

## MEDICINE AND THE LAW IN INDIA

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I SHOULD like this evening to speak of the development of our two professions in India; for if I were to confine myself to the present position I might have little of moment to say. Moreover, an acquaintance with the past is necessary to a proper understanding of the present. Members of our professions visiting India today, especially if they confined their attentions to the principal cities, comparable in size to Melbourne and Sydney, say, as want of time and the absence of hotels elsewhere would probably necessitate, they would not find, I think, a great deal of difference in the practice of our two professions. In the large hospitals they would find that almost all the doctors held British degrees, or at any rate degrees recognized by the G.M.C.; and that they were adopting the same principles as here, though they might be surprised to see patients on mats spread out on the floors of the verandas and elsewhere. In the High Courts they would find counsel propounding their viewpoint in English and referring to Privy Council and other English decisions, as well as to Indian High Court decisions, in support of their arguments. After the evidence and arguments had been closed, the judges would either dictate judgments in English from the Bench or reserve them to be delivered in the same language later. Counsel and judges would be clothed as here, except that they would probably wear no wigs. A visitor might be surprised to see that in walking between their chambers and the court each judge would be preceded by a court servant (two for the Chief Justice), dressed in 18th century costumes and carrying a mace. The judge's lunch hour would not be so undisturbed as here; for that hour—or rather three-quarters of an hour—is the occasion when clerks would seek the instructions of judges concerning administrative and other matters. Then, too, advocates and others seek

them out in connection with a host of matters which may or may not be related to their professional work.

I have stressed at the outset the essential conformity of our two professions in India to the general standards adopted in all English-speaking countries; because I would like you to bear that in mind as I trace the development of our professions from the time the British first had connections in India and point out differences that might, in the absence of these opening remarks, lead you to think that our professions are conducted very differently there. There are differences, of course, especially outside the State capitals; but they are being gradually narrowed.

Before I go further, I feel that I should say that conditions in India throughout the British connection have changed rapidly and are still changing. Take, for example, the matter of caste. When I first went to India forty years ago the lowest of the West Coast outcastes would not walk across a bridge lest he should defile a caste man, and would cross a stream far away from the bridge. If by chance he had to pass a spot where there was a possibility of a caste man approaching him unwittingly, he would cry out aloud to warn anybody who might be near. Between castes, high and low, there were set distances within which proximity would pollute. The exigencies of public travel softened these distinctions, though they remained very real. In 1925, when I left the district in which I first served as a judge, I was given a farewell tea party. There, the Bar was intensely orthodox. Even among the Brahmins, the highest of the castes, there were such differences that the highest of the sub-castes would not take water from the hands of a lower sub-caste. So at this tea party only three members of the Bar felt advanced enough to sit down at a table with me and sip a cup of tea; and even they would not eat any of the food set before me. The other members of the Bar stood round watching. Not long before this, I attended masonic gatherings at times in another district, where people were nothing like as orthodox as in the district I mentioned above. Even there, at a gathering of men looked at rather askance by the majority of citizens as being distinctly lax in the observance of their caste practices—for so Masons were and are regarded—the food at the banquets had to be cooked by Brahmins and served by Brahmins; and the Brahmins sat at a separate table. Long before I left India in 1950, at any rate in the large cities, people of all kinds sat down together, the more orthodox overcoming their scruples to that extent and eating an orange or other fruit always provided for the

orthodox, who were termed fruitarians. They always ate a substantial meal before attending the dinner party. In an invitation to a dinner party guests were asked to say whether they were fruitarians, vegetarians, or non-vegetarians. Caste consciousness, as I shall have to point out later, is still very real, because despite much freer mingling of the communities, there is no intermarriage worth speaking of. When I say that there are about a thousand castes in the old Madras Presidency alone, who do not intermarry and only rarely interdine, it is not difficult to see that people must for a long time remain caste conscious and, for those of the higher castes, caste proud. Before leaving this subject, I ought to acknowledge that the Brahmins have done more than any other caste to uplift the depressed classes. One good man I knew well attended daily an industrial school to help depressed class boys learn a trade; but upon his return home he was not allowed by his wife and family to re-enter his house until he had removed his clothes, washed himself well, and put on garments that had not been worn outside the house. I shall have to say something more about caste later, in so far as it has affected the class of practitioners that have adopted our two professions; but I have cited the above illustrations to show that changes towards a more democratic attitude are taking place, and those in India with an international outlook—and they are many—are aware of the impediments that caste imposes, and deplore it. Nevertheless, even they do not, except in rare cases, marry their daughters outside their own sub-caste.

One other preliminary warning that I should give is that although I believe that what I have said and will say in this paper is true generally of all parts of India, I speak with confidence only of the old Madras Presidency which, roughly speaking, extends about a thousand miles from the southernmost point of the peninsula up the east coast, about 400 miles up the west coast, and enclosed by a line roughly joining these points on the east and west coasts. The population of that area, excluding the then native states of Hyderabad and Mysore, was about fifty millions. In orthodoxy and caste rigidity I should say that Madras surpassed all other parts of India, as did its people in intelligence, though Bengal might dispute the latter claim.

