thought that what is done cannot be undone. So he wants to utilize this money by sailing off to South America to enable Ruth to lead a happy and peaceful life with him there. But good sense and honesty remains with him all through. He realises that he is guilty of the crime of forgery but decides in his heart to return all this money to his employers on reaching the foreign country.

Once a person is caught hold of in the clutches of the cruel law he has no way out except to complete the long drawn process of law despite his scheme to escape. Falder has to wait for some time to find a chance to make corresponding alterations in the counter foit of the cheque with a view to complete the process of crime, already committed.

These are the circumstances which are largely responsible for compelling Falder to commit the first and last crime of forgery in his life. He is an offender of a casual nature. He is innocent, gentle and honest. There is no such sign of a confirmed criminal on his face. After the commission of crime, he feels himself like a terrorized, mentally conflicted and bewildered person. His noble heart is flowing with the milk of human kindness towards Ruth, his beloved, whose life was in constant danger. With the tender feeling o magnanimity to save the life of his sad and the poor beloved, Falder complled to commit this act of forgery.

MODULE : 2

SHORT STORIES WITH LEGAL THEMES

1.	Before the Law- Franz Kafka
2.	Justice Is Blind - Thomas Wolfe
3.	The Benefit of Doubt- Jack London
4.	The Web of Circumstance – Charles W Chesnutt
5.	The Case for Defense – Graham Greene

1.Before the Law by Franz Kafka

"Before the Law" (German: "Vor dem Gesetz") is a parable contained in the novel The Trial (German: Der Prozess), by Franz Kafka. "Before the Law" was published in Kafka's lifetime, first in the 1915 New Year's edition of the independent Jewish weekly Selbstwehr, then in 1919 as part of the collection Ein Landarzt (A Country Doctor). The Trial, however, was not published until 1925, after Kafka's death.

Summary:

"Before the Law"

A man from the country seeks the law and wishes to gain entry to the law through an open doorway, but the doorkeeper tells the man that he cannot go through at the present time. The man asks if he can ever go through, and the doorkeeper says that it is possible "but not now" ("jetzt aber nicht"). The man waits by the door for years, bribing the doorkeeper with everything he has. The doorkeeper accepts the bribes, but tells the man that he accepts them "so that you do not think you have failed to do anything." The man does not attempt to murder or hurt the doorkeeper to gain the law, but waits at the door until he is about to die. Right before his death, he asks the doorkeeper why even though everyone seeks the law, no one else has come in all the years. The doorkeeper answers "No one else could ever be admitted here, since this gate was made only for you. I am now going to shut it."

In some English translations of the original German text, the word "Law" is capitalized. In the original German, the capitalization of the word Gesetz ("Law") reflects a standard adherence to the rules of German orthography, which require that all nouns be capitalized, and does not necessarily have wider significance.

Franz Kafka's Style and 'Before The Law'

have you ever started playing a game and realized that you don't know all of the rules and no one seems willing to explain them? Or, have you ever dreamed of being stuck in a maze, unsure where to turn or of what even awaits you if you make it out? Both of these situations could be called Kafkaesque, after the author, franz kafka. Many of kafka's works feature protagonists (main characters) trapped in bizarre situations that they cannot understand and are unable to escape.

('Before the law' is a parable, fist published in 1915) It is later featured in one of kafka's most famous works, The Trial. Both the parable and the novel pose questions about the nature of the law and the confusion caused b the law's mysterious set of rules and processes. The Trial's main character is suddenly arrested for an unspecified crime and spends the rest of the story trying to find out what his crime was and how to defend himself. At one point, the character hears a parable and wonders over its meaning. That parable is 'Before the Law'

A Review

This story is actually contained in a larger work, but it has been published alone as a work of fiction.

In the segment entitled Before the Law, Kafka s recurrent protagonist is talking with a priest. He relates a Story about a man that comes to a great door seeking the Law. Before it is a gatekeeper that tells him he can't be allowed to enter at that moment. The man seeking the Law is perplexed, but intentional, so he waits, and waits and waits for the entirety of his life to be permitted to access the Law. The gatekeeper also waits and allows the man to continue waiting, but not letting him pass through the gate. As the man is dying, he wonders why he was the only person seeking the Law. The gatekeeper tells him, that the gate he guards was only meant for him and since he is dying, he, the gatekeeper is going to close it. K then engages the priest that has related this tale to him, in an analytic argument about the meaning of the Story.

The arguments are piercing and full of moral implications. Kafka is showing us how an allegory can have profound meaning. It is unavoidable that the reader will not apply the experience of the man and

gatekeeper to his personal life. Don't we all seek some Law, some way to understand our existence? Are we not barred in this struggle to understand by a gatekeeper, in the form of fear, doubt and confusion? The gatekeeper as allegory goes even further. He explains that there are deeper realms, that even he (meaning the gatekeeper himself) can't know, and the man will not be permitted to reach them. Again, the analytic portion of before the Law reflects upon this notion. The priest explains that the gatekeeper could be deceived. Are not we deceived about our life's meaning and substance? (Before the Law is a clear narrative of human life.) We come to a point in our lives in which we seek purpose and order, yet we are obstructed from this by own minds (our gatekeepers if you will). We want health, while declining in well being, we want youth, while growing ever aged, we need love, yet never finding it. If we do, it's ephemeral and soon to be lost. There is no constant, permanent principle to guide us in life. We seek a reason, a Lau it you will, that will help us, and thus we seek it, but discover our path is obscured by ourselves! Here is the allegory of the story. Kafka does this with such incredible power, you can't stop reading it.

Kafka creates an allegorical tale, in which we see the senselessness of being in the human condition. K is seeking understanding of himself n the larger work. He has irrational tears. He fears high winds and his environment is forboding without cause. He actually enters the church for shelter before engaging the priest. In this work, you are K, and the priest is your alter ego. Fie provides you with many different interpretations of why the man might have sought the Law. Yet, none suffice, for you must understand yourself why you seek the Law. As a final word, Kafka has K declare that the Law is not real, it is a lie. He is razor-edge close to an existential conclusion with this declaration. It adds irony to allegory to have K, make this statement to a priest, whom is trying to explain the meaning of the tale.

Translation by Ian Johnston

Before the law sits a gatekeeper. To this gatekeeper comes a man from the country who asks to gain entry into the law. But the gatekeeper says that he cannot grant him entry at the moment. The man thinks about it and then asks if he will be allowed to come in later on. "It is possible," says the gatekeeper, "but not now." At the moment the gate to the law

stands open, as always, and the gatekeeper walks to the side, so the man bends over in order to see through the gate into the inside. When the gatekeeper notices that, he laughs and says: “If it tempts you so much, try it in spite of my prohibition. But take note: I am powerful. And I am only the most lowly gatekeeper. But from room to room stand gatekeepers, each more powerful than the other. I can’t endure even one glimpse of the third.” The man from the country has not expected such difficulties: the law should always be accessible for everyone, he thinks, but as he now looks more closely at the gatekeeper in his fur coat, at his large pointed nose and his long, thin, black Tartar’s beard, he decides that it would be better to wait until he gets permission to go inside. The gatekeeper gives him a stool and allows him to sit down at the side in front of the gate. There he sits for days and years. He makes many attempts to be let in, and he wears the gatekeeper out with his requests. The gatekeeper often interrogates him briefly, questioning him about his homeland and many other things, but they are indifferent questions, the kind great men put, and at the end he always tells him once more that he cannot let him inside yet. The man, who has equipped himself with many things for his journey, spends everything, no matter how valuable, to win over the gatekeeper. The latter takes it all but, as he does so, says, “I am taking this only so that you do not think you have failed to do anything.” During the many years the man observes the gatekeeper almost continuously. He forgets the other gatekeepers, and this one seems to him the only obstacle for entry into the law. He curses the unlucky circumstance, in the first years thoughtlessly and out loud, later, as he grows old, he still mumbles to himself. He becomes childish and, since in the long years studying the gatekeeper he has come to know the fleas in his fur collar, he even asks the fleas to help him persuade the gatekeeper. Finally his eyesight grows weak, and he does not know whether things are really darker around him or whether his eyes are merely deceiving him. But he recognizes now in the darkness an illumination which breaks inextinguishably out of the gateway to the law. Now he no longer has much time to live. Before his death he gathers in his head all his experiences of the entire time up into one question which he has not yet put to the gatekeeper. He waves to him, since he can no longer lift up his stiffening body.

2.Justice Is Blind by Thomas Wolfe

There used to be - perhaps there still exists -a purveyor of belles letters in the older, gentler vein who wrote a weekly essay in one of the nation's genteeler literary publications, under the whimsical nom de plume of Old Sir Kenelm. Old Sir Kenelm, who had quite a devoted literary following that esteemed him as a perfect master of delightful letters, was a leisurely essayist of the Lambsian school. He was always prowling around in out-of-the-way corners and turning up with something quaint and unexpected that made his readers gasp and say, "Why, I've passed that place a thousand times and I never dreamed of anything like that!"

In the rush, the glare, the fury of modern life many curious things, alas, get overlooked by most of us; but leave it to Old Sir Kenelm, he would always smell them out. He had a nose for it. He was a kind of enthusiastic rubber-up of tarnished brasses, and assiduous ferreter-out of grimy cornerstones. The elevated might roar above him, and the subway underneath him, and a hurricane of machinery all about him, while ten

thousand strident tones passed and swarmed and dinned in his ears-above all this raucous tumult Old Sir Kenelm rose serene: if there was a battered inscription anywhere about, caked over with some fifty years of city dirt, he would be sure to find it, and no amount of paint or scaly rust could "deceive his falcon eye for Revolutionary brick.

The result of it was, Old Sir Kenelm wandered all around through the highways and byways of Manhattan, Brooklyn, and the Bronx discovering Dickens everywhere; moreover, as he assured his readers constantly, anyone with half an eye could do the same. Whimsical characters in the vein of Pickwick simply abounded in the most unexpected places-in filling stations, automats, and the corner stores of the United Cigar Company. More than this, seen properly, the automat was just as delightful and quaint a place as an old inn, and a corner cigar store as delightfully musty and redolent of good cheer as a tavern in Cheapside. Old Sir Kenelm was at his best when describing the customs and whimsical waterfront life of Hoboken, which he immortalized in a delightful little essay as "Old Hobie"; but he really reached the heights when he applied his talents to the noontime rush hour at the soda counter of the corner pharmacy. His description of the quaint shop girls who foregathered at the counter, the swift repartee and the Elizabethan jesting of the soda jerker’s, together with his mouth watering descriptions of such Lucullan delicacies as steamed spaghetti and sandwiches of pimento

cheese, were enough to make the ghosts of the late William Hazlitt and Charles Lamb roll over in their shrouds and weep for joy.
It is therefore a great pity that Old Sir Kenelm never got a chance to apply his elfin talent to a description of the celebrated partnership that bore the name of Paget and Page. Here, assuredly if ever, was grist for his mill, or in somewhat more modern phrase, here was a subject right down his alley. Since this yearning subject has somehow escaped the Master's hand, we are left to supply the lack as best we can by the exercise of our own modest talents.

The offices of the celebrated firm of Paget and Page were on the thirty-seventh floor of one of the loftier skyscrapers, a building that differed in no considerable respect from a hundred others: unpromising enough, it would seem, for purposes of Dickensian exploration and discovery. But one who has been brought up in the hardy disciplines of Old Sir Kenelm's school is not easily dismayed. If one can find Charles Lamb at soda fountains, why should one not find Charles Dickens on the thirty-seventh floor?

One's introduction to this celebrated firm was swift, and from an eighteenth century point of view perhaps a bit unpromising. One entered the great marble corridor of the building from Manhattan's swarming streets, advanced through marble halls and passed the newspaper and tobacco stand, and halted before a double row of shining elevators. As one entered and to the charioteer spoke the magic syllables, "Paget and Page," the doors slid to and one was imprisoned in a cage of shining splendour; a lever was pulled back, there was a rushing sound, punctuated now and then by small clicking noises-the whole thing was done quite hermetically, and with no sense of movement save for a slight numbness in the ears, very much, no doubt, as a trip to the moon in a projectile would be-until at length, with the same magic instance, the cage halted, the doors slid open, and one stepped out upon the polished marble of the thirty-seventh floor feeling dazed, bewildered, and very much alone, and wondering how one got there. One turned right along the corridor, and then left, past rows of glazed-glass offices, formidable names, and the clattering cachinnations of a regiment of typewriters, and almost before one knew it, there squarely to the front, at the very dead end of the hall, one stood before another glazed-glass door in all respects identical with the others except for these words:

PAGET AND PAGE
Counsellors at Law ,

This was all these simple functions of the alphabet in orderly arrangement - but to anyone who has ever broached that portal, what memories they convey!

Within, the immediate signs of things to come were also unremarkable. There was an outer office, some filing cases, a safe, a desk, a small telephone switchboard, and two reasonably young ladies seated busily at typewriters. Opening from this general vestibule were the other offices of the suite. First one passed a rather small office with a flat desk, behind which sat a quiet and timid-looking little gentleman of some sixty years, with a white moustache, and a habit of peering shyly and quickly at each new visitor over the edges of the papers with which he was usually involved, and a general facial resemblance to the little man who has become well known in the drawings of a newspaper cartoonist as Caspar Milquetoast. This was the senior clerk, a sort of good man Friday to this celebrated firm. Beyond his cubicle a corridor led to the private offices of the senior members of the firm.

As one went down this corridor in the direction of Mr. Page - for it is with him that we shall be principally concerned - one passed the office of Mr. Paget Lucius Page Paget, as he had been christened, could generally be seen sitting at his desk as one went by. He, too, was an elderly gentleman with silvery hair, a fine white moustache, and gentle patrician features. Beyond was the office of Mr. Page.

Leonidas Paget Page was a few years younger than his partner, and in appearance considerably more robust. As he was sometimes fond of saying, for Mr. Page enjoyed his little joke as well as any man, he was "the kid member of the firm." He was a man of average height and of somewhat stocky build. He was bald, save for a surrounding fringe of iron-gray hair, he wore a short-cropped moustache, and his features, which were round and solid and fresh-colour, still had something of the chunky plumpness of a boy. At any rate, one got a very clear impression of what Mr. Page must have looked like as a child. His solid, healthy-looking face, and a land of animal drive and quickness in his stocky figure, suggested that he was a man who liked sports and out-of-doors.

This was true. Upon the walls were several remarkable photographs portraying Mr. Page in pursuit of his favourite hobby, which was ballooning. One saw him, for example, in a splendid exhibit marked "Milwaukee, 1908," helmeted and be goggled, peering somewhat roguishly over the edges of the wicker basket of an enormous balloon which was apparently just about to take off. There were other pictures

showing Mr. Page in similar attitudes, marked "St. Louis," or "Chicago," or "New Orleans." There was even one showing him in the proud possession of an enormous silver cup: this was marked "Snodgrass Trophy, 1916."

Elsewhere on the walls, framed and hung, were various other evidences of Mr. Page's profession and his tastes. There was his diploma from the Harvard Law School, his license to practice, and most interesting of all, in a small frame, a rather faded and ancient-looking photograph of a lawyer's shingle upon which, in almost indecipherable letters, was the inscription: "Paget and Page." Below, Mr. Page's own small, fine handwriting informed one that this was evidence of the original partnership, which had been formed in 1838.

Since then, fortunately, there had always been a Paget to carry on partnership with Page, and always a Page so to combine in legal union with Paget. The great tradition had continued in a line of unbroken succession from the time of the original Paget and the original Page, who had been great-grandfathers of the present ones. Now, for the first time in almost one hundred years, that hereditary succession was in danger of extinction; for the present Mr. Page was a bachelor, and there were no others of his name and kin who could carry on. But come!-that prospect is a gloomy one and not to be thought of any longer here.

There exist in modern life, as Spangler was to find out, certain types of identities or people who, except for contemporary manifestations of dress, of domicile, or of furniture, seem to have stepped into the present straight out of the life of a vanished period. This archaism is particularly noticeable among the considerable group of people who follow the curious profession known as the practice of the law. Indeed, as Spangler was now to discover, the archaism is true of that curious profession itself. Justice, he had heard, is blind. Of this he was unable to judge, because in all his varied doings with legal gentlemen he never once had the opportunity of meeting the Lady. If she was related to the law, as he observed it in majestic operation, the relationship was so distant that no one, certainly no lawyer, ever spoke of it.

In his first professional encounter with a member of this learned craft, Spangler was naive enough to mention the Lady right away. He had just finished explaining to Mr. Leonidas Paget Page the reason for his visit, and in the heat of outraged innocence and embattled indignation he had concluded:

"But good Lord! They can't do a thing like this! There's no Justice in it!"

"Ah, now," replied Mr. Page. "Now you're talking about Justice!"

Spangler, after a somewhat startled pause, admitted that he was.

"Ah, now! Justice-" said Mr. Page, nodding his head reflectively as if somewhere he had heard the word before-"Justice. Hm, now, yes. But my dear boy, that's quite another matter. This problem of yours," said Mr. Page, "is not a matter that involves Justice. It is a matter of the Law." And, having delivered himself of these portentous words, his voice sinking to a note of unctuous piety as he pronounced the holy name of Law, Mr. Page settled back in his chair with a relaxed movement, as if to say: "There you have it in a nutshell. I hope this makes it clear to you.'

Unhappily it didn't. Spangler, still persisting in his error, struck his hand sharply against the great mass of letters and documents he had brought with him and deposited on Mr. Page's desk-the whole accumulation of the damning evidence that left no doubt whatever about the character and conduct of his antagonist-and burst put excitedly:

"But good God, Mr. Page, the whole thing's here! As soon as I found out what was going on, I simply had to write her as I did, the letter I told you about, the one that brought all this to a head."

"And quite properly," said Mr. Page with an approving nod. "Quite properly. It was the only thing to do. I hope you kept a copy of the letter," he added thriftily.

"Yes," said Spangler. "But see here. Do you understand this thing? The woman's suing me! Suing me!" the victim went on in an outraged and exasperated tone of voice, as of one who could find no words to express the full enormity of the situation.

"But of course she's suing you," said Mr. Page. "That's just the point That's why you're here. That's why you've come to see me, isn't it?"

"Yes, sir. But good God, she can't do this!" the client cried in a baffled arid exasperated tone. "She's in the wrong and she knows it! The whole thing's here, don't you see that, Mr. Page?" Again Spangler struck the mass of papers with an impatient hand. "It's here, I tell you, and she can't deny it. She can't sue me!"

"But she is," said Mr. Page tranquilly.

"Yes-but dammit!" in an outraged yell of indignation-"this woman can't sue me I've done nothing to be sued about."

"Ah, now!" Mr. Page, who had been listening intently but with a kind of imperturbable, unrevealing detachment which said plainly;"'! hear you but I grant you nothing," now straightened with a jerk and with an air of recognition, and said: "Ah. now I follow you. I get your point. I see what you're driving at. You can't be sued, you say, because you've done nothing to be sued about. My dear boy!" For the first time Mr. Page

allowed himself a smile, a smile tinged with a shade of good humor and forgiving tolerance, as one who is able to understand and overlook the fond delusions of youth and immaturity. "My dear boy," Mr. Page repeated, "that has nothing in the world to do with it Oh, absolutely nothing!" His manner had changed instantly as he spoke these words: he shook his round and solid face quickly, grimly, with a kind of bulldog tenacity that characterized his utterance when he stated an established fact, one that allowed no further discussion or debate. "Absolutely nothing!" cried Mr. Page, and shook his bulldog jaw again. "You say you can't be sued unless you've done something to be sued about. My dear sir!"-here Mr. Page turned in his chair and looked grimly at his client with a kind of bulldog earnestness, pronouncing his words now deliberately and gravely, with the emphasis of a slowly wagging finger, as if he wanted to rivet every syllable and atom of his meaning into his client's brain and memory-"My dear sir," said Mr. Page grimly, "you are laboring under a grave misapprehension if you think you have to do something to be sued about. Do not delude yourself. That has nothing on earth to do with it! Oh, absolutely nothing!" Again he shook his bulldog jaws. "From this time on," as he spoke, his words became more slow and positive, and he hammered each word home with the emphasis of his authoritative finger-"from this time on, sir, I want you to bear this fact in mind and never to forget it for a moment, because it may save you much useless astonishment and chagrin as you go on through life. Anybody, Mr. Spangler," Mr. Page's voice rose strong and solid, "anybody-can sue-anybody-about anything!" He paused a full moment after he had uttered these words, in order to let their full significance sink in; then he said: "Now have you got that straight? Can you remember it?"

The younger man stared at the attorney with a look of dazed and baffled stupefaction. Presently he moistened his dry lips, and as if he still hoped he had not heard correctly, said: "You-you mean-even if I have not done anything?"

"That has nothing on earth to do with it," said Mr. Page as before. "Absolutely nothing."

"But suppose-suppose, then, that you do not even know the person who is suing you-that you never even heard of such a person-do you mean to tell me-?"

"Absolutely!" cried Mr. Page before his visitor could finish. "It doesn't matter in the slightest whether you've heard of the person or not! That has nothing to do with it!"

"Good Lord, then," the client cried, as the enormous possibilities of legal action were revealed to him, "if what you say is true, then anybody at all--" he exclaimed as the concept burst upon him in its full power,

"why you could be sued, then, by a one-eyed boy in Bethlehem, Pennsylvania, even if you'd never seen him!"

"Oh, absolutely!" Mr. Page responded instantly. "He could claim," Mr. Page paused a moment and became almost mystically reflective as the juicy possibilities suggested themselves to his legally fertile mind, "he could claim, for example, that-that, er, one of your books-hm, now, yes!"- briefly and absently he licked his lips with an air of relish, as if he himself were now becoming professionally interested in the case-"he could claim that one of your books was printed in such small type that-that-that the sight of the other eye had been permanently impaired!" cried Mr. Page triumphantly. He settled back in his swivel chair and rocked back and forth a moment with a look of such satisfaction that it almost seemed as if he were contemplating the possibility of taking a hand in the case himself. "Yes! By all means!" cried Mr. Page, nodding his head in vigorous affirmation. "He might make a very good case against you on those grounds. While I haven't considered carefully all the merits of such a case, I can see how it might have its points. Hm, now, yes." He cleared his throat reflectively. "It might be very interesting to see what one could do with a case like that"

For a moment the younger man could not speak. He just sat there looking at the lawyer with an air of baffled incredulity. "But-but-" he managed presently to say- "why, there's no Justice in the thing!" he burst out indignantly, in his excitement making use of the discredited word again.

"Ah, justice," said Mr. Page, nodding. "Yes, I see now what you mean. That's quite another matter. But we're not talking of Justice. We're talking of the Law-which brings us to this case of yours." And, reaching out a pudgy hand, he pulled the mass of papers toward him and began to read them.

Such was our pilgrim's introduction to that strange, fantastic world of twist and weave, that labyrinthine cave at the end of which waits the Minotaur, the Law.

Benefit of the Doubt by Jack London

ITH a current magazine under his arm, Carter Watson strolled slowly along, gazing about him curiously. Twenty years had elapsed since he had been on this particular street, and the changes were great and stupefying. This Western city of three hundred thousand souls had contained but thirty thousand when, as a boy, he had been wont to ramble along its streets. In those days the street he was no on had been a quiet residence street in the respectable working-class quarter. On this late afternoon he found it had been submerged by a vast and vicious tenderloin. Chinese and Japanese shops and dens abounded, all confusedly intermingled with low bars and boozing kens. This quiet street of his youth had become the toughest quarter of the city. He looked at his watch. It was half past five. It was the slack time of the day in such a region, as he well knew, yet he was curious to see. In all his score of years of wandering and studying social conditions over the world he had carried with him the memory of his old town as a sweet and wholesome place. The metamorphosis he now beheld was startling. He certainly must continue his stroll and glimpse the infamy to which his town had descended.

Another thing: Carter Watson had a keen social and civic consciousness. Independently wealthy, he had been loath to dissipate his energies in the pink teas and freak dinners of society, while actresses, race-horses and kindred diversions had left him cold. He had the ethical bee in his bonnet and was a reformer of no mean pretension, though his work had been mainly in the line of contributions to the heavier reviews and quarterlies and to the publication over his name of brightly, cleverly written books on the working classes and the slum-dwellers. Among the twenty-seven to his credit occurred titles such as, If Christ Came to New Orleans, The Worked-Out Worker, Tenement Reform in Berlin, The Rural Slums of England, The People of the East Side, Reform Versus Revolution, The University Settlement as a Hotbed of Radicalism and The Cave Man of Civilization.

But Carter Watson was neither morbid nor fanatic. He did not lose his head over the horrors he encountered, studied and exposed. No hare-brained enthusiasm branded him. His Humour saved him, as did his wide experience and his conservative, philosophic temperament. Nor did he have any patience with lightning-change reform theories. As he saw it, society would grow better only through the painfully slow and arduously painful process of evolution. There were no short cuts, no sudden

regenerations. The betterment of mankind must be worked out in agony and misery just as all past social betterments had been worked out.

But on this late summer afternoon Carter Watson was curious. As he moved along he paused before a gaudy drinking place. The sign above read, The Vendome. There were two entrances. One evidently led to the bar. This he did not explore. The other was a narrow hallway. Passing through this he found himself in a huge room filled with chair-encircled tables and quite deserted. In the dim light he discerned a piano in the distance. Making a mental note that he would come back some time and study the class of persons that must sit and drink at those multitudinous tables, he proceeded to circumnavigate the room.

Now at the rear a short hallway led off to a small kitchen* and here, at a table, alone, sat Patsy Horan, proprietor of The Vendome, consuming a hasty supper ere the evening rush of business. Also, Patsy Horan was angry with the world. He had got out on the wrong side of bed that morning, and nothing had gone right all day. Had his barkeepers been asked, they would have described his mental condition as a grouch. But Carter Watson did not know this. As he passed the little hallway Patsy Horan's sullen eyes lighted on the magazine he carried under his arm. Patsy did not Carter Watson, nor did he know that what he carried under his arm was a magazine. Patsy, out of the depths of his grouch, decided that this stranger was one of those pests who marred and scarred the walls of his back rooms by tacking up or pasting up advertisements. The colour on the front cover of the magazine convinced him that it was such an advertisement. Thus the trouble began. Kife and fork in hand, Patsy leaped for Carter Watson.

"Out wid yen!" Patsy bellowed. "I know yer game!"
Carter Watson was startled. The man had come upon him like the eruption of a jack-in the-box. "Adefacin" me walls," cried Patsy, at the same time emitting a string of vivid and vile, rather than virile, epithets of opprobrium. "If I have given any offense, I did not mean to --"But that was as far as the visitor got. Patsy interrupted.
"Get out wid yen; yeh talk too much wid yer mouth!" quoth Patsy, emphasizing his remarks with flourishes of the knife and fork.

Carter Watson caught a quick vision of that eating fork inserted uncomfortably between his ribs, knew that it would be rash to talk further with his mouth, and promptly turned to go. The sight of his meekly retreating back must have further enraged Patsy Horan for that worthy, dropping the table implements ,sprang upon him. Patsy weighed one

hundred and eighty pounds. So did Watson. In this they were equal. But Patsy was a rushing, rough-and-tumble saloon fighter, while Watson was a boxer. ln this the latter had the advantage, for Patsy came in wide open, swinging his right in a perilous sweep. All Watson had to do was to straight-left him and escape. But Watson had another advantage. His boxing and his experience in the slums and ghettos of the world had taught him restraint.

He pivoted on his feet and, instead of striking, ducked the other's swinging blow and went into a clinch. But Patsy, charging like a bull, had the momentum of his rush, while Watson, whirling to meet him, had no momentum. As a result, the pair of them went down with all their three hundred and sixty pounds of weight, in a long, crashing fall,

Watson underneath. He lay with his head touching the rear wall of the large room. The street was a hundred and fifty feet away, and he did some quick thinking. His first thought was to avoid trouble. He had no wish to get into the papers of this his childhood town where many of his relatives and family friends still lived. So it was that he locked his arms around the man on top of him, held him close and waited for the help to come that must come in response to the crash of the fall. The help came-that is, six men ran in from the bar and formed about in a semicircle. "Take him off, fellows!" Watson said. "I haven't struck him, and I don't want any fight" But the semicircle remained silent. Watson held on and waited. Patsy, after various vain efforts to inflict damage, made an overture.
"Leggo o'me an'I'll get off o'yeh," said he.
Watson let go, but when Patsy scrambled to his feet he stood over his recumbent foe ready to strike.
"Get up!" Patsy commanded.
His voice was stern and implacable, like the voice of one calling to judgment, and
Watson knew there was no mercy there.
"Stand back and I'll get up," he countered.
"If yer a gentleman get up,"quoth Patsy, his Celtic eyes aflame with wrath, his fist ready for a crushing blow. At the same moment he drew his foot back to kick the other in the face. Watson blocked the kick with his crossed arms and sprang to his feet so quickly that he was in a clinch with his antagonist before the latter could strike. Holding him, Watson spoke to the onlookers.
"Take him away from me, fellows. You see I am not striking him. I don't want to fight.I want to get out of here."

