
Brief History of the
Bombay Incorporated
Law Society

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ON THE OCCASION OF ITS COMPLETION OF
HUNDRED YEARS ON 15TH DECEMBER 1994

"An Honourable Solicitor is a family blessing" - Lord Hannan

J. R. Gagrat
President



undred Years History of the Bombay Incorporated Law Society (The Law Society) is intermixed with the history of its Members then known as "Attorneys" and further intermixed with the history of the establishment of the Court of Judicature in Bombay. The Law Society was formed and incorporated 222 years after the advent of the first Attorney in Bombay and the establishment of the first Court of Judicature in Bombay.

It all began in 1672; i.e. about 7 years after the British received the Islands of Bombay as dowry from the Portuguese pursuant to the marriage of King Charles II with the Portuguese Princess Catherine of Braganza in 1661 and thereafter the Islands of Bombay were let out to the East India Co. for annual rent of £10. In 1672 George Wilcox made a Report on the proposal for the establishment of a Court of Judicature in Bombay. Pursuant to the said Report, the Court of Judicature was established on

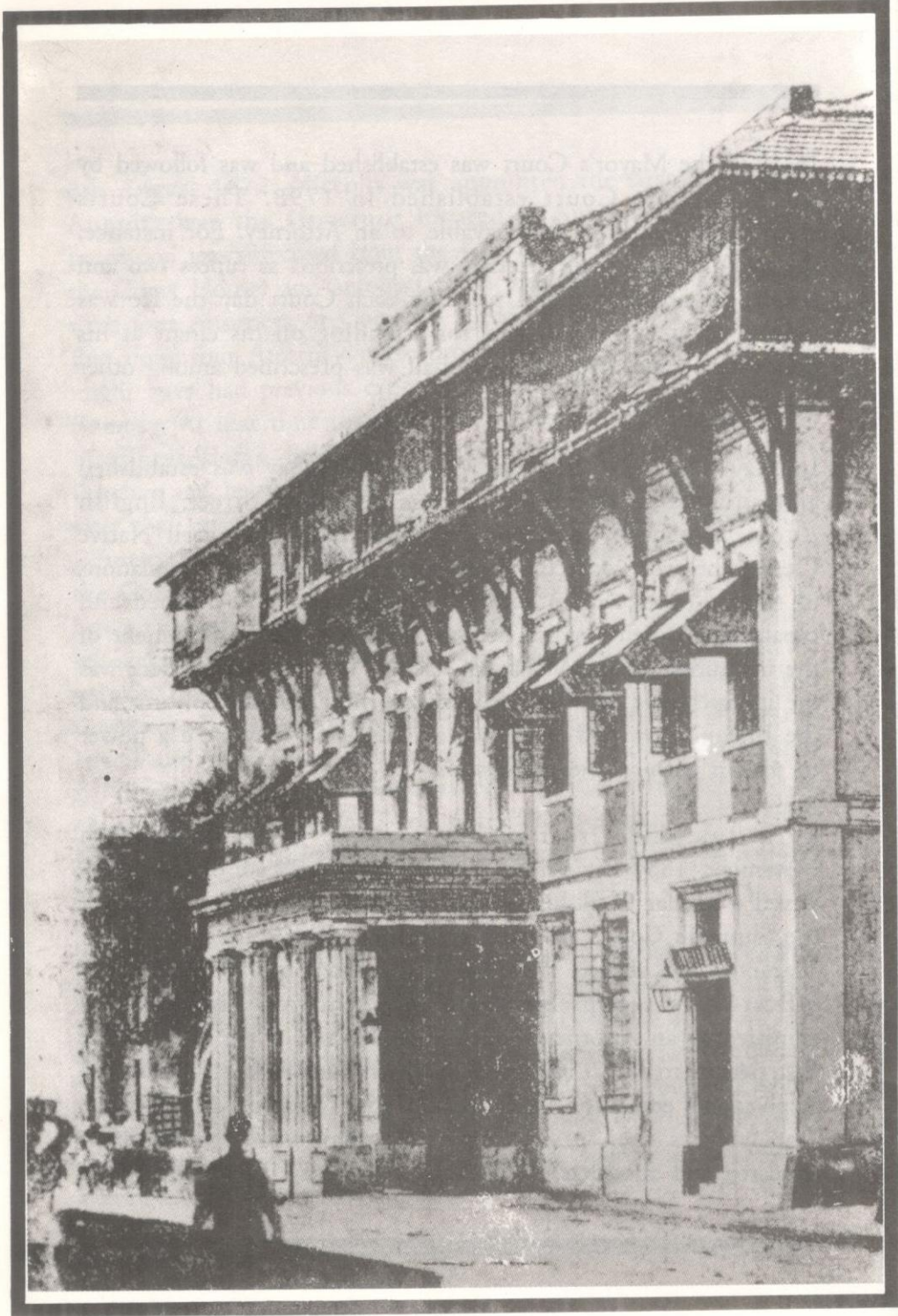
8th August 1672. Niccolls was appointed the first Judge and Aungier was the Governor located at Surat. A ceremonial procession was organised from the Fort to the Guildhall (meaning the Court House) and amongst those who formed the procession were four Attorneys or Common Pleaders on foot. It is believed that these four Attorneys were probably Portuguese Indians who might have had previous experience in the Portuguese Courts in Bombay. At that time there was at least one lawyer by the name of James Adams, believed to be the first Attorney at Law in Bombay and he was retained by the East India Company to look after their matters. In the India Office files is a letter dated 8th February 1676 from Governor Aungier to Judge Niccolls whereby the Governor warns the new incumbent Judge "that he doth not bring a disrepute on the Court of Bombay by lightness, partiality, self-seeking or countenancing common Barristers, in which sort of vermin they say Bombay is very unhappy." At that time, the Governor and the Council were the highest Appeal Court on the Island and Judges were subservient to them. As such, the option of the admission of Attorneys to Law Court lay with the Governor and the Council and not with the Judges. The Table of Fees of 1677 laid down the Attorneys fee to be about a rupee and a half.