Of my listeners, the doctors have this advantage over the lawyers. They have read in their professional journals of the excellent work that doctors are performing in India and the contributions they have made to research and medical knowledge;

and they know from W.H.O. publications something of the problems that confront the profession in India, whereas it is most unlikely that any lawyer present will have heard the eloquent presentment of a case by an Indian lawyer or even read a judgment by an Indian judge.

In thinking of India and its people, it has to be borne in mind that India, as a political entity, is the creation of the British. Only twice in its pre-British history has any single power succeeded in extending its sway over the greater part of India. Once was during the reign of the great Buddhist emperor, Asoka, in the third century B.C., and the other during the dominance of the Mughals in the 16th and 17th centuries; but their conquests resembled those of Alexander the Great, the Persians at their greatest, the Mongols, the Romans, or of Napoleon. India was more akin to divided Europe. It included hundreds of different races, speaking a variety of languages greater than that found in Europe. The constitution of India cites twelve major languages; but there are many other important languages, each spoken by millions of people. Each language has its own script, so that even those who learn to speak another language are unable to read or write it unless they also learn the script. Even in my limited experience I had to learn six scripts, all very different.

Prior to the coming of the British there were no courts such as we would recognize today. When a ruler travelled over his domain he would hold durbars at which, in theory at least, any subject could approach him with his grievance; and if he succeeded, rough and ready justice was done in the manner of King Solomon, in the paper we heard at the end of the old year. In villages, however, there seems always to have been a system of local self-government, whereby law and order was maintained by the village elders, acting collectively at gatherings called panchayats, from the word "panch", meaning "five", the number of elders ordinarily assembled. Disputes between members of the same caste regarding general behaviour, marriage, inheritance, and the like, were decided by caste panchayats, and woe betide the man who failed to do as directed by the caste elders. Failure to obey would lead to the outcasting of the offender, which would mean that he could not carry or obtain the services of a barber, scavenger, shoemaker, blacksmith, washerman, and the rest, nor could he obtain water other than furtively from a stream. Each caste had its own rules of conduct, and even today acts that would be contrary to the standards of the majority of the citizens would

pass without criticism if they were permitted by the caste of the person responsible for the acts. Acts of moral turpitude, involving dishonesty, are smiled at with a shrug of the shoulders if not directly opposed to an injunction of caste rules. As regular courts were introduced the power of the village panchayats declined; but for the past two or three decades, the British and their successors have given statutory powers to these village tribunals. Although many of these have lost the confidence of villagers because of faction or partiality, they in fact enable the poor man to secure a rough and ready justice that he could not afford if he had to seek recourse to one of the higher courts. In Australia one has to bear with injustice and loss unless one can value the injustice at £50 or more; but in the extensive hierarchy of courts in India, one can always have one's case heard, at any rate unless local tyranny prevails. Even then, touring magistrates are likely to hear of it and protect the injured party.

Because of the insecurity that always prevails in a country that is loosely governed, the British had to establish regular courts to deal with serious crime that could not possibly be controlled by village elders; and it is not unnatural that what they set up should follow the English pattern. As soon as was practicable the principal branches of law were codified; and so well was some of the work done under the directions of Macauley and others that some of the codes have had to be but little amended since. Had there been any firm and universally practised criminal law current in India, the East India Company would doubtless have adopted it; for they desired to interfere as little as possible with the practices and beliefs of the people; but the Muhammedan Criminal Law then prevalent under the Mughals was too crude to be put into practice, though it took the British a long time to prohibit such cruel practices as *sutee*, the sacrifice of widows in the funeral pyres of their husbands, and other forms of human sacrifice.

The British did not find it a very difficult task to secure personnel for their new administration, including the administration of justice. All Brahmins have to study in their youth their ancient Hindu Vedas and so, apart from the learning that they thereby garnered, they had trained minds. They had an adaptability, too, acquired by taking office under the various rulers that from time to time governed the areas in which they lived. When they saw that the British had come to stay, they rapidly learned English and were available to fill any office open to them. However foreign the new law might seem to them, they soon learned to think in

terms of that law and to adopt it as their own. At first as clerks, and then as magistrates and judges, they made their mark and gradually replaced the British personnel, who had perforce to man the principal offices in the first instance. Courts were established in the Presidency towns (i.e. the State capitals) by the Crown, and not by the East India Company, primarily for the maintenance of law and order among the civil servants and merchants, to say nothing of the doctors, who were Crown employees, and the lawyers. As these Crown courts grew in stature, Indians, almost always Brahmins, were appointed as judges from very early days; and it was found that they were most competent.