The circle did not move or speak. Its silence was ominous and sent a chill to Watson's heart. Patsy made an effort to throw him, which culminated in his putting Patsy on his back. Tearing loose from him, Watson sprang to his feet and made for the door. But the circle of men was interposed like a wall. He noticed the white, pasty faces, the kind that never see the sun, and knew that the men who barred his way were the night prowlers and preying beasts of the city jungle. By them he was thrust back upon the pursuing, bull-rushing Patsy.
Again it was a clinch, in which, in momentary safety, Watson appealed to the gang. And again his words fell on deaf ears. Then it was that he knew fear. For he had known o f many similar situations in low dens like this, where solitary men were manhandle their ribs and features caved in, themselves beaten and kicked to death. And he knew further that if he were to escape he must neither strike assailant nor any of the men who opposed him.

Yet in him was righteous indignation, Under no circumstance could seven to one be fair. Also, he was angry, and there stirred in him the fighting beast that is in all men. But he remembered his wife and children, his unfinished book, the ten thousand rolling acres of the up-country ranch he loved so well. He even saw in flashing visions the blue of the sky, the golden sun pouring down on his flower-spangled meadows, the lazy cattle knee-deep in the brooks, and the flash of trout in the riffles. Life was goo-too good for him to risk it for a moment's sway of the beast. In short, Carter Watson was cool and scared. His opponent, locked by his masterly clinch, was striving to throw him. Again Watson put him on the floor, broke away, and was thrust back by the pasty-faced circle to duck Patsy's swinging right and effect another clinch. This happened many times And Watson grew even cooler, while the baffled Patsy, unable to inflict punishment, raged wildly and more wildly. He took to batting his head in the clinches. The first time, he landed his forehead flush on Watson's nose. After that the latter, in the clinches, buried his face in Patsy's breast. But the enraged Patsy batted on, striking his own eye and cheek on the top of the other's head. The more he was thus injured the more and the harder did Patsy bat.

This one-sided contest continued for twelve minutes. Watson never struck a blow and strove only to escape. Sometimes, in the free moments, circling about among the tables as he tried to win the door, the pasty-faced men gripped his coat-tails arid flung him back at the swinging right of the on-rushing Patsy. Time upon time and times without end he clinched and put Patsy on his back, each time first whirling him around

and putting him down in the direction of the door and gaining toward that goal by the length of the hall.

In the end, hatless, dishevelled, with streaming nose and one eye closed,, Watson won to the sidewalk and into the arms of a policeman.
"Airestthatnan!" Watson panted.
"Hello, Patsy!"said the policeman. "What's the mix-up?"
"Hello, Charley!" was the answer. "This guy comes in"
"Arrest that man, officer!" Watson repeated."G'wan! Beat it!" said Patsy.
"Beat it!" added the policeman. "If you don't I'll pull you in."
"Not unless you arrest that man. He has committed a violent and unprovoked assault on me."
"Isitso, Patsy?" was the officer's query.
"Nah. Lemme tell you, Charley, an' I got the witnesses to prove it, so help me God. I wassettin1 in me kitchen eatin' a bow of soup, when this guy comes in an gets gay wid me. Inever seen him in me born days before. He was drunk --"
"Look at me, officer," protested the indignant sociologiest. "Am I drunk?"

The officer looked at him with sullen, menacing eyes and nodded to Patsy to continue.
"This guy gets gay wid me. 'I'm Tim McGrath,' says he, 'an' I can do the likes of you, ' sayshe. 'Put up yer hands.' I smiles an', wid that, biff, biff, he lands me twice an' spills mesoup. Look at me eye. I'm fair murdered."

"What are you doing to do, officer?" Watson demanded.
"Go on, beat it," was the answer, "or I'll pull you sure!"
Then the civic righteousness of Carter Watson flamed up.
"Mr. Officer, I protest--" . .
But at that moment the policeman grabbed his arm with a savagejerk that nearly
overthrew him.
"Come on, you're pulled!"
"Arrest him, too!" Watson demanded.
"Nix on that play," was the reply. "What did you assault him for, him apeacefully eatin'
his soup?"

II

CARTER WATSON was genuinely angry. Not only had he been wantonly assaulted, badly battered and arrested, but the morning papers without exception came out with the lurid accounts of his drunken brawl with the proprietor of the notorious Vendome. Not one accurate or truthful line was published. Patsy Horan and his satellites described the

battle in detail. The one incontestable thing was that Carter Watson had been drunk. Thrice he had been thrown out of the place and into the gutter, and thrice he had come back, breathing blood and fire and announcing that he was going to clean out the place.

EMINENT SOCIOLOGIST JAGGED AND JUGGED

was the first headline he read on the front page, accompanied by a large portrait of himself. Other headlines were:

CARTER WATSON ASPIRED TO CHAMPIONSHIP HONORS
CARTER WATSON GETS HIS
NOTED SOCIOLOGIEST ATTEMPTS TO CLEAN OUT A TENDERLOIN CAFE
CARTER WATSON KNOCKED OUT BY PATSY HORAN IN THREE ROUNDS

At the police court next morning, under bail, appeared Carter Watson to answer the complaint of the People versus Carter Watson for the latter's assault and battery on one Patsy Horan. But first the prosecuting attorney, who was paid to prosecute all offenders against the People, drew him aside and talked with him privately. "Why not let it drop?" said the prosecuting attorney. "I tell you what you do, Mr.

Watson. Shake hands with Mr. Horan and we'll drop the case right here. A word to the
judge and the case against you will be dismissed."
"But Ldon't want it dismissed, "was the answer. "Your office being what it is, you should be prosecuting me instead of asking me to make up with this-this fellow."
"Oh, I'll prosecute you all right," retorted the other. "Also you will have to prosecute this Patsy Horan," Watson advised; "for I shall now have him arrested for assault and
battery."
"You'd better shake and make up," the prosecuting attorney repeated, with a threat in his voice. The trials of both men were set for a week later, on the same morning, in Police Judge Witberg's court. "You have no chance," Watson was told by an old friend of his boyhood, the retired manager of the biggest paper in the city. "Everybody knows you were beaten up by this man. His reputation is most unsavory. But it won't help you in the least. Both cases will be dismissed. This will be because you are you. Any ordinary man would be convicted." "But I do not understand," objected the perplexed sociologist "Without warning I was attacked by this man and badly beaten. I did not strike a blow, I --"
"That has nothing to do with it," the other cut him off.
"Then what is there that has anything to do with it?" "I'll tell you. You are now up against the local police and political machine. Who are you? You

are not even a legal resident in this town. You live up in the country. You haven't a vote of our own here. Much less do you swing any votes. This dive proprietor swings a string of votes in his precinct-a mighty long string."
"Do you mean to tell me that this Judge Witberg will violate the sacredness of his office and oath by letting this brute off?" Watson demanded.
"Watch him," was the grim reply. "Oh, he'll do it nicely enough! He will give an extra-legal, extra-judicial decision abounding in every word in the dictionary that stands for fairness and right."

"But there are the newspaper," Watson cried.
"They are not fighting the administration at present. They'll give it to you hard. You see what they have already done to you."
"Then these snips of boys on the police detail won't write the truth?"
"They will write something so near the truth that the public will believe it. They write their stories under instruction, you know. They have their orders to twist and colour , and there won't be much left of you when they get done. Better drop the whole thing right now. You are in bad."
"But the trials are set."
"Give the word and they'll drop them now. A man can't fight a machine unless he had a machine behind him-and shall I tell you a secret? Judge Witberg pays the taxes on Patsy Koran's resort."
"You don't mean it?"
"No, I don't. I am just telling you."

III

BUT Carter Watson was stubborn. He was convinced that the machine would beat him, but all his days he had sought social experience, and this was certainly something new. The morning of the trial the prosecuting attorney made another attempt to patch up the affair. "If you feel that way I should like to get a lawyer to prosecute the case," said Watson. "No, you don't!" said the prosecuting attorney. "I am paid by the People to prosecute , and prosecute I will. But let me tell you: You have no chance. We shall lump both cased into one, and you watch out!"
Judge Witberg looked good to Watson. He was a fairly young man, with an intelligent face, smiling lips and wrinkles of laughter in the corners ,of his black eyes. Looking at him and studying him, Watson felt almost sure that his old friend's prognostication was wrong. But Watson was soon to learn. Patsy Horan and the two of his satellites testified to a most colossal aggregation of perjuries. Watson could not have believed it possible without having experienced it. They denied the existence of the other four men. And of the two that testified, one claimed to have been in the kitchen, a witness to Watson's unprovoked assault on Patsy, while the

other, remaining in the bar, had witnessed Watson's second and third rushes into the place as he attempted to annihilate the unoffending Patsy. The vile language ascribed to Watson was so voluminously and unspeakably vile that he felt they were injuring their own case - it was so impossible that he should utter such things. But when they described the brutal blows he had rained on poor Patsy's face, and the chair he demolished when he vainly attempted to kick Patsy, Watson waxed secretly hilarious and at the same time sad. The trial was a farce; but such lowness of life was depressing to contemplate when he considered the long upward climb humanity must make,.

Watson could not recognize himself, nor could his worst enemy have recognized him in the swashbuckling, roughhousing picture that was painted of him. But, as in all cases of complicated perjury, rifts and contradictions in the various stories appeared. The judge had somehow failed to notice them, while the prosecuting attorney and Patsy's attorney shied off from the gracefully. Watson had not bothered to get a lawyer for himself, and he was not glad that he had not. Still, he retained a semblance of faith in Judge Witberg when he went himself on the stand and started to tell his story. "I was strolling casually along the street, your Honour," Watson began, but was interrupted by the judge."We are not here to consider your previous actions," bellowed Judge Witberg. "Who struck the first blow?""Your Honour," Watson pleaded, "I have no witnesses of the actual fray, and the truth of my story can only be brought out by telling the story fully -- "Again he was interrupted."We do not care to publish any magazines here," Judge Witberg roared, looking at him so fiercely and malevolently that Watson could scarcely bring himself to believe that this was the same man he had studied a few minutes previously.

"Who struck the first blow?" Patsy's attorney asked.

The prosecuting attorney interposed, demanding to know which of the two cased lumped together this was, and by what right Patsy's lawyer, at that stage of the proceedings should take the witness. Patsy's attorney fought back. Judge Witberg interfered, professing no knowledge of any two cases being lumped together. All this had to be explained. Battle royal raged, terminating in both attorneys apologizing to the court and to each other. And so it went, and to Watson it had the seeming of a group of pickpockets ruffling and bustling an honest man as they took his purse. The machine was working, that was all.

"Why did you enter this place of unsavoury reputation?" was asked him.

"It has been my custom for many years, as a student of economics and sociology, to acquaint myself--"

But this was as far as Watson got."We want none of you loonies here," snarled Judge Witberg. "It is a plain question. Answer it plainly. Is it true

or not true that you were drunk? That is the gist of the question."When Watson attempted to tell how Patsy had injured his face in his attempts to bat with his head Watson was openly scouted and flouted, and Judge Witberg again took him in hand.

"Are you aware of the solemnity of the oath you took to testify to nothing but the truth tin this witness stand?" the judge demanded. "This is a fairy story you are telling. It is not reasonable that a man would so injure himself, and continue to injure himself, by striking the soft and sensitive parts of his face against your head. You are a sensible man. It is unreasonable, is it not?"

"Men are unreasonable when they are angry," Watson answered meekly.

Then it was that Judge Witberg was deeply outraged and righteously wrathful. "What right have you to say that?" he cried. "It is gratuitous. It has no bearing on the case. You are here as a witness, sir, of events that have transpired. The court does not with to hear any expressions of opinion from you at all."

"I but answered your question, your Honour," Watson protested humbly.

"You did nothing of the sort," was the next blast. "And let me warn you, sir, let me warn you that you are laying yourself liable to contempt by such insolence. And I will have you know that we know how to observe the law and the rules of courtesy down here in this little courtroom. I am ashamed of you."

And, while the next punctilious legal wrangle between the attorneys interrupted his tail of what happened in the Vendome, Carter Watson, without bitterness, amused and at the same time sad, saw rise before him the machines, large and small, that dominated his country, the unpunished and shameless grafts of a thousand cities perpetrated by the spidery and vermin like creatures of the machines. Here it was before him, a courtroom and a judged bowed down in subservience by the machine to a dive keeper who swung a string of votes. Petty and sordid as it was, it was one face of the many-faced machine that loomed colossally in every city and state, in a thousand guises overshadowing the land.

A familiar phrase rang in his ears: "It is to laugh." At the height of the wrangle he giggled once aloud, and earned a sullen frown from Judge Witberg. Worse a myriad times, he decided, were these bullying lawyers and this bullying judge than the bucko mates in first-quality hell-ships, who not only did their own bullying but protected themselves as well. These petty rapscallions, on the other hand, sought protection behind the majesty of the law. They struck, but no one was permitted to strike back, for behind them were the prison cells and the clubs of the stupid policemen - paid and professional fighters and beaters-up of men. Yet he

was not bitter. The grossness of it was forgotten in the simple grotesqueness of it.

Nevertheless, hectored and heckled though he was, he managed in the end to give a straightforward version of the affair, and despite a belligerent cross-examination his story was not shaken in any particular. Quite different it was from the perjuries of Patsy.

Both Patsy's attorney and the prosecuting attorney rested their cases, letting everything go before the court without argument> Watson protested against this, but was silenced when the prosecuting attorney told him that he was the public prosecutor and knew his business.

"Patrick Horan has testified that he was in danger of his life and that he was compelled to defend himself," Judge Witberg's verdict began. "Mr. Watson has testified to the same thing. Each has sworn that the other made an unprovoked assault on him. It is an axiom of the law that the defendant should be given the benefit of the doubt. A very reasonable exists. Therefore, in the case of the People versus Carter Watson the benefit of the doubt is given to said Carter Watson and he is herewith ordered discharged from custody. The same reasoning applies to the case of the People versus Patrick Horan. He is given the benefit of the doubt and discharged from custody. My recommendation is that both defendants shake hands and make up."In the afternoon papers the first headline that caught Watson's eye was:

CARTER WATSON ACQUITTED

In the second paper it was:

CARTER WATSON ESCAPES A FINE

But ,what capped everything, was the one beginning:

CARTER WATSON A GOOD FELLOW

In the text he read how Judge Witberg had advised both fighters to shake hands, which they promptly did. Further, he read:

"'Let's have a nip on it/ said Patsy Horan.

"'Sure!' said Carter Watson."And arm in arm they ambled to the nearest saloon."

IV

NOW from the whole adventure Watson carried away no bitterness. It was a social experience of a new order and it led to the writing of another book, which he entitled Police Court Procedure: A Tentative Analysis.

One summer morning a year later, on his ranch, he left his horse and clambered through a miniature canon to inspect the rock ferns he had planted the previous winter Emerging from the upper end of the canon he came out on one of his flower-spangled meadows, a delightful, isolated spot screened from the world by low hills and clumps of trees. And here

he found a man, evidently on a stroll from the summer hotel down at the little town a mile away. They met face to face and the recognition was mutual. It was Judge Witberg. Also it was a clear case of trespass, for Watson had trespass signs up on his boundaries, though he never enforced them.
Judge Witberg held out his hand, which Watson refuse to see.
"Politics is a dirty trade, isn't it, Judge?" he remarked. "Oh, yes! I see your hand, but I don't care to take it. The papers said I shook hands with Patsy Horan after the trial. You know I didn't; but let me tell you that I'd a thousand times rather shake hands with him and his vile following of curs than with you."
Judge Witberg was painfully flustered, and as he hemmed and hawed and essayed to speak Watson, looking at him, was struck by a sudden whim, and he determined on a grim and facetious antic.
"I should scarcely expect any animus from a man of your acquirements and knowledge of the world," the judge was saying.
"Animus?" Watson replies. "Certainly not. I haven't such a thing in my nature. And to prove it let me show you something curious, something you have never seen before" Casting about him, Watson picked up a rough stone the size of this fist. "See this? Watch me."
So saying, Carter Watson tapped himself a sharp blow on the cheek. The stone laid the flesh open and the blood spurted forth."The stone was too sharp," he announced to the astounded police judge, who thought he had gone mad. "I must bruise it a trifle. There is nothing like being realistic in such matters."Whereupon Carter Watson found a smooth stone and with it pounded his cheek nicely several times."Ah!" he cooed. "That will turn beautifully green and black in a few hours. It will be most convincing.""You are insane," Judge Witberg quavered.
"Don't use such vile language to me," said Watson. "You see my bruised and bleeding face? You did that with that right hand of yours. You hit me twice-biff, biff. It is a brutal and unprovoked assault. I am in danger of my life. I must protect myself."
Judge Witberg backed away in alarm before the menacing fists of the other.
"If you strike me I'll have you arrested," Judge Witberg threatened.
"That is what I told Patsy," was the answer. "And do you know what he did when I told him that?"
"No."
"That!"

And at the same moment Watson's right fist landed flush on Judge Witberg's nose,
putting that legal gentleman over on his back on the grass.

"Get up!" commanded Watson. "If you are a gentleman, get up-that's what Patsy told
me, you know."
Judge Witberg declined to rise, and was dragged to his feet by the coat-collar, only to
have one eye blacked and be put on his back again. After that it was a red Indian
massacre. Judge Witberg was humanely and scientifically beaten up. His cheeks were
boxed, his ears cuffed, and his face was rubbed in the turf. And all the time Watson
exposited the way Patsy Horan had done it. Occasionally and very carefully the
facetious sociologist administered a real bruising blow. Once, dragging the poor judge
to his feet, he deliberately bumped his own nose on the gentleman's head. The nose
promptly bled.
"See that!" cried Watson, stepping back and deftly shedding his blood all down his own
shirtfront. "You did it. With your fist you did it. It is awful. I am fair murdered. I must
again defend myself."
And once more Judge Witberg impacted his features on a fist and was sent down to
grass." I will have you arrested," he sobbed as he lay.
"That's what Patsy said."
"A brutal [sniff, sniff] and unprovoked [sniff, sniff] assault"
"That's what Patsy said. "
"I will surely have you arrested."
"Speaking slangily, not if I can beat you to it."
And with that Carter Watson departed down the canon, mounted his horse and rode to
town.
An hour later as Judge Witberg limpted up the grounds to his hotel he was arrested by a village constable on the charge of assault and battery preferred by Carter Watson.

V

"YOUR HONOR," Watson said next day to the village justice, a well-to-do farmer and graduate thirty years before from a cow college, "since this Sol Witberg has seen fit to charge me with battery, following upon my charge of battery against him, I would suggest that both cases be lumped together. The testimony and the facts are the same in both case."

To this the justice agreed, and the double case proceeded. Watson, as prosecuting witness, first took the stand and told his story.
"I was picking flowers," he testified-"picking flowers on my own land, never dreaming of danger. Suddenly this man rushed me from behind the trees. 'I am the Dodo,' he says, 'and I can do you to a frazzle. Put up your hands.' I smiled; but, with that, biff, biff, he struck me, knocking me down and spilling my flowers. The language he uses was frightful. It was an unprovoked and brutal assault. Look at my cheek. Look at my nose. I could not understand it. He must have been drunk. Before I recovered from my surprise he had administered this beating. I was in danger of my life and was compelled to defend myself. That is all, your Honor, though I must say in conclusion that I cannot get over my perplexity. Why did he say he was the Dodo? Why did he so wantonly attack me?"
And thus was Sol Witberg given a liberal education in the art of perjury. Often from his high seat he had listened indulgently to police court perjuries in cooked-up cases; but for the first time perjury was directed against him, and he no longer sat above the court, with bailiffs, the policemen's clubs and prison cells behind him.
"Your Honour," he cried, "never have I heard such a pack of lies told by so barefaced a liar---"
Watson here sprang to his feet."Your Honour, I protest. It is for your Honour to decide truth or falsehood. The witness is on the stand to testify to actual events that have occurred. His personal opinion upon things in general and upon me has no bearing this case whatever."
The justice scratched his head and waxed phlegmatically indignant. "The point is well taken," he decided. "I am surprised at you, Mr. Witberg, claiming to be a judge and skilled in the practice of the law, and yet being guilty of such un lawyer like conduct. Your manner, sir, and your methods remind me of a shyster. This is a simple case of assault and battery. We are here to determine who struck the first blow, and we are not interested in your estimates of Mr. Watson's personal character. Proceed with your story."
Sol Witberg would have bitten his bruised and swollen lip in chagrin had it not hurt so much. But he contained himself and told a simple, straightforward, truthful story "'Your Honour," Watson said, "I would suggest that you ask him what he was doing on my premises."
"A very good question. What were you doing, sir, on Mr. Watson's premises?"
"I did not know they were his premises."
"It was a trespass, your Honour," Watson cried.
The warnings are posted conspicuously."
"I saw no warnings," said Sol Witberg.

"I have seen them myself," snapped the justice. "They are very conspicuous. And I would warn you, sir, that if you palter with the truth in such little matters you may darken your more important statements with suspicion. Why did you strike Mr. Watson?"
"Your Honor, as I have testified, I did not strike a blow."
The justice looked at Carter Watson's bruised and swollen visage, and turned to glare at Sol Witberg."Look at that man's cheek!" he thundered. "If you did not strike a blow how comes it that he is so disfigured and injured?"
"As I testified --"
"Be careful," the justice warned."I will be careful, sir. I will say nothing but the truth. He struck himself wit a rock. He struck himself with two rocks."
"Does it stand to reason that a man, any man not a lunatic, would so injure himself and continue to injure himself by striking the soft and sensitive parts of his face with a stone?" interposed Watson.
"It sounds like a fairy story," was the justice's comment "Mr. Witberg, had you been drinking?" .
"No, sir"
"Do you ever drink?"
"On occasion."
The justice meditated on this answer with an air of astute profundity. Watson took advantage of the opportunity to wink at Sol Witberg, but that much-abused gentleman saw nothing humorous in the situation.
"A very peculiar case, a very peculiar case," the justice announced as he began his verdict. "The evidence of the two parties is flatly contradictory. There are no witnesses outside the two principals. Each claims the other committed the assault, and I have no legal way of determining the truth. But I have my private opinion, Mr. Witberg, and I would recommend that henceforth you keep off of Mr. Watson's premises and keep away from this section of the country --"
"This is an outrage!" Sol Witberg blurted out.
"Sit down, sir!" was the justice's thundered command. "If you interrupt the court in this manner again I shall fine you for contempt. And I warn you I shall fine you heavily
you, a judge yourself, who should be conversant with the courtesy and dignity of courts.
I shall now give my verdict:
"It is a rule of law that the defendant shall be given the benefit of the doubt. As I have
said, and 1 repeat, there is no legal way For me to determine who struck the first blow.

Therefore, and much to my regret" here he paused and glared at Sol Witberg" in each of these cases I am compelled to give the defendant the benefit of the doubt.
Gentlemen, you are both dismissed."
"Let us have a nip on it," Watson said to Witberg as they left the courtroom; but that
outraged person refused to lock arms and amble to the nearest saloon.

Within a low clapboarded hut, with an open front, a forge was glowing. In front a blacksmith was shoeing a horse, a sleek, well-kept animal with the signs of good blood and breeding. A young mulatto stood by and handed the blacksmith such tools as he needed from time to time. A group onerous were sitting around, some in the shadow of the shop, one in the full glare of the sunlight. A gentleman was seated in a buggy a few yards away, in the shade of a spreading elm. The horse had loosened a shoe, and

Colonel Thornton, who was a lover of fine horseflesh, and careful of it, had stopped at Ben Davis's blacksmith shop, as soon as he discovered the loose shoe, to have it fastened on.

"All right, Kunnel," the blacksmith called out. "Tom," he said, addressing the young man,

"he'p me hitch up."

Colonel Thornton alighted from the buggy, looked at the shoe, signified his approval of the job, and stood looking on while the blacksmith and his assistant harnessed the horse to the buggy.

"Dat 's a mighty fine whip yer got dere, Kunnel," said Ben, while the young man was tightening the straps of the harness on the opposite side of the horse. "I wush I had one like it. Where kin yer git dem whips?"

"My brother brought me this from New York," said the Colonel. "You can't buy them down here."

The whip in question was a handsome one. The handle was wrapped with interlacing threads of variegated colours, forming an elaborate pattern, the lash being dark green.

An octagonal ornament of glass was set in the end of the handle.

"It cert'n'y is fine," said Ben; "I wish I had one like it." He looked at the whip longingly asColonel Thornton drove away.

"'Pears ter me Ben gittin' mighty blooded," said one of the bystanders, "drivin1 a hossan'buggy, an' wantin' a whip like Colonel Thornton's."

"What's de reason I can't hab a hoss an' buggy an' a whip like Kunnel Tho'nton's, ef Ipay fer 'em?" asked Ben. "We colored folks never had no chance ter git nothin' befo' dewah, but ef every nigger in dis town had a tuck keer er his money sence de wah, like Ihas, an' bought as much lan' as I has, de niggers might 'a' got half de lan' by dis time," he went on, giving a finishing blow to a horseshoe, and throwing it on the ground to cool.

Carried 'away by his own eloquence, he did not notice the approach of two white men who came up the street from behind him.

"An" ef you niggers," he continued, raking the coals together over a fresh bar of iron. "would stop was tin' yof money on 'scursions to put money in w'ite folks' pockets, an stop buildin' fine chu'ches, an1 bull' houses fer

yo'se'ves, you "d git along much faster." "You 're talkin1 sense, Ben, " said one of the white men. ""Yo'r -people will never be respected till they 've got property."
The conversation took another turn. The white men transacted their business and went away. The whistle of a neighboring steam sawmill blew a raucous blast for the hour, of noon, and the loafers shuffled away in different directions.
"You kin go ter dinner, Tom," said the blacksmith. "An" stop at de gate w'en yer go by my house, and tell Nancy I '11 be dere in 'bout twenty minutes. I got ter finish dis yer plough p'intfus'."
The young man walked away. One would have supposed, from the rapidity with which he walked, that he was very hungry. A quarter of an hour later the blacksmith dropped his hammer, pulled off his leather apron, shut the front door of the shop, and went home to dinner. He came into the house out of the fervent heat, and, throwing off his straw hat, wiped his brow vigorously with a red cotton handkerchief.
"Dem collards smells good," he said, sniffing the odor that came in through the kitchen door, as his good-looking yellow wife opened it to enter the room where he was. "I 've got a monst'us good appetite ter-day. I feels good, too. I paid Majah Ransom de intru' on de mortgage dis mawnin' an1 a hund'ed dollahs besides, an' I spec's ter hab de balance ready by de fust of nex' Jiniwary; an' den we won't owe nobody a cent. I tell yer dere ain' nothin' like propputy ter make a pusson feel like a man. But w'at 's de matter wid yer, Nancy? Is sump'n' skeered yer?"
The woman did seem excited and ill at ease. There was a heaving of the full bust, a quickened breathing, that betokened suppressed excitement.
"I-I-jes1 seen a rattlesnake out in de gyahden," she stammered.
The blacksmith ran to the door. "Which way? Whar wuz he?" he cried.
He heard a rustling in the bushes at one side of the garden, and the sound of a breaking twig, and, seizing a hoe which stood by the door, he sprang toward the point from which the sound came.
"No, no," said the woman hurriedly, "it wuz over here," and she directed her husband's attention to the other side of the garden.
The blacksmith, with the uplifted hoe, its sharp blade gleaming in the sunlight, peered cautiously among the collards and tomato plants, listening all the while for the ominous rattle, but found nothing.
"I reckon he 's got away," he said, as he set the hoe up again by the door. "Whar's de chillen?" he asked with some anxiety. "Is dey playin' in de woods?"
"No," answered his wife, "dey 've gone ter de spring."
The spring was on the opposite side of the garden from that on which the snake was said to have been seen, so the blacksmith sat down and fanned himself with a palm-leaf fan until the dinner was served.