In about August, 1685 there were at least two English Attorneys in Bombay, Mr. Samuel Hayes and Mr. Broxoline. Attorneys began to arrive in Bombay from about that period. In 1727 in a law suit action names of three Attorneys are mentioned as Antonis D'Silva (a Portuguese). Ganba Purvoe (a Pathare Prabhu) and Vitoji Sinay (a Shenvi). It is not known whether they were professional lawyers or merely qualified Agents for appearing before a Law Court.

In 1726 the Mayor's Court was established and was followed by the Recorder's Court established in 1798. These Courts established a scale of fees payable to an Attorney. For instance, the retaining fee to an Attorney was prescribed as rupees two and a half, for attendance and pleading each Court day the fee was prescribed at rupee half and for attending on his client at his house each time a fee of rupee half was prescribed among other prescribed charges.

In May, 1824, the Supreme Court at Bombay was established and situated at Admiralty House at Apollo Street. English Attorneys held the monopoly and were assisted by their Native Clerks who were well conversant with all the minutest regulations of these Courts and in some instances were more learned and capable than their English Seniors. This was the establishment of the institution of the Managing Clerks. The Managing Clerk was the indispensable intermediary between the European Solicitor and the Indian client and there was a time when they were a power to reckon with in the profession.

By a Rule and Order of the Supreme Court dated 13th November, 1834 any person producing a Certificate of his having served a regular Clerkship of three years to an Attorney of one of the Supreme Courts in India and also a Certificate of his good character and ability, signed by his master and by one of the officers of the Supreme Court was rendered eligible to be admitted as an Attorney, Solicitor or Proctor of the Court. The first person to be so admitted was, Mr. Robert Leech, who had received his education in India and able to satisfy all the tests. The lawyers then practising in Bombay who had all been educated and admitted in England as Attorneys protested against



Supreme Court Building

this Rule with the result that this Rule remained a dead letter for about a decade. This was the establishment of the institution of Articled Clerks and training before being admitted as an Attorney.

In 1845, the Governor General of India passed Act XIII of 1845 for extending the power of the Supreme Court of Bombay in regard to the admission and enrolment of persons to act as Attorneys of the said Court. Rules were made on 15th March, 1848 regarding admission of Attorneys. However, a monopoly of practice was placed in the hands of European practitioners virtually excluding Natives. For instance, on 26th June, 1852 Mr. Vinayak Harichand, a Pathare Prabhu, Articled Clerk of Mr. Robert Leech (referred to earlier) made an application to the Supreme Court for admission. The application was refused by the Court presided over by Sir Erskine Perry and Sir William Yardly. This refusal generated a grievance from the Native aspirants and reached a proportion of a scandal. It was, therefore, found necessary to enact proper regulations to regulate admission of persons without distinction of nationality and capable of acting as Attorneys of the Court. Thus, were enacted the Regulations dated 23rd September, 1852, prescribing conditions, *inter alia* that :

- i) a candidate should serve as a Clerk to a practising Attorney for 5 years;
- ii) at the end of that period he should undergo examination by examiners appointed by the Judges as to his fitness and capacity;
- iii) if a native of India, he should be well-up in writing and speaking English; and
- iv) if found successful, he should take the usual oath on admission.

These rules were the establishment of the Examination Rules and even today form the basic structure of the Rules governing the examination of Articled Clerks subject to changes and modifications which have been made over the years. The enactment of proper Rules and Regulations resulted in the Court having to admit Native aspirants who complied with the said Rules.

Records show that the first Indian to be admitted as Attorney of the Supreme Court of Bombay was Mr. Khanderao Moroba Kanhoba a Hindu Pathare Prabhu on 1st February, 1858 an Articled Clerk to Mr. Dallas and he was followed by the admission of Mr. Vinayak Harichand (who had been refused admission prior to the enactment of the Rules) and who was admitted on 27th April, 1859. The first Muslim Attorney to be admitted was Mr. Cumruddin Tyebji (brother of Mr. Justice Badruddin Tyebji) but he was qualified in London as Attorney and as such, was admitted as Attorney in Bombay in 1858. It is interesting to note that Mr. Cumruddin, being a Muslim he could not subscribe to the oath then compulsory. Chief Justice Campbell to whom a representation was made ruled that the part of the oath requiring a practitioner to conform on the faith of a true Christian was not essential and he dispensed with the same in the case of non-Christians. Mr. Cumruddin was sworn on the Koran before Justice Sir Mathew Sausse on 15th March, 1859. The London Punch wrote — "it was pleasant to find that the Lord Chief Justice had finally done away with the last fragment of the absurdity of finding a Christian in an Attorney."

The Supreme Court at Bombay was replaced by the High Court of Judicature at Bombay in 1861 by the enactment of the Indian

Supreme Court

Equity side

Governd. Sewanee — Complainant

Yadonjee Crustnaje
Executor of Sewanee
Maljee deceased and
Jagannath Sewanee } Defendants

Bombay } The Complainant above named puts in his
to witness } place and states, as follows since a certain Gentle-
man his Solicitor to file a Bill in Equity -
against the Defendants above named - Dated
this 15th day of April 1843.