With the establishment of courts, there had necessarily to be a legal profession to present the client's case competently before the court; and Brahmins took to law as the proverbial duck to water. They doubtless argued at first in the local tongue; but soon found that they could clothe their legal thoughts better in English than in the vernacular. They also acquired great skill in studying the whims and weaknesses of magistrates and judges, and considerable nimbleness and subtlety in argument. When elevated to the Bench they were naturally quick to note the fallacies in arguments that they themselves would have put forward had they been arguing from the Bar.

At a time when corruption was rampant in other walks of life, even among the British, the Brahmin judicial officers were relatively free from it. If I may be permitted an excursus, I would like to refer to a father in the north of India who was giving his son advice on the choice of a career. He told him that a man's salary was like a pond that soon dried up, whereas "bala", which may be translated as "above", and meaning that which is received over and above one's salary as illegal gratification, was like an ever-flowing stream, and that the son should therefore not give undue consideration to the salary, but rather to what could be obtained in addition to the salary. He had then but little difficulty in selecting a particular government department—which I will not mention—for there the stream ran strongly and smoothly. One can well imagine that the temptations of a magistrate or judicial officer are very strong and his power is great; but it is a tribute to the judicial service that it has a reputation for strict probity. Corrupt judicial officers are known and universally condemned; and their misdeeds never fail to reach the ears of those in authority.

The dominance of the legal profession—as indeed of other learned professions and of the administration generally—by one community numbering not more than 10 per cent of the people—is indeed an interesting phenomenon; but their dominance could not for all time remain unchallenged. The trading castes found trading and commerce too profitable to desire very strongly incursions into the legal profession; but some of the leading land-holding castes had aspirations, and once in a while even a member of a depressed class would try to elbow his way in. When popular advisory and legislative bodies grew in power and non-Brahmins became more vocal, they used their influence to impose upon the governments a roster system, whereby all vacancies in all offices under the control of the government were filled in turn by members of the various castes. The government could not however control recruitment to the Bar. Each district—each munsifi in fact—had its Bar Association; and I do not remember many such that had more than 10 per cent of its members who were not Brahmins. Of that 10 per cent, all but a handful belonged to one of the leading agricultural castes. This was no doubt partly due to the fact that more humble aspirants had no father, or father-in-law, to sponsor them.

Although the criminal law and other branches of law relating to, for example, contracts, torts, the sale of property, and a host of other matters, could conveniently be dealt with under principles akin to English law, this could not be done with regard to the laws of inheritance and those matters which regulate a man's relations with the members of his family and do not concern the public. In these matters the British attempted to administer Hindu Law to Hindus, Muhammedan Law to Muhammedans, Parsee Law to Parsees, and a host of other personal laws to those who did not fall within these categories. Even within Hindu law there was almost limitless variety; and the attempt was made to administer these branches of the law to each man according to his caste practice. This was not always easy, especially when a litigant or his ancestors came from some other part of India where their practices were unknown to the courts trying the suits or where parties to a dispute belonged to a backward community whose members could not explain their customs logically. When the British set up their civil courts, the variations of Hindu and Muhammedan law were not at all well known, even amongst Hindus and Muhammedans themselves, and great research was made amongst the ancient writings and commentaries to discover

what principles were to be applied to whom and over what areas; and the commentators often spoke with very different voices. Most of the translations of the voluminous texts and ancient commentaries were made by the British themselves, and not by the Brahmins, though until the rulings of the courts began to crystallize, a Hindu versed in his sacred lore, or a Muslim in his, sat with the judge as an assessor.

In order that the law may be the handmaiden of the people, there is a regular hierarchy of courts which obviates the necessity by the ordinary man of having to travel long distances to obtain justice or to be involved in expense incommensurate with the value of his suit. I have already spoken of village courts or panchayats. The lowest of the courts presided over by a trained and competent lawyer is that of the District Munsif, whose jurisdiction is roughly that of one of our shires and whose pecuniary jurisdiction would be limited to about £500. He has also a summary jurisdiction to dispose of simple suits for money; but his trial of complex land disputes, especially if they involve the use of water or some question of jurisdiction, might be a very protracted one. The next higher courts, those of the Subordinate Judge, would have unlimited civil jurisdiction and a limited criminal jurisdiction over an area about a third or fourth of that of Victoria. Then came the District and Sessions Judge's Court, with unlimited civil and criminal jurisdiction over an area as great as that of Victoria and a wide appellate jurisdiction. Finally comes the High Court, with original jurisdiction over the city in which it is situated and appellate and revisional jurisdiction over the 26-30 District and Sessions Courts, about 300 District Munsifs Courts, and a myriad of Panchayat and Magisterial Courts. Most of the administration of justice for this large area and its 50 million or more inhabitants, lies with the High Court. Until the last decade or so, there was no All-India Court, any appeal from a Presidency High Court lying direct to the Privy Council. Only after an attempt was made to introduce a Federal system of government in India was a Federal Court established, principally to decide constitutional matters and disputes between states. It has now all the powers usually associated with the highest tribunal in the country.