"Yer ain't quite on time ter-day, Nancy," he said, glancing up at the clock on the mantel, after the edge of his appetite had been taken off. "Got ter make time ef yer wanter make money. Did n't Tom tell yer I 'd be heah in twenty minutes?"
"No," she said; "I seen him goin' pas'; he did n' say nothin'."
"I dunno w'at's de matter wid dat boy," mused the blacksmith over his apple dumpling. "He 's gittin' mighty keerless heah lately; mus' hab sump'n' on 'is min',-some gal, I reckon."
The children had come in while he was speaking,-a slender, shapely boy, yellow like his mother, a girl several years younger, dark like her father: both bright-looking children and neatly dressed.
"I seen cousin Tom down by de spring," said the little girl, as she lifted off the pail ofwater that had been balanced on her head. "He come out er de woods jest ez we wuzfillin' our buckets."

"Yas," insisted the blacksmith, "he's got some gal on his min'. "
II
The case of the State of North Carolina vs. Ben Davis was called. The accused was ledinto court, and took his seat in the prisoner's dock.
"Prisoner at the bar, stand up."
The prisoner, pale and anxious, stood up. The clerk read the indictment, in which it wascharged that the defendant by force and arms had entered the barn of one G.W.
Thornton, and feloniously taken therefrom one whip, of the value of fifteen dollars,
"Are you guilty or not guilty?" asked the judge.
"Not guilty, yo1 Honah; not guilty, Jedge. I never tuck de whip."
The State's attorney opened the case. He was young and zealous. Recently elected to theoffice, this was his first batch of cases, and he was anxious to make as good a record aspossible. He had no doubt of the prisoner's guilt. There had been a great deal of pettythieving in the county, and several gentlemen had suggested to him the necessity forgreater severity in punishing it. The jury were all white men. The prosecuting attorney
stated the case.
"We expect to show, gentlemen of the jury, the facts set out in the indictment,-notaltogether by direct proof, but by a chain of circumstantial evidence which is strongereven than the testimony of eyewitnesses. Men might lie, but circumstances cannot. Weexpect to show that the defendant is a man of dangerous character, a surly, impuden t fellow; a man whose views of property are prejudicial to the welfare of society, and who has been heard to assert that half the property which is owned in this county has been stolen, and that, if justice were done, the white people ought to

divide up the land with the negroes; in other words, a negro nihilist, a communist, a secret devotee of TomPaine and Voltaire, a pupil of the anarchist propaganda, which, if not checked by the stern hand of the law, will fasten its insidious fangs on our social system, and drag it down to ruin."

"We object, may it please your Honour," said the defendant's attorney.

"The prosecutor should defer his argument until the testimony is in."

"Confine yourself to the facts, Major," said the court mildly.

The prisoner sat with half-open mouth, overwhelmed by this flood of eloquence. He hadnever heard of Tom Paine or Voltaire. He had no conception of what a nihilist or ananarchist might be, and could not have told the difference between a propaganda and apotato.

"We expect to show, may it please the court, that the prisoner had been employed byColonel Thornton to shoe a horse; that the horse was taken to the prisoner's blacksmith shop by a servant of Colonel Thornton's; that, this servant expressing a desire to go somewhere on an errand before the horse had been shod, the prisoner volunteered to return the horse to Colonel Thornton's stable; that he did so, and the following morningthe whip in question was missing; that, from circumstances, suspicion naturally fell upon the prisoner, and a search was made of his shop, where the whip was found secreted; that the prisoner denied that the whip was there, but when confronted with the evidence of his crime, showed by his confusion that he was guilty beyond peradventure."

The prisoner looked more anxious; so much eloquence could not but be effective with the jury.

The attorney for the defendant answered briefly, denying the defendant's guilt,dwelling upon his previous good character for honesty, and begging the jury not to pre-judge the case, but to remember that the law is merciful, and that the benefit of thedoubt should be given to the prisoner.

The prisoner glanced nervously at the jury. There was nothing in their faces to indicate the effect upon them of the opening statements. It seemed to the disinterested listeners as if the defendant's attorney had little confidence in his client's cause.

Colonel Thornton took the stand and testified to his ownership of the whip, the place where it was kept, its value, and the fact that it had disappeared. The whip was produced in court and identified by the witness. He also testified to the conversation at the blacksmith shop in the course of which the prisoner had expressed a desire to possess a similar whip. The cross-examination was brief, and no attempt was made to shake the Colonel's testimony.

The next witness was the constable who had gone with a warrant to search Ben's shop.

He testified to the circumstances under which the whip was found.

"He wuz brazen as a mule at fust, an' wanted ter git mad about it. But when we beginner turn over that pile er truck in the caner, he kinder begun ter tremble; when thewhip-handle stuck out, his eyes commenced ter grow big, an' when we hauled the whip out he turned pale ez ashes, an' begun to swear he did n' take the whip an' did n' knowhow it got that."

"You may cross-examine," said the prosecuting attorney triumphantly.

The prisoner felt the weight of the testimony, and glanced furtively at the jury, and then appealingly at his lawyer.

"You say that Ben denied that he had stolen the whip," said the prisoner's attorney, on cross-examination. "Did it not occur to you that what you took for brazen impudence might have been but the evidence of conscious innocence?"

The witness grinned incredulously, revealing thereby a few blackened fragments of teeth.

"I 'Ve tuck up more 'n a hundred niggers fer stealin', Kurnel, an' I never seed one yit that did n' 'ny it ter the las'." .

"Answer my question. Might not the witness's indignation have been a manifestation of conscious innocence? Yes or no?"

"Yes, it mought, an' the moon nought fall-but it don't."

Further cross-examination did not weaken the Witness's testimony, which was very damaging, and every one in the court room felt instinctively that a strong defence would-be required to break down the State's case.

"The State rests," said the prosecuting attorney, with a ring in his voice which spoke of certain victory.

There was a temporary lull in the proceedings, during which a bailiff passed a pitcher of water and a glass along the line of jury-men. The defense was then begun.

The law in its wisdom did not permit the defendant to testify in his own behalf. There were no witnesses to the facts, but several were called to testify to Ben's good character. The collared witnesses made him out possessed of all the virtues. One or two white men testified that they had never known anything against his reputation for honesty.

The defendant rested his case, and the State called its witnesses in rebuttal. They were entirely on the point of character. One testified that he had heard the prisoner say that, if the negroes had their rights, they would own at least half the property. Another testified that he had heard the defendant say that the negroes spent too much money on churches, and that they cared a good deal more for God than God had ever seemed to care for them.

Ben Davis listened to this testimony with half-open mouth and staring eyes. Now and then he would lean forward and speak perhaps a word, when his attorney would shake

a warning finger at him, and he would fall back helplessly, as if abandoning himself to fate; hut for a moment only, when he would resume Jus puzzled look.
The arguments followed. The prosecuting attorney briefly summed up the evidence, and characterized it as almost a mathematical proof of the prisoner's guilt He reserved his eloquence for the closing argument.
The defendant's attorney had a headache, and secretly believed his client guilty. His address sounded more like an appeal for mercy than a demand for justice. Then the State's attorney delivered the maiden argument of his office, the speech that made his reputation as an orator, and opened up to him a successful political career.
The judge's charge to the jury was a plain, simple statement of the law as applied to circumstantial evidence, and the mere statement of the law foreshadowed the verdict. The eyes of the prisoner were glued to the jury-box, and he looked more and more like a hunted animal. In the rear of the crowd of blacks who filled the back part of the room, partly concealed by the projecting angle of the fireplace, stood Tom, the blacksmith's assistant. If the face is the mirror of the soul, then this man's soul, taken off its guard in this moment of excitement, was full of lust and envy and all evil passions.
The jury filed out of their box, and into the jury room behind the judge's stand. There was a moment of relaxation in the court room. The lawyers fell into conversation across the table. The judge beckoned to Colonel Thornton, who stepped forward, and they conversed together a few moments. The prisoner was all eyes and ears in this moment of waiting, and from an involuntary gesture on the part of the judge he divined that they were speaking of him. It is a pity he could not hear what was said.
"How do you feel about the case, Colonel?" asked the judge.
"Let him off easy," replied Colonel Thornton. "He 's the best blacksmith in the county." The business of the court seemed to have halted by tacit consent, in anticipation of a quick verdict. The suspense did not last long. Scarcely ten minutes had elapsed when there was a rap on the door, the officer opened it, and the jury came out.
The prisoner, his soul in his eyes, sought their faces, but met no reassuring glance; they were all looking away from him.
"Gentlemen of the jury, have you agreed upon a verdict?"
"We have," responded the foreman. The clerk of the court stepped forward and took the fateful slip from the foreman's hand.
The clerk read the verdict: "We, the jury empanelled and sworn to try the issues in this cause, do find the prisoner guilty as charged in the indictment."
There was a moment of breathless silence. Then a wild burst of grief from the, prisoner's wife, to which his two children, not understanding it all,

but vaguely conscious of some calamity, added their voices in two long, discordant wails, which would have been ludicrous had they not been heartrending.
The face of the young man in the back of the room expressed relief and badly concealed satisfaction. The prisoner fell back upon the seat from which he had half risen in his anxiety, and his dark face assumed an ashen hue. What he thought could only be surmised. Perhaps, knowing his innocence, he had not believed conviction possible; perhaps, conscious of guilt, he dreaded the punishment, the extent of which was optional with the judge, within very wide limits. Only one other person present knew whether or not he was guilty, and that other had slunk furtively from the court room. Some of the spectators wondered why there should be so much ado about convicting a negro of stealing a buggy-whip. They had forgotten their own interest of the moment before. They did not realize out of what trifles grow the tragedies of life.
It was four o'clock in the afternoon, the hour for adjournment, when the verdict was returned. The judge nodded to the bailiff.

"Oyez, oyez! this court is now adjourned until ten o'clock to-morrow morning, " cried the bailiff in singsong voice. the judge left the bench, the jury filed out of the box, and a buzz of conversation filled the court room.
"Brace up, Be, brace up, my boy, " said the defendant's lawyer, half apologetically. " I did what I could for you, but you can never tell what a jury will do. You won't be sentenced till to-marrow morning . In the meantime I 'll speak to the judge and try to get him to be easy with you. He may let you off with a light fine. "
The negro pulled himself together, and by an effort listened .
"Thanky, Majah," was all he said. He seemed to be thinking of something for away.
He barely spoke to his wife when she frantically threw herself on him, and clung to him neck, as he passed through the side room on his way to jail. he kissed his children mechanically, and did not reply to the soothing remarks made by the jailer.
III
There was a good deal of excitement in town the next morning. Tow white men stood by the post office talking.
"Did yer hear the news?"
"No, what wuz it?"
"Ben Davis tried ter break jail las'night."
"You don't say so! What a fool! He ain't be'n sentenced yit "
"Well, now," said the other, "I ve knowed Ben a long time an' hp wuz a right good nigger. I kinder found it hard ter b'lieve he did stea that whip. But what' s a man's feelin's ag'in' the proof?"

They spoke on awhile, using the past tense as if they were speaking of a dead man. "Ef I know Jedge Hart, Ben 'II wish he had slep' las' night, 'stidder tryin' ter break out'n jail.

At ten o'clock the prisoner was brought into court. He walked with shambling gait, bent at the shoulder, hopelessly, with downcast eyes, and took his seat with several other prisoners who had been brought in for sentence. His wife, accompanied by the children, waited behind him, and a number of his friends were gathered in the court room.

The first prisoner sentenced was a young white man, convicted several days before of manslaughter. The deed was done in the heat of passion, under circumstances of great provocation, during a quarrel about a woman. The prisoner was admonished of the sanctity of human life, and sentenced to one year in the penitentiary.

The next case was that of a young clerk, eighteen or nineteen years of age, who has committed a forgery in order to procure the means to buy lottery tickets. He was well connected, and the case would not have been prosecuted if the judge had not refused to allow it to be knolled, and, once brought to trial, a conviction could not have been avoided.

"You are a young man, " said the judge gravely, yet not unkindly, "and your life is yet before you. I regret that you should have been led into evil courses by the lust for speculation, so dangerous in its tendencies, so fruitful of crime and misery. I am led to believe that you are sincerely penitent, and that, after such punishment as the law cannot remit without bringing itself into contempt, you will see the error of your ways and follow the strict path of rectitude. Your fault has entailed distress not only upon yourself, but upon your relatives, people of good name and good family, who suffer as keenly from your disgrace as you yourself. Partly out of consideration for their feelings, and partly because I feel that, under the circumstances, the law will be satisfied y the penalty I shall inflict, I sentence you to imprisonment in the county jail for six months, and a fine of one hundred dollars and the costs of this action. "

"The jedge talk well, don't he? " whispered one spectator to another.

"Yes, and kinder likes ter hear hisse'f talk, " answered the other.

"Ben Davis, stand up," ordered the judge.

He might have said "Ben Davis, wake up," for the jailer had to touch the prisoner on the shoulder to rouse him from his stupor. He stood up, and something of the hunted look come again into his eyes, which shifted under the stern glance of the judge.

"Ben Davis, you have been convicted of larceny, after a fair trial before twelve good men of this county. Under the testimony, there can be no doubt of your guilt. The case is an aggravated one. You are not an ignorant, shiftless fellow, but a man of more than ordinary intelligence

among your people, and one who ought to know better. You have not even the poor excuse of having stolen to satisfy hunger or a physical appetite. Your conduct is wholly without excuse, and I can only regard your crime as the result of a tendency to offenses of this nature, a tendency which is only too common among your people; a tendency which is a menace to civilization, a menace to society itself, for society rests upon the sacred right of property. Your opinions, too, have been given a wrong turn; you have been heard to utter sentiments which, if disseminated among an ignorant people, would breed discontent, and give rise to strained relations between them and their best friends, their old masters, who understand their real nature and their real needs, and to whose justice and enlightened guidance they can safely trust.

Have you anything to say why sentence should not be passed upon you?"

"Nothin1, suh, cep'n dat I did n' take de whip."

"The law, largely, I think, in view of the peculiar circumstances of your unfortunate race, has vested a large discretion in courts as to the extent of the punishment for offenses of this kind. Taking your case as a whole, I am convinced that it is one which, for the sake of the example, deserves a severe punishment. Nevertheless, I do not feel disposed to give you the full extent of the law, which would be twenty years in the peniteatiary, [l] but, considering the fact that you have a family, and have heretofore borne a good reputation in the community, I will impose upon you the light sentence of imprisonment for five years in the penitentiary at hard labour. And I hope that this will be a warning to you and others who may be similarly disposed, and that after your sentence has expired you may lead the life of a law-abiding citizen."

[Footnote 1: There are no degrees of larceny in North Carolina, and the penalty for any offense lies in the discretion of the judge, to the limit of twenty years.]

"O Ben! O my husband! O God!" moaned the poor wife, and tried to press forward to her husband's side.

"Keep back, Nancy, keep back," said the jailer. "You can see him in jail."

Several people were looking at Ben's face. There was one flash of despair, and then

nothing but a stony blank, behind which he masked his real feelings, whatever they were.

Human character is a compound of tendencies inherited and habits acquired. In the anxiety, the fear of disgrace, spoke the nineteenth century civilization with which BenDavis had been more or less closely in touch during twenty years of slavery and fifteen years of freedom. In the stolidity with which he received this sentence for a crime which he had not committed, spoke who knows what trait of inherited savagery? For stoicism is a savage virtue.

IV

One morning in June, five years later, a black man limped slowly along the old Lumberton plank road; a tall man, whose bowed shoulders made him seem shorter than he was, and a face from which it was difficult to guess his years, for in it the wrinkles and flabbiness of age were found side by side with firm white teeth, and eyes not sunken,-eyes bloodshot, and burning with something, either fever or passion. Though he limped painfully with one foot, the other hit the ground impatiently, like thegood horse in a poorly matched team. As he walked along, he was talking to himself:"I wonder what dey 'II do w'en I git back? I wonder how Nancy's s'ported the famblyall dese years? Tuck in washin', I s'ppose,-she was a monst'us good washer an' ironer. I wonder ef de chillun 'II be too proud ter reco'nize deir daddy come back f'um depenetenchy? I 'spec' Billy must be a big boy by dis time. He won1 b'lieve his daddyeverstole anything. I 'm gwine ter slip roun 'an' s'prise 'em."

I Five minutes later a face peered cautiously into the window of what had once beenBen Davis's cabin,-at first an eager face, its coarseness lit up with the fire of hope; a moment later a puzzled face; then an anxious, fearful face as the man stepped away from the window and rapped at the door.

"Is Mis' Davis home?" he asked of the woman who opened the door.

"Mis' Davis don' live here. You er mistook in de house."

"Whose house is dis?"

"Itb'longstermyhusban', Mr. Smith,-Primus Smith."

"'Scuse me, but I knowed de house some years ago w'en I wuz here oncet on a visit, an'it b'longed ter a man name' Ben Davis."

"Ben Davis-Ben Davis?-oh yes, I 'member now. Dat wuz de gen'man w'at wuz sent terde penitenchy fer sump'n er nuther,-sheep-stealin', I b'lieve. Primus," she called, "w'atwuz Ben Davis, w'at useter own dis yer house, sent ter de penitenchy fer?"

"Hoss-stealinV came back the reply in sleepy accents, from the man seated by thefireplace.

The traveler went on to the next house. A neat-looking yellow woman came to the doorwhen he rattled the gate, and stood looking suspiciously at him.

"W'at you want?" she asked.

"Please, ma'am, will you tell me whether a man name' Ben Davis useter live in disneighborhood?"

"Useter live in de nex' house; wuz sent ter de penitenchy fer killin' a man."

"Kin yer tell me w'at went wid Mis' Davis?"

"Umph! I 's a 'spectable 'oman, I is, en don' mix wid dem kind er people. She wuz 'n' nobetter 'n her husban1. She tuk up wid a man dat useter wuk

fer Ben, an' dey 're livin'down by de ole wagon-ya'd, where no 'spectable 'oman ever puts her foot."
"An' de chillen?"
"De gal's dead. Wuz 'n' no better 'n she oughter be'n. She fell in de crick an' got drown';some folks say she wuz 'n' sober w'en it happen'. De boy tuck atter his pappy. He wuz'rested las' week fer shootin' a w'ite man, an' wuz lynch1 de same night Deywa'n'tnone of'em no'count after deir pappy went ter de penitenchy."
"What went wid de proputty?"
"Hit wuz sol' fer de mortgage, er de taxes, er de lawyer, er sump'n,-I don' know w'at. Aw'ite man got it."

The marl with the bundle went on until he came to a creek that crossed the road. Hedescended the sloping bank, and, sitting on a stone in the shade of a water-oak, took off his coarse brogans, unwound the rags that served him in lieu of stockings, and laved inthe cool water the feet that were chafed with many a weary mile of travel.
After five years of unrequited toil, and unspeakable hardship in convict camps,-five years of slaving by the side of human brutes, and of nightly herding with them in vermin-haunted huts,-Ben Davis had become like them. For a while he had received occasional letters from home, but in the shifting life of the convict camp they had long since ceased to reach him, if indeed they had been written. For a year or two, the consciousness of his innocence had helped to make him resist the debasing influences that surrounded him. The hope of shortening his sentence by good behaviour, too, had worked a similar end. But the transfer from one contractor to another, each interested in keeping as long as possible a good worker, had speedily dissipated any such hope. When hope too flight, its pace was not long vacant. Despair followed, and black hatred of all mankind, hatred especially of the man to whom he attributed all his misfortunes. One who is suffering unjustly is not apt to indulge in fine abstractions, nor to balance probabilities. By long brooding over his wrongs, his mind became, if not unsettled, at least warped, and he imagined that Colpnel Thornton had deliberately set a trap into which he had fallen. The Colonel, he convinced himself, had disapproved of his prosperity, and had schemed to destroy it He reasoned himself into the belief that he represented in his person the accumulated wrongs of a whole race, and Colonel Thornton the race who had oppressed them. A burning desire for revenge sprang up in him, and he nursed it until his sentence expired and he was set at liberty. What he had learned since reaching home had changed his desire into a deadly purpose.
When he had again bandaged his feet and slipped them into his shoes, he looked around him, and selected a stout sapling from among the

undergrowth that covered the bank of the stream. Taking from his pocket a huge clasp-knife, he cut off the length of an ordinary walking stick and trimmed it. The result was an ugly-looking bludgeon, a dangerous weapon when in the grasp of a strong man.

With the stick in his hand, he went on down the road until he approached a large white house standing some distance back from the street. The grounds were filled with a profusion of shrubbery. The negro entered the gate and secreted himself in the bushes, at a point where he could hear any one that might approach.

It was near midday, and he had not eaten. He had walked all night, and had not slept. The hope of meeting his loved ones had been meat and drink and rest for him. But as he sat waiting, outraged nature asserted itself, and he fell asleep, with his head on the rising root of a tree, and his face upturned.

And as he slept, he dreamed of his childhood; of an old black mammy taking care of him in the daytime, and of a younger face, with soft eyes, which bent over him sometimes at night, and a pair of arms which clasped him closely. He dreamed of his past, -of his young wife, of his bright children. Somehow his dreams all ran to pleasant themes for a While.

Then they changed again. He dreamed that he was in the convict camp and, by an easy transition , that he was in hell, consumed with hunger, burning with thirst. Suddenly the grinning devil who stood over him with a barbed whip faded away, and a little, white angel came and handed him a drink of water. As he raised it to his lips the glass slipped, and he struggled back to consciousness.

"Poo" man! Poo' man sick, an' sleepy. Dolly b'ing Powers to cover poo' man up. Poo' man mus' be hungry. Wen Dolly get him covered up, she go b'ing poo' man some cake."

A sweet little child, as beautiful as a cherub escaped from Paradise, was standing over him. At first he scarcely comprehended the words the baby babbled out. But as they became clear to him, a novel feeling crept slowly over his heart. It had been so long since he had heard anything but curses and stern words of command, or the ribald songs of obscene merriment, that the clear tones of this voice from heaven cooled his calloused heart as the water of the brook had soothed his blistered feet. It was so strange, so unwonted a thing, that he lay there with half-closed eyes while the

childbrought leaves and flowers and laid them on his face and on his breast, and arranged them with little caressing taps.

"She moved away, and plucked a flower. And then she spied another farther on, and then another, and, as she gathered them, kept increasing the distance between herself and the man lying there, until she was several rods away.

Ben Davis watched her through eyes over which had come an unfamiliar softness, Under the lingering spell of his dream, her golden hair, which fell in rippling curis. seemed like a halo of purity and innocence and peace, irradiating the atmosphere around her. It is true the thought occurred to Ben, vaguely, that through harm to her he might inflict the greatest punishment upon her father; but the idea came like a dark shape that faded away and vanished into nothingness as soon as it came within the nimbus that surrounded the child's person.

The child was moving on to pluck still another flower, when there came a sound of hoof- beats, and Ben was aware that a horseman, visible through the shrubbery, was coming along the curved path that led from the gate to the house. It must be the man he was waiting for, and now was the time to wreak his vengeance. He sprang to his feet, grasped his club, and stood for a moment irresolute. But either the instinct of the convict, beaten, driven, and debased, or the influence of the child, which was still strong upon him, impelled him, after the first momentary pause, to flee as though seeking. Safety.

His flight led him toward the little girl, whom he must pass in order to make his escape, and as Colonel Thornton turned the corner of the path he saw a desperate-looking negro, clad in filthy rags, and carrying in his hand a murderous bludgeon, running toward the child, who, startled by the sound of footsteps, had turned and was looking toward the approaching man with wondering eyes. A sickening fear came over the father's heart, and drawing the ever-ready revolver, which according to the Southern custom he carried always upon his person, he fired with unerring aim. Ben Davis ran few yards farther, faltered, threw out his hands, and fell dead at the child's feet.

Some time, we are told, when the cycle of years has rolled around, there is to be another golden age, when all men will dwell together in love and harmony, and when peace and righteousness shall prevail for a thousand years. God speed the day, and let not the shining thread of hope become so enmeshed in the web of circumstance that we lose sight of it; but give

us here and there, and now and then, some little foretaste of this golden age, that we may the more patiently and hopefully await its coming!

The Case for Defense by Graham Greene

1. Introduction
2. Summary

1.Intoduction:

Graham Greene was a noted British author and playwright whose works were both considered literary and popular due to the social issues his stories raised as well as his
simple style of writing. Greene's short story "The Case for the Defense" was first published in 1939.

2. Summcry:

The story begins with the statement that what is about to be described is the strangest murder trial the narrator has ever witnessed. They named it the Peckham murder in the headlines, though Northwood Street, where the old woman was found battered to death, was not strictly speaking in Peckham. The narrator is a reporter who attends the trial on assignment. He has reported many other trials but never one that ended so oddly.

The trial should have been an easy one, the narrator claims. Four eyewitnesses were available to provide statements that they had seen the murderer at the scene. The murderer has a unique appearance and so is easily recognizable. He is a stout man with thick thighs and bulging eyes. The reporter describes the accused as an ugly man with a face and figure that are hard to forget. The four witnesses saw the accused outside the victim's house. One woman, Mrs. Salmon, even saw the accused with a hammer in his hands. She watched the man drop the hammer in the bushes. The man then turned his face toward a street lamp, and that was when Mrs. Salmon got a full view of the killer's face. She had been watching him from her window across the street. A town clock had just struck two in the early morning, so even the time of the murder was easily established.

When the judge calls Mrs. Salmon to the stand, the narrator assumes the trial will be over quickly; a verdict will be reached easily. Mrs. Salmon is a perfect witness. It is not hard to distinguish that Mrs. Salmon has no malice in her manner or voice as she gives her account of that fatal evening. She not only sounds honest but has a very truthful look about her. Her face reflects care and kindness. She exudes no sense of self-importance as she takes the stand, though everyone in the courtroom is staring at her, listening intently to every word she says.

In addition to Mrs. Salmon, there is Henry MacDougall, who was driving home that nigh when he came close to running over the accused man,who was walking. Dawn the middle of street with a glazed look in his eyes.

Mr. Wheeler, who lived next door to the victim, Mrs. Parker, had heard noises coming from Mrs. Parker's flat. The noises roused him from bed. He went to his window and saw the accused man from behind. When the murderer turned, he too, like Mrs. Salmon saw the man's face and described his distinctive, bulging eyes.

After the witnesses' testimonies, the defence lawyer cross-examines Mrs. Salmon. He asks her if she is sure she recognized the murderer. Mrs. Salmon states that she would know that man anywhere. He has a face she would never forget. The lawyer asks Mrs Salmon about her eyesight. After all, the murder happened very late at night. To this Mrs. Salmon responds that she has never worn eyeglasses and that the moon had helped to light the night. She also reminds the lawyer that the accused man had turned his face to the lamplight. She saw him perfectly and without a doubt; the man sitting in the courtroom dock is indeed the murderer. Then she repeats that the man has a face that is hard to forget.
The defense lawyer then asks Mrs. Salmon to look around at the faces of people who are sitting in the court. While she does so, the lawyer asks a Mr. Adams, who is sitting in the back, to stand up. When he does, everyone turns to look at him. The narrator reports that this Mr. Adams is the spitting image of the accused murderer. He has the same bulky figure and the same bulging eyes. He is even dressed identically to the man or trial.
The lawyer asks Mrs. Salmon again if she is sure she has identified the correct man, the one she saw on the night of the murder. Mrs. Salmon cannot be sure.
This closes the case. None of the witnesses is now sure they correctly identified the right man. So the accused man-and his twin brother-walk out of the courtroom. Once outside, the brothers are pushed into the street; no one knows for sure who pushed them. One of them is hit by a bus. His skull is crushed and he is pronounced dead. Even after this strange twist of events, however, no one knows if justice has been served. Still no one knows for sure which of the twin brothers committed the crime.

that shower whereof the Scripture speaketh, Pluet super eos laqueos [He will rain snares upon them]; for penal laws pressed are a shower of snares upon the people. Therefore let penal laws, if they have been sleepers of long, or if they be grown unfit for the present time, be by wise judges

confined in the execution: Judicis officium est,ut res, ita tempora rerum, etc. [A judge must have regard to the time as well as to the matter]. in causes of life and death, judges ought (as far as the law permitteth) in justice to remember mercy; and to cast a severe eye upon the example, but a merciful eye upon the person.