Witnesses } signed } Governd. Sewanee
/ signed / Muckoonnd Pudmonjee

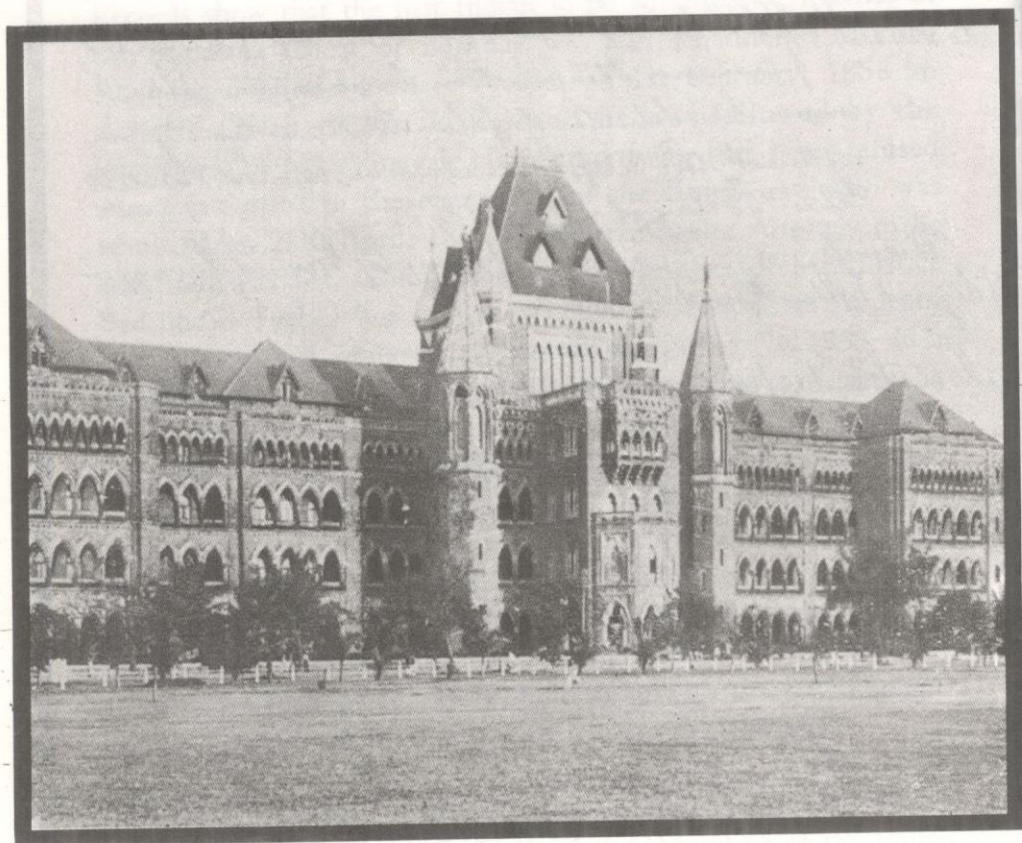
In the Supreme Court of Judicature at Bombay
Equity side

To The Honorable Sir Henry
Roper Knight Chief Justice of the
Supreme Court of Judicature of Bombay
and to the Honorable Sir Thomas
Erskine Perry Knight Justice
of the same Court.

Humblly Complaining sheweth unto your
Lordships your Obedt Governd Sewanee of
Bombay.

Mr. Goprat's Article

High Courts Act, 1861 on 6th August, 1861 followed by the issuance of the Letters Patent establishing the High Court on 26th June, 1862. At the time when the Bombay High Court was established the first Bench consisted of Sir Mathew Sausse as the Chief Justice with 5 Puisne Judges. At that time there were 30 Solicitors and Attorneys and 13 Advocates. The Bombay High Court started functioning from 14th August, 1862. Unlike the establishment of the Court of Judicature in 1672 with pomp and



High Court of Bombay

ceremony, there was no pomp or pageantry. The High Court was located at Admiralty House at Apollo Street. The High Court building, where the High Court now stands, was constructed between 1871 and 1878 at the cost of Rupees 16,44,528/-. At the time of the establishment of the High Court, the cases pending before the Supreme Court at Bombay were transferred to the High Court and this fact was mentioned in the title of the case.

Thus, the candidates who qualified after 1862 were enrolled as Attorneys of the High Court and continued to be so enrolled upto December, 1976 when the Dual System was abolished and the class of legal practitioners known as Attorneys was fused into one class of legal practitioners known as Advocates under the provisions of the Advocates Act, 1961. It is of interest to note that persons who qualified in Bombay were continued to be known as Attorneys despite the fact that the designation of Attorneys was abolished in England by the Judicature Act of Parliament in 1873 which laid down that all persons admitted as Solicitors, Attorneys or Proctors, shall be called Solicitors of the Supreme Court of England and Wales. As such, historically after 1873, persons admitted to practise before the Supreme Court of England and Wales were known as "Solicitors" and persons admitted to practise before the Bombay High Court were known as "Attorneys."

Records show that after 1862 Indians continued to qualify themselves as Attorneys of the High Court. The first Muslim Attorney to be educated and qualified in Bombay was Mr. Rahimtullah Mahomed Sayani in July, 1872. The first Khoja Attorney to be admitted was Mr. Abdulla Meherali Dharamsi in

October, 1883. The first Christian Attorney to be admitted was Mr. L. Fernandez in April, 1859. The first Parsi Attorney to be admitted was Mr. Pestonjee Dinsha Minwala in August, 1866. The first Bhatia Attorney to be admitted was Mr. Damodar Munji Kapadia in 1887.

Records show the formation of Attorneys' law firms during this period. For instance, Mr. Cumruddin Tyebji was a member of the law firm of Tyebji and Sayani; Mr. Rahimtullah Mahomed Sayani was a member of the law firm of Tyebji and Sayani and later joined the law firm of Payne Gilbert & Sayani (the present Payne & Co.); Mr. Abdulla Meherali Dharamsi was a member of the law firm of Thakordas Dharamsi & Cama. It is noticed there were in practice the law firms of Ardesar Hormasjee and Dinsha; Nanu and Hormasjee; Jefferson Bhaishankar and Dinsha and Wadia Ghandhi & Co.