When full independence was obtained, there was some suggestion that a system of government rather different from the British and a somewhat different legal system would suit the genius of Indians rather better than those so far established; but



Indians would have none of it. A suggestion favouring a different political system was regarded as an imputation that Indians were not completely ready for full democratic government. As to the law, although there was one strong advocate of an eclectic system, culling the supposed best from a number of countries, no change of any moment was made.

I need say very little about the nature of the law in India; for except with regard to personal law, it resembles so closely the law that we follow here in Australia. I will however mention a few points of difference before passing on to discuss the medical profession in India. The first is with reference to the matter of adoption, discussed so interestingly in our last paper of 1955. There, mention was made by the learned lecturer, as well as by several speakers, of the effect on children of a disclosure of the fact that they had been adopted by their parents and not born to them. In India the effect of such a disclosure would be absolutely nil. The purpose of adoption is primarily to have a son who can make offerings to the manes of the adoptive father and his ancestors in the direct male line. After the adoption ceremony has been completed there is no difference, whether in the eyes of the child itself, or in the eyes of the public, between the adopted boy and a natural-born son. The boy, however, is generally related to his adoptive father—often a nephew—and is old enough to participate in the adoption ceremony and understand it. Girls are not adopted; and I have never heard an Indian express a desire to adopt a girl. The respect paid by every boy, and even man, towards his elders may explain this lack of desire. Moreover, it costs a lot of money to marry a girl, and she marries young, and so would soon be lost to adoptive parents, whereas boys continue to live in the family house even after marriage. I have implied that there can be no legal adoption of a girl; but that is not strictly true. Women who belong to the caste of dancing girls or prostitutes can adopt a girl to prevent a decline of that profession, though recruitment by degradation from other castes should ensure the maintenance of numbers.

Under the personal laws of almost all the people, polygamy is permissible; and it is not uncommon for co-wives to get on quite well together. Despite the absence of any legal bar to taking more than one wife it is not very common, and it is generally resorted to only when the first wife fails to give birth to a son or if she misconducts herself in such a way as to deprive her of her right to maintenance. From the man's point of view, provisions

for divorce are unnecessary, as he can turn an unfaithful wife out of his house and take another. A woman has not the same remedies; but she can refuse to live with a husband who has been cruel to her and claim maintenance. In some of the lower castes divorce is common, the lover paying to the husband the bride price by way of compensation and then marrying the girl.

Another point of Indian law worthy of mention is that murder has always been punishable by transportation for life (i.e. penal servitude for life) as well as by death; so that where there seems some extenuating circumstances, such as in murder committed in the heat of passion or where there is some mental infirmity not covered by the M'Naghten rules, the judge can impose the lesser sentence. That provides, in the latter case, an opportunity for observation in jail of the mental condition of the prisoner and for his removal elsewhere, or early release, if these courses seem more fitting. Judges here, as apparently in Britain, are averse to being empowered to exercise a discretion as to the sentence to be imposed in capital offences; but I can think of no adequate reason why they should not assume all the responsibilities arising out of the confidence that the public attach to their high office.

Finally, on this part of my paper, I should like to say a word about juries and unqualified practitioners. The practice with regard to juries varies from province to province, except that nowhere, to the best of my knowledge, are jurors empanelled for the trial of civil matters. In the old Madras Province trial before the High Court in criminal matters was by a judge and jury of nine. The judge could accept any majority verdict other than a bare five to four, in which case the matter was retried at the next sessions. The judge could moreover refuse to accept a verdict and set down the case for fresh trial at a future sessions. Outside the presidency town, serious offences against property were triable by a judge and jury of five, a bare majority verdict being sufficient. If the judge disagreed with the verdict, he could refer the case to the High Court, where the matter would be argued on the evidence already recorded. If the prisoner was to be tried for murder or other serious offence against the person, trial was by the judge and four assessors. The assessors expressed their opinions individually; but the judge had to assume full responsibility for his decision. In general, the jury system is not popular and has not the confidence of the people. When factions exist, their impartiality is suspect, while in murder cases many jurymen hesitated to return a verdict of guilty, not because of any doubt concerning

the guilt of the prisoner, but because they are not willing to accept responsibility for the consequences of their verdict. Since, in property cases tried in the Sessions Courts the prisoners were almost invariably old lags, the jurymen thought that the security of their own property would be enhanced if the prisoner were kept under confinement and so would be inclined to convict. If he were not guilty of the offence with which he were charged, he was almost certainly guilty of some other offence. I am informed that the jury system has been abolished in the Madras Province, except in High Court trials.

Speaking of factions, the body of a person who had met his death by accident or even natural causes was not infrequently utilized to foist a case on the other faction. "Why waste a corpse," they seemed to ask themselves.

The great majority of legal practitioners are in theory both solicitors and barristers; but in practice the clever village Brahmin accountant (and sometimes the village schoolmaster) does most of the conveyancing and often foments litigation, which he then takes to a qualified practitioner, manipulating and manufacturing evidence and expecting a good commission from the qualified practitioner. Even advocates at the head of their profession can rarely ignore these men. This evil may well persist for a long time; for there is little or no endeavour made to suppress it.