Secondly, for the advocates and counsel that plead. Patience and gravity of hearing is an essential part of justice; and an over speaking judge is no well-tuned cymbal. It is no grace to a judge first to find that which he might have heard in due time from the bar; to show quickness of conceit in cutting off evidence or counsel too short; or to prevent information by questions, though pertinent. The parts of a judge in hearing are four:to direct the evidence; to moderate length, repetition, or impertinency of speech; to recapitulate, select, and collate the material points of that which hath been said; and to give the rule or sentence. Whatsoever is above these is too much; and proceeded either of glory and willingness to speak, or of impatience to hear, or of shortness of memory or of want of a staid and equal attention. It is a strange thing to see that the boldness of advocates should prevail with judges; whereas they should imitate God, in whose seat they sit; who represseth the presumptuous, and giveth grace to the modest But it is more strange, that judges should have noted favourites; which cannot but cause multiplication of fees, and suspicion of by-ways. There is due from the judge to the advocate some commendation and gracing, where causes are well handled and fair pleaded; especially towards the side which obtaineth not; for that upholds in the client the reputation of his counsel, and beats down in him the conceit of his cause. There is likewise due to the public a civil reprehension of advocates, where there appeared cunning counsel, gross neglect, slight information, indiscreet pressing, or an over-bold defence. And let not the counsel at the bar chop with the judge, nor wind himself into the handling of the cause anew after the judge hath declared his sentence; but, on the other side, let not the judge meet the cause half way, nor give occasion for the party to say his counsel or proofs were not heard.

Thirdly, for that that concerns clerks and ministers. The place of justice is an hallowed place; and therefore not only the bench, but the foot-pace 3 and precincts and porpoise thereof, ought to be preserved without scandal and corruption. For certainly grapes (as the Scripture smith) will not be gathered of thorns or thistles; neither can justice yield her fruit with sweetness amongst the briars and brambles of catching and polling clerks and ministers. The attendance of courts is subject to four bad instruments. First, certain persons that are sewers of suits; which make the court swell,

and the country pine. The second sort is of those that engage courts in quarrels of jurisdiction, and are not truly amid curie, but parasite curias [not friends but parasites of the court], in puffing a court up beyond her bounds, for their own scraps and advantage. The third sort is of those that may be accounted the left hands of courts; persons that are full of nimble and sinister tricks and shifts, whereby they pervert the plain and direct courses of courts, and bring justice into oblique lines and labyrinths. And the fourth is the polar and exacter of fees; which justifies the common resemblance of the courts of justice to the bush whereunto while the sheep flies for defence in weather, he is sure to lose part of his fleece. On the other side, an ancient clerk, skilful in precedents, wary in proceeding, and understanding in the business of the court, is an excellent finger of a court; and doth many times point the way to the judge himself.

Fourthly, for that which may concern the sovereign sand estate. Judges ought above all to remember the conclusion of the Roman Twelve Tables; Salus populi suprema lex [The supreme law of all is the weal of the people]; and to know that laws, except they be in order to that end, are but things captious, and oracles not well inspired. Therefore it is an happy thing in a state when kings and states do often consult with judges; and again when judges do often consult with the king and state: the one, when there is matter of law intervenient in business of state; the other, when there is some consideration of state intervenient in matter of law. For many times the things deduced to judgment may be meum and tuum [mine and thine], when the reason and consequence thereof may trench to point of estate: I call matter of estate, not only the parts of sovereignty, but whatsoever introduceth any great alteration or dangerous precedent; or concerneth manifestly any great portion of people. And let no man weakly conceive that just laws and true policy have any antipathy; for they are like the spirits and sinews, that one moves with the other. Let judges also remember, that Solomon's throne was supported by lions on both sides: let them be lions, but yet lions under the throne; being circumspect that they do not check or oppose any points of sovereignty. Let not judges also be ignorant of their own right, as to think there is not left to them, as a principal part of their office, a wise use and application of laws. For they may remember what the apostle saith of a greater law than theirs; Nos scimus quia lex bona est modoquis ea utatur legitime [We know that the law is good, if a man use it lawfully].

MODULE : 3

III		Prose Works
	1.	Of Judicature- Francis Bacon
	2.	Some Reminiscences of the Bar- M.K.Gandhi
	3.	Why the Indian Labor is Determined to Win the War - B. R. Ambedkar
	4.	Joy of Reading – APJ Abdul Kalam
	5.	M.C. Chagle – The Centenary Of a Judicial Statesman - V. R. Krishna lyer

Some Reminiscences of the Bar by M. K. Gandhi (2 Oct 1869- 30 Jan 1948)

Non violence activist leader in independence movement – raj ghat (Resting Place, Delhi) Civil disobedience

Before coming to a narrative of the course my life took in India, it seems necessary to recall a few of the South African experiences which I have deliberately left out. Some lawyer friends have asked me to give my reminiscences of the bar. The number of these is so large that, if I were to describe them all, they would occupy a volume by themselves and take me out of my scope. But it may not perhaps be improper to recall some of those which bear upon the practice of truth. So far as I can recollect, I have already said that I never resorted to untruth in my profession, and that a large part of my legal practice was in the interest of public work, for which I charged nothing beyond out-of-pocket expenses, and these too I sometimes met myself. I had thought that in saying this I had said all that was necessary as regards my legal practice. But friends want me to do more. They seem to think that, if I described however slightly, some of the occasions when I refused to swerve from the truth, the legal profession might profit by it.

As a student I had heard that the lawyer's profession was a liar's profession. But this did not influence me, as I had no intention of earning either position or money by lying. My principle was put to the test many a time in South Africa. Often I knew that my opponents had tutored their witnesses, and if I only encouraged my client or his witness to lie, we could win the case. But I always resisted the temptation. I remember only one occasion when, after having won a case, I suspected that my client had deceived me. In my heart of hearts I always wished that I should win only if my client's case was right. In fixing my fees I do not recall ever

having made them conditional on my winning the case. Whether my client won or lost, I expected nothing more nor less than my fees.

I warned every new client at the outset that he should not expect me to take up a false case or to coach the witnesses, with the result that I built up such a reputation that no false cases used to come to me. Indeed some of my clients would keep their clean cases for me, and take the doubtful ones elsewhere.

There was one case which proved a severe trial. It was brought to me by one of my best clients. It was a case of highly complicated accounts and had been a prolonged one. It had been heard in parts before several courts. Ultimately the book-keeping portion of it was entrusted by the court to the arbitration of some qualified accountants. The award was entirely in favour of my client, but the arbitrators had inadvertently committed an error in calculation which, however small, was serious, inasmuch as an entry which ought to have been on the debit side was made on the credit side. The opponents had opposed the award on other grounds. I was junior counsel for my client. When the senior counsel became aware of the error, he was of opinion that our client was not bound to admit it He was clearly of opinion that no counsel was bound to admit anything that went against his client's interest. I said we ought to admit the error.

But the senior counsel contended: 'In that case there is every likelihood of the court cancelling the whole award, and no sane counsel would imperil his client's case to that extent. At any rate I would be the last man to take any such risk. If the case were to be sent up for a fresh hearing, one could never tell what expenses our client might have to incur, and what the ultimate result might be!'

The client was present when this conversation took place. I said: 'I feel that both our client and we ought to run the risk. Where is the certainty of the court upholding a wrong award simply because we do not admit the error? And supposing the admission were to bring the client to grief, what harm is there?' 'But why should we make the admission at all?' said the senior counsel. 'Where is the surety of the court not detecting the error or our opponent not discovering it?' said I.

'Well then, will you argue the case? I am not prepared to argue it on your terms, ' replied the senior counsel with decision.

I humbly answered: 'If you will not argue, then I am prepared to do so, if our client so desires. I shall have nothing to do with the case if the error is not admitted. ‘With this I looked at my client. He was a little embarrassed. I had been in the case from the very first. The client fully trusted me, and knew me through and through. He said: 'Well, then, you will argue the case and admit the error. Let us lose, if that is to be our lot. God defend the right.'

I was delighted. I had expected nothing less from him. The senior counsel again warned me, pitied me for my obduracy, but congratulated me all the same.

Sharp Practice?

I had no doubt about the soundness of my advice, but I doubted very much my fitness for doing full justice to the case. I felt it would be a most hazardous undertaking to argue such a difficult case before the Supreme Court, and I appeared before the Benchin fear and trembling. ;
As soon as I referred to the error in the accounts, one of the judges said:
'Is not this sharp practice, Mr. Gandhi? '
I boiled within to hear this charge. It was intolerable to be accused of sharp practice when there was not the slightest warrant for it.
'With a judge prejudiced from the start like this, there is little chance of success in this difficult case,' I said to myself. But I composed my thoughts and answered:
'I am surprised that your Lordship should suspect sharp practice without hearing me out.'
'No question of a charge,' said the judge. 'It is a mere suggestion.'
The suggestion here seems to me to amount to a charge. I would ask your Lordship to hear me out and then arraign me if there is any occasion for it.'
'I am sorry to have interrupted you,' replied the judge. 'Pray do go on with your explanation of the discrepancy.'
I had enough material in support of my explanation. Thanks to the judge having raised this question, I was able to rivet the court's attention on my argument from the very start. I felt much encouraged and took the Opportunity of entering into a detailed explanation. The Court gave me a patient hearing, and I was able to convince the judges that the discrepancy was due entirely to inadvertence. They therefore did not feel disposed to cancel the whole award, which had involved considerable labour.
The opposing counsel seemed to feel secure in the belief that not much argument would be needed after the error had been admitted. But the

judges continued to interrupt him, as they were convinced that the error was a slip which could be easily rectified. The counsel laboured hard to attack the award, but the judge who had originally started with the suspicion had now come round definitely to my side.
'Supposing Mr. Gandhi had not admitted the error, what would you have done? He asked.
'It was impossible for us to secure the services of a more competent and honest expert accountant than the one appointed by us."
"The Court must presume that you know your case best. If you cannot point out anything beyond the slip which any expert accountant is liable to commit, the Court will be loath to compel the parties to go in for fresh litigation and fresh expenses because of a patent mistake. We may not order a fresh hearing when such an error can be easily corrected/continued the judge.

And so the counsel's objection was overruled. The Court either confirmed the award with the error rectified, or ordered the arbitrator to rectify the error, I forget which.
I was delighted. So were my client and senior counsel; and I was confirmed in my conviction that it was not impossible to practise law without compromising truth.
Let the reader, however, remember that even truthfulness in the practice of the profession cannot cure it of the fundamental defect that vitiates it.

3."Why the Indian Labour is Determined to Win the War" by B.R 'Ambedkar

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Synopsis:

1. Overview
2. What Labour Want
3. Liberty Equality, Fraternity
4. The Nazi New Order
5. "A Direct Menace"
6. French Revolution Recalled
7. Labour And Nationalism
8. Independence: A Wrong Approach
9. Labour And War
10. Two Features Of Present War
11. Correct Leadership

1. <u>Overview:</u>

"Labour is a, ware that, if this is a war against the New Nazi Order, it is not-a war for the Old Order. It is a war on both the Old Order and the Nazi Order. Labour is aware that the only compensation for the cost of this war is the establishment of a New Order in which liberty, equality, and fraternity will not be mere slogans but will become facts of life," said the Hon'ble Dr. B.R.Ambedkar, Member for Labour, Government of India, broadcasting on "Why Indian Labour is determined to win this War" from the Bombay Station of AI.R.

Here is thefull text of Dr. Ambedkar's broadcast:

There is to be a series of broadcasts by persons who are connected with and interested in-Labour, My talk tonight is the first of this series. The subject of my talk is of a general sort. It is to serve, as an introduction to the series. The title I have chosen for the subject is 'Why Indian Labour is determined to win this War'. There is one fact which must arrest the attention of all. It relates to the attitude of Indian Labour towards the War. In the midst of this sudden surge of non-co-operation with and opposition to the war effort which we are witnessing in India, Labour has been actively co-operating in the prosecution of the war. Of this there can be no question. This, Labour has done and is determined to do notwithstanding the many efforts that are being made to dissuade it from doing.

2. What Labour Wants:

During the war Labour has secured many gains and will no doubt secure many more. As pointed out by me recently, Labour has obtained security through legislation. It has obtained the right to safety, care and attention, through the conditions of welfare which have been enforced by the Central Government upon the Employers for the benefit of Labour. But, if Labour is determined to do its utmost to accelerate the war effort, it is not simply because of the lure of these immediate gains. There arc other and stronger reasons which are at the base of this determination. Labour is not content with securing merely fair conditions of work. What Labour wants is fair conditions of life. Let me explain what Labour means by fair conditions of life.

3. Liberty, Equality, Fraternity:

Labour wants liberty. There is perhaps nothing new in this. What is new is Labour's conception of liberty. Labour's conception of liberty is not merely the negative conception of absence of restraint. Nor is Labour's conception of liberty confined to the mere recognition of the right of the people to vote. Labour's conception of liberty is very positive. It involves

the idea of Government by the people. Government by the people, in the opinion of Labour, does not mean Parliamentary Democracy.
Parliamentary Democracy is a form of Government in which the function of the people has come to be to vote for their masters and leave them to rule. Such a scheme of Government, in the opinion of Labour, is a travesty of Government by the people. Labour wants Government which is Government by the people in name as well as in fact. Secondly, liberty as conceived by Labour includes the right to equal opportunity and the duty of the State to provide the fullest facilities for growth to every individual according to his needs.
Labour wants equality. By equality Labour means abolition of privileges of every kind in law, in the civil service, in the Army, in taxation, in trade and in industry, in fact the abolition of all processes which lead to inequality. Labour wants fraternity. By fraternity it means an all-pervading sense of human brotherhood, unifying all classes and all nations, with "peace on earth and goodwill towards man" as its motto.

4. The Nazi New Order:

These are Labour's ideals. They constitute the New Order, the establishment of which alone can save humanity from destruction. How can this New Order be established if the Allied Nations lose the war? That is the supreme question which Labour knows it would be fatal to shirk or to avoid. Can this New Order be established by sitting idle and refusing to fight? Labour believes that Victory for the Allied Nations is the only hope of such a New Order coming into being. If the Allies fail, sure enough there will be a New Order. But the New Order will be no other than the Nazi Order. It will be an Order in which liberty will be found to be suppressed, equality denied, and fraternity expurgated as a pernicious doctrine. This is by no means the whole of the Nazi New Order. There are parts of the Nazi Order which must compel every Indian to give anxious thought to its dangers, no matter what his religion, his caste and his political faith. The most important part is the one which enunciates the creed of racial gradation. This is the principal dictum in the Nazi Order. The Nazis regard the German Race as the Race of Superman. They are pleased to place the other While Races below the German race. But to the Brown Races-and Indians are included in this category-they give the last place in the gradation. As though this is not humiliating enough, the Nazis have declared that the Brown Races shall be the serfs of the German and the White Races. They arc not to have education, they arc not to have any liberty-political or economic.

5. "A Direct Menace";

The fury with which the British Government has been denounced by Hitler in his Mein Kampf for having given Indians education and political liberty, is quite well-known. TheNazi ideology is a direct menace to the liberty and freedom of Indians. Given this fact, there is the strongest reason why Indians should come forward to light Nazism. No one who compares the Nazi Order with the New Order which. Labour has in view, can have any doubt that Labour, in making up its determination to fight for the Allies and to defeat and destroy Nazism, has taken up a position which is the only position which all sensible people can take. There are, however, people who refuse to take this view.

There are some who think that they do not mind a Nazi victory' and the coming of the New Nazi Order. Fortunately, not many of these are to be found in the country. Those who take this view are not serious themselves. Nobody takes them seriously. They arc embittered politicians who will not be satisfied unless they are allowed to dictate their way and whose motto is "all or nothing"

There are pacifists who argue that all wars are wrong. They argue that the troubles of the world are largely due to the wars that have devastated and defaced human civilisation which men have built up at the cost of so much human effort. This is true. But in spite of all this, Labour refuses to accept pacifism as a principle of life. Wars cannot be abolished by merely refusing to fight when attacked. Peace obtained by surrender to the forces of violence is not peace. It is an act of suicide for which it is difficult to find any justification. It is a sacrifice of all that is noble and necessary for maintaining a worthy human life to the forces of savagery and barbarism.

Surrender is not Labour's way to abolish war. Only two things will, in the opinion of Labour, abolish war. One is to win the war and the other is to establish a just peace. In the view of Labour both are equally important. Labour holds that the origin of war does not lie in man's thirst for blood. The origin of war is to be found in the vile peace that victors often impose upon the vanquished. According to Labour, the duty of the pacifist is not to sulk and to refuse to fight when war is on. Labour believes that the duty of the pacifist is to be active and alert both when the war is on and also when the terms of peace are being forged. The pacifist fails to do the right thing at the right time. The pacifists are active against war when war is on. They are inactive and indifferent when the war is over and peace is being made. In this way pacifists lose both, war as well as peace. If Labour proposes to fight this war, it is because pacifism is not the Labour's way of abolishing war.

6. French Revolution Recalled:

There arc pessimists who say that there is no guarantee that victory will be followed by a New Order. There is perhaps room for this pessimism. The New Order, which is the ideal of labour, has its roots in the French Revolution. The French Revolution gave rise to two principles-the principle of self-government and the principle of self-determination. The principle of self-government expresses the desire of the people to rule itself rather than be ruled by others whether the rulers be absolute monarchs, dictators, or privileged classes. It is called 'democracy'.

The principle of self-determination expresses the desire of a people united by common ideals and common purposes to decide, without external compulsion; its political status-whether independence, interdependence, or union with other peoples of the world. This is called nationalism. The hope of humanity was centred on the fructification of these principles. Unfortunately, after a lapse of nearly 140 years, these principles have failed to take root. The old regime has continued either in all its nakedness or by making sham concessions to these two principles. Barring a few countries, there was neither self-government nor self-determination in the world. All this, of course, is true. But this is no argument against the attitude taken by labournamely, that the preliminary condition for the establishment of the New Order is victory over the forces of Nazism. All that this means is that Labour must be more vigilant and that the war must not stop with victory over Nazis, but there must be no peace unless there is victory over the Old Order wherever it is found.

7. Labour and Nationalism:

More serious opponents of Labour are, of course, the Nationalists. They accuse Labour of taking an attitude which is said to be inconsistent with and injurious to Indian nationalism. Their second objection is that Labour agrees to fight for the war without getting any assurances about India's independence. These are questions so often posed and so seriously argued that it is necessary to state what labour thinks of them.

As to nationalism, Labour's attitude is quite clear. Labour is not prepared to make a fetish of nationalism. If nationalism means the worship of the ancient past - the discarding of everything that is not local in origin and colour - then Labour cannot accept nationalism as its creed. Labour cannot allow the living faith of the dead to become the dead faith of the living. Labour will not allow the ever expanding spirit of man to be strangled by the hand of the past which has no meaning for the present and no hope for the future, nor will it allow it to be cramped in a narrow jacket of local particularise. Labour must constantly insist upon renovating the life of the people by being ever ready to borrow in order to

repair, transform and recreate the body politic. If nationalism stands in the way of this rebuilding and reshaping of life, then Labour must deny nationalism.

Labour's creed is internationalism. Labour is interested in nationalism only because the wheels of democracy-such as representative Parliaments, responsible Executive, constitutional conventions, etc.-work better in a community united by national sentiments. Nationalism to Labour is only a means to an end. It is not an end in itself to which Labour can agree to sacrifice what it regards as the most essential principles of life.

8. Independence: A Wrong Approach:

As to independence, Labour fully recognises its importance. But Labour thinks that there is a wrong approach to the question of independence and a misunderstanding about its importance. The independence of a nation ex hypothesis does not tie it up to any particular form of government or organisation of society.

External independence is quite compatible with internal slavery.
Independence means nothing more than that a nation has liberty to determine its form of government and its social order without dictation from outside. The worth of independence depends upon the kind of government and the kind of society that is built up. There is not much value in independence if the form of government and the order of society are to be those against which the world is fighting today. Labour thinks that more emphasis ought to have been placed on New India—and less on 'Quit India'. The appeal of a New India with a New Orde r is bound to be greater than the appeal of independence. Indeed the vision of a New Order in a New India would very greatly strengthen determination to win freedom. Such an approach would certainly have stopped the many embarrassing questions which are being asked, namely, freedom for what and freedom for whom.

Secondly, immediate realisation of independence as a condition for support to the war effort, Labour finds it difficult to understand. This condition marks a sudden development in the attitude of some people to the war effort, and could be justified only if there was any sudden conspiracy to rob India of her right to freedom. But there is no evidence of any such conspiracy. Nor can such conspiracy, if there were any, succeed no matter who the conspirators are. In the view of Labour no one can deprive India of her right to freedom if she demands it with the combined strength of united people. If India's independence is in the

balance, it is because of disunity among Indians. The enemies of India's independence are Indians and no others.

9. Labour and

Labour's attitude to this war is framed after a full realisation of what is involved in the war. Labour is aware that it must win the war as well as peace if war is to be banished from the world. Labour is aware that it is not enough to defeat the Nazis and to destroy the possibilities of the New Nazi Order, it is not a war for the Old Order. It is a war on both the Old Order and the Nazi Order. Labour is aware that the only compensation for the cost of this war is the establishment of a New Order in which liberty, equality, and fraternity, will not be mere slogans but will become facts of life. But the question of all questions is how can the hope of this New Order materialise? On this question Labour is quite emphatic. Labour insists that for the materialisation of all these ideals there is one condition that is primary and that is success in the war. Without success in the war there can be no self-government and self-determination for India. Without victory in the war, independence will be idle twaddle. This is the reason why Labour is determined to win this war.

10. Two Features Of Present Wan

This war is full of potentialities for good. It promises to give birth to a New Order. Labour finds that this war is different from other wars. There are two features which distinguish it from other wars. In the first place, this war is not altogether a war for the division of the world's territory amongst the most powerful nations of the world as the preceding wars have been. In this war the division of the world's territory is not the only cause. This is a war in which there is a conflict of ideologies relating to the forms and systems of Government under which humanity is to live. In the second place this war is not altogether a mere war as other wars have been. Its object is not merely to defeat the enemy, to march on to his capital and to dictate a peace. This war besides being a war is also a revolution - a revolution which demands a fundamental change in the terms of associated life - a preplanning of the society. In this sense it is a people's war, and if it is not, it could and should be made into a people's war.

Given these facts, Labour cannot be indifferent to this war and to its outcome. Labour is aware how the efforts in the past for the establishment of a New Order have been frustrated time and again. That is because democracy, after it was brought into being, It was left in Tory hand. If the people of the world take care to see that this mistake is not

committed again in future, Labour believes that by fighting this war and establishing the New Order the world can be made safe for democracy.

11. Correct Leadership:

The country needs a lead and the question is who can give this lead, I venture to say that Labour is capable of giving to the country the lead it needs. Correct leadership apart from other things, requires idealism and free thought. Idealism is possible for the Aristocracy, though free thought is not. Idealism and free thought are both possible for Labour. But neither idealism nor free thought is possible for the middle-class. The middle-class does not possess the liberality of the Aristocracy, which is necessary to welcome and nourish an ideal. It does not possess the hunger for the New Order, whichis the hope on which the laboring classes live. Labor, therefore, has a very distinct contribution to make in bringing about a return to the sane and safe ways of the past which Indians had been pursuing to reach their political destiny. Labor's lead to India and Indians is to get into the fight and be united. The fruits of victory will be independence and a New Social Order. For such a victory all must fight. Then the fruits of victory will be the patrimony of all, and there will be none to deny the rights of a united India to share in that patrimony.

Joy of Reading by APJ Abdul Kalam

Good Books become lifelong companions. They enrich our lives and guide us with their undying appeal and ability to talk to multiple generations of readers. One such book in my life is Light from Many Lamps. I bought it in the year 1953 from an old book in Moore Market, Chennai. This book has beenmy close friend and companion for than five decades. I have read and reread it several times and it has been re-many times. Whenever there is a problem, I turn the pages of the book and it me and even points me to a path where a solution may lie. When happiness overwhelms me, the book again softly touches the mind and brings about a balanced thinking. Recently, a friend gifted me with a new edition of the book and I told him it the best gift anyone could have given me. Fifty years from now, I am sure the book will still be available, perhaps in a new avatar. Truly, good books are eternal.

Another book that I have cherished is Man the Unknown by Dr Alexis Carrel, a doctor-turned-philosopher and a Nobel Laureate. This book highlights how the mind and body both need to be treated to cure an ailment as the two are integrated. You cannot treat one and ignore the

other. I think this is an invaluable book for those who want to understand the connections of body and spirit, specially those who wish to become doctors. They will learn that the human body is not a mechanical system; it is a very intelligent organism made of psychological and physiological systems with a most intricate and sensitive feedback system.

Another book that has been my code of conduct for life is Thiruvalluvar's Thirukkural, a Tamil epic. I would like to recall one couplet from the Thirukkural which has influenced my life for the last six decades.

It says that whatever may be the depth of the river or lake or pond, whatever may be the condition of the water, the lily flower always blossoms. Similarly, if there is a determination to achieve a goal, even if it is impossible to achieve, the person will succeed.

There is another book that has enriched my thinking immensely. It is the autobiography of a village boy who went on to become the world's leading expert in laser technology. His name is Mani Bhaumik.

In 1968, an Indian scientist hailing from West Bengal, who was a PhD in Physics from IIT Kharagpur, was invited to join the team at the Research and Technology Center of Northrop Corporation, a major aerospace contractor who offered extraordinary facilities for a working physicist. He was working in the area of carbon monoxide (CO) laser. Based on his research, in 1968, his colleagues at Northrop demonstrated the most powerful continuous laser to date. In a further step forward, the Indian scientist was able to make the laser operate at room temperatures, something previously thought impossible.

The scientist, Dr Mani Bhaumik, presented his results at a University of California los Angeles seminar. Edward Teller, the man whose revelatory insights had earned him the title 'Father of the H-Bomb' was there. Dr Teller was so intrigued by the presentation that when he felt nature's call and had to leave the room, he requested Dr Bhaumik to suspend the talk till he returned. A Soviet scientist later wrote in a prestigious Russian journal, 'After Bhaumik's thorough work on the CO laser, there isn't much left to do (on that laser).' His invention in laser led to the development of LASIK—an application of eye surgery.

Dr Mani Bhaumik wrote a book called Code Name God integrating science and spirituality. I read the book in one sitting and enjoyed every chapter which brings out the pain and pleasure of the life of the author.

Stories of perseverance and extraordinary courage always inspire me. This piece in a book called Everyday Greatness by Stephen R. Covey has remained with me ever since. Lindy and Geri had two daughters: Trudi, thirteen; and Jennifer, nine; and a son, Steven. At the age of eighteen months, Geri detected something abnormal with their son Steven. A CT scan by a neurologist revealed that the vermis, an area of the brain that transmits messages to and from the body's muscles, had not developed. The neurologist declared that Steven would never walk or talk and that his physical and mental functions would be severely affected. Geri couldn't eat or sleep for days. However, Trudi challenged the doctor's prognosis and announced that she did not believe what the doctor had said about Steven. She decided to work with her mother till Steven became normal. They started reading a passage to him every day at the dinner table, which became a habit. Jennifer and Trudi also asked questions and pointed out animals or people illustrated in books. For many weeks there was no response from Steven.

After three months, one evening, Steven suddenly, wriggled away from the cushions. The family watched him inching towards the children's books. Steven flipped through the book till he saw the page filled with pictures of animals. Then, just as quickly as it opened, Steven's world shut down again. The following night, as Jennifer prepared to read, her brother crawled to the same book and opened the same page again. This showed that Steven's memory was continuously improving.

Both Trudi and Jennifer played the piano in the presence of Steven. One day, after practicing, Jennifer lifted Steven from his place under the piano. This time, he was uttering a new sound—he was humming the music and enjoying it. Simultaneously, the family also worked to build up his muscles. Geri, Trudi and Jennifer dabbed peanut butter on the boy's lips and, by licking it off, he exercised his tongue and jaw. When Steven was four and a half years old, he still couldn't speak words, but he could make some sounds and he had a remarkable memory. After studying a 300-piece jigsaw puzzle, he could assemble the pieces in one sitting.

After many rejections, Steven was admitted to the Robert Alien Montessori School run by Louise Bogart who found that Steven was determined to make himself understood. One day, Bogart stood off to the side and was watching the teacher work with another child on numbers. 'What number comes next?' the teacher asked. The child drew a blank. Instead, the answer came from elsewhere. 'Twenty!' Steven blurted. Steven had not only spoken clearly, but had also given the correct answer. Bogart approached the teacher. 'Did Steven ever work on this?' she asked. 'No,' the teacher answered. 'We worked with him a lot on numbers one through ten. But we didn't know he had learned any beyond ten.' That day, Bogart told Steven's mother, This is just the beginning of what the Steven is capable of.' His motor skills remained poor, so Jennifer, Geri and Trudi continued to work hard with Steven, particularly on his motor skills. 'I can do it,' Steven assured Jennifer one day. 'Just give me time.'