The qualification and admission of lady Attorneys began about 38 years after the Law Society was formed. Miss Cecila Clementia Ferreira was admitted as the first lady Attorney on 7th October, 1932 soon to be followed by Mrs. Freny Noshervan Jhabvala on 3rd October, 1933.

It is interesting to note that in the time of Sir Michael Westropp Chief Justice (1870-1882), candidates who had failed twice in the examination were debarred from appearing for a third time. However, Sir Charles Sargent Chief Justice (1882-1895) had the Rule amended in 1883. It is also interesting to note that in the examinations held in 1886 all the candidates who had appeared were declared unsuccessful, and similarly so in 1894 when of all the candidates who had appeared none passed.

The organisation of the profession in England was in the hands of the Law Society established in 1827 succeeding a Law Society dating back to 1739. The Law Society in England was incorporated in 1831 and is responsible for the Solicitors profession, has custody of the Roll of Solicitors and supervises the education and examination of Articled Clerks.

The main pattern, both of law and of legal practice, then prevalent in Europe and England, was transplanted to their overseas colonies and possessions. The English system which consisted of the two professions of Barristers and Solicitors and consisted of the Dual System was transplanted to the Indian sub-continent by the British. The original model underwent modifications after India became a Republic in 1950 and ultimately, the English model was replaced by a fused model system of the legal practitioners in Bombay as from January 1977 whereby an Advocate is qualified to perform all the functions and the field of law is equally open to all. Since January, 1977 in India and particularly in Bombay, there is a fused profession of legal practitioners all being classified as Advocates and for a person to be entitled to practise in India he has to be an Advocate. All the members of the Law Society are Advocates and those of the Advocates who wish to undergo additional training and professional tests, acquire an additional qualification of a Solicitor after January, 1977. However, there is no exclusivity in any area of law and the area of law is wide open for all Advocates, whether they choose to acquire the qualifications of a Solicitor or not.

By the year 1894 there were in practice before the Bombay High Court 33 Attorneys — 17 Indian Attorneys and 16 English

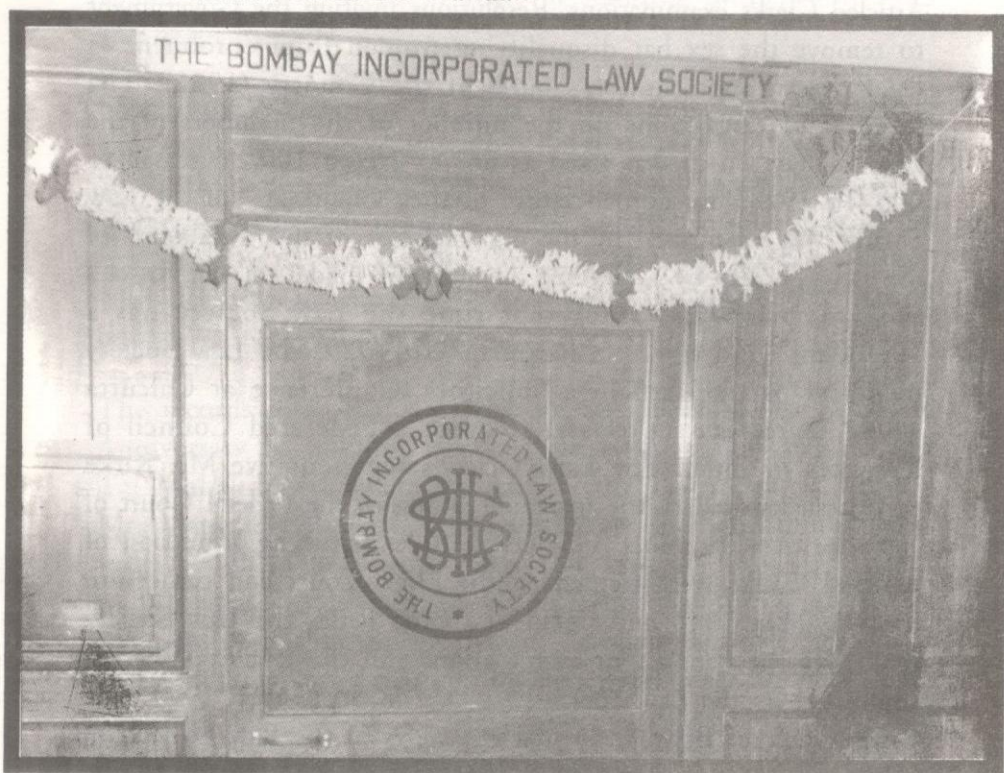
Attorneys. The need of practising Attorneys forming an incorporated Law Society dawned when the then practising Attorneys who were under the umbrella of a body then known as "The Bombay Law Society" took the decision of incorporating The Bombay Law Society into an incorporated body, (as was done in England), by the name of "The Bombay Incorporated Law Society". Records show that on 6th April, 1893 on the question of incorporating "The Bombay Incorporated Law Society" the Secretary placed before the meeting the amended Articles of Association and a letter from the Governor intimating that necessary licence for Incorporation would be issued subject to the approval by the Government Solicitor of the Articles of Association and the Memorandum of Association. The documents were then approved by the Government Solicitor and considered by the Committee and approved. At that time it appears that two members dissented to the incorporation but subsequently consented to the same.

On 15th December 1894, 33 Attorneys then practising as Attorneys of the Bombay High Court formed an incorporated society by the name of "The Bombay Incorporated Law Society". Among the objects for which the Law Society was established was, *inter alia*, that of supporting and protecting the character, status and interest of the legal profession generally and particularly of Solicitors and Attorneys practicing within the territories under the jurisdiction of the Governor of Bombay. There were 33 subscribers to the Memorandum of Association, 16 of whom were English Solicitors and 17 were Indian Solicitors. It is of historic interest to record the names of these subscribers.