In the pre-British period there were no medical practitioners with a scientific training. The most reputable Hindu "Vaidyas" had as their stock in trade a number of old-wives remedies derived from various indigenous herbs, combined with the recital of mantrams, i.e. passages from the vedas or sacred books. These men were, of course, Brahmins. They practised no surgery, presumably because it seemed repugnant to the highest Hindu ideals. There was also an abundance of quacks, who had more influence in the villages than the regular vaidyas. They mixed strange brews, as did their fellows in Europe in the Middle Ages. The Muhammedan Hakims had little learning and what they had seemed to be a debased product of the teachings of Galen, who was of great repute in Persia and whose teachings were spread in India by the court physicians of the Mughal emperors. The Hindu and Muhammedan systems have long been crystallized, and are known as the Ayurvedic and Unani systems. The East India Company, deeming these systems unscientific, and in any case lacking in qualified and reputable practitioners willing to accompany an army, trained some British, as well as Indians, for three years

in a course of medicine to be practised on their sepoy or native troops. (If I may be allowed a digression, the expression "native" did not then have any derogatory meaning; because the term "Indian", or a translation of it, would not have been understood. In the conglomeration of races not yet welded into a nation, a native would describe himself in all probability by his caste. If he wanted to ignore his caste, or was ashamed of it, he would describe himself as a Tamil, a Maratha, a Bengali, Punjabi, or other designation to indicate the language spoken by him. He would certainly not describe himself as an Indian.) These doctors trained for a short term were put in charge of a dispensary and were named sub-assistant surgeons. Over a number of these would be an assistant surgeon, who was a sub-assistant surgeon who had been promoted, and over these again a surgeon with a British degree, usually a man from Britain, though Indians in increasing numbers came to fill these positions. These last became the famous I.M.S. (Indian Medical Service), which had wonderful opportunities for surgery and was, I think, one of the finest, if not the finest, medical service in the world.

Services intended originally for the Army quickly extended to the civil side and these three cadres of doctors were stationed throughout India as the country became peaceably settled. Roughly speaking, there was a dispensary to every 50,000 people and over it presided a sub-assistant surgeon. At district headquarters would be an I.M.S. surgeon, though later these were gradually replaced by assistant surgeons, the I.M.S. men being more and more in demand to staff the increasing number of large hospitals in the Presidency Town. From the first, medical attention and medicines were free and have remained so ever since, though many a doctor lined his pockets by demanding a rupee or two (a rupee is somewhat less than a florin Australian) before he would see anybody. It was not only the doctor who looked for extra money this way. The hospital servant who stood at the gate to regulate ingress and egress generally demanded a fee of a few pence unless the sick person were armed with a letter of introduction to the doctor from some local person of influence. In the early days, however, the difficulty was not to have the sick treated, but to get them to submit to treatment. Not unnaturally, this took time and waited upon results that the people could see for themselves. Since surgery had no rival in the indigenous systems, it was through that—and later through midwifery—that confidence in western medicine grew. Walking down the streets, especially in

rural areas, one was struck by the large number of people that should have received treatment years before, many of whom were dreadful to look upon. This state of affairs was in part due to apathy and fatalism, in the belief that what God had sent them must be patiently endured. If this was true of men, much more true was it of women, who could not be seen by men doctors. Even amongst the less orthodox, a woman would have to be very ill indeed before a doctor was consulted. The father or husband would describe the symptoms and the doctor was expected to prescribe. If a man could be prevailed upon to allow a man doctor to see a woman of his household, the doctor was allowed to question her but not to examine her. In the Madras Presidency purdah was not very prevalent, but in the north where it was, the doctor's task was even more difficult. There, the woman would be behind a screen; and if the doctor wished to see her tongue, a liberal-minded and progressive husband might allow a slit to be cut in the screen through which the lady could thrust her tongue. The fate of a poor woman whose pregnancy or delivery went wrong, can well be imagined.

There has never been a lack of professional midwives of the Barber class who clawed poor women internally and externally, and often caused, rather than prevented, a woman's death. These were filthy women who used filthy rags as dressings, and cowdung as poultices. (I may say parenthetically that cowdung is looked upon by the man in the street as a valuable therapeutic agent.) These women, with their filthy rags, remind me of a cook who was found by his mistress straining the soup through her husband's socks. When she remonstrated with him, he replied indignantly that he had been careful not to use clean socks. Just as this cook was averse to making clean socks dirty with soup, so the midwife would not be so wasteful as to use clean cloths for dirty wounds. Speaking of confinements, a curious prejudice existed against making any provision in advance for the coming of a baby, probably lest such preparations should be noted by evil spirits who might wait for and then claim the child. The newly-born child was laid on the floor on any dirty rags that happened to be available at the time. Incidentally, girls had not to await last minute instructions by their parents on what to expect when they married. Nothing was kept back from them, and even toddlers were brought into the room where the confinement was taking place for the child to see the birth and her mother's agony, when some senior woman of the house, probably the grandmother,

would say to the child, "This is what you must expect when you grow up". Midwives have been and are being trained; but the overcoming of long-ingrained prejudices takes time.