After that, Steven continuously improved and was admitted to a mainstream Catholic school in 1990.Such is the power of collective determination to cure a child.

Books can be sources of inspiration for anyone, anywhere. In 2011,I went to Madurai to inaugurate the Paediatric Oncology unit of the Meenakshi Mission Hospital. After the programme, a person who looked very familiar approached me. When he came closer, I realized that he has been my driver when I was working with DRDL in Hyderabad. His name is V. Kathiresan, and he worked with me day and night for nine years. During that time, I had noticed that he was always reading in his spare time, be it a book, magazine or a newspaper. That dedication attracted me. One day, I asked him what made him read so much during his leisure time. He replied that he had a son and daughter and both asked him lots of questions. In order to give them correct answers, he read and studied whenever he got the time. The spirit of learning in him impressed me and I told him to study formally through a distance education course. I also gave him some free time to attend the course and complete his +2 and then to apply for higher education, He took that as a challenge and kept on studying. He did B.A. (History), then M.A. (History) and then he did M.A. (Political Science). He also completed his B.Ed and then M.Ed. Then he registered for his Ph.D in Manonmaniam Sundaranar University

and got his Ph.D in 2001. He joined the education department of Tamil Nadu government and served for a number of years. In 2011, when I met him, he was an assistant professor in the Government Arts College at Mellur near Madurai. What extraordinary commitment dedication had helped him to acquire the right skills in his leisure time and changed the course of his life.

It certainly doesn't matter who you are if you have a vision and determination to achieve that vision through the constant acquisition of knowledge.

When you wish upon a star,

Makes no difference who you are

Anything your heart desires

Will come to you.

In this context, I must emphasize the importance of home libraries. On 11 August 2009, as participating in the valedictory function of the book fair festival at Erode in Tamil nadu. While addressing the audience, I suggested that every one of the children present there allocate at least one hour a day for reading quality books. This will enrich them with knowledge and see them grow as great children. I also suggested all the parents should start a small library in their own houses with approximately twenty books to begin with, of which around ten should be children's books. This would help the children in the house to cultivate reading habits at an early age. Many people who attended this function appreciated this thought and decided to start a library at their homes. I told them to take this oath:

> Today onwards, I will start a home library with twenty books, and out of which ten books will be children's books.

My daughter and son will enlarge this home library with 200 books.

My grandchildren will build a great home library of 2,000 books.

I consider our library a lifelong treasure and the precious properly of our family. We will spend at least one hour at the library to study along with our family members.

After taking this oath, a surprising event happened. Thousands of people rushed to the book stalls and within an hour most of the books at the book fair were exhausted.

A home library is the greatest wealth. Reading for one hour each day can transform our children into great teachers, leaders, intellectuals, engineers, scientists and, most importantly, into thinking adults. Apart from enriching the knowledge of every family member, a reading habit also creates healthy discussion among family members which is essential for the sustained harmony of the entire family.

M.C Chagla - The Centenary of a Judicial Statetanan - V. R. Krishna Iyer

India currently faces a moral miasma, an ethical retreat, a spiritual decline and material consumerist programme and communalist syndrome. To salvage the nation from this cultural collapse, commemorating the lives of paradigmatic personalities may be useful. Politicians are often enemies within, legislators are pachydermic vis vis the masses and their suffering and even the judiciary is, comparatively rarely, corruption-friendly and nepotistic. In this context, the plural ruling classes are infected by an escalating appetite for five-star life, communal power and politics. The simian imitation of this global value baseness is polluting the ethos of middle class Indians who run after expensive vices and promote the country's recolonisation.

M. C. Chagla's centennial year is a timely reminder of how we must change course and vitalise the higher heritage of India. So I write on the late M. C. Chagla.

Roses in December is an autobiography of a judicial statesman and secular phenomenon. Why an autobiography, Chagla asks, and candidly admits that vanity and love of immortality are factors among others. Nehru begins his Autobiography with a quote from Abraham Cowley:

> It is a hard and nice subject for a man to write of himself: it grases his own heart to say anything of dispargement, and the reader's ears to hear anything of praise for him.

M. C. Stealwad (My Life) is blunt:

> I am naturally proud of what I have been able to achieve in the profession and of
>
> the service I have tried to render to the public and the country in different fields.
>
> I have attempted in this book to set down an account of my life "first of all for my
>
> own satisfaction and because it might be an encouragement to others".

When persons, whose life is morally inspirational or reflects the struggle of a people for

value-based liberation or bears testimony to the odyssey of humanity during an

explosive revolution, come alive through veracious biographies, later generations will

benefit or be better informed from authentic versions. Of course, Mein Kempf of Hitler

is sinister, while the Autobiography of a Yogi is sublime. But none to compare with

Gandhiji's transparent My Experiments with Truth. Heaps of self-flattery and

exaggerated university, fobbed off as autobiography, are often unlovely literature of

untruth tainted by terminological inexactitudes.

M. C. Chagla was more than a great jurist, brilliant judge, impressive ambassador or successful minister. A versatile personality, uniquely secular, talented in many dimensions, a patriotic statesman and compassionate human, among the rarest of the rare we come across in our sordid planet As a judge he illumined justice and humanised the law. His

burning passion or perenial empathy was inimitable on the bench and outside in public life. Chagla, with an Oxford background and Majlis nationalism, possessing a sharp intellect and sterling character, chose to practise at Mumbai under the then great leader of the Bar, M. A. Jinnah. A few fascinating pages in Chagla's Roses are devoted to lovely pen portraits of the leading lights of the Mumbai Bar. Read him on his senior:

> What attracted me to Jinnah was the force of his personality and more than that, his sterling nationalism and patriotism. If at that time anyone had told me that Jinnah would one day be responsible for the partition of our country, I would have thought him mad. I joined his chamber and remained with him for about six years. I read his briefs, went with him to court, and listened to his arguments. What impressed me most was the lucidity of his thought and expression. There were no obscure spots or ambiguities about what Jinnah had to tell the court He was straight and forthright, and always left a strong impression whether his case was intrinsically good or bad. I remember sometimes at a conference he would tell the solicitor that his case was hopeless, but when he went to court he fought like a tiger, and almost made me believe that he had changed his opinion. Whenever I talked to him afterwards about it, he would say that it was the duty of an advocate, however bad the case might be, to do his best for his client. I have never come across any man who had less humanity in his character than Jinnah. He was cold and unemotional, and apart from law and politics he had no other interests. I do not think he ever read a serious book in all his life. His staple food was newspapers, briefs and law books. He did not even once raise his little finger to assist me at the Bar. But I owe a great deal to him because I learned in his chamber not only the art of advocacy, but how to maintain the highest traditions of the legal profession. Jinnah was absolutely impeccable in his professional etiquette.

Compare what Chagla says about Bhulabhai Desai:

> "He was the most eloquent among the advocates I have seen in the Mumbai High Court. His English was perfect, and it is difficult to imagine a more subtle mind than the one he possessed."

K. M. Munshi, a man of great charm, was a sound lawyer and informed politician, but Chagla pays tribute to him more as an excellent literary figure and cultural ambassador. This founder of Bharatiya Vidya Bhavan

has been immortalised by that ever expanding institution which today is a messenger of the universal vision and "composite cultural heritage of India". What is striking about this great man (Chagla) is his political conviction. A man who worked with Jinnah writes.

> As far as I am concerned there are three things to which I have always adhered. They have represented my working faith and my abiding belief. These principles ' are unity, secularism and democracy. I know all the divisive factors but to my mind they are superficial. I have always thought that it was India's destiny to remain one country and one nation. One has only to look at a map of Asia to be convinced of this fact With the Himalayas in the north and the sea in the west, south and east, India stands out as something distinct and apart from other countries that separate it. The Gods in their wisdom wanted India to remain one and undivided. Further, there is an Indianness and an Indian ethos, which has been brought about by the commission and intercourse between the many races
>
> and the many communities that have lived in this land for centuries. There is a heritage which has devolved on us from our Aryan forefathers. There is an Indian tradition which overrides all the minor differences which may superficially seem to contradict the unity. Even the large Muslim community which numbers about 60 million, inherits the same tradition and legacy, because more than 90 per cent of the Muslims living in India were converted from Hinduism, which is the primary religion of this country. Hindus and Muslims have lived together as friends and comtrades from time immemorial. They participate in one another's festivals and even worship together common Saints in whom they both have faith.

Chagla, the diamond-hard secularist, is, in every cell of him an Indian. Let him speak for himself. (After all, appropriate quotations are meant to be appropriate).

> I think it is wrong to equate religion with nationality. A nation has many more attributes than a religion has. The fact of worshipping in the same place believing in the same religious tenets, does not by itself go to create a sense of nationhood. A nation must have a

> common culture, a common past, a common heritage, and Hindus and Muslims shared all these; and the mere fact that they subscribe to different religious tenets could not or should not have come in the way of their looking upon themselves as belonging to one nation. Religion purely private and personal matter.
>
> Patriotism should always be territorial and not communal or religious. One loves one's country, one loves one's motherland, and that is the essence of patrioism. One may love one's religion, but that cannot override the love that one has for the land of one's birth. Of course, there is a danger in India - and I am afraid, it is a grave danger - that territorial patriotism is often confined to a particular part or region of the country, and does not necessarily embrace the whole of it. One may be a good Maharashtrian or a good Gujarati or a good Bengali, but this is a narrow loyalty. The larger loyalty should be reserved for the country as a whole, for it is that which belongs to all Maharashtrians, Gujaratis or Bengali.

Chagla's vision of secularism is instructive. His perception deserves exception. Here he speaks:

> Today, secularism has been written into our Constitution in indeliable lines. A legal concept, secularism means equality before the law, and no distinction between one citizen and another as far as the application of laws is concerned. It also means equality of opportunity and a refusal to classify citizens into first class citizens and second class citizens. But, in my opinion, secularism is much more than that. Secularism is an attitude of the mind and a quality of the heart. It is a matter of temperament, of outlook. It looks upon all persons as human beings pure and simple, equally estimable or precious not only in the eye of the law, but in the eye of God. You refuse to classify people according to the religious labels which you attach to them. You do not think of a man as a Hindu, a Muslim or a Christian, but merely as a human being. I have always resented the suggestion that because I am a Muslim I am less of an Indian than a Hindu.

Inevitably, the question of curiosity and principle arises as to why and when Chagla bid farewell to his one time master at the Bar:

> My breach with Jinnah had been growing since the rejection of the Nehru by the Muslim League and my consequent resignation from that body, breach became complete, when eventually Jinnah accepted the idea of Pa and the two nation theory. It was then clear to me that the time had come we should have a political Muslim body which would counteract the vie propaganda that Jinnah and his colleagues were carrying on in the country.

Chagla, with some good reason, had a grievance against Gandhiji for boosting Jinnah and ignoring nationalist Muslims:

> But one grievance about which I felt deeply arose from the indifference shown by the Congress, and even Mahatma Gandhi to the Muslim nationalists. Jinnah and his communalist following seemed all important. In comparison we counted for nothing. It was Gandhiji who gave Jinnah the appellation of Quaid-e-Azam - one which Jinnah gratefully and proudly accepted. It was then assumed -I do not know what the basis of the assumption was - that the Muslim masses were behind Jinnah. I knew the affairs of the Muslim League well and I knew that its membership did not number more than a few hundred, or at most a few thousand. Its leaders, apart from Jinnah, were reactionary Nawabs and Zamindars whose only interest was to preserve their position and status in public life.

Has this perspective relevance to the placative policy of any currently strident "secular" Party? The convincing politics of Chagla vis vis Jinnah is relevant even today in India. Thinking Indians must, with cultural-political sense and democratic sensibility, ponder the Chagla discernment:

> In conclusion I said that I entirely agreed with Jinnah that the Musalmans had got to be organised, but I did not like to see them organised as a separate political unit. True, they must be organised educationally and economically; but politically, they must join hands with members of the other communities who held the same political views as themselves. But is now a matter of history that my views fell on deaf ears, and the election was ultimately fought by Jinnah on the Muslim League ticket, with the League organised as a political party.

Years after he left the Bench, Chagla practised in the Supreme Court. As a judge I came to know him briefly then. One day I was passing his way to attend a meeting on Hindu-Muslim amity. "Judge, where are you going?" he asked. I explained the purpose when, in a tone of rebuke, he remarked, "Why waste time on this messy communal business? I am a Hindu by right, because my ancestors were Indians and lived on this side of river Sindhu. So, this religious conflict is a deliberate confusion with political poison. To be a Hindu is a territorial concept." I was surprised at his brave words. That was the militantly secular MCC.

Roses in December gives so much of inside information, not merely of the rarely known family life of Jinnah but their relevance to his political tergiversation. But the Indian Bench and Bar regard Chagla as a legendary figure in the judicial universe. Setalvad, the great doyen of the All India Bar, was not more decidedly the greatest Indian Attorney General. Jayaprakash Narayan, the incredible, although critically ailing opponent of the Emergency, was not more decidedly the greatest of battlers against the notorious despotic spell. Dr. Radhakrishnan, the philosopher- wonder was not more decidedly the rarest of erudite Rashtrapatis than Justice Chagla who was the finest among, socially sensitive Chief Justices of the Indian High Courts. A brief look at this "robed brother" on the Bombay bench may be elevating. The greatness of a Chief Justice, his firmness against so obstinate a Chief Minister as Morarji Desai, his endearing relations with the Bar are so edifying that every young advocate must read the Roses. Humility and cordiality, never any ill-temper, harmonious cooperation, luminuous exchanges in forensic proceedings, with truth and justice as the goal, an open mind without preconceived made-up perceptions when hearing a case - that is the finest tribute a judge can claim and Chagla had that privilege. An anecdote by Chagla will prove this point:

I remember sitting with Shah, who in course of time became the Chief Justice of India, and who very often, as soon as an appeal was called out would start cross-examining the advocate. I would interrupt and say: "I have a very learned and illustrious brother sitting with me. He knows all about the case. I do not know anything. Please open the appeal, and tell me what it is all about". The least a judge can do is to let the lawyer at least open the appeal, state the relevant facts, and lay down propositions of law. Then, and only then, should he take the matter in hand, go to the

root of the question, and try and get the lawyer to concentrate on that particular decisive aspect of the question. The current impatient tribe of judges have much to imbibe from this superlative sentinel of justice. An irascible mediocrity on the Bench with pretentious hubris is a menace to judicial justice.

M. C. Chagla is remembered by posterity as a great judge. The enquiry into the Life Insurance Corporation (virutally against T. T. Krishnamachari) was memorable because Chagla conducted it with such independence and unpleasant impartiality, that the Mundhra enquiry"'Still remains a marvel of public enquiries, annoying Nehru a great deal, though. What a contrast to the present crowd of judges, sitting and retired, who head commissions and produce enquiry reports which are forgotten and often deserve to be forgotten and frustratingly unimplemented, even unpublished. The Mundhra enquiry became a great event and even Dr. Rajendra Prasad regarded the report "as one of the best judgments ever delivered" and expressed the opinion that even if half a dozen of the best judges of the world have been brought together, they could not have produced a more judicial and judicious document."

Indeed, as good fortune would have it Chagla was appointed an ad hoc judge of the International Court of Justice. There again he made a mark. A point of remember in the contemporary context of judicial hunger for more, is the response of Chagla to the fee for his service at the International Court.

"When I was asked to go to the International Court, an inquiry was made of me about what fees I would charge, and I was told afterwards that the Government expected that I would mention a fairly large amount. But they were all surprised when they learned that I would charge no fees and that it was a privilege to represent the Government of my country in a case which was very dear to my heart, and for which I had fought as far back as 1946 when I first went to the United Nations."

What a pathetic contrast today to behold the unedifying spectacle of retired judges, with manipulative tactics and "stoop to conquer" sophistries, trying to secure "Commissions" and obliging the

governments with unhappy Reports which go into oblivion unwept, unhonoured and unsung. Judicial dignity is too frequently becoming a negotiable commodity, and clinging to Commissions has become a chronic addiction. The magnificent functionalism of Chagla, when the country's full history comes to be written, is his performance in the United Nations and South Africa, in his successfully diplomatic role in the United States and the United Kingdom. Of course, M C. Setalvad, in his autobiography, has been critical of Chagla himself when he resigned from his judicial office, to become India's Ambassador to the United States: I quote:

> "He - [meaning myself) - was so keen to get into politics that soon after the Law
>
> Commission Report was signed by him, and even before the ink of his signature on the Report had dried, he resigned his office to become India's Ambassador to
>
> the United States. His action was characteristic of the self-seeking attitude of
>
> many of our leading men".

And yet Chagla did not have any rancour, and mentions that Setalvad was kind to him and recommended his name for the Chief Justiceship of India and the judgeship of the international court. Chagla met Setalvad and asked him why natural justice had been jettisoned by the latter not caring to ask the former about the circumstances leading to his acceptance of the offices mentioned above. The fact remains, Chagla was a success in his assignments and that is what matters for the country. Diplomacy is a difficult art, especially when we deal with a mighty power like the U.S.. Assignment in America to win confidence and foster friendship is a hard task, especially with India's dependeneia syndrome. Chagla was versatile excellence and touched none he did not adorn. Should judges belong to the aloof elite class cocooned in paper- logged insularity?

Chagla answers:

on the other hand, a judge might equally take the view: "Because I was a judge, I do not cease to be a citizen. I should take a live interest in the contemporary scene. I should play my full part in all the activities, which concert the general welfare of my fellow citizens. In short, I should become a part of the life of my city and even of my State and my country,

in a way that does not, of course, affect my official role as a judge". Having had political background, and being keenly interested in public life, and in intellectural, cultural and artistic matters, I decided not to be the Chief Justice, but also public spirited citizen of the city in which I lived.

Judicial recluses must remember Chief Justice Earl Warren:

Our judges are not monks or scientists, but participants in the living stream of our

National life, steering the law between the dangers of rigidity on the one hand and of formlessness on the other. Our system faces no theoretical dilemma but a single continuous problem how to apply to ever-changing conditions the never-changing Principles of freedom.

4. POETRY

1.	Ode: Intimations of Immortality - William Wordsworth
2.	Stopping by Woods on a Snowy Evening - Robert Frost
3.	Where the Mind is without Fear - Rabindranath Tagore
4.	Law like Love - W. H. Auden
5.	Freedom, Justice and Equality - Lonnie Hicks

"Ode: Intimations of Immortality from Recollections of Early Childhood" by William Wordsworth?

Synopsis:

1. Introduction
2. Summary
3. Analysis
4. Conclusion

1. Introduction:

"Ode: Intimations of Immortality from Recollections of Early Childhood" (also known as "Ode", "Immortality Ode" or "Great Ode") is a poem by William Wordsworth, completed in 1804 and published in Poems, in Two Volumes (1807). The poem was completed in two parts, with the first four stanzas written among a series of poems composed in 1802 about childhood.

The first part of the poem was completed on 27 March 1802 and a copy was provided to Wordsworth's friend and fellow poet, Samuel Taylor Coleridge, who responded with his own poem, "Dejection: An Ode", in April. The fourth stanza of the ode ends with a question, and Wordsworth was finally able to answer it with seven additional stanzas completed in early 1804. It was first printed as "Ode" in 1807, and it was not until 1815 that it was edited and reworked to the version that i currently known, "Ode: Intimations of Immortality".

Many of Wordsworth's poems, including this, deal with the subjects of childhood and the memory of childhood in the mind of the adult in particular, childhood's lost connection with nature, which can be preserved only in memory. In this poem Wordsworth uses a lot of imagination to get his point through to the reader. He wants us to be able to see what he sees and to feel what he feels.

The structure of this poem is unique in Wordsworth's work, I mean, unlike his characteristically fluid, natural spoken monologues, it is

written in a songlike cadencewith frequent changes in rhyme scheme and rhythm. It is written in eleven variable ode stanzas with variable rhyme schemes, in iambic lines with anything from two to five stressed-syllables

2, Summary:

The Speaker begins by declaring that there was a time when nature seemed mystical to him, like a dream, "Apparelled in celestial light." But now all of that is gone. No matter what he does,

"The things which I have seen I now can see no more."

In the second stanza the speaker says that even though he can still see the rainbow, the rose, the moon, and the sun, and even though they are still beautiful, something is different. something has been lost:

"But yet I know, where'er I go,
That there hath past away a glory from the earth."

The speaker is saddened by the birds singing and the lambs jumping in the third stanza.Soon, however, he resolves not to be depressed, because it will only put a damper on the beauty of the season. He declares that all of the earth is happy, and exhorts the shepherd boy to shout.

In the fourth stanza the speaker continues to be a part of the joy of the season, saying that it would be wrong to be

"sullen / While Earth herself in adorning,
And the Children are culling
On every side,
In a thousand valleys far and wide."

However, when he sees a tree, a field, and later a pansy at his feet, they again give him a strong feeling that something is amiss. He asks,

"Whither is fled the visionary gleam?
Where is it now, the glory and the dream?"

The fifth stanza contains arguably the most famous line of the poem:

"Our birth is but a sleep and a forgetting."

He goes on to say that as infants we have some memory of heaven, but as we grow we lose that connection:

"Heaven lies about us in our infancy!"

As children this connection with heaven causes us to experience nature's glory more clearly. Once we are grown, the connection is lost. In the sixth stanza, the speaker says that as soon as we get to earth, everything conspires to help us forget the place we came from:

"Forget the glories he hath known, and that imperial palace whence he came."

In the seventh stanza the speaker sees (or imagines) a six-year-old boy, and foresees the rest of his life. He says that the child will learn from his experiences, but that he will spend most of Ms effort on 'Imitation:

"And with new joy and pride
The little Actor cons another part."

It seems to the speaker that his whole life will essentially be "endless imitation." In the eighth stanza the speaker speaks directly to the child, calling him a philosopher. The speaker cannot understand why the child, who is so close to heaven in his youth, would rush to grow into an adult. He asks him,

"Why with such earnest pains dost thou provoke
The years to bring the inevitable yoke,
Thus blindly with thy blessedness at strife?"

In the ninth stanza (which is the longest at 38 lines) the speaker experiences a flood of joy when he realizes that through memory he will always be able to connect to his childhood, and through his childhood to nature.
In the tenth stanza the speaker harkens back to the beginning of the poem, asking the same creatures that earlier made him sad with their sounds to sing out:

"Then sing, ye Birds, sing, sing a joyous song!"

Even though he admits that he has lost some of the glory of nature as he has grown out of childhood, he is comforted by the knowledge that he can rely on his memory. In the final stanza the speaker says that nature is still the stem of everything is his life, bringing him insight, fueling his memories and his belief that his soul is immortal:

"To me the meanest flower that blows can give
Thoughts that do often lie too deep for tears."

3. Analysis:

"Ode: Intimations of Immortality" is a long and rather complicated poem about Wordsworth's connection to nature and his struggle to understand humanity's failure to recognize the value of the natural world. The poem is elegiac in that it is about the regret of loss. Wordsworth is saddened by the fact that time has stripped away much of nature's glory, depriving him of the wild spontaneity he exhibited as a child.

As seen in "The world is too much with us," Wordsworth believes that the loss stems from being too caught up in material possessions. As we grow up, we spend more and more time trying to figure out how to attain wealth, all the while becoming more and more distanced from nature. The poem is characterized by a strange sense of duality. Even though the world around the speaker is beautiful, peaceful, and serene, he is sad and angry because of what he (and humanity) has lost. Because nature is a kind of religion to Wordsworth, he knows that it is wrong to be depressed in nature's midst and pulls himself out of his depression for as long as he can.

In the seventh stanza especially, Wordsworth examines the transitory state of childhood. He is pained to see a child's close proximity to nature being replaced by a foolish acting game in which the child pretends to be an adult before he actually is. Instead, Wordsworth wants the child to hold onto the glory of nature that only a person in the flush of youth can appreciate.

In the ninth, tenth and eleventh stanzas Wordsworth manages to reconcile the emotions and questions he has explored throughout the poem. He realizes that even though he has lost his awareness of the glory of nature, he had it once, and can still remember it. The memory of nature's glory will have to be enough to sustain him, and he ultimately decides that it is. Anything that we have, for however short a time, can never be taken away completely, because it will forever be held in our memory.

4. Conclusion:

Wordsworth's poems initiated the Romantic era by emphasizing feeling, instinct, and

pleasure above formality and mannerism. He gave expression to inchoate human emotion.

"Intimations of Immortality" is one of his most important works, together with "The Prelude" and "Lyrical Ballads". The Ode deals, with childhood's lost connection with nature as human beings get old. That connection only can be preserved in memory. Talking about

Wordsworth's influences, we have to say that he not only influenced the people who worked with him, but also to some authors that presented their plays after Romanticism, such as Spencer, Calvert, Coleridge...

'Stopping by Woods on a Snowy Evening' poem by Robert Frost

Synopsis:

1. Introdyctlon:

'Stopping by Woods on a Snowy Evening' is one of Robert Frost's most famous poems, filled with the theme of nature and vivid imagery that readers of his work have come to love.

2. Summary:

It consists of four quatrains that have the following rhyme scheme: aaba, bbcb, ccdc, dddd. The poem's central narrative is simple, and the scene is understated, even stark. bare of elaboration or detail. A traveler pauses late one snowy evening to admire the woods by which he passes. He reflects that the owner of the woods, who lives in the village, will not see him stopping to

"watch his woods fill up with snow."

The speaker interrupts his reflections by imagining that his

"little horse must think it queer"

to stop without a farmhouse nearby on the

"darkest evening of the year."

In the third stanza, the speaker expands this conceit, suggesting that anxiety over the untoward action causes the horse to shake his harness bells

"To ask if there is some mistake."

Then, by way of contrast, the speaker notes that

"the only other sound's the sweep
Of easy wind and downy flake."

Something about the woods compels the speaker's interest, and by the poem's end, as most critics note, one has the sense that there is more to these woods than meets the eye. In the last verse, the speaker acknowledges that the

"woods are lovely, dark and deep."

He seems reluctant, however, to pursue this insight more deeply, since he immediately observes that he has

"promises to keep "

And miles to go before [he] sleep [s]."

Nevertheless, the central focus of the poem isnotthe woods. Of more importance is the inward drama of the speaker as he reflects 'about and understands or falls to understand why he stops and why he finds the woods so captivating.

The poem ends, then, ambiguously. The reader learns very little about the speaker either where he is coming from, where he is going, or why he stops. The speaker, however, does not permit himself to reflect too deeply about the occasion, either. One can only speculate, and this is perhaps the full intent of the poem's title: "Stopping by woods" is a gratuitous action, a grace note, an imaginative possibility. The reader, like the speaker, is always "stopping" by woods, and the reader, like the speaker, can choose to make the most of them or to go on.

3.Themes:

A- Isolation;

Stopping by Woods on a Snowy Evening" is a lonely poem, for our speaker finds himself far away from any other human being. He kind of digs this aloneness, however, and is glad that no one is there to watch him. We get the feeling that he'd rather be all by his lonesome in the freezing cold than back in the village. Nature helps make things even lonelier, too, for it happens to be freezing cold, snowing, and dark out there.

B. Choices;

The speaker in "Stopping by Woods on a Snowy Evening" makes several choices, many of which his dearly beloved horse does not agree with. The biggest choice that he wrestles with is whether to return to the warmth and safety of the village or to stay and watch the woods fill up with snow.

Our speaker does seem to have a hard time making his decision. He ultimately decides to return home, but it seems to take all of his willpower. .

C. Man and the Natural World:

We're not going to lie, nature seems pretty darn scary in this poem. Not scary like it's going to throw thunderbolts at our speaker or let hungry tigers lose on him, but scary in that it is mysterious and even rather seductive. Our speaker is almost attraced into staying and watching the woods fill up with snow, but if he stays too long, we've got to believe that he might freeze to death, catch a really bad cold, or forget his way home. Nature is a beautiful siren in this poem, compelling our speaker to hang out in spite of the dangerous consequences.