The 16 English Solicitors were H. C. Burder, Leslie Crawford, A. Craigie, C. B. Lynch, Eust Ferrers Nicholson, Charles F.

Moir, J. C. G. Bowen, G. W. Roughton, P. Byrne, H. A. H. Payne, A. C. Walker, R. Gilbert, Allan F. Turner, R. S. Brown, Vernon B. F. Bayley and F. A. Little.

The 17 Indian Solicitors were Khunderao Moroji, Bhaishanker Nanabhai, Nanu N. Kothare, Mansukhlal M. Munshi, D. B. Chitnis, S. M. Kanga, Ardeshir Framji, Merwanji Kaikhusrao, Balkrishna V. N. Kirtikar, Mirza Hoosein Khan, Chandulal Dayabhai, Pestonjee Kavasjee, Abdulla M. Dharamsi, Muljee Bhowanidass Barbhaya, Gulabchand M. Damania, R. M. Sayani and Ochharam Nanabhai Haridas.



Bombay Incorporated Law Society

The person who witnessed the signatures of the aforesaid subscribers was F. E. Dinshaw, Clerk to Messrs Crawford Burder, Buckland & Bayley, Solicitors, Bombay.

The available old records and reports reveal some interesting incidents. The Committee requested the Chief Justice and other Judges to make Saturday a Court holiday instead of Wednesday and to keep offices closed on Saturdays at 2.00 p.m. which was accepted. The appointment of Sub Committees from time to time to consider the standards fixed for the candidates at the Articled Clerks examinations, Resolutions inviting the Government to remove the sex bar disqualifying women from enrolment as legal practitioners in the Courts of the Country (1922). The removal of restrictions on the number of the members of the Law Society which was fixed as not to exceed 100, increased to 400. In 1928, the nomenclature of the "Chairman" of the Law Society was substituted by the nomenclature of the "President" of the Law Society by a suitable amendment made in the Articles of Association and since that time the Law Society has a "President" and not a "Chairman." In 1929, the Law Society members participated in a Solicitors' Conference at Calcutta where there was a proposal to form a Federated Council of Solicitors in India. The Law Society's representative Mr. Kirke Smith participated in the inaugural sitting of the Federal Court of India on 6th December 1937. New Rules regarding admission of Articled Clerks were framed by the High Court and came into force in May 1940 and pursuant to the Rules the Law Society took over the conduct of examinations and the first examination conducted by the Law Society was held in September, 1940. The Government of Bombay invited the views of the Law Society on various matters of law including proposed amendment to the

Indian Penal Code, Criminal Procedure Code, the Bombay Rent Act, the Indian Companies Act and several statutes and regulations. When India became independent the Law Society was invited to participate in the Flag Hoisting Ceremony which was held in the Central Court on the mid-night of 14/15 August, 1947 at 11.40 P.M. when the Chief Justice unfurled the Flag at mid-night. The then Chief Justice Sir Leonard Stone voluntarily stepped down to enable Justice M. C. Chagla, one of the senior Indian Puisne Judges, to take the office of the first Indian Chief Justice of the Bombay High Court. The Law Society felicitated its members who were 50 years in standing in 1979, in 1985 and again in 1993.

Despite the existence of the Dual System, with the enactment of the Supreme Court Advocates (Practice in High Court) Act, 1951, the Rules of the Bombay High Court were amended in December, 1952, to provide for the appearance of Advocates of the Supreme Court on the Original Side of the High Court without being instructed by an Attorney. In practice it had no impact on the dual system.

The records show that the Law Society celebrated its Diamond Anniversary by holding a dinner function on 28.1.1955 at the Taj Mahal Hotel where the Officiating Governor of Bombay Mr. Mangaldas Pakvasa (a Solicitor), the Chief Justice and other Judges of the High Court and of the Bombay City Civil Court were invited. Mr. Chimanlal C. Shah was the then President of the Law Society and Mr. M. B. Madgaonkar was the Hon. Secretary. It appears that the Golden Anniversary in 1944 could not be celebrated due to the prevalence of the Second World War and the food rationing regulations.

The Government of India appointed 14th February 1956, as the date on which the Notaries Act, 1952 and the Notaries Rules, 1956 were to come into force and pursuant to which many of the Attorneys got themselves registered as Notaries.

The Advocates Act, 1961 came into force on 19th May 1961 and is an Act to amend and consolidate the law relating to Legal Practitioners and to provide for the constitution of Bar Councils and an All India Bar Council. Sweeping changes were made in the law relating to Legal Practitioners. The existing law was contained in the Legal Practitioners Act, 1879, the Bombay Pleaders Act, 1920, the Indian Bar Council Act, 1926 and the Letters Patent of the various High Courts. These Acts provided for several classes of Legal Practitioners including Attorneys. The Act was enacted to give statutory expression of the need for the profession of law in India being integrated on an All India basis. The main features of the Act were the establishment of an All India Bar Council, a common Roll of Advocates having a right to practise in any Court including the Supreme Court, the integration of the Bar into a single class of Legal Practitioners to be known as "Advocates" and the creation of an autonomous Bar Council, one for the whole of India and one for each State. The Act when enacted recognized the continued existence of the legal system known as the Dual System then prevailing in the High Courts of Calcutta and Bombay and made special provisions in that behalf. The said two High Courts, if they so desired, could discontinue the system at any time. The Bar Council of Maharashtra was constituted in 1961 and on the first elected Bar Council of Maharashtra was elected Mr. R. A. Gagrath who was then the President of the Law Society. He was also elected a member of the Bar Council of Maharashtra for the second term.

Thereafter Mr. J. T. Desai also a former President of the Law Society was elected to the Bar Council of Maharashtra and was the Chairman of the Bar Council for the year 1972-1973.