The arrival of women doctors from Britain—and later from America and other countries—as medical missionaries caused a minor revolution; for they were generally permitted to examine women. Eminent men doctors needed their assistance to tell them in medical terms what seemed wrong with the patient. Even women doctors, however, were not called in unless a woman was seriously ill, when they often found such grave conditions as very advanced impacted foetal heads, completely prolapsed uteri of many years standing, skin or other afflictions existent for decades. Without the help of these women doctors, it was difficult to ascertain the incidence of disease, e.g. in a leprosy survey in a suburb of Madras city it was found that there were more than twice the number of women and children suffering from this disease than had been notified, e.g. 58 in a street 100 yards long as against 23 notified. In another survey it was found that the incidence of V.D. in the larger towns amounted to 50–60 per cent of the population, and from general observations it seemed unlikely that the incidence in rural areas was less. Since in India, as in other parts of the world, men and women flock to the cities in search of more lucrative employment and a fuller life, and are there removed from the watchful eyes of their caste elders, promiscuity is greater there; for, as I have explained, there is no strong public opinion as distinguished from caste opinion. So one might expect a higher incidence of V.D. there. This is however offset by the fact that one can obtain treatment there more freely. Largely on account of V.D., the infant mortality rate in Bombay city was as high as 256 per mille a couple of decades ago or less. I have not been able to ascertain the present rate; but I believe that it is now a little less than 100 per mille, as against the latest figure of 18 per mille for Victoria. Other causes of high infantile mortality are bacillary dysentery and, during the monsoon, bronchitis, brought on by undue exposure to the elements. It may be of interest here to note that because female babies are not generally wanted and are therefore rather neglected, India was until recently one of the very few countries in the world where, though only 95 boys were being born to 100 girls, the figures were not reversed at the end of the first year.

Antenatal clinics were established in India almost as soon as they were in Britain; but it was at first not easy to persuade women

to attend them, or men to allow, still less persuade, their wives to attend them. However, the results obtained at these and at women's hospitals spoke eloquently of their value and were for all to see. Women—often accompanied by their husbands—frequently came to a women's hospital after having had from five to ten miscarriages, almost invariably due to syphilis, and said to the woman doctor there, "We hear that you can give us a live baby. Will you please help us?" The wife might then live on the veranda of the hospital up to six months before delivery, cooking her food nearby in the open.

To return to the sub-assistant surgeon, his was a somewhat lonely life, devoid of amenities, and his salary was ridiculously small by our standards. He probably began his career on a princely salary of £6-£7 a month, though this was not unreasonable in comparison with that of other educated men. However, like everybody else, he wanted more, and the marriage of each daughter would cost him a year's salary. He often exercised considerable ingenuity in supplementing his income. His dispensary registers were able to establish that men charged with murder were far away from the scene of offence when the crime was committed: he could prove as a defence witness that fatal punctured wounds might have been caused by pieces of glass lying on the ground, though the prosecution generally took the precaution of seeing that he was a prosecution witness by getting him to perform the P.M. examination and to write out the post-mortem certificate. A popular source of income was the issue of medical certificates to clerks and minor officials. On one occasion an I.M.S. friend of mine had to preside over a medical board to consider the fitness of a clerk to continue in public service; for he had had a vast amount of sick leave. The documents included a file of about 200 medical certificates, indicating that the clerk in question had suffered from almost all the diseases known to medical science with the exception of housemaid's knee. He was carefully examined by the Board, who could find nothing wrong with him. The President of the Board thereupon turned to the clerk and said, "We find nothing wrong with you. How do you account for all these certificates?" The clerk was by then rather alarmed, lest he should be invalided out of the service, and so replied, "It is like this sir. I am the manager of a large family and have had much litigation to conduct on its behalf. I knew that my superiors would not grant me the leave required throughout the years to enable me to attend court; and so if I needed only a few days' leave I

bought a certificate for a rupee; but if I needed long leave I had to pay ten rupees." The clerk was thereupon restored to his office, though not with honour and glory. The sub-assistant surgeon did his job conscientiously on the whole, though he might not have had the same faith in his own powers as he would have had in an Ayurvedic vaidya. When sick himself, he would often resort to mantrams, rather than to medicine from his own cupboards. The ubiquitous Brahmin was first in this field of learning too; but there was a deterrent to his entering this profession which was absent with regard to other professions. He had to perform simple operations that necessitated the shedding of blood; but worse still, he was expected to conduct post-mortems, which necessitated his touching corpses, which only outcastes could do. Some overcome the difficulty without having to overcome their scruples; and that was by standing some distance away and directing the scavenger to cut the body at places directed and to call out the results. However, large numbers of the less orthodox were able to reconcile their practice with their principles and made highly efficient surgeons. Operations for cataract were badly needed; and after being shown the way by such brilliant eye surgeons as Colonel Wright of Madras and Sir Henery Holland, a medical missionary in the Punjab, Indian doctors have performed mass operations for cataract—not in the congested operation theatres but in the open air under a banyan tree. Some have averaged a hundred operations a day for cataract over a period of years, performing as many as 300 a day at times.