D. Society and Class;

We don't get much information about where our speaker comes from or about the nearby village in this poem, but we do know that he's far away from civilization. We also know that the man who owns the woods lives in town in a house. From this little information, we can deduce that if you own things (like the owner of the woods does), then you live in the midst of society. Our speaker is not so concerned with society. In fact, society to him is about as appetizing as cod liver Oil. He'd rather be alone with nature. To us, the village sounds quaint, cute, and warm. To our speaker, the village represents his obligations, responsibilities, and promises;

Analysis

In terms of text, this poem is remarkably simple: in sixteen lines, there is not a single three-syllable word and only sixteen two-syllable words. In terms of rhythmic scheme and form, however, the poem is surprisingly complex. The poem is made up of fourstanzas, each with four stressed syllables in iambic meter. Within an individual stanza, the first, second, and fourth lines rhyme (for example, "know," "though," and "snow" of the first stanza), while the third line rhymes with the first, second, and fourth lines of the following stanza (for example, "here" of the first stanza rhymes with "queer," "near," and "year" of the second stanza).

One of Frost's most famous works, this poem is often touted as an example of his life work. As such, the poem is often analyzed to the minutest detail, far beyond what Frost himself intended for the short and simple piece. In reference to analyses of the work, Frost once said that he was annoyed by those "pressing it for more than it should be pressed for.

It means enough without its being pressed...I don't say that somebody shouldn't press it, but I don't want to be there."

The poem was inspired by a particularly difficult winter in New Hampshire when Frost was returning home after an unsuccessful trip at the market Realizing that he did not have enough to buy Christmas presents for his children, Frost was overwhelmed with depression and stopped his horse at a bend in the road in order to cry. After a few minutes, the horse shook the bells on its harness, and Frost was cheered enough to continue home.

The narrator in the poem does not seem to suffer from the same financial and emotional burdens as Frost did, but there is still an overwhelming sense of the narrator's unavoidable responsibilities. He would prefer to watch the snow falling in the woods, even with his horse's impatience, but he has "promises to keep," obligations that he cannot ignore even if he wants to. It is unclear what these specific obligations are, but Frost does suggest that the narrator is particularly attracted to the woods because there is "not a farmhouse near." He is able to enjoy complete isolation.

Frost's decision to repeat the final line could be read in several ways. On one hand, it reiterates the idea that the narrator has responsibilities that he is reluctant to full fill. The repetition serves as a reminder, even a mantra, to the narrator, as if he would ultimately decide to stay in the woods unless he forces himself to remember his responsibilities. On the other hand, the repeated line could be a signal that the narrator is slowly falling asleep. Within this interpretation, the poem could end with the narrator's death, perhaps as a result of hypothermia from staying in the frozen woods for too long.

The narrator's "promises to keep" can also be seen as a reference to traditional American duties for a farmer in New England. In a time and a place where hard work is valued above all things, the act of watching snow fall in the woods may be viewed as a particularly trivial indulgence. Even the narrator is aware that his behaviour is not appropriate: he projects his insecurities onto his horse by admitting that even a work animal would "think it queer."

"But I Have Promises To Keep ".

In the surface, this poem may be taken as a simple narrative of the New England life that provided Frost with so much of his subject-matter. It is "the darkest evening of the year," as the narrator halts for a moment on his drive home to watch the snow pile up silently in the woods. The only sound is that of the harness bells shaken by the puzzled horse, who does not understand the reason for the delay in the woods. It is also possible to interpret the poem as an expression of the "death wish "-the dark silent woods are death, where the traveller is tempted to linger. But his sense of duty (symbolized by the jingling of the harness bells) reminds him that he has obligations to life; that he has "promises to keep." And so he leaves the woods and returns to the world where his obligations await him. The poem ends:

The woods are lovely, dark and deep.
But I have promises to keep,
And miles to go before I sleep
And miles to go before I sleep.

Synopsis:

- **1. Introduction**
- **2. About the Poem**
- **3. Conclusion**

1. Introduction:

Rabindranath Tagore reshaped Bengali literature and music and was the first Asian to be awarded with the Nobel Prize for Gitanjali, in 1913. He has written multiple novels, poems, short stories, travelogues, dramas and thousands of songs. His writings are influenced by both Indian and Western traditions, His famous works include Sonar Tari, Gitanjali, Balaka (poetry), Raja, Dak Ghar, Muktadhara (dramas), Nastanirh, Gora, Ghare Baire (fiction) and the list is endless,

2. About the Poem:

"Where the Mind is Without Fear" is one of his famous poems. It was originally composed in Bengali, under the title 'Prarthana', meaning prayer. This poem appeared in the volume called 'Naibedya' in 1901. Tagore wrote this poem when India was underthe clutches of British rule.

He wrote this poem to encourage the countrymen, to instil courage in their hearts and minds.

Lines 1-2:

- Where the mind is without fear and the head is held high;
- Where knowledge-is free;

The poet prays to God that his countrymen should not cower in fear. They should be free from oppression and compulsion. Their heads should be held high. He wants his countrymen to be fearless and have a sense of pride and self - dignity. They should not be daunted by any kind of oppression and should be determined in their pursuit of goal, In the second line, the poet dreams of a nation where knowledge is accessible to all and sundry. Only the light of education has the power to obliterate the darkness of ignorance. Hence, he wants everyone to be educated irrespective of class barriers. Lessons taught should have spiritual importance and should ain at the all-round development of a student's personality.

Lines 3-4:

- Where the world has not been broken up into fragments
- By narrow domestic walls;

Prejudices, discriminations divide people. They germinate the seed of hostility in all. The poet wants that there should net exist any form of difference among people based on caste, creed, language, sex, religion and colour. Prejudices and superstitions are the narrow domestic walls that divide us into groups, thereby breaking our unity and making us weak and fragile.

Lines 5-6:

- Where words come out from the depth of truth;
- Where tireless striving stretches its arms towards perfection;

Tagore wishes that the people of his nation will be forthright and honest. Their words should come put from their, hearts. Their words should be clear and distinct. The poet asks everyone to work hard, without exhaustion, to reach their desired goal. His countrymen should tirelessly stretch their arms towards perfection. They should work hard till they attain perfection. The figure of speech used in the sixth line is

personification. 'Tireless striving' has been personified as a human being, stretching his arms to attain perfection in his desired mission.

Lines 7-8:

- Where the clear stream of reason has not lost its way
- Into the dreary desert sand of dead habits;

The poet wants his people to be rational and logical in their thinking. They should not be dictated by the blind superstitions and traditional conventions. He draws an analogy between 'reason' and 'clear stream1 and compares 'dead habits' to a 'dreary deserf. Reason should not lose its way in the sand of dead habits.

Lines 9-11:

The countrymen should have a progressive approach and encourage new thoughts and ideas. Their minds should beled forward by the contemporary new objectives. In the final line, the poet addresses Almighty [God] as 'Father' and prays to him to let his country wake up to such a heavenly abode of freedom where there is brightness, radiance and confidence all around.

3. Conclusion:

"Where the Mind is Without Fear" is one of the best-known poems of Tagore. That is because its message can easily stand the test of time. Of course, it was inspirational to be the freedom fighters of India at the time in which it was written. However, it has continued to move readers for a century since then. The way in which it defines freedom is radical - not just freedom from the rule of another race, but freedom of the mind. That is the kind of freedom that every man craves, even one who is living in a supposedly free state. That is why its subject matter is relatable to all readers, and it inspires them greatly as well.

4."Law like Love" Poem by W. H. Auden

Synopsis:

- **1.Summary**
- **2.Analysis**

1. Summary:

For gardeners, Law is the sun; they all obey the weather and seasons at all times. To the old, Law is collected wisdom, while to the young, sensory reality is truth and Law. The priest finds the Law in scripture, regardless of what the people think.

The judge clearly, in light of precedent, explains that "Law is The Law." Scholars see law as socially constructed names for crimes, guided by cultural differences, like the different ways that people say "Good-morning and Good-night." Various people say either that Law is "Fate" or the "State," or that the old idea of Law "has gone away." Meanwhile, "the loud angry crowd" defines Law as whatever they want, just as the "soft idiot" individual" claims that Law is "Me," whatever he individually wants the law to be. While it seems we do not know much about the law or "what we should and should not do,"we at least know that Law exists and should not be confused with what we want it to be. Nevertheless, this is difficult because of selfishness and, perhaps, love. We want to "slip out of our own position / into an unconcerned condition"as though we knew how to set the laws of others'conduct.

The speaker says we can at least compare law or lawgiving to love. Ultimately, law is like love because we do not really know where it comes from or why it has come, we cannot really compel others and yet we cannot flee from it, both law and love make us weep, and we "seldom keep" our commitments in both law and love.

2. Analysts

Auden wrote "Law Like Love" 1939 during an extremely fecund period in which he also wrote "The Unknown Citizen," "September 1, 1939," "In Memory of W.B. Yeats" and "Muse'e des Beaux Arts."

The poem muses on just what the law is in light of what others claim it is. The poem presents a panoply of people and possibilities, all of which

seem true enough to some degree. In agriculture and gardening, for example, the primary Law is apparently the sun; all actions are oriented around it and its changes. Law can be seen in the "wisdom of the old," for they have experienced the ways of the world and can apply general principles based on their experience - and the old can "shrilly scold" whether they really know what's best or not.

At the same time, the principle behind the law might not be that which has power (the sun, or the divine as interpreted through a priest or scripture) or experience (the aged), but that which has immediate reality, which is why "the senses of the young" also seem to carry lawmaking authority to guide action. A child's inclination can be said to be unfettered by the distorting weight of civilization. Indeed, this seems to be the point of "law-abiding scholars" who claim no natural basis for moral law-as, perhaps, the philosopher Nietzsche claimed that ideas like "good" and "evil" are socially constructed-the evidence is that different cultures punish different things, just as they wear different clothes and use different words for "Good-morning," as though law and morality are just fashion and emotion.

This point of view is not far from what judges might say, that is, that they primarily interpret their society's laws and apply precedents: "Law is as I've told you before ... "Law is The Law."

Another kind of power or self-actualization leads to different claims to have the law for oneself. "Always" does "the loud angry crowd" claim tyranny of the majority to impose its own views on others. Meanwhile, "the soft idiot" claims a unique law for himself or herself, with special laws and exceptions that apply to "Me"-what the philosopher Kant argued was immoral.

The repetition of "Law" and "Law is" in the poem emphasizes the multiple ways that people interpret the Law for their own ends. The irregular length of stanzas similarly emphasizes this point. The rhymes, mainly in the form of couplets, seem to provide ironic distance from each group of people and what they say the Law is.

The problem presented in the poem is that none of the different kinds of people lets an ultimate objectivity guide their morality and action. If there is a natural law, an ultimate morality, judges might say that this is what provides their judgment in difficult or new cases, but in this poem they do not say that. The divine law is presented only as mediated twice through

the priestly interpretation of scripture. The sun shines differently and requires different actions in different times and places and, besides, does not help very much outside of agriculture.

People may claim "That the law is / And that all know this," but specifying it is more difficult than people think. In the long transitional stanza from the subject of law to the subject of love, the poem suggests that "we, dear, know we know no more / Than they," all of those above, "about the law." But what really seems to guide people's idea of law is their own prejudices or selfishness or, to say it more politely, their loves. They "identify Law with some other word." Philosophically the challenge is to "slip out of our own position / Into an unconcerned condition," as Kant might approve.

Perhaps this kind of objectivity is impossible for most people, or all people, even if it would be moral and desirable. Perhaps, like it or not, law is like love. This is how the poem concludes, with an AABB quatrain with the repeated opening "Like love we ..." all four times. Law, it seems, is like love in that we do not really know where it comes from or where it is taking us. It does not really compel us, and yet we cannot escape it ("fly" as in "flee"). Both law and love make us weep because we cannot freely get and keep what we want. And despite our promises, we "seldom" obey the law or remain true to what we love.

The paradox is that we know there is and should be law, yet we cannot nail down what it is; we want to live by certain rules but cannot. English professor and literary critic Walter Jost sees this poem as presenting a middle way, providing "a bridge between philosophy and poetry," that is, providing hope that we can live with good approximations of objective law without descending into solipsism or the myth of pure social construction. Jost reminds us that each of the metaphors earlier in the poem does shed light, after all, on what law is. We can use such metaphors, Jost argues, as starting points for learning more about the law. If we take those metaphors seriously, we can analyze them creatively and incorporate them into stronger accounts of the law.

Now the above ideas may, at first blush, seem abstract. They are, in fact, very concrete correctly seen, and in context.

In the next few weeks lets take a look at how these, sometimes conflicting notions, play out in institutions, especially in the American example.
Historically they have dominated political discourse in much of world history, impacting society in all of its aspects

Today we start with the family. Any parent, aware or not, has juggled these ideas with their children as they try to interpret these ideas to children and navigate the young through the maze of institutions which may have very different notions of these ideas. Whole nations have not only debated these ideas but have gone to war, fought killed and died over them.

It seems appropriate to ask what do we mean by these concepts, how have they been used, and in what contexts, both personal, nationally and globally?
Some have been faithful to the meaning of these concepts but also, often, these concepts have been perverted for political and other purposes.

But first we look at concrete examples.

For the first example we take those which commonly occur in families with children.

Something simple like deciding upon which movie to go to is our first example. Opinions will surely differ among members of the family group. (It could also be a group of friends making the same decision.)

How does this decision get made?

We could simply say the adults (or leaders) decide and the kids have no final say and they, of course, complain, and often rebel. (Many times exasperated parents simply say:

"Do it because I told you to do it and I say so." Or worse, inflict punishment and pain to get compliance.
What lesson is being taught here? Power overrules, and kids, or lesser beings have no final say, or final vote. We could say that all have a vote and the majority wins.
Sound familiar?

This is the one person, one vote ethos which is based on the notion that all members of the family, or group are equal in the movie-going decision and we abide by that decision.
Majority rule is an equality notion.

Parents decide is the notion that kids are not grown up yet or not qualifed to make the decision, and hence are not equal. This is also the notion of a republic and/or a merit based system, where those with superior knowledge, experience or skills are allowed to make decisions for the whole.

In group of friends it might be as simple as the person who has looked up all of movies has superior knowledge and therefore has greater influence over the eventual decision. Note how several different ideas are in play here, and often contradictory. We could do a justice or freedom idea in this example, (the kids say a sibling went to a movie of their choice last time and its not fair Gust) to let him or her choose again.) A freedom notion in this situation is one where the kids rebel against the parents choose and argue that two or three of the kids should be able to overrule a parent or parents,

A merit notion involves superior qualifications or leader here. For example, let Dad choose because he chooses a movie most often that everyone likes.

Thus we see all of the above concepts at play often in everyday, concrete situations-- all are in play and we deal with the abstract ideas in concerte, everyday situations
everyday.

What would you do? How you think this situation should be resolved; how and why? I
didn't say this would be easy.
That next time.

How families handle freedom, justice, and equality issues more or less is determined by and/or arises from the structure of the family and its interplay with the other major institutions in a given society

5. LEGAL TEXT AS LITERATURE FOR ANALYTICAL STUDY

1.	Balaji Raghvan V. Union of India (AIR 1996 sc770)
2.	S Gopal Reddy V. State of Andhra Pradesh (1996 SCC (4) 596) (Case laws are to be analysed with focus on narrative and argumentative skills)

Balaji Raghvan V. Union of India (AIR 1996 sc770) case in detail

In Balaji Raghavn V. Union of India the validity of national awards was challenged in the Court under Article 18 on the ground of their inconsistency with that Article. After pursuing the constitutional history and the intent behind these awards, the Court come to the conclusion that they did not conflict with Article 18 because they did not amount to title within the meaning of this article. It held that they could not be added as suffixes or prefixes to the names of the awardees and if so added they could be forfeited. In view of clause (f) of Article 51 a is necessary that there should be a system of award and decorations to recognise excellence in performance the duties.

The Judgment:
Supreme Court of India
Balaji Raghvan / S.P. Anand vs Union of India on 15 December, 1995

Author: A.M.Ahmadi
Bench: A.M.Ahmadi CJI, Kuldip Singh, B.P.Jeevah; Reddy, N.P. Singh, S.Saghir Ahmad
Transfer Petition (Civil) 09 of 1994
Petitioner: Balaji Raghavan/S. P Anand
Respondent: Union of lndia
Date of Judgment: 15/12/1995
Bench: A M. Ahmadi CJI & Kuldip Singh & B. P. jeevan Reddy & N. P. Singh & S. Saghir Ahmad

Judgment Delivered By: A.M. Ahmadi. Cji Kuldip Singh.J.Ahmadj. Cji

1. The short but interesting question that arises for our consideration is:

> "Whether the Awards, Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri (hereinafter called **"The National AWards")**are **"Titles"** within the meaning of **Article 18(1)** of the Constitution of Indla?"

2. Before dealing with the legal aspects of the question at issue, we may briefly set out the factual matrix of the two cases. The two petitions which have given rise to this issue were filed in the **High Courts of Kerala and Madhya Pradesh** (Indore Bench), respectively. The petitioner in T.C.(C) No.9/94; **Balaji Raghavan** (hereinafter called 'Petitioner No.1') had filed O.P.No.2110/92 (hereinafter called 'this 0.P') on **February 13, 1992 before the Kerala High Court**. The petition filed under Article **226**of the Constitution, sought, by way of a writ of mandamus, to prevent therespondent from conferring any of the National Awards. The petitioner in T.C.(C) No.1/95, **S.P. Anand** (hereinafter called 'petitioner No.2') filed Misc. Petition No.l900//92 (hereinafter called 'the M.P. ') on **August 24, 1992,** before the Indore Bench of the Madhya Pradesh High Court, praying for the same relief.

3. In the Kerala High Court, the two contesting parties filed written submissions and counters between September 30, 1992 and April 7, 1994. During this period, the High Court of Kerala did not hear oral arguments or pass any interim order. However, in the other case, a Division Bench of the High Court of Madhya Pradesh (Indore Bench),_on August 25, 1992, through an ex-parte order, issued notice to the respondent and also restrained it from conferring on any person or persons any of the National Awards, until further orders. The respondent filed T.P.(C) Nos.6 & 7 before this Court, seeking to transfer the case and to vacate the ex- parte order of the High Court of Madhya Pradesh dated August 25, 1992. On January 8, 1993, a Division Bench of this Court, while refusing to transfer the case to itself, directed the Madhya Pradesh High Court to give its decision on the application filed by the respondent for vacating the ex-parte order, on or before January 20, 1993. On January 20, 1993, a Division Bench of the Madhya Pradesh High Court vacated, its earlier order dated August 25, 1992. Meanwhile, the respondent filed T.P.(C) No.811-812/93, by which it sought transfer of both the O.P. and the M.P. to this Court. On October 29,1993, a Division Bench of this Court

directed that the matter be posted before a bench presided over by the Chief Justice of India on January 17, 1994. On that day, a bench of this Court presided over by the then Chief Justice issued notice in T.P. Nos.811-812/93 and stayed further proceedings in both the petitions. Later, on March 7, 1994, this Court transferred both the aforesaid cases to itself.

4. Thereafter, on September 11, 1995, T.C.(C) Nos.9/94 and 1/95 were posted before a Division Bench of this Court. The last date for submission of written briefs by both sides was fixed and each side was allotted time for oral arguments. While counsel for the petitioner No.l and the respondent submitted their written briefs within the stipulated time, the petitioner No.2, however, failed to do so. The date for the hearing before this Constitution Bench was fixed for November 14, 1995, .On-October 1995, the petitioner No.2 was given notice of this fact However, he did not present himself before the Constitution Bench and no arguments were advanced on his behalf. Subsequently, after the conclusion of the hearing and the judgment being reserved, he sent communications dated November 1,1995 and November 6,1995, which were received by the Supreme Court on November 15, 1995 and November 21, 1995 respectively, requesting that his petition should be delisted or else he should be given a hearing by the Constitution Bench. It is not possible to accede to his request. A public interest litigant cannot choose his forum. Once the case stands transferred to the Supreme Court, he must make arrangements to present himself and advance arguments before it A Constitution Bench cannot be expected to fix its schedule with view to accommodating each and every litigant. Litigants must conform to the time schedule fixed by the Court. Hence we have refused to entertain his request.

5. It would now be relevant to notice the events connected with the institution of the National Awards. It is important to note that a policy of instituting National Awards and Honours had been adopted even before the Constitution of India was formally drafted. On February 13,1948, the Prime Minister's Committee on Honours and Awards was set up under the Chairmanship of the Constitutional Adviser to the Government of India, Sir B.N. Rau. It's purpose was to recommend the number and nature of civil and military awards; the machinery for making recommendations for the granting of these awards; the frequency with which they were to be awarded, etc. The Committee worked on the premise that orders and decorations, carrying no title, were not meant to

be prohibited. It submitted its report on March 9, 1948 and gave extensive suggestions in respect of each of the subjects upon which it had been required to give its recommendations. Thereafter, in a series of meetings held between May, 30, 1948 and October 29, 1953, the Cabinet had occasion to discuss the nature and conditions of the proposed National Awards.

6. The National Awards were formally instituted in January, 1954 by two Presidential Notifications No.l- Pres./54 and No.2-Pres./54 dated January 2, 1954 which were subsequently superseded by four fresh Notifications, viz., No.l-Pres./55,2-Pres./55, 3-Pres./55 and 4-Pres./55 dated January 8, 1955. The purpose for which these awards were to be given are as follows:-

NAME OF THE AWARD PURPOSE FOR WHICH IT IS GIVEN

Bharat Ratna For exceptional Service towards the advancement of art, literature &science & in recognition of public service of the highest order.

Padma Vibhushan For exceptional and distinguished service in any field includingservice rendered by Govt. servants.

Padma Bhushan For distinguished service of a high order in any field including theservice rendered by Govt. servants.

Padma Shri For distinguished service in any field including service rendered by Govt. servants.

The aforementioned Presidential Notifications also provide that any person, withou tdistinction of race, occupation, position or sex, shall be eligible for these awards andalso that the decorations may be awarded posthumously.

7. A press Note was issued by the Government of India on April 17,1968 making it clear that the practice of using Civilian Awards, such as, Padma Vibhushan, Padma Bhushan and Padma Shri, as titles on letterheads, invitation cards, posters, books, etc., is against the scheme of the Government as the awards are not titles and their use along with the names of individuals is contrary to the spirit of ,the Constitution which has abolished titles. It was also .emphasised in the-press note that civilian. awards should not be attached as suffixes or prefixes to the names of the awardees to give them the appearance of titles.

8. In the year 1969 and again in the year 1970, the late Acharya J.B. Kripalani, who was then a Member of the Lok Sabha, moved a non-

official Bill entitled 'The Conferment of Decoration on Persons (Abolition) Bill, 1969' for their abolition. In the draft statement of Objects and Reasons appended to the Bill, the main points were thus stated:-

a) Although **Article 18** had abolished titles, they were sought to be brought in by the back door in the form of decorations.
b) The decorations were not always awarded according to merit, and the Government of the day is not the best Judge of the merits or the eminence of the recipient.
c) These "new titles" were at first given to very few, exceptional persons; this small stream had since become quite a flood.
The Bill led to an elaborate debate in Parliament but was ultimately defeated.

9. On August 8, 1977, the institution of the National Awards was cancelled, vide Notification No.65-Pres/77. On January 25,1980 the Government revived these awards by Notification No.25-Pres./80 which cancelled the earlier Notification No.65-Pres./77 dated August 8,1997. Since then, the National Awards have been conferred annually on the Republic Day.

10. We may now refer to the text of Article 18 of the Constitution which reads as follows:

> "18. Abolition of titles:
> (1) No title, not being a military or academic distinction, shall be conferred by the State.
> (2) No citizen of India shall accept any title from any foreign State.
> (3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.
> (4) No person holding any office of profit under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State."

11. The learned counsel for petitioner No.l pointed out that while **Article 18(1)** prohibits the conferment of "titles' by the State with the exception of military and academic distinctions, it does not define the words "titles" and "distinction". In an effort to throw light upon this aspect, he referred us to the legislative history of the provision. According to him, the framers of the Constitution had intended to do away with the practice followed by the British of conferring various 'titles' upon Indian citizens who curried favour with them. This practice and the recipients of the titles had earned the contempt of the people of pre-independent India and

hence such pernicious practices were proposed to be prohibited in Independent India through this provision. According to him, viewed against this background, the word 'title' should be given the widest possible meaning and amplitude in order to give effect to the legislative intent. Since the only exception to this rule has been carved out in respect of military and academic distinctions, it follows that all other distinctions are impliedly prohibited. We were then referred to several dictionaries to ascertain the meaning of the words "Title", "Order", "Distinction", "Award" and "Designation". It was sought to be demonstrated that even the dictionary meaning of the word 'title' is wide enough to encompass all other similar concepts.

12. It was further contended that the National Awards make distinctions according to rank. They are divided into superior and inferior classes and the holders, of the Bharat Ratna have been, assigned the 9th place in the Warrant, of Precedence (which indicates the rank of different dignitaries and high officials of the State). It was pointed out that several recipients were following the practice of appending these awards to their names, using them as titles in their letter-heads, publications and at public functions. This practice has continued unabated despite the fact that the Government had issued a Press Note in 1968 prohibiting such conduct. Says the learned counsel, all these factors have resulted in the creation of a rank of persons on the basis of recognition by the State, in the same manner as was achieved by the conferment of nobility during the British rule. This, according to him, is clearly volatile of Article 14 read with the Preamble to the Constitution which guarantee to every citizen, equality of status. It was also pointed out that there are no objective guidelines for the manner in which the recipients are to be chosen and over the years, these awards have degenerated into rewards proffered by the powers that be i.e., the Government of the day, in great numbers, to those who serve their political ends.

13. The learned Attorney General for India prefaced his arguments on behalf of the Union of India by stating that almost every country in the world, including those with republican and socialist constitutions, follows the practice of conferring awards for meritorious services rendered by its citizens. The learned counsel then referred us to several dictionaries for the meanings of "Title", "Award", "Distinction", "Decoration “and "Order". He then stated that, according to the ordinary and contextual meaning in **Article 18,** the word "title" means a title of honour, rank, function or office in which there is a distinctive appellation. An

appellation, according to him, is a name or title by which a person is called or known, something which is normally prefixed or suffixed, for example, Sir, K.C.I.E., Maharaja, Nawab, Dewan Bahadur, etc. The learned counsel submitted that it is these appellations that appear as prefixes or suffixes which are sought to be interdicted by **Article 18(1).** Since the National Awards are not titles of nobility and are not to be used as suffixes or prefixes, they are not prohibited by **Article 18.** In this regard, we were referred to the Press Note dated April 17, 1968 issued by the Government of India. The learned counsel further submitted that the words "not being a military or academic distinction" in **Article 18** have been used ex abundant cautela. Since military and academic distinctions, such as, General, Colonel, Professor, Mahavir Chakra, B.A., etc. do carry suffixes or prefixes, the framers of the Constitution, by way of abundant caution, expressly mentioned that they would be exempted. It follows that distinctions which do not carry suffixes or prefixes will not be affected by the interdiction in **Article 18(1).** At this stage, the learned counsel took us through the relevant parts of the discussions in the Constituent Assembly that led to the framing of **Article 18(1)** to support the aforesaid stance.

14. The learned Attorney General then reiterated his argument that republican nations across the world have similar awards for recognizing meritorious services and these National Awards are not volatize of the right to equality as enshrined in Part III of the Constitution. In this context, we were referred to civil awards instituted and conferred by the United Kingdom, the United States of America, the Republic of France, the peoples Republic of China, the Republic of Canada and the former Soviet Union. In response to our query for guidelines that control the manner of selection of the recipients of these awards, the learned Attorney General delivered to us a copy of the communiqué that was sent to him from the Ministry of Home Affairs in this regard.

15. Mr. Santosh Hegde, Senior counsel, responded to our request to act as amicus curiae and advanced arguments before us. He began by stating that the fact that these awards are being grossly misused had occasioned one of the writ petitions. He referred us to the views of eminent authors, Mr. D.D. Basu and Mr. H.M. Seervai on the issue at hand. Thereafter, he led us through the relevant parts of the discussions in the Constituent Assembly before submitting that it is clear that the Constitution does envisage a situation where meritorious services rendered by individuals are to be recognised by the State, through the conferment of awards. However, to avoid the criticism of creating a separate class, it needs to be

ensured that these awards are not used as prefixes or suffixes. He concurred with the submission of the learned Attorney General that the words "military or academic distinction" had been used by way of abundant caution. Commenting on the misuse of these awards, he submitted that the maximum number of awards that can be conferred should be specified. He also felt that ordinarily, public servants and civil servants should not be eligible for these awards, unless there are extraordinary reasons.

