

The Malayan Law Journal

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Our Silver Jubilee

THE Malayan Law Journal launched its modest venture 25 years ago this month full of enthusiasm and optimism and yet apprehensive of a precarious existence in a very limited field. Despite vicissitudes of fortune it has managed to survive. Owing to the exigencies of the situation, the publication had perforce to be discontinued during the Occupation Period 1942-1945. It was forthwith resumed in 1946 as soon as circumstances permitted, though the initial difficulties in publication were immense. The ever-increasing cost of paper and printing has led, unfortunately, to an enormous rise in the cost of publication — an inevitable feature in post-war conditions. A restricted sale is also an added factor.

The Straits Settlements Law Reports and Federated Malay States Law Reports were annual, though irregular, publications and the Editor felt it might be helpful to those engaged or interested in the administration of justice if a monthly publication of recent judgments could be made readily available with the least possible delay. It was, indeed, one of the vital reasons which actuated the Editor in undertaking a perilous task. We can only hope that this Journal is serving a useful purpose if only in making available important decisions as soon as practicable. Publication of the S.S.L.R. ended with the war. The Singapore Law Reports was discontinued in 1956 and the F.M.S.L.R. and its successors, the Malayan Union Law Reports, and then the Malayan Law Reports, in 1954. We wish to avail ourselves of this opportunity of expressing our gratitude to the members of the Judiciary and of the Bar for their invariable courtesy, consideration and assistance, without which the continued publication of this Journal would have been rendered more difficult.

The passage of years is showing signs of a significant change. The last and only occasion when eminent members of the local Bar, Thorne and Terrell JJ. were elevated to the High Court Bench was in the 1930's. Indications are not wanting that in the near future, eminent and deserving members of the Bar, nurtured in the traditions of Malaya and acquainted with local conditions are likely to occupy high judicial offices. It goes without saying that in an independent Federation of Malaya political antecedents rendering anyone fit for judicial service would be highly undesirable. As an eminent American Judge said: "There is no certain harm in turning a politician into a Judge. He may be or become a good Judge. The curse of the elective system is the converse: it turns almost every Judge into a politician. The elected Judge, if he wants to be re-elected, must make all the commitments of a politician." And, indeed, the existence of fundamental rights and the enforcements thereof by high prerogative writs require the continued existence of judiciary not wedded to any particular political faith.

The present salary of the Judges of the Supreme Court bears no relation to existing circumstances. There is no trade union, as indeed there cannot be, of the Judges. Administration of justice is as important as defence of the Realm against external aggression and internal disorder. In order to attract competent lawyers to accept high judicial posts, the Government's attitude needs re-orientation. Judges are the most respected and the least vocal, dedicated to silent service. The new Constitution of the Federation affords an opportunity for creating permanent Judges of Appeal with the Chief Justice as President, an aspect which the Government cannot lightly ignore. Pre-war there were permanent Judges of Appeal, a post which was discontinued after the re-occupation.

Another encouraging feature is the establishment of the law faculty in the University of Malaya which will start its full course early in September this year. Professor L. A. Sheridan, Head of the Law Department, is to be congratulated in enlisting the support and co-operation of the Singapore Bar Committee and the Bar Council of the Federation of Malaya, in his endeavour to reprint, with the financial support of the Government, the older reports now unavailable: Kyshe, Leicester, S.S.L.R., F.M.S.L.R. and M.L.J. We wish him all success in his effort and can only hope that the Governments, which have hitherto appeared to be indifferent to legal publications, will wake up to the realisation that this is an important project.

Members of the Bar can render valuable service to the legal profession and to students of the Law Faculty by contributing articles to this Journal. Academic discussions on principles of law or criticism of local or foreign judgments and, in particular, a study of comparative law and jurisprudence in the light of local decisions will serve to stimulate interest and a just appreciation of reasons for the law.

The laws of the Federation and rules thereunder, require consolidation. The fecundity of legislation has been prolific and it is extremely difficult to trace or keep abreast of various repealing Ordinances and Enactments and amendments. The task of the Judiciary and the Bar is made increasingly difficult.

Lack of space prevents a discussion of the important cases decided during the current year. It is hoped that, if circumstances permit, a review of important local decisions will be undertaken by the Editor early next year.