The distinction between the doctor of three years' training who started at the bottom on a low scale of pay and the doctor with a British degree or one recognized by the G.M.C., who began at the top, continued until recently. Although the distinction has been abolished for some years, those at the top of the profession are in fact those with the higher degrees. As you will have judged from what I have said, most doctors are in the services, but even among those in private practice who could put up their plates whatever their academic qualifications or lack of them, it has been the well-qualified man who have convinced the public of his worth. An English degree has had its value in every profession in India.

Doctors working in hospitals have always been handicapped by the lack of trained women nurses. Hindus and Muhammedans have not, until very recently, and then only in a few cases, been willing to allow their daughters to be trained as nurses; and even



if they had, universal marriage in girlhood would have rendered their training of little use to the public. The men's wards of government hospitals have therefore been staffed chiefly by male ward orderlies, who have proved a reasonable success, because they are gentle in the handling of the sick. The Anglo-Indian (i.e. half castes) community has supplied most of the nurses for the women's wards in the government hospitals; but in mission hospitals everywhere the missionaries have trained large numbers of Christian girls, converts from lowly castes with none of the inhibitions and prohibitions of the higher castes.

Like their more humble brethren, doctors in India tend to flock to the big cities, where life is more varied and interesting and where there is always the possibility of making a fortune. In rural India there is little that an educated man can do when he wants to relax and he has little or no real companionship. The government has therefore for many years offered a compensatory salary to G.P.'s willing to settle in country parts. Those in government service—and they are the great majority—can always hope to be promoted to become a district medical officer, or even to a higher post in the Presidency town. Although the medical profession is one of the most popular, especially amongst non-Brahmins, the supply is pitifully inadequate to the need, there being only one doctor to 22,000 people and one trained nurse to 43,000 people.

I do not feel competent to speak of tropical diseases, nor is there time for me to do so. The difficulties that the most enlightened government experiences in preventing disastrous epidemics is enormous, and the steps taken to prevent the spread of cholera and other diseases at huge concourses of people on the occasion of religious festivals and pilgrimages, such as by stopping people in the street and inoculating them, deserve the highest commendation. They have been most successful, reducing the mortality rate of cholera to 10 per cent of its former epidemic incidence. Plague, too, has been almost cut out in the south in areas in which it was endemic. I will cite two instances of the outbreak of epidemics of cholera to show how easily it spreads, despite precautions. In one town where I was stationed, there was a wedding, the bridegroom coming from a town far away. Unwittingly, he brought cholera with him and died before the wedding ceremonies, which last for a number of days, were completed. A considerable amount of sweetmeats bought for the consumption of the guests was distributed amongst the poor, almost all of whom contracted cholera,

the great majority fatally. This happened at the height of summer, when there was little water. The afflicted gathered round the meagre water supplies and spread the cholera throughout the town. In another case a party arrived at a celebrated place of pilgrimage clandestinely, because they wished to avoid the inoculation and other precautionary rules enjoined by the health authorities. A man in the party died of cholera; and the relatives, fearful lest they should be punished for disobeying the quarantine rules, secretly, at night, disposed of the body by throwing in into the lake from which all the pilgrims obtained their drinking water. The result can well be imagined.

I have said that the mass of the people were at first slow to take to Western medicine, but their subsequent faith took a few strange turns. They would beg those who sent them to the hospital to ask the doctor to give them some really strong medicine, believing that the stronger the concentration, the greater the good. This belief that "n" times the medicine must do "n" times the good, led patients who had been given medicine with a direction to take a teaspoonful with water three times a day and given enough to last a week, to drink it all up at once in order to get well quickly. The result was that patients could not be given more medicine than would suffice for two days at a time. From about 1940 or even earlier, the public acquired an almost pathetic faith in injections. They believed that by injections any disease could be rapidly cured. To satisfy the demand, doctors had to give their patients injections of distilled water, lest they should turn to some quack or rival to secure the injection the regular doctor had refused.

I have said nothing of other systems of medicine except in my introduction to this section of my paper. As governments became more popular in their composition and the advocates of the Ayurveda and Unani systems more vocal, some governments became possessed with the crazy idea that some system suitable to India could be devised which combined the best in Ayurveda with the best in Western medicine. Schools of Ayurveda supported by government grants were founded, with authority to confer the degree of L.I.M. (i.e. Licentiate of Indian Medicine). An attempt was made to incorporate Ayurveda practitioners into the current system by registering them, sending them out as sub-assistant surgeons, and later promoting them. There has, of course, never been any objection to any person practising Ayurveda if he wished to do so; but I do not think that this attempt to force Ayurveda on

the people has had very much success, nor has the system produced any outstanding practitioners. Even in the Ayurvedic colleges some surgery is taught and some of the elements of Western medicine.