16. We may now address the central issue in the case. At the outset, we may point out that the marginal heading of Article 18, which reads as "Abolition of Titles" is an, incorrect summarization of its contents as it does not seek to abolish titles granted in the past Sir Ivor Jennings, the noted constitutional lawyer, has described **Article 18** as"not a right at all, but a restriction on executive and legislative power."

17. From the aforementioned discussion, two views on the proper interpretation of **Article 18(1)** emerge:

1) The first, put forth by the petitioners, is that the word 'title1 in **Article 18(1)** is used in an expansive sense to include awards, distinctions, orders, decorations or titles of any sort whatsoever, except those that qualify as military or academic distinctions.

2) The second, advanced by the learned Attorney General and Mr. Santosh Hegde, is that what is sought to be prohibited are titles of nobility and those that carry suffixes or prefixes, which violate the concept of equality by creating a separate class. According to this view, the words "military or academic distinction" were added by way of abundant caution. It was not meant to prevent the State from honouring or recognizing meritorious or humanitarian services rendered by citizens.

18. We may now refer to the developments preceding the introduction of Article 18(1)as it presently stands and the debates thereon amongst the framers of the Constitution. The Constituent Assembly, as we all know, functioned by constituting Committees Which were expected todeliberate and take decisions on specific issues of Constitutional law to be incorporated in the Constitution. On January 21, 1947, three such Committees were constituted by the Assembly, one of them being the Advisory Committee on Fundamental Rights, Minorities and Tribal's and Excluded Areas(hereinafter called "The Advisory Committee on Fundamental Rights"). Thereafter, the Assembly met at regular intervals

to discuss the reports submitted by the various Committees. On August 29,1947, the Assembly appointed a Drafting Committee which Was to analyse the reports of these Committees, take note of the discussions in the Assembly regarding them, and prepare the text of a Draft Constitution. This Draft Constitution came to be prepared during February 1948 and on November, 1948,the clause-by-clause discussion of the Draft Constitution began in the Assembly. This process culminated on November 26, 1949 when the Constitution as settled by the Constituent Assembly was adopted by it.

19. The provision that is now **Article 18 (1)** was discussed and formulated in the report of the Advisory Committee on Fundamental Rights. This Committee had, in view of its

wide agenda, appointed two Sub-Committees, one on Fundamental Rights and the other on Minorities. The former Sub-Committee was chaired by Acharya J.B. Kripalani. On March 25, 1947, the present **Article 18(1)** was discussed for the first time in the Sub-"Committee on fundamental Rights. The agenda for-the meeting was the discussion of the note prepared by Mr. K.T. Shah on Fundamental Rights which contained five clauses relating to the prohibition of, and restrictions on, the conferment and acceptance of titles, honours, distinctions and privileges. Clause 3 of this note read:-

> "No artificial or man-made distinction between citizens and citizens, by way of titles, honours, privileges whether personal or inheritable, - shall be recognised by and enforceable under this Constitution, or laws made there under: provided that academic degrees, official titles, or popular honorific's, whether of Indian or foreign origin, or conferment, may be permitted in so far as they create no privileged class or heritable distinction."

At the meeting, Mr. K.T. Shah formally proposed the abolition of titles and the privileged class of title holders. In the final report of the Sub-Committee, the relevant part of Clause 8 read as follows:

> "No titles except those denoting an office or a profession shall be conferred by the Union."

20. This clause was considered by the Advisory Committee on Fundamental Rights on April 21, 1947. A number of influential members expressed reservations about the abolition of titles. Mr. C. Rajagopalachari suggested that it should be left open to the legislature to decide from time to time whether titles are good or bad. He stated that, especially if there was a nationalist, communist or socialist policy, and the profit motive was removed, there would be a great necessity for creating a new motive in the form of titles. Sir Alladi Krishnaswamy Aiyar and Mr. M. Ruthnaswamy also supported the omission of this clause. The latter stated that equality is not opposed to distinction and even in a democracy, it must be provided. Mr. K.T. Shah, however, urged that the conferring of titles offended against the fundamental principle of equality sought to be enshrined in the Constitution. Mr. K.M. Panikkar, while suggesting a half-way solution stated:

> "Orders and decorations are not prohibited. The heritable titles by the Union undoubtedly create inequality. In the Soviet Union many

encouragements are given on account of certain national policies. What I am submitting is that we must make a clear distinction between titles which are heritable and thereby create inequality and titles given by governments for the purpose of rewarding merit or by recognising merit. There are two methods that exist. As you know one is by title and the other by decoration.

What we have to aim at is really the question of heritable titles and we should see that provision is made for decorations and various other things because it is only titles that have been prohibited, not decorations and honours."

(Emphasis added) Pressed to a vote, the suggestion that the clause should be omitted was lost by 14 votes to 10; but Mr. Panikkar's proposal that only heritable titles should be forbidden was accepted by Mr. Shah and was unanimously adopted by the Committee. The relevant part of Clause 7 of the Committee's Interim Report to the Constituent Assembly read:

"No heritable title shall be conferred by the Union."

21. On April 30, 1947, this clause was discussed in the Constituent Assembly. While moving the clause, Mr. Vallabhbhai Patel observed that titles were often being abused for corrupting the public life of the country and, therefore, it was better that their abolition should be provided as a fundamental right. He informed the Assembly that it had been decided to drop the word 'heritable' as it had become a matter of controversy. While moving the amendment, Mr. M.R. Masani stated:

"This will mean that the free Indian State will not confer any titles of any kind, whether heritable or otherwise, that is, for the life of the incumbent may be possible for the Union to honour some of its citizens who distinguish themselves in several walks of life like science and the arts, with other kinds of honours not amounting to titles; but the idea of a man putting something before or after his name as a reward for service rendered will not be possible in a free India."

(Emphasis added) While supporting the amendment, Sri Prakasa stated: "Sir, I should like to make it plain that this clause does not prohibit even the State from bestowing a proper honour. We are distinguishing between titles and honours. A title is something that hangs to one's name. I understand it is a British innovation. Other States also honour their citizens for good work but those citizens

> do not necessarily hang their titles to their names as people in Britain or British-governed parts of the world do. That is all that this clause seeks to do..... we want to abolish this corroding, corrupting practice which makes individuals go about currying favour with authority to get particula rdistinctions." (Emphasis added) While opposing the amendment, Seth Govind Das and Mr. H.V. Kamath complained that the clause covered only the future conferment of titles and that it was necessary also to abolish titles conferred earlier by the "alien imperialist Government". Mr. Vallabhbhai Patel in replying to the debate referred to the point raised by Seth Govind Das and Mr. Kamath. Pleading for forgetting "all about past titles", he said that the Assembly was really legislating for the future and not for the past; some people who had obtained titles from the British Government after they had "spent so much" and "worked so hard" for them, should be left alone; disturbing their titles might be "interpreted as a sign of spiteful feeling".

After the acceptance of the amendment moved by Mr. M.R. Masani the relevant part of the clause read as follows:
"No title shall be conferred by the Union."
22. With a minor modification, the provision appeared as **Article 12(1)** in the Draft Constitution prepared by the Drafting Committee:-
"Article 12(1) - No title shall be conferred by the State."
23. The Drafting Committee and its Special Committee, after considering the various comments, suggestions and amendments received on draft **article 12,** suggested further amendments. The Constitutional Advisor, Sir B.N. Rau, supported these new amendments and stated:

> "Presumably it is not intended that titles such as "Field Marshal", "Admiral", "Air Marshal", "Chief Justice" or "Doctor" indicating an office or profession, should be discontinued. It may be pointed out that the term "State" as defined includes "all local or other authorities within the territory of India". Nor, presumably, is it intended to prohibit the award of medals or decorations for gallantry, humanitarian work, etc. not carrying any title."
>
> The Drafting Committee redrafted **Article 12(1)** to read: "Hereditary titles or other privileges of birth shall not be conferred by the State."

24. It is important to note that when, on November 30, 1948, draft **article 12** came up for final discussion before the Constituent Assembly, Dr.

Ambedkar did not move the amendment for redrafting clause (1) of Draft **Article 12**which had earlier been accepted by the Drafting Committee.
The Draft article, as presented to the Assembly, read as it was framed originally by the Drafting Committee:- "1) No title shall be conferred by the State."
Mr, T.T. Krishnamachari sought to add the words "not being a military or academic distinction" after the word title in clause (1). He felt that this was necessary, firstly, because certain types of titles had to be permitted, the Government having, for example, already decided to confer certain military distinctions; secondly, because the State might decide to revive academic titles like Mahamahopadhyaya, and lastly, because a university might not be completely divorced from a State in view of the definition of the latter in draft article **7.(Article 12** of the Constitution).

25. The amendment moved by Mr.T.T. Krishnamachari was accepted by the Constituent Assembly on December 1,1948 and the final clause [later renumbered by the Drafting Committee as **Article 18(1)**] read as it does today.
Note: The quotations that appear in the preceding paragraphs have been extracted from Volumes III and VII of the Constituent Assembly Debates and from "The Framing of India's Constitution", a study in five volumes, edited by B. Shiva Rao,

26. We may also refer to the views expressed by Sir B.N. Rau. As already stated, he was appointed the Chairman of the Prime Minister's Committee on Awards and Honours which was appointed as early as in 1948. At the very first meeting of the Committee, one of the members raised the issue of the validity of the proposed awards, in view of **Article 12** of the Draft Constitution which sought to abolish titles. Sir B.N. Rau, who had, in his capacity as Member of the Drafting Committee contributed to the discussion regarding Draft **Article 12,** pointed out that 'titles' did not necessarily include all orders and distinctions. He referred to the U.S. Constitution which forbids the grant of titles of nobility but allows decorations such as the Congressional Medal of Honour and the Distinguished Service Cross. He stated that in Constitutions where orders and decorations as well as titles are intended to be prohibited, separate mention is usually made, as had been done in Article 73 and Article 109 ofthe Danzig and Weimar Constitutions respectively.

27. We may now refer to the constitutional provisions of certain other countries analogous to Article 18(1) of our Constitution:

1. **Article 73 of the Danzig Constitution** (as it then was) read:
"Titles- with the exception of academic degrees:-shall not be awarded except when they denote an office or a profession.
Orders and Decorations may not be awarded by the free State. No national of Danzig may accept titles or orders." .

2.**The Constitution of The United States of America, 1787.**
Article 1, Section 9 Clause (8): "No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without consent of the Congress, accept any present, emolument, office, or title of any kind whatever from any King, Prince, or foreign State."

3 .**The Constitution of Japan.**
Article XIV: "Peers and Peerage shall not be recognised. No privilege shall accompany any award of honour, decoration or any distinction, nor shall any such award be valid beyond the life time of the individual who holds or hereafter may receive it."

4.The **Constitution of the Republic of Ireland, 1937 Section 40 (2):**
1. Titles of nobility shall not be conferred by the State.
2. No title of nobility or of honour may be accepted by any citizen except with the prior approval of the Government." Similar provisions are to be found in:
i) Article 3, Section 1, Sub-section (9) of the Constitution of Philippines, 1935;
ii) Article 78 of the Constitution of Iceland, 1944;
and
(iii) Article 109 of the Weimar Constitution, 1919.

28. From the discussion in the preceding paragraphs, it is clear that in enacting **Article 18(1)**, the framers of the Constitution sought to put an end to the practice followed by the British in respect of conferment of titles. They, therefore, prohibited titles of nobility and all other titles that carry suffixes or prefixes as they result in the creation of a distinct unequal class of citizens. However, the framers did not intend that the State should not officially recognise merit or work of an extraordinary nature. They, however, mandated that the honours conferred by the State should not be used as suffixes or prefixes, i.e., as titles, by the recipients.

29. Awards of this nature are conferred by many countries around the world. Even countries such as the United States of America, whose Constitutions specifically bar the conferment of titles of nobility, follow the practice of regularly conferring civil awards. In the United States, the Presidential Medal of Freedom, instituted in 1957, honours Americans and others who make exceptional contributions to national security or interest, world peace, culture and so forth. In France, the Palmes Academicues is awarded for merit in teaching and for literature, science and other cultural activities. There are also other awards for social merit, public health, tourism, craftsmanship, postal merit, etc. The Canadian Government established the Order of Canada in 1967 and it is awarded for a wide variety of fields including agriculture, ballet, medicine, philanthropy, etc. The Order of Canada has three levels of membership - Companion, Officer and Member. The total number of living companions may not at any time exceed 150. No more than 15 Companions, 46 Officers and 92 Members may be appointed in any given year. The Order of Merit which is said to be the inspiration behind the National Awards, was instituted in 1902, and is awarded for outstanding service by British Scientists, writers, or other distinguished civilians. It is limited to 24 members. It does not carry any title or rank. :

30. The National Awards are not violative of the principles of equality as guaranteed by the provisions of the Constitution. The theory of equality does not mandate that merit should not be recognized**. Article 51A** of the Constitution speaks of the fundamental duties of every citizen of India. In this context, we may refer to the various clauses of **Article 51A** and specifically clause (j) which exhorts every citizen "to strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement" It is, therefore, necessary that there should be a system of awards and decorations to recognise excellence in the performance of these duties.

31. Hereditary titles of nobility conflict with the principle of equality insofar as they create a separate, identifiable class of people who are distinct from the rest of society and have access to special privileges. Titles that are not hereditary but carry suffixes or prefixes have the same effect, though the degree may be lesser. While other Constitutions also prohibit the conferment of titles of nobility, ours may perhaps be unique in requiring that awards conferred by the State are not to be used as

suffixes or prefixes. This difference is borne out of the peculiar problems that these titles had created in pre-independent India and the earnest desire of the framers to prevent the repetition of these circumstances in Free, Independent India.

32. It has been contended before us that over the years, the purpose for which these awzris were instituted has been diluted and they are granted liberally to persons who are undeserving of them. The perversion of the system was the motivating factor Behind The Bill introduced in Parliament by Acharya Kripalam to abolish thesedecorations. Itis to be remembered that Acharya Kripalam was the Chairman of the Sub-committee on Fundamental Rights where the present **Article 18(1)**was originally formulated. He was, therefore, fully aware of the exact import of **Article 18(1).** It is Singnificant that in the debates in Parliament, the thrust of his attack was on the mis useof these decorations. However, it is axiomatic that the misuse of a concept does not change is inherent nature. The National Award do not amount to "title" within the meaning of **Article 18(1)** and they should not be used as suffixes or prefixes. If this is done, the defaulter should forfeit the National Award conferred on him or her by following the procedure laid down in Regulation 10 of each of the four notifications creating these National Awards.

33. The guidelines contained in the communiqué from the Ministry of Home Affairs towards the selection of probable recipients are extremely wide, imprecise, amenable to abuse and wholly unsatisfactory for the important objective that they seek toachieve. There are no limitation prescribed for the maximum number of awards that can be granted in a given year or the maximum number that is permissible in each category. The Prime Prime Minister's Committee on Awards & Honours,1948 had recommended certain limitations in term of numbers but these have not been incorporated in the extant guidelines. As started earlier, most countries have provided for such limitations in respect of their civil award. That is for the obvious reason that the importance of the awards in not diluted. While in the grant of the Bharat Ratna award sufficient restraint has been show, the same cannot be said of all other awards. The exercise of such restraint is absolutely necessary to safeguard the importance of the awards. That is why the need for necessarily granting awards every year also requires reconsideration. These and the fixing of

other criteria, which will ensure that the recipients of these awards are subjected to felling of respect rather than suspicion, need to be examined by a high level Committee that may be appointed by the Prime Minister in consultation with the President of India. Even otherwise it is time that such a committee looks into the working of the existing guidelines in view of the experience gained. We say no more as we have entrusted the task of setting up of the committee to high level functionaries. We may only say that the Committee may keep in view our anxiety that the number of Award should not be so large as to dilute their value. We may point out the in some countries, including U.S.A., the total number of Awards to be gaven is restricted . With thes ovservations we dispose of both the petitions- cases with no order as to costs.

34. Before we part with the case, we would like to record our appreciation for the assistance provided to us, at our request, by Mr. Sontosh Hegde, Senior Counsel.

Bajaj Raghavan [in T.C. (C) No. 9/94] S.P. Anand [in T.C.(C)No.1/95] V Union of India [in both cases]_____kuldip singh, J.

I have read the opinion proposed by A.M. Ahmadi CJI. I agree with the Chief Justice that Bharat Ratna and Padma Awards are Not "title" within Article 18 of the Constitution of India. These awards can be given to the citizens for exceptional and distinguished services rendered in art, literature, science and other fields. These awards are national in character and only those who have achieved distinction at national level can be considered for these awards. The question to be considered, however, is whether the purpose of instituting these awards is being achieved and these are being conferred on

the deserving persons. The history and experience shows that, in the beginning, these awards given to a limited number of persons but in the recent yours there have been floodgates of awards for the person who are well know, lesser known and even unknown. The Padma awards have been conferred on businessmen and industrialists who have multiplied their own wealth and have hardly helped the growth of national interest. Persons with little or no contribution in any field can be seen masquerading as Padma awardees. The existing procedure for selection of candidates is wholly vague and is open to abuse at the whims and fancies of the persons in authority. Conferment of Padma awards without any firm guidelines of the persons in authority. Conferment of Padma awards without any firm guidelines and fool-proof method of selection is bound to breed nepotism, favouritism, patronage and even corruption.

During the British occupation India has had a spate of title hunters who brought degradation and much harm to healthy public life. The title hunters have always been considered a menace to the safe growth of a society. Though the Padma awards are no not titles but in case these awards are given at the whims of the authorities – without

there being proper criteria and method of selection – they are bound to do more harm to the society than the title-seekers did during the British regime.

While opposing the Bill title "The Conferment of Decorations on Persons (Abolition) Bill, 1967" moved by Acharya J.B. Kripalani in the parliament, Mr. N.K.P. Salve in his speech (Parliamentary Debates, November 27,1970) stated as under:-

"SHRI N.K.P.SALVE: I am aware that the decorations have been bestowed indiscriminately on businessmen and others. In face, one of my suggestions is that any decoration awarded to any person who is found guilty of any 'commercial offence ' should be withdrawn. We should be extremely, strict about the awarding of decorations …… SHRI N.K.P.SALVE : I am entirely in agreement with Shri Madhu Limaye that some of them have received these decorations without deserving deserving them in the last if at all they deserved anything, it was something else. But they have received decorations. In fact, it is within my knowledge that some of them have received decorations. In fact, it is within my knowledge that some of them have put their decorations to commercial exploitation. In fact, a certain managing director of a company wrote a letter to me sometime ago. On his letter head was written 'Ex-Rai Bahadur, Padma Vibhushan' so and so …..

The criteria for awarding these decorations are not very clear. The Bharat Ratna is to be awarded for exceptional service to wards the advancement of art, literature and distinguished service. Bharat Ratna is for exceptional service and Padma Vibhushan is for exceptional and distinguished service. Exceptional and distinguished service must be given thew number one decoration and not number two. So, there is a patent fallacy in this type of criteria which has been laid down. It seema some bureacucrat has written this without understanding all these anomalies in the matter. I do hope that they do some amount of rationalisation of this matter."

The above words were spoken in the Parliament about quarter of a century back. There has been no application of mind at all by the successive Governments and the system of giving Padma awards is getting degenerated with the passage of time. It has already reached a point where political or narrow group interests are being rewarded by those in office for the time being.

The examination of initial deliberations regarding institution of these awards show that in the first meeting of the committee held on February 27, 1948 under the Chairmanship of Mr. B.N. Rau, it was recommended that an extremely high standard should be prescribed for these awards and total number of award to be given in each category should be limited and fixed. It was recommended that awards should be made very sparingly and only on grounds of outstanding merit. They should not be made merely because there happen to be vacancies in a particular category. The Ministry of Home Affairs, Government of India, prepared a note dated January 10, 1953 for the consideration of the Cabinet. It was proposed to institute suitable awards for meritorious public services. The note clearly suggested that the number of recipients in various awards must be restricted. The report was considered by the Cabinet presided over by Shri Jawaharlal Nehru and was accepted with some minor modifications.

Therefore, to ensure that Padma awards are truly national in character and above party and political considerations, I suggest that a committee at national level be constituted by the Prime Minister of India in consultation with the President of India which may include, among others, the Speaker of Lok Sabha, the Chief Justice of India or his nominee and the leader of Opposition in the Lok Sabha. At the State level similar committees may be formed by the Chief Minister of the State in consultation with the Governor. The committee may, among others, include Speaker of the Legislative Assembly, Chief Justice of the State or his nominee and the leader of the Opposition.

The function of the State committees may only be to recommend the names of the persons, who in their opinion are deserving of a particular award. The final decision shall have to be taken by the National Committee on Awards. No award should be conferred except on the recommendation of the National Committee. The recommendation must have the approval of the Prime Minister and the President of India.

The number of awards under each category must be curtailed to preserve their prestige and dignity. In any given year the awards, all put together, may not exceed fifty.
The writ petitions are disposed of. No costs.

2.Gopal Reddy v. Sate of Andhra Pradesh (1996 SCC (4) 596) case

Supreme Court of India
S.Gopal Reddy vs State Of Andhra Pradesh on 11 July, 1996
Equivalent citations: 1996 SCC (4) 596, JT 1996 (6) 268
Author : A Anand
Bench: Anand, A.S.(J)
Petitioner: S. Gopal Reddy
Respondent: State Of Andhra Pradesh
Date Of Judgment: 11/07/1996
Bench: Anand, A. S. (J), Mukherjee M. K.(J)

CITATION:

- 1996 SCC (4)596
- JT 1996 (6) 268
- 1996 SCALE (5)78

JUDGMENT :

The 11th Day OF July, 1996 Present:
Hon'ble Dr. Justice A.S.Anand Hon'ble Mr.Justice M.K.Mukherjee P.P.Rao, Sr.Adv. A Sudarshen Reddy, B.Rajeshwar Rao, Ramkrishna Reddy, Vimal Dave, Advs. with him for the appellant Guntur Prabhakar, Adv. for the Respondent Judgment. The following Judgment of the Court was delivered: S.Gopal Reddy V.

1. State of Andhra Pradesh JUDGMENT DR. ANAND.J.

The appellant along with his brother was tried for offences under **Section 420 IPCread with Section 4 Dowry Prohibition on Act,1961.** The trial Court convicted them both and sentenced them to undergo 9 months R.I. and to a fine of Rs. 500/- each and in default to undergo S.I. for four months, for the offence under Section 420 lPC and to R.I. for 6 months and a fine of Rs. 1000/- each and in default.S.I. for six months for the offence under **Section 4 Dowry Prohibition Act,1961 (hereinafter the Act).** In an appeal against their sentence and conviction, the Additional Metropolitan Sessions Judge held that no offence under Section 420 IPC was made out and set aside their conviction and sentence for the said offence while confirming their conviction and sentence for the offence under Section 4 of the Act. Both the convicts unsuccessfully invoked the revisional jurisdiction of the High Court.

2.This appeal by special leave filed by the appellant is directed against the order of the High Court of Andhra Pradesh dated 16.10.1990 dismissing the Criminal Revision Petition filed by the convicts. The

brother of the appellant filed SLP (Crl.) 2336 of 1990 against the revision order of the High Court but that S.L.P. was dismissed by this Court on 15.2.1991.

3.The prosecution case is as follows:
The appellant [hereinafter the first accused) is the younger brother of the petitioner (hereinafter the second accused) in S.L.P. (Crl.) No.2336 of 1990. which as already noticed was dismissed on 15.2.1991 by this Court. The first accused had been selected for Indian Police Service and was undergoing training in the year 1985 and on completion of the training was posted as an Assistant Superintendent of Police in Jammu & Kashmir Police force. His brother, the second accused, was at the relevant time working with the Osmania University at Hyderabad. **P.W.1, Shri G.Narayana reddy,** the complainant, was practising as a lawyer at Hyderabad. PW 1 has four daughters. Ms.Vani is the eldest among the four daughters. She was working as a cashier with the State Bank of India at Hyderabad. PW 1 was looking for marriage alliance for his daughter Ms.Vani. A proposal to get Ms.Vani married to the first accused was made by **P.W.2, Shri Lakshma Reddy,** a common friend of the appellant and PW1. Lateron P.W.2 introduced the second accused to P.W.1, who later on also met Ms Vani and approved of the match. After some time, the first accused also met Ms.Vani at the Institute of Public Enterprises and both of them approved each other for marriage. It is alleged that on 6.5.1985, the second accused accompanied by P.W.2 and some others went to the house of P.W.1 to pursue the talks regarding marriage. There were some talks regarding giving of dowry and the terms were finally agreed between them on 7.5.1985 at the house of the second accused. The first accused was not present either on 6.5.1985 or on 7.5.1985. It is alleged that as per the terms settled between the parties,P.W.1 agreed to give to his daughter (1) house at hydrabad (2) jewels,cash and clothes worth about at rupees one lakh and (3) a sum of Rs 50,000/- in cash for purchase of a car. The date of marriage, however, was to be fixed after consulting the first accused P.W.1,however, later on insisted on having an engagement ceremony and contacted the first accused but the first accused presuaded P.W.1 not to rush through the same as it was not possible for him to intimate the date to his friends at a short notice. The first accused came to Hyderabad from Dehradun, where he was undergoing training, on 6.8.1985 and stayed at Hyderabad till 15.8.1985. The first accused attended the birthday party of the youngest sister of Ms.Vani on 15.8.1985 and later on sent a bank draft of Rs.100/-

as the birthday gift for her to Ms.Vani. In the letter Ex.P1 which accompanied the bank draft, some reference was allegedly made regarding the settlement of dowry. It is alleged that the first accused later on wrote several letters including exhibits P6.P7.P9 and P10 to Ms.Vani It is the prosecution case that the second accused, on being approached by PWl for fixing the date of marriage, demanded Rs.1 lakh instead of Rs.50,000/- for purchase of car. The second accused also insisted that the said amount should be paid before marriage. The 'dowry' talks between the second accused and PW1, however, remained inconclusive. Lateran the date of marriage was fixed as 2.11.1985. On 1.10.1985, the first accused allegedly wrote a letter, exhibit P6, to Ms.Vani asking her to cancel the date of marriage or to fulfil the demands made by his elders. The first accused came to Hyderabad on 20.10.1985 when P.W.1 told him about the demand of additional payment of Rs.50,000/- made by the second accused for the purchase of car. The first accused told P.W.1 that he would consult his brother and inform him about it and left for his native place. It is alleged that on his return from the village, the first accused asked P.W.1 to give Rs.75,000/- instead of Rs.50,000/- as agreed upon earlier instead of Rs. 1 lakh as demanded by the second accused. According to the prosecution case this talk took place in the presence of Shri Narasinga Rao (not examined) The first accused suggested that P.W.1 should give Rs.50,000/- immediately towards the purchase of the car and the balance of Rs.25,000/-should be paid within one year after the marriage but P.W.1 did not accept the suggestion. According to the prosecution case 'Varapuja' was performed by P.W.1 and his other relatives at the house of the second accused on 31.10.1985. At that time P.W.1 allegedly handed over to the first accused, a document Exhabit P-13 dated 12.10.1985, purporting to settle a house in the name of his daughter Ms.Vani alongwith a bank pass book. Exhibit P-12 showing a cash balance of Rs.50,881/- in the name of Ms.Vani. The first accused is reported to have, after examining the document Exhibit P-13, flared up saying that the settlement was for a Double Storeyed House and the document Exhibit P-13 purporting to settle the house in the name of Ms.vani was only a single storey building. He threatened to get the marriage cancelled if P.W.1 failed to comply with the settlement as arrived at on the earlier occasions. The efforts of P.W.1 to persuade the first accused not to cancel the marriage did not yield any results and ultimately the marriage did not take place. The first accused then returned all the articles that had been given to him at the time of'Varapuja'. Aggrieved, by the failure of the marriage negotiations, P.W.1 on

22.1.1986 sent a complaint to the Director of National Police Academy where the first accused was undergoing training Subsequently, PW1 also went to the Academy to meet the Director when he learnt from the personal assistant to the Director of the Academy that the first accused was getting married to another girl on 30th to March, 1986 at Bolaram and showed to him the wedding invitation card P.W.1, thereupon, gave another complaint to the director on 26.03.1986, who however, advised him to approach the concerned police for necessary action. P.W.1 filed a report Ex.P20 at Chikkadapalli Police Station on 28.03.1986. The Inspector of Police P.W.7, registered the complaint as Crime Case No.109/1986 and took up the investigation. During the investigation, various letters purported to have been written by the first accused to Ms.Vani were sent to the handwriting expert P.W.3, who gave his opinion regarding the existence of similarities between the specimen writing of the first accused and the disputed writing. Both the accused and his brother, the second accused, were there after charge sheeted and tried for offences punishable under section 420 I.P.C. read with an offence punishable under section 4 of the Act and convicted and sentenced as noticed above.