The Law Society's office was first located on the first floor above the portico of the High Court Building, it was then provided accommodation on the third floor of the High Court Annexe Building (1941), it was then required to vacate the premises in 1948 with the establishment of the City Civil Court and shifted to 113, Mahatma Gandhi Road. However, on a representation made by the Law Society to the Hon'ble Chief Justice, accommodation was given to the Law Society, on the second floor of the High Court's new building from which it functions today.

One of the problems which the Law Society had to face and deal with was the continuance of two classes of legal practitioners' Barristers/Advocates on the one hand and Attorneys on the other hand and working under the Dual System transplanted in Bombay by the British following their English System. Records show that this problem was considered by distinguished Committees and Commissions since 1923. It was considered by the Indian Bar Committee's Report 1923-24 (known as the Chemier Committee Report). The West Bengal Judicial Reforms Committee Report 1949 (known as The Trevor Harries Committee Report), The All India Bar Committee Report 1953 (known as The Das Committee Report) and the Fourteenth Report of the Law Commission of India, 1958. All of these Reports opined in favour of the continuance of the dual system in Bombay and Calcutta. A Bill was introduced to amend the Advocates Act, 1961 to abolish the dual system. This resulted in

The Joint Committee Report of 1972. This Committee observed that the Dual System should be abolished but it did not make any specific recommendation as it felt that the matter be examined in all its aspects by the Government in consultation with the concerned courts and others. The Law Society placed its full case and representation at all stages before the Government and the various Committees including a detailed Memorandum dated 17th January 1974 to the Union Minister of Law and Judiciary.

Ultimately by the amendment effected to the Advocates Act, 1961 by Act 107 of 1976 with effect from 1st January 1977 the Dual System came to an end and from that day all the different classes of legal practitioners were fused into one class, namely, Advocates.

In 1976 on a Representation made to the then Union Minister of Law that even accepting the abolition of the dual system the class of legal practitioners "Attorneys" be not removed, the Minister did not accept the plea but indicated that there would be no objection to the Law Society on its own arranging for giving higher training to Articled Clerks and holding examinations and giving their own diplomas.

Accordingly, the Law Society at its Extra-ordinary General Meeting held on 23rd December 1976 amended its existing Memorandum and Articles of Association to comply with the abolition of the class of legal practitioners till then known as "Attorneys" and to provide for the further study of law by persons desiring to be members of the Law Society and conferment on those who successfully undertook training and test

qualification a certificate of being qualified as a Solicitor. The resolution was put to vote and unanimously passed by a well attended meeting of the members. The Law Society has since 1977 continued to follow the same standards of training and professional tests and continued to ensure that all tests and examinations were presided over by a Sitting Judge of the Bombay High Court. The Law Society has accepted and adapted to the concept of the fusion of all legal practitioners into one class of practitioners; viz. Advocates and is endeavouring to provide to any Advocate who so desires additional training and qualification. This opportunity is open to all Advocates. Whether an Advocate chooses to avail of this opportunity or not, there is no disadvantage or disability even if he does not choose to do so as all legal work can be done by all Advocates.

The examinations held by the Law Society and the qualification of an Attorney were recognized by the Supreme Court of India when it provided in its statutory Rules viz. The Supreme Court Rules 1966 the recognition of an Attorney to be eligible to be enrolled as an Advocate on Record vide the provisions of Order IV Rule 5(ii) (a) without any further training or test. After the abolition of the class of legal practitioners till then known as Attorneys, on a Representation made by the Law Society to the Chief Justice and other Judges of the Supreme Court, the Supreme Court recognised the qualification of "Solicitors" and passed an Order under Article 145 of the Constitution amending the Supreme Court Rules and incorporating therein an express provision in Order IV Rule 5(ii) (aa); viz. that a Solicitor on the rolls of the Bombay Incorporated Law Society as being eligible for exemption from training and tests and being eligible to be enrolled as an Advocate on Record, under the Supreme Court

Rules. Likewise, the Law Society of England and Wales had also recognized the qualification of an Attorney and after the fusion of the class of legal practitioner known as Attorneys in Bombay as Advocates, on a representation made by the Law Society, the Law Society of England and Wales recognised the qualification of a Solicitor under the examinations held by the Law Society after 1977 as candidates eligible for qualifying as English Solicitors.

In December, 1992 the Bar Council of Maharashtra and Goa passed a resolution to the effect that all legal practitioners irrespective of their designation should designate themselves as Advocates and should not prefix or suffix any designation, including, *inter alia*, of Attorney or Solicitor. On a Representation made to the Bar Council of Maharashtra and Goa by the Law Society on 12th April 1993 the Bar Council was good enough not only to receive the Representation but also to accord a personal hearing both at its Sub Committee level and at its Full Committee level and after being fully apprised of the history and the relevant facts including the fact that the qualification of a Solicitor was recognized by a constitutional Order passed by the Supreme Court under Article 145 of the Constitution, the Bar Council did not implement the resolution.

Today, the legal profession in India is unified and there is one class of legal practitioners. All the members of the Law Society are Advocates and on the rolls of the Bar Council. However, the field of law is so vast and varied that there is a necessity to specialise in different fields of law. It is the totality of the different types of work of all Advocates in their respective fields of law that ultimately renders professional services to the consumers of law.

The Law Society on the occasion of the inauguration of the Centenary Year, held a function on 15th December 1993. Mrs. Justice Sujata Manohar, Acting Chief Justice of Bombay High Court as she then was, was the Chief Guest and in concluding her address observed as follows:

“So let me extend you my congratulations on this happy occasion. It is a century not out despite many googlies bowled at you and I am sure that with your skills and ability you will play the game with the same spirit in future”.