Homoeopathy is not without its followers among educated people. I know of no school of homoeopathy; but I understand that there is a so-called correspondence course in South India which sends from time to time boxes of remedies with instructions for their use. As far as I have seen, what happens is that some interested person—a lawyer say (the followers of homoeopathy I have met have all been lawyers)—decides to practise homoeopathy. He buys or borrows a book on the subject and with that at his elbow is prepared to give advice or dispense medicine to all and sundry. If he tires of the practice, he passes the book on to somebody else in the neighbourhood with similar aspirations. If he is busy, he will pass over the book to the patient and tell him to do what the book directs.

In conclusion, I would like to close as I began, by expressing my admiration for the members of our two professions in India, most of whom are proud of the high traditions of their professions and determined to uphold them. Their problems are much more difficult than ours; but they attempt to solve them in the same way as you yourselves would seek to deal with them if you were in their places. The senior members of the medical profession there will continue to travel to Britain and elsewhere for post-graduate study and to maintain a catholic outlook on medicine. Law tends to be the more insular profession everywhere, though the occasional world conferences of English-speaking lawyers will no doubt not go unheeded by Indian lawyers, though the cost of travel and the feeling that not much is to be gained by such gatherings, may deter all but the few who had decided to enjoy a tour irrespective of the international gathering.

I, personally, owe a great deal to the skill and care and gentleness—yes, gentleness—of the Indian doctor of the south of India, and I would like here to record it.

#### *Discussion*

The Chairman called upon Mr. B. K. Rank who had twice visited India under the Colombo Plan, to open the discussion.

MR. RANK said that he had scarcely spent as many weeks in India as Sir Lionel had spent years. He had been interested to

hear what had been said about superimposing the administrative arrangements of Western law upon the native system of group activity. He had been struck, when in India, by the importance of group activity, particularly village group activity, and this activity tended to compete with the relatively newly introduced Western systems of law and medicine.

From his own observation, he had failed to learn what constituted a legally qualified medical practitioner. There were graduates and licentiates and the practitioners of the Ayurvedic system, but he did not know whether the law distinguished between the various qualifications.

The rise of nationalism had brought with it a regrowth of support for the native system of medicine, and the Minister for Health in India had informed him that one of her problems was that the supporters of this system were capable of exercising strong political pressure for their own ends.

The Ayurvedic practitioners could not be dismissed out of hand. They had some training, and there was some central research carried out. Moreover, they were the people who supplied a lot of medical treatment in the villages. One of the techniques by which they resisted the introduction of the Western system of medicine was the familiar technique of claiming that all its apparent novelties had been discovered by practitioners of their own system centuries ago.

SIR JOHN LATHAM said that about six months ago he had been in India and had sat with the High Court in Bombay. From his observations, he thought that the standards of both counsel and judges were high, but he had been informed that outside the leading members of the profession the standards of the legal profession were very low, that a number of students qualified without any real knowledge, and were then turned loose upon the community to make their own work.

He thought that great difficulties might be encountered if any attempt were made to depart from English as the standard language of the law in India. The doctrines, the ideas and the literature are all English, and he doubted whether any of the Indian languages had the vocabulary necessary to cope with the intellectual concepts involved.

JUDGE NORRIS asked whether the existence of multitudinous moral systems, of great religious differences and of varying social

codes did not render the task of assessing evidence supremely difficult.

Mr. J. McL. YOUNG asked whether the fact that judges in the Presidency of Madras were empowered to exercise a discretion as to the punishment to be inflicted for murder had produced any observable effect upon the number of convictions obtained or upon the incidence of that crime in the community.

SIR LIONEL HORWILL in reply said that the Ayurvedic system had never been regarded as a quack system. He thought that Western medicine had now touched such a proportion of the people that it was beginning to command more popular faith.

In the Presidency of Madras he had not had the experience of finding a low standard among legal practitioners. The older men were perhaps inclined to look down on the younger, and it was a fact that the young man of today had many difficulties to encounter in the course of acquiring his education. One great difficulty was the variety of languages which a man might be required to know, both for the purposes of his studies and for the purposes of his contacts with people outside the profession. Possibly too much time was taken up in learning languages which ought to have been spent in the study of the law.

He answered Judge Norris's question by saying that by years of experience it was possible for the judge to come to an understanding of the mental processes of the different classes and castes in the community and to learn their customs and beliefs and thus to have some chance of making a correct evaluation of their evidence.

In answer to Mr. Young's question, he thought that the number of convictions for murder had possibly increased as a result of the judges' discretion as to punishment. So far as the incidence of murder in the community was concerned, no one believed that the murderer who kills in a fit of passion was influenced by thoughts of punishment, but he did think that in faction fights or feuds the certainty that a man who is convicted would be hanged, acted as a deterrent.