4. Mr.P.P.Rao the learned senior counsel appearing for the appellant submitted that the courts below had committed an error in not correctly interpreting the ambit and scope of section 4 of the Dowry Prohibition Act, 1961 read with the definition of 'dowry' under section 2 of the said Act. According to the learned counsel. for "demand" of dowry to become an offence under section of 4 of the Act, it must be made at the time of marriage and not during the negotiations for marriage. Reliance in this behalf is placed on the use of the expressions ‘bride' and ‘bridegroom’ in Section 4 to emphasise that at the stage of pre-marriage negotiations, the boys and the girl are not ‘bridegroom’ and ‘bride’ and therefore the 'demand' made at that stage cannot be construed as a 'demand' of dowry punishable under section 4 of the Act. On merits, counsel argued that reliance placed by the trial court as well as the appellate and the revisional court on various letters purporting to have been written by the accused was erroneous since the appellant had denied their authorship and there was no satisfactory evidence on the record to connect the appellant with those letters except the "inconclusive" and uncorroborated evidence of the handwriting expert. Mr.Rao further argued that in the present case there was no unimpeachable evidence available on the record to bring home the guilt ofthe appellant and the failure of the prosecution

to examine Ms.Vani and Shri Narsinga Rao was a serious lacuna in the prosecution case. Argued Mr. Rao that the evidence of PW1, the complainant had not received any corroboration at all and since the evidence of PW1 was not wholly reliable, conviction of the appellant without any corroboration of the evidence of PW1 was not justified. Mr. Rao urged that the complainant had exaggerated the case and roped in the appellant, whose elder brother alone had made the demand for dowry, out of anger and frustration and that let alone 'demanding dowry' the first accused was not even a privy to the demand of dowry as made by the second accused, his elder brother.

5. Learned counsel for the respondent-State, however, supported the judgment of the trial court and the High Court and argued that the case against the appellant had been established beyond a reasonable doubt and that this court need not interfere in exercise of its jurisdiction under **Article 136 of the Constitution of India** with findings of fact arrived at after appreciation of evidence by the courts below. According to Mr.Prabhakar, the interpretation sought to be placed by Mr. Rao on Section 4 of the Act would defeat the very object of the Act, which was enacted to curb the practice of "demand" or acceptance and receipt of dowry" and that the definition of 'dowry' as contained in Section 2 of the Act included the demand of dowry 'at or before or after the marriage.

6. The curse of dowry has been raising its ugly head every now and then but the evil has been flourishing beyond imaginable proportions. It was to curb this evil, that led the Parliament to enact The Dowry Prohibition Act in 1961. The Act is intended to prohibit the giving or taking of dowry end makes Its 'demand' by itself also an offence under Section 4 of the Act. Even the abetment of giving, taking or demanding dowry has been made an offence. Further, the Act provides that any agreement for giving or taking of dowry shall be void and the offences under the Act have also been made non-compoundable vide section 8 of the Act. Keeping in view the object which is sought to be achieved by the Act and the evil it attempts to stamp out, a three Judges Bench of this **court in L.V. Jadhav vs. Shankar Rao Abasaheb Pawar & Others** (1983 4 SCC 231) opined that the expression "Dowry" wherever used in the Act must be liberally construed.

7. Before proceeding further, we consider it desirable to notice some of the relevant provisions of the Dowry Prohibition Act.1961.

"**Section 2: Dowry** ' means any property or valuable security given or agreed to be given either directly or indirectly:
(a) by one party to a marriage to the other party to the marriage; or
(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person; at or before or after the marriage as consideration for the marriage of the said parties, but does not include dower or mahr in case of person to whom the Muslim Personal law (Shariat) applies.
Section3:Penalty for givingortakingdowry-If anyperson ,after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more.
Provided that the Court may, for adequate and special reasons to be recorded in the judgement, impose a sentence of imprisonment for a term of less than five years (Substituted for the words "six month"w.e.f.19th November, 1986).

Section 4: Penalty for demanding dowry- If any person demands directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which may extend to ten thousand rupees.
Provided that the Court may, for adequate and special reasons to be mentioned in the judgments impose a sentence of imprisonment for a term of less than six months."

8. The definition of the term 'dowry' under Section 2 of the Act shows that any property or valuable security given or "agreed to be given" either directly or indirectly by one party to the marriage to the other party to the marriage "at or before or after the marriage" as a "consideration for the marriage of the said parties" would become 'dowry' punishable under the Act. Property or valuable security so as to constitute 'dowry' within the meaning of the Act must therefore be given or demanded "as consideration for the marriage".

9. Section 4 of the Act aims at discouraging the very 'demand" of "dowry" as a 'Consideration for the marriage' between the parties there to

and lays down that if any person after the commencement of the Act, “Demands” directly or indirectly, from the parents or guardians of a 'bride' or 'bridegroom', as the case may be, any 'dowry’, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to Rs.5,000/- or with both. Thus, it would be seen that section 4 makes punishable the very demand of properly or valuable security as a consideration for marriage, which demand, if satisfied, would constitute the graver offence under section a of the Act punishable with imprisonment for a term which shall not be less than five years and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry whichever is more.

10. The definition of the expression 'dowry' contained in Section 2 of the Act cannot be confined merely to the ‘demand’ of money, property or valuable security ‘made at or after the performance of marriage' as is urged by Mr. Rao. The legislature has in its wisdom while providing for the definition of 'dowry’ emphasised that any money, property or valuable security given, as a consideration for marriage, 'before, at or after the marriage would be covered by the expression 'dowry' and this definition as contained in Section 2 has to be read wherever the expression 'dowry’ occurs in the Act. Meaning of the expression ‘dowry’ as commonly used and understood is different than the peculiar definition thereof under the Act under Section 4 of the Act, mere demand of 'dowry' is sufficient to bring home the offence to an accused. Thus, any "demand" of money, property or valuable security made from the bride or her parents or other relatives by the bridegroom or his parents or other relatives or vice-versa would fall within the mischief of 'dowry' under the Act where such demand is not properly referable to any legally recognised claim and is consideration of marriage. Marriage in this context would include a proposed marriage also more particularly where the non-fulfilment of the "demand of dowry" leads to the ugly consequence of the marriage not taking place at all. The expression 'dowry' under the Act must be interpreted in the sense which the Statute wishes to attribute to it. Mr.P.P.Rao, learned senior counsel referred to various dictionaries for the meaning of dowry', 'bride' and 'bridegroom' and on the basis of those meaning submitted that ‘dowry’ must be construed only as such property, goods or valuable security which is given to a husband by and on behalf of the wife at marriage and any demand made prior to marriage would not amount to dowry. We cannot agree. Where definition has been given in a statute itself, it is neither

proper nor desirable to look to the dictionaries etc. to find out the meaning of the expression. The definition given in the stature is the determinative factor. The Act is a piece of sociallegislation which aims to check the growing menace of the social evil of dowry and it makes punishable not only the actual receiving of dowry but also the very demand of dowry made before or at the time or after the marriage where such demand is referable to the consideration of marriage. Dowry as a quid pro for marriage is prohibited and not the giving of traditional presents to the bride or the bride groom by friends and relatives. Thus, voluntary presents given at or before or after the marriage to the bride or the bridegroom, as the case may be, of a traditional nature, which are given not as a consideration for marriage but out of love, affection on regard, would not fall within the mischief of the expression'dowry' mare punishable under the Act.

11. It is a well known rule of interpretation of statutes that the text and the context of the entire. Act must be looked into while interpreting any of the expressions used in a statute. The courts must look to the object which the statute seeks to achieve while interpreting any of the provisions of the Act. A purposive approach for interpreting the Act is necessary. We are unable to persuade ourselves to agree with Mr. Rao that it is only the property or valuable security given at the time of marriage which would bring the same within the definition of ‘dowry’ punishable under the Act, as such an interpretation would be defeating the very object for which the Act was enacted. Keeping in view the object of the Act, "demand of dowry" as a consideration for a purposed marriage would also come within the meaning of the expression dowry under the Act.If we were to agree with Mr.Rao that it is only the demand made at or after the marriage which is punishable under Section 4- of the Act, Some serious consequences, which is punishable under Section 4 of the Act, Some serious consequences, which the legislature wanted to avoid, are bound to follow. Take for example a case where the bridegroom or his parents or other relatives make a ‘demand’ of dowry during marriage negotiations and lateron after bringing the bridal party to the bride's house find that the bride or her parents or relative have not met the earlier 'demand' and call off the marriage and leave the bride house should they escape the punishment under the Act. The answer has to be an emphatic 'no'. It would be adding insult to injury if we were to countenance that their action would not attract the provisions of Section 4 of the Act. Such an interpretation would frustrate the very object of the Act and would also

run contrary to the accepted principles relating to the interpretation of statutes.

12. In **Reserve Bank of India Etc.vs. Peerless General Finance And Investment Co. Ltd. & Others Etc.(1987] 1 SCC 424** while dealing with the question of interpretation of a statute, this court observed:

"Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statutemaker,provided by such context, its scheme, the section, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place."

13. Again, in **N.KJain & Others vs. CK.Shah &Others(1991] 2 SCC 495** it was observed that in gathering the meaning of a word used in the statute, the context in which that word has been used has significance and the legislative purpose must benoted by reading the statute as a whole and bearing in mind the context in which the word has been used in the statute.

14. In **Seaford Court Estates Ltd. vs. Asher, (1949) 2 All ER 155(CA),** Lord Denning advised a purposive approach to the interpretation of a word used in a statute and observed:

"The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticised. A judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have note, provided for this or that, or have been guilty of

some or other ambiguity. It would certainly Leave the judges trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears, a judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give 'force and life' to the intention of the legislature A judge should ask himself the question how, if the makers of the Act had themselves come across this ruck in the texture of it, they would have straightened it out? He must then do so as they would have done. A judge must not alter the material of which the Act is woven, but he can and should iron out the creases."(emphasis supplied)

15. An argument, similar to the one As raised by Mr. Rao regarding the use of the expressions 'bride' and 'bridegroom' occurring in Section 4 of the Act to urge that "demand" of property or valuable security would not be "dowry" if it is made during the negotiations for marriage until the boy and the girl acquire the status of 'bridegroom' and 'bride', at or immediately after the marriage, was raised and repelled by this court in L.V. Jadhav's case (supra).

16 In **L.V. Jadhav's case (supra)** while interpreting the meaning of 'dowry' under Section 2 of the Act and co- relating it to the requirements of Section 4 of the Act, the Bench observed:

"..... Section 4 which Lays down that "if any person after the commencement of this Act, demands, directly or indirectly from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both". According to Webster's New World Dictionary, 1962 edn.bride means a woman who has just been married or is about to be married, and bridegroom means a man who has just been married or is about to be married. If we give this meaning of a bride or a bridegroom to the word bride or bridegroom used in Section 4 of the Act, property or valuable security demanded and consented to be given prior to the time when the woman had become a bride or the man had become a bridegroom, may not be "dowry" within the meaning of the Act. We are also of the opinion that the object of Section 4 of the Act is to discourage the very demand

for property or valuable security as consideration for a marriage between the parties thereto. Section 4 prohibits the demand for 'giving' property or valuable security which demand, if satisfied, would constitute an offence under Section 3 read with Section 2 of the Act.

There is no warrant for taking the view that the initial demand for giving of property or valuable security would not constitute an offence..... "

17. Therefore, interpreting the expression 'dowry and 'demand' in the context of the scheme of the Act, we are of the opinion that any 'demand of 'dowry' made before at or
after the marriage, where such demand is made as a consideration for marriage would attract the provisions of Section 4 of the Act.

18. The alarming increase in cases relating to harassment, torture, abetted suicides and dowry deaths of young innocent brides has always sent stock waves to the civilized society but unfortunately the evil has continued unabated. Awakening of the collective consciousness is the need of the day. Change of heart and attitude is needed. A wider social movement not only of educating women of their rights but all of the men folk to respect and recognise the basic human values is essentially needed to bury this pernicious social evil. The role of the courts, under the circumstances, assumes a great importance. The courts are expected to deal with such cases in a realistic manner so as to further the object of the legislation. However, the courts must not lose right of the fact that the Act, though a piece of social legislation, is a penal statute. One of the cardinal rules of interpretation in such cases is that a penal statute must be strictly construed. The courts have, thus, to be watchful to see that emotions or sentiments are not allowed to influence their judgment, one way or the other and that they do not ignore the golden thread passing through criminal jurisprudence that an accused is presumed to be innocent till proved guilty and that the guilt of an accused must be established beyond a reasonable doubt. They must carefully assess the evidence and not allow either suspicion or surmise or conjectures to state the place of proof in their zeal to stamp out the evil from the society while at the same time not adopting the easy course of letting technicalities or minor discrepancies in the evidence result in acquitting an accused. They must critically analyses the evidence and decide the case in a realistic manner.

19. It is in the light of the scheme of the Act and the above principles that we shall now consider the merits of the present case. This Court, generally speaking, does not interfere with the findings recorded on appreciation of evidence by the courts below except where there appears to have occurred gross miscarriage of justice or there exist sufficient reasons which justify the examination of some of the relevant evidence by this court itself.

20. There is no dispute that the marriage of the appellant was settled with Ms.Vani, daughter of PW1 and ultimately it did not take place and broke down. According to PW1, the reason for the brake down of the marriage was his refusal and inability to comply with the "demand" for enhancing the 'dowry' as made by the appellant and his brother, the second accused. The High Court considered the evidence on the record and observed"

"From the evidence of PW1 it is clear that it is only the 2nd petitioner that initially demanded the dowry in connection with the marriage of his younger brother, the first petitioner. He alone was present when PW1 agreed to give a cash of Rs. 50,000/- for purchase of car, a house, jewels, clothing and cash valued at rupees one lakh. This took place in the month of June, 1985 when PW1 approached the second petitioner for fixation of date for marriage some time in the month of September, 1985. According to PW1, the second petitioner demanded rupees one lakh for purchase of car. But, however, PW1 persuaded the second petitioner to fix the date leaving that matter open to be decided in consultation with the first petitioner. When the first petitioner came to Hyderabad in October, 1985 PW1 complained to him about the demand for additional dowry and that the first petitioner would appear to have told PW1 that he would discuss with his brother and inform him. Then the first petitioner went to his native place and return to Hyderabad and asked PW1 to give Rs. 75.000/- for purchase of car."

The High Court further observed:

"Thus the demand for dowry either initially or at later emanated only from the second petitioner, the elder brother for the first petitioner. From the evidence it would appear that the petitioners come from a lower-middle class-family and fortunately the first petitioner was selected for I.P.S. and from the tone of letters written by the first petitioner to Kum. Vani particularly from Ex. P-6 letter it would appear that he was more interested in acting according to the wishes respondent who he probably felt was responsible for his coming up in life. The recitals in Ex.P-6 would show that he did not like to hurt the feelings of the second

petitioner and probably for that reason he could not say anything when his elder brother demanded for more dowry. We cannot say how the first petitioner would have acted if only he had freedom to act according to his wishes. But the first petitioner was obliged to act according to the wishes of his elder brother in asking for more dowry. However, I feel that this cannot be a circumstance to exonerate him from his liability from demand of dowry under Section 4 of the Dowry Prohibition Act."(Emphasis supplied)

21. From the above noted observations, it appears that the High Court felt that the appellant was perhaps acting as "His Master's Voice" of his elder brother. The High Court accepted the evidence of PW1 to hold that the appellant had demanded enhanced dowry of Rs 75000/ for purchase of car on his return from the native village and had repeated his demand at the him; of "Varapuja" and lateron did not marry Ms Vani as PW1 was unable to meet the demands as projected by the appellant and his elder brother. The High Court appears to have too readily accepted the version of PW1 without properly analyzing and appreciating the same.

22. Since, PW1 is the sole witness, we have considered it proper to examine his evidence with caution.

23. From our critical analysis of the evidence of PW1, it emerges that at the time of initial demand of dowry as a consideration for marriage of the appellant it was only the brother of the appellant, the second accused, who was present and it was the second accused alone with whom the negotiations took place in presence of PW2 According to PW1, the brother of the appellant later on demanded rupees one lakh for the purchase of car as against the initial agreement of rupees fifty thousand or the said purpose. Admittedly, the first accused was not present at either of the two occasions. According to PW1 when the appellant came to Hyderabad in October, 1985 he (PW1) complained to him about the demand for a additional dowry made by his brother and the appellant told him that he would discuss the matter with his brother and inform him. It was, thereafter. According to PW1 that then the appellant returned to Hyderabad from his native place that he asked the complainant [PW1) to give Rs.75,000/- for purchase of the car. Shri Narsingh Rao is stated to have been present at that time, but he has not been examined at the trial. The above statement of PWI has, however, surfaced for the first time at the trial only. These is no mention of it in the first information report,

Ex.P-20 or even in the two complaints which had been sent by PW1 to the Director, National Police Academy prior to the lodging of Ex. P-20. PW1 admitted in his evidence "I have not stated in Ex. P-20 and in my 161 statement that A-1 on return from his native place demanded rupees seventy five thousand instead of rupees one lakh for purchase of car and that I said that what was the agreed for purchase of car was only Rs. 50,000/- and not Rs. 75,000/- . This story, therefore, appears to be an after thought, made with a view to implicate the appellant with the commission of an offence under Section 4 of the Act. Had this been the state of affairs, we see no reason as to why the fact would not have found mention at least in the complaints made to 'the Director of the Academywhere the appellant was under-going training. PW1, being a lawyer, must be presumed to be aware of the importance and relevance of the statement attributed to the appellant to incorporate it in the complaints and the FIR. We find this part of the evidence of PW1 rather difficult to accept without any independent corroboration. There is no corroboration available on the record as even Shri Narsingh Rao has not been examined.

24. According to PW1, the demand of dowry was repeated by the appellant at the time of "Varapuja" which was performed on 31.10.1985 at the house of the second accused also. PW1 stated that he handed over the documents pertaining to the house, rupees fifty thousand in cash and pass book showing the deposit of about rupees fifty thousand in the bank in the name of Ms.Vani to the appellant alongwith other articles of 'varapuja' and on seeing the documents the appellant flared up and said that since the settlement was for a two storeyed house and not a single storey house, as reflected in Ex.P13, he would cancel the marriage unless the 'demands' as made earlier were fulfilled. The story of "varapuja" which has been too readily accepted by the courts below, again appears to us to be of a doubtful nature and does not inspire confidence. The following admission of PW1 in his evidence, in the context of "varapuja" allegedly held on 31.10.1985 has significance:

"It is not true that Varapuja is puja of brideroom according to my understanding. I did not take any prohit for Varapuja. I did not take any photograph on that occasion. 1 did get any Lagna Patrika prepared for the marriage. It is not true that I am deposing falsely that there was Varapuja and that offered money on that occasion.

I started marriage preparation probably in the month of September, or October, I cannot say on what date I booked hall for the marriage. Ex.

P.8 is only cancellation receipt of the marriage hall. I have not got invitation cards printed. I did not write any letters to anybody informing them of the marriage or inviting them to the marriage as I received letter from A-1 to cancel the marriage in the month of October, itself cancellation of the date of marriage was prior to Varapuja. (emphasis ours)

25. The above admission creates a lot of doubt about the performance of ‘Varapuja’, According to PW1, he had received a letter from the appellant to the marriage in the month of October itself. Therefore, if the marriage had been it does not stand to reason as to why Varapuja' should have take? place at all. The holding of 'Varapuja’ appears to be highly improbable. No corroboration of any nature to support this part of the evidence of PW1 is forthcoming on the record.

26. That the marriage between the parties did not take place is not in dispute but these is no satisfactory evidence on the record to show that the appellant cancelled the marriage on account of non-fulfilment of dowry demand allegedly made by him. The letter which PW1 claims to have himself received from the appellant regarding cancellation of marriage prior to ‘Varapuja' ceremony has not been produced. Reliance instead has been placed by the prosecution on letter Ex P-6 allegedly written by the appellant to Ms.Vani cancelling the date of marriage. We shall refer to the documentary evidence in the latter part of the judgment. The failure of PW1 to produce the letter allegedly received by him from the first accused invites an adverse presumption against him that had he produced the letter, the same would have belied his evidence. The evidence of PW1, who is the sole witness, suffers from serious inconsistencies and exaggerations. He admittedly is the most interested person to establish his case. He is the complainant of the case. It was he who had made two complaints to the Director of National Police Academy against the appellant before lodging the FIR, Ex.P20. He is a lawyer by profession. He would be presumed to know the importance of the 'demand made by the appellant on the two occasions. He, however, has offered no explanation as to why those facts are conspicuous by their absence from the FIR and the two complaints made to the Director of the Academy. PW1,does not appear to us to be a wholly reliable witness. He has made conscious improvements at the trial to implicate the appellant by indulging in exaggerations and that detracts materially from his reliability. Prudence, therefore, requires that the Court should look for

corroboration of his evidence in material particulars before accepting the same. Neither Ms Vani nor Shri Narsingh Rao in whose presence the appellant is said to have demanded dowry have been examined as Witnesses. The failure to examine them is a serious lacuna in the prosecution case. It was Ms.Vani who could have deposed about the circumstances which led to the breakdown of the matrimonial negotiations, before its maturity. Various letter which PW1 produced at the trial were allegedly written by the appellant to the handwriting expert prosecution has sought to corroborate the evidence of PW1 regarding the authorship of those letters. The opinion of PW3,the Assistant Director in the State Forensic & Science Laboratory, Hyderabad, in our view cannot be said to be of inching type to attribute the authorship of those letters to the appellant. PW3 during his statement deposed:

"In my opinion (1) there are similarities indicating common authorship between the red enclosed writings marked as S-12 to S-23 and the red enclosed writings marked as Q.4 to Q.7. But definite present standards.(2) No opinion can be given on the authorship of the red enclosed signatures and writings marked as Q-l to Q-3 and Q-8 to Q-15 on the basis of present standards."

(emphasis supplied)

The expert further opined:

"When all the writing characteristics are considered collectively, they led to the conclusion that there are similarities indicating common authorship between the standard writings marked S-12 to S-25 and the questioned writings marked Q-4 to Q-7. But no definite opinion can be given on the basis of the present standards Extensive admitted writings are required for offering definite opinion."

(emphasis supplied)

During his cross-examination PW3 admitted:

"**Q**. From the available standards you cannot say that the signatures of Exs. P.7 and P.9 is the same person who wrote Exs. P.7 and P.9.

Ans: we can compare truly like live, signatures with signatures and writings with writings and not a signature with a writing."

27. Thus, the evidence of PW3, is not definite and cannot be said to be of a clinching nature to connect the appellant with the disputed letters. The evidence of an expert is rather weak type of evidence and the courts do not generally consider it as offering 'conclusive' proof and therefore safe to rely upon the same without seeking, independent and reliable corroboration. In **Magan Bihari Lal Vs. State of Punjab (AIR 1977 SC**

1091), while dealing with evidence of a handwriting expert, this Court opined:

"We think it would be extremely hazardous to condemn the appellant merely on the strength of opinion evidence of a handwriting expert. It is now well settled that expert opinion must always be received with great caution and perhaps none so with mare caution than the opinion of a handwriting expert. There is a profusion of precedential authority which holds that it is unsafe to base a conviction solely on expert opinion without substantial corroboration. This rule has been universally acted upon and it has almost become a rule of law. It was held by this Court in **Ram Chandra Vs. State of U.P. AIR 1957 SC 381** that it is unsafe to treat expert handwriting opinion as sufficient basis for conviction, but it may be relied upon when supported by other items of internal and external evidence. This Court again pointed out in **Ishwari Prasad Vs. Md. Isa, AIR 1963 SC 1728** that expert evidence of handwriting can never be conclusive because it is, after all, opinion evidence, and this view was reiterated in **Shashi Kumar Vs. Subodh Kumar, AIR 1964 SC 529** where it was pointed out by This Court that expert's evidence as to handwriting being opinion evidence can rarely, if ever, take the place of substantive evidence and before acting on such evidence, it would be desirable to consider whether it is corroborated either by clear direct evidence or by circumstantial evidence. This Court had again occasion to consider the evidentiary value of expert opinion in regard to handwriting in **Fakhruddin Vs. State of M.P. AIR 1967 SC 1326** and it uttered a note of caution pointing out that it would be risky to found a conviction solely on the evidence of a handwriting expert before acting upon such evidence, the court must always try to see whether it is corroborated by other evidence, direct or circumstantial."

28. We are unable to agree, in the established facts and circumstanced of this case, with the view expressed by the courts below that PW1 is a competent witness to speak about the handwriting of the appellant and that the opinion of PW3 has received corroboration from the evidence of PW1. PW1 admittedly did not receive any of those letters. He had no occasion to be familiar with the handwriting of the appellant He is not a handwriting expert. The bald assertion of PW1 that he was "familiar" with the handwriting of the appellant and fully "acquainted" with the contents of the letters, admittedly not addressed to him, without disclosing how he was familiar with the handwriting of the appellant, is difficult to accept. **Section 67 of the Evidence Act,1872** enjoins that

before a document can be looked into, it has to be proved. Section 67, of course, does not prescribe any particular mode of proof. **Section 47 of the EvidenceAct** which occurs in the chapter relating to 'relevancy of facts' provides that the Opinion of a person who is acquainted with the handwriting of a particular person is a relevant fact. Similarly, opinion of a handwriting expert is also a relevant fact for identifying any handwriting. The ordinary method of proving a document is by calling as a witness the person who had executed the document or saw it being executed or signed or is otherwise qualified and competent to express his opinion as to the handwriting. There are some other modes of proof of documents also as by comparison of the handwriting as envisaged under **Section 73 of the Evidence Act or** through the evidence of a handwriting expert under section 45 of the Act, besides by the admission of the person against whom the document is intended to be used. The receiver of the document, on establishing his acquaintance with the handwriting of the person and competence to identify the writing with which he is familiar, may also prove a document. These modes are legitimate methods of proving documents but before they can be accepted they must bear sufficient strength to carry conviction. Keeping in view the in-conclusive and indefinite nature of the evidence of the handwriting expert PW3 and the lack of competence on the part of PW1 to be familiar with the handwriting of the appellant, the approach adopted by the courts below to arrive at the conclusion that the disputed letters were written by the appellant to Ms.Vani on the basis of the evidence of PW1 and PW3 was not proper. The doubtful evidence of PW1 could neither offer any corroboration to the inconclusive and indefinite opinion of the handwriting expert PW3 nor could it receive any corroboration from the opinion of PW3. We are not satisfied, in the established facts and circumstances of this case, that the prosecution has established either the genuineness or the authorship of the disputed letters allegedly written by the appellant from the evidence of PW1 or PW3. The courts below appear to have taken a rather superficial view of the matter while relying upon the evidence of PW1 and PW3 to hold the appellant guilty. We find it unsafe to base the conviction ofthe appellant on the basis of the evidence of PW1 or PW3 in the absence of substantial Independent corroboration, internally or externally, of their evidence, which in this, case is totally wanting.

29. To us it appears that the demand of dowry in connection with and as consideration for the marriage of the appellant with Ms.Vani was made

by the second accused the elder brother of the appellant and that no such demand is established to have been directly made by the appellant. The High Court rightly found the second accused, guilty of an offence under Section 4 of the Act against which S.L.P. (Criminal) No.2336 of 1990, as earlier noticed stands dismissed by this court on 15.2.1991. The evidence on the record does not establish beyond a reasonable doubt that any demand of dowry within the meaning of Section 2 read with Section 4 of the Act was made by the appellant. May be the appellant was in agreement with his elder brother regarding 'demand' of 'dowry' but convictions cannot be based on such assumptions without the offence being proved beyond a reasonable doubt. The courts below appear to have allowed emotions and sentiments, rather than legally admissible and trustworthy evidence, to influence their judgment. The evidence on the record does not establish the case against the appellant beyond a reasonable doubt He is, therefore, entitled to the benefit of doubt. This appeal, thus succeeds and is allowed. The conviction and sentence of the appellant is hereby set aside. The appellant is on bail. His bail bonds shall stand discharged.