Mr. Justice V. D. Tulzapurkar, a member of the Law Society and a distinguished Judge of the Bombay High Court and the Supreme Court was the Guest of Honour at the said function and in the course of his address he observed as follows:

“As I said, it has encountered many storms big or small This institution, this Society of yours has withstood the storms very well and I must say whether the dual system theory was legally abolished or not it still continues to be in existence not only in the High Court of Bombay but also in the rolls of Advocates on Record of the Supreme Court.”

The highlight of the Centenary Year activities was a Two Day Seminar on Business Law held on 10th and 11th December 1994 at the Hotel President. It discussed, amongst other subjects, the question of “Future of the Legal Profession in the Next Century”. This Seminar was inaugurated by the Chief Justice of India Mr. Justice A. M. Ahmadi and the Chief Justice of the

Bombay High Court Mr. Justice A. Bhattacharjee was the Guest of Honour. This session was chaired by Mr. Y. V. Chandrachud, former Chief Justice of India and amongst the Guest Speakers was Mr. Justice M. L. Pendse, the Senior most Puisne Judge of the Bombay High Court. Also participants as Guest Speakers were the Advocate General of Maharashtra, Mr. T. R. Andhyarujina, the Additional Solicitor General of India, Mr. R. A. Dada, the Chairman of the Bar Council of Maharashtra and Goa, Mr. G. B. Lohia, the President of the Bombay Bar Association, Mr. I. M. Chagla and the President of the Advocates Association of Western India Mr. W. N. Yande. This Seminar at the end of the Centenary Year was a true reflection of the fact that the members of the Law Society are part and parcel of the one class of Legal Practitioners and the profession functions as a fused profession. Most of the Hon'ble Judges of the Bombay High Court attended.

It may be mentioned that when the Law Society was formed there were 33 members, 17 Indian Attorneys and 16 English Attorneys. Today the membership is about 660. Today there is no restriction on the number of members. The membership is comparatively small but it is due to want of a working need for such training and test or the want of a desire to undertake additional training and tests. The Law Society has noted a marked increase in the number of Advocates desiring to undergo further training and tests. There were no lady Attorneys till 1932 and today the Law Society has 147 lady Solicitors. Today there are 213 Articled clerks awaiting to be qualified.

At the time when the Law Society was formed in 1894 the High Court consisted of Chief Justice Sir Charles Sargent and six



1894 *Sitting (Left to Right) : Farran J., Sir Charles Sargeut, C. J., Bayley J.
Standing (Left to Right) : Candy J., Ranade J., Jardine J., PParsons J.*



1950 *Sitting (Left to Right) : Rajadhyaksha J., Weston J., Chagla C.J., Coyajee J., Bhagwati J.*
Standing (Left to Right) : Chainani J., Dixit J., Bavdekar J., Gajendragadkar J., Tendolkar J., J. C. Shah J.

Puisne Judges, one of whom was an Indian Judge Mr. Justice Ranade. In 1950 when India became a Republic the High Court consisted of Chief Justice Mr. M. C. Chagla and ten Puisne Judges, one of whom was an English Judge, Mr. Justice Weston. Today, the High Court has a sanctioned strength of fifty-four Judges and has Benches at Nagpur, Aurangabad and Goa.

The profession of Attorneys now (Advocates and Solicitors) has had a checkered career. References are made in the Centenary Year Publication published by the Bombay High Court during its Centenary Year (1862-1962) which are of interest to the profession. Chief Justice Beaumont recalls that he was a great friend and admirer of Sir. Dinshah Mulla and Mr. B. G. Kher and that Mr. B. G. Kher was instrumental in the setting up of the Government Law College, Bombay. Chief Justice Chagla recalls that he considered Sir Dinshah Mulla as the most learned of all the lawyers present at the time and as an eminent and distinguished commentator whose books are even today in every lawyer's library. Chief Justice Chagla notes that Solicitors were a great institution and recalls with nostalgia, a long table in the middle of the Bar Room where in one corner used to sit Solicitors presided over by Jamietram who was a great institution in himself. Sir Jamshedji Kanga recalls that there was a time when professors of the Government Law College were appointed from Barristers and Advocates O.S. and Pleaders and never Solicitors. However, Sir Lawrence Jenkins appointed Mr. Dinshah Mulla then a Solicitor as the first Solicitor Professor. It is also interesting to note that the only instance of a reference made for a Solicitor on his death (according to Sir Jamshedji Kanga) was

the case of Mr. Nicholson a partner of M/s. Little Smith, Frear and Nicholson (now M/s. Little & Co., Solicitors) who was for many years a Government Solicitor. When he died Sir Basil Scott made a reference from the Bench. Mr. K. M. Munshi notes with great appreciation the work done by F. E. Dinshaw of Payne & Co., who he considered a very formidable Solicitor cum Business Man who handled his litigations like a battalion with Napoleonic strategy and his preparation left nothing to be desired. Of Jamietram of M/s. Matubhai Jamietram & Co., he recalls that nobody could beat him in point of preparation and strategy and further recalls how for many years Jamietram presided over the little durbar of Solicitors held every working day morning in the Bar Common Room. Of Mr. Mancherjee Vakil he notes that his instructions were always thorough, meticulous and exhaustive. One must realise that these are references to the days of comparative leisure and less pressure as a contrast to the present age of no leisure, full pressure and hurried preparation of cases and which has to an extent undermined the old methods and standards of work.

At the time of the Centenary Year of the Bombay High Court in an informative book entitled "A Judicial History of Bombay During the British Period" which was written by Mr. P. B. Vachha, Mr. Vachha writes when dealing with Ancient Solicitors as follows:

"In contrast with the London Solicitors of the era of Dickens, the Bombay Solicitor, with of course a few black sheep, appears to have made and maintained a good reputation in the profession and also enjoyed a good social status. Some of the early European

Solicitors were men of outstanding abilities and enjoyed complete confidence both of the Judges and of their clients Important legal business both of Government and of great commercial houses was in their hands."

At the end of the Centenary Year, the Law Society is proud to mention that some of its illustrious members became Judges, like Sir Dinshah Mulla, Sir Noshewan P. Engineer, Mr. Justice K. T. Desai and Mr. Justice V. D. Tulzapurkar. Some of its members gained distinction in public life like Mr. B. G. Kher, Mr. Mangaldas Pakvasa, Mr. Chimanlal C. Shah, Mr. Shantilal Shah. Many of its members have become Presidents of the Chambers of Commerce, Directors of important corporations, Trustees of important Trusts and invited to participate in judicial work and committees.

The Law Society wound up its Centenary Year with its Members Get Together at the Taj Mahal Hotel on 15th December 1994 and the function was well attended. A Centenary Cake was prepared and cut, a toast was taken to the occasion and a resolve was made to continue to do better.

The Law Society has been served by its office bearers, namely, its Presidents, its Vice Presidents, its Hon. Secretaries and its Hon. Asst. Secretaries who have over the last hundred years contributed to the growth and welfare of the Law Society.

The Law Society has had 16 Presidents over the last period of 100 years viz.,

- (1) Mr. R. S. Brown (1895 to 1903)
- (2) Mr. Leslie Crawford (1903 to 1921)
- (3) Mr. H. A. H. Payne (1921 to 1943)
- (4) Mr. D. J. Ferreira (1943 to 1948)
- (5) Mr. Tricumdas Dwarkadas (1948 to 1954)
- (6) Mr. C. N. Caroe (7.4.1954 to 9.10.1954)
- (7) Mr. N. H. Sethna (1.11.1954) to 1960)
- (8) Mr. R. A. Gagrat (1960 to 1968)
- (9) Mr. M. V. Jayakar (1968 to 1969)
- (10) Mr. J. T. Desai (1969 to 1971)
- (11) Mr. B. K. Daphtary (1971 to 1977)
- (12) Mr. S. K. J. Mody (1977) to 1982)
- (13) Mr. J. P. Thacker (1982 to 1985)
- (14) Mr. M. T. Tijoriwala (1985 to 1987)
- (15) Mr. D. D. Damodar (1987 to 1990)
- (16) Mr. J. R. Gagrat (1990 to 1994).

Mr. H. A. H. Payne was the longest serving President over a period of 23 years. He is the author of a book entitled "Rights Duties and Obligations of Attorneys in India", which was published by the Law Society and was given gratis to every member of the Law Society and to every Articled Clerk of a member of the Law Society during the year 1941. In recognition of the unique services rendered to the Law Society, the Committee of the Law Society put up his portrait in its Society's Room in the year 1943 when he ceased to be the President of the Law Society and which portrait is still there. In the very following year in 1945, Mr. Payne suddenly expired and the Committee of the Law Society placed on record its sense of loss and appreciation of the meritorious services rendered by him to the Law Society.

The Law Society was also served by dedicated Hon. Secretaries. The first Hon. Secretary was Mr. Vernon B. F. Bayley. The longest serving Hon. Secretaries were Mr. N. H. Pandia (1921 to 1942) and Mr. M. D. Madgaovkar (1943 to 1965) followed by Mr. S. K. J. Mody (1966-1969), Mr. D. D. Damodar (1970-1979), Mr. Anil A. Mehta (1980-1983), Mr. Adil S. Kajiji (1984-1990) and Mr. P. A. Jani (1990-1994).

The Law Society also instituted the office of the Vice President in 1939 and among the notable Vice Presidents were Mr. F. A. Vakil, Mr. M. N. Pochkhanawala and Mr. C. C. Shah. The Law Society also instituted the office of Hon. Asst. Secretary on a regular basis on and from 1966 onwards. One of the important offices was and is the office of Member in Charge of Examinations since 1940 when the conduct of the examination was handed over by the High Court to the Law Society. This

onerous task has been ably handled by Mr. M. D. Madgaonkar from 1940 to 1965; Mr. S. K. J. Mody from 1966 to 1976 and from 1977 till now by Mr. Adil S. Kajiji.

It is, hoped that during the next Century the members of the Law Society will make the Society bigger and better and ensure that its members acquire requisite skills, render professional services of a high order and adhere to the highest standards expected of professionals.

The reward of a Solicitor is aptly stated in the words of Mr. Martineau as under:

"Starting as clients many become lifelong friends, whose in most thoughts one gets to know, and there is great satisfaction in realising that there are people who rely on one's judgment and turn to one whenever they are in difficulty and also regard one as a confidential friend and adviser. Some of my clients are the best and dearest friends I possess. You see the children grow up and they in their turn very often look to you as their guardian and counsellor. The charm of a Solicitor's business is therefore in the clients he possesses and the friendship he makes amongst them."

The role of a Solicitor from a family lawyer to a business lawyer is now emerging into one of a modern lawyer. The turn of the century is a time for a new approach: with the liberalisation and globalisation of trade, commerce and industry and interaction between the legal practitioners practising in different overseas jurisdictions. The legal profession will have to adjust its sights to the new emerging scenes and adapt itself to its needs and requirements. The role of a legal practitioner is no longer

confined to cases in Courts or to act as a family lawyer or as a business lawyer but will be an all embracing role of a modern lawyer in tune with international needs and requirements.

Even at the turn of the Century the following words of Francis Bacon are still relevant:

“I hold every man a debtor to his profession; from which, as men of cause do seek to receive countenance and profit, so ought they of duty to endeavour themselves, by way of amends, to be a help and ornament thereunto. This is performed in some degree by the honest and liberal practice of a profession, when men shall carry a respect not to descend into any course that is corrupt and unworthy thereof and preserve themselves free from the abuses wherewith the same profession is noted to be infected; but much more is this performed if a man is able to visit and strengthen the roots and foundations of the science itself; thereby not only gracing it in reputation and dignity, but also amplifying it in perfection and substance.”