

# LAYS OF THE LAW.

BEING

A SELECTION OF

LEADING CASES

FROM

THE BOMBAY HIGH COURT REPORTS,

DONE INTO VERSE,

AFTER THE MANNER OF

VARIOUS OTHER GREAT POETS.

BY

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## II.

Six weeks his task the tailor  
At Meason's daily plies,  
And loudly then for payment  
Upon bold Meason cries ;  
“ Nor till thou payest,” saith he,  
Again thy cloth I'll prick.”  
At these high words, in anger  
Bold Meason lifts his stick :  
“ Hence, man's ninth part ! Thou tailor,  
Hence, to the devil go,  
Or e'er thou feel'st the impulse  
Of an editorial toe ! ”

## III.

Then Vithoba round turns him,  
Nor further bidding waits,  
But to the Small Cause Court he hies,  
And there his wrongs relates ;  
And he hath seen the bailiff  
To Meason summons hand,  
Who, nine days thence, on his defence  
Before the Judge must stand.

## IV.

But, ere the fourth day passeth,  
    Bold Meason's dame hath writ  
To Baynes, the brave policeman,  
    A small three-cornered chit.  
And straight have Baynes's sepoy  
    Haled Vithoba to the Fort,  
Where holds the solemn Corfield  
    His Magisterial Court.  
Of oath or information  
    Full little recketh he,  
But well he knows what scoundrels  
    These tailor rascals be.

## V.

Saith Vithoba, "I left him,  
    But master bade me go,  
Besides, he would not pay me  
    The wages he did owe!"  
"Hence to the prison bear him!"  
    (The Magistrate thus speaks)  
Upon his own admission,  
    I give the rogue three weeks.

He left his master's service,  
• But warning never gave,  
As a 'domestic servant'  
He thus did 'misbehave.'''  
They haled him to the dungeon,  
They pent him from the sun,  
And in the yard gave him labour hard  
For twenty days and one.

## VI.

But Vithoba the tailor  
Doth a whole man's soul possess ;  
And when he leaveth prison  
He straightway seeks redress.  
So boldly to dread Corfield  
A summons hath he sent,  
From the Supreme Court issued,  
For false imprisonment,  
Rupees six hundred claiming  
For the tresspass that was wrought,  
And before two learned Judges  
The action must be fought.

## VII.

There's Westropp for the plaintiff,  
He of the Emerald Isle,  
Who 'mid the strife forensic  
Ne'er lost his sunny smile,

And with him Reid the Doctor,  
 Who, twelve years after, wrote  
 This same report, sits in the Court  
 And takes a heavy note.  
 There's Howard to oppose them,  
 The eloquent A. G.,  
 And with him Lowndes the learned,  
 A leading junior he.  
 Four days they struggle stoutly,  
 When on the fifth they meet  
 'Tis thus the grave Chief Justice  
 Speaks from his lofty seat :

### VIII.

" 'Tis under Regulation  
 Of 'fourteen, number one,  
 Defendant's jurisdiction  
 Could be sustained alone.  
 To domestic servants only  
 Its provisions can apply,  
 And that tailors are domestics  
 We certainly deny.  
 Again, the Regulation,  
 Ere this complaint be heard,  
 Requires an information  
 On oath to be preferred.

Yet neither information  
Nor oath was ever here,  
And so no jurisdiction  
Defendant had, 'tis clear.  
But, it was argued strongly,  
While standeth the conviction,  
The plaintiff cannot here be heard  
To deny the jurisdiction.  
To hold this would enable  
The Magistracy duly  
To usurp a jurisdiction  
By stating facts untruly.  
But more, the memorandum  
Which the defendant wrote  
Was no conviction, only  
An insufficient note.  
Again, 'twas urged, what needeth  
Sworn information here,  
Where, by his own admissions,  
The plaintiff's guilt is clear?  
But these so-called admissions  
A good defence disclose,  
Of which defendant only  
By trial could dispose.

As well convict of arson  
Some poor unhappy wight,  
Who saith, 'It was by accident  
I set your house alight !'  
The point which last arises  
Is that most worth debatin',  
On the protection given  
By Act of 'fifty, eighteen.  
If in good faith the Magistrate  
Deems he has jurisdiction,  
No suit for damages will lie  
'Gainst him for wrong conviction,  
Hereby the Act protecteth  
Such excusable mistake  
As, while seeking to shun error,  
A careful man may make.  
But how can Corfield argue  
That in good faith he acts,  
When he displays so wilful  
A disregard for facts ?  
Undue precipitation  
Hath marked throughout his course,  
In not complying even  
With the Rule he would enforce.

Five times rupees one hundred,  
And one, he'll therefore pay  
As damages, and costs besides,  
So plaintiff wins the day."

## IX.

Then Jackson, J., concurring,  
Would merely wish to add  
That the charge and the conviction  
Were indisputably bad ;  
For "leaving without warning"  
Assigns no breach of laws,  
As the regulation only  
Says "leaving without cause."  
'Twas clear then that defendant  
Good faith could never plead,  
As, on a charge imputing  
No crime, he did proceed  
Without an information,  
Or evidence on oath,  
Although the Regulation  
Required clearly both ;  
And as a plea of guilty  
Did treat a good defence,  
Against all rules of justice,  
And eke of common sense.

'Twas therefore plain an action  
For such a wrong must lie,  
Since all agree no wrong can be  
Without a remedy.  
And since from the defendant  
The imprisonment did proceed,  
That the action lay in trespass  
Was very clear indeed.

## X

Thus Vithoba his action  
'Gainst Corfield won—and more,  
Back to his home in triumph  
Rupees five hundred bore.  
And still among the dirzis,  
When the day's work is done,  
And ere the serious business  
Of supper has begun ;  
When the hookah bubbles lowly,  
Or the bidi's fragrant smoke  
Curls lightly to the rafter  
'Mid story, song, and joke ;  
And while the good man kindly  
To his guests hands pan supari,  
Is told the tale of Corfield  
And the son of old Malhari.

T. B. M.

V.

YE SONG OF YE FALS NOTE.

*Mathews v. Girdharlal Fatechand* (7 Bom. H. C.  
Rep. 1, O. C. J.)

A MERCHANT whilom was in this countree,  
Of Marchants all great worship hadde hee.  
He Mathews hight, and in Bombay did dwell,  
Right ware he was to buy and eke to sell.  
Of usance and eschange he coude also.  
Men held him wise, for rich they did him know.  
And he a dettour had in this same land  
That cleped was Girdharlal Fattechand.  
And so befell it ones on a day  
This Girdharlal to Mathews fain wold pay  
Rupees three thousand and five hundred mo,  
Yet he himself to Mathews n'olde go.

Therfor his prentis Jéjvern did he send  
To pay to Mathews whatso he did lend.  
This Jéjvern then hath Mathews prentis mette,  
(He Framji hight) and paid him all the dette  
By notes fayre of Indian currencie,  
Of fifty ten, and of a thousand three.  
And Framji quittance wrote and was full glad,  
(He n'ote, I wis, that one of hem was bad).  
Now who it was that wrought this vilainie,  
So mote I thrive, I cannot tell, parde !  
But of the notes three, yet one ther was  
The banker wight wōld suffer not to pas,  
For the accomptants name at foot of it,  
Though sembled well, yet falsely was y-writ.  
Then Mathews cried Alake and wala wa !  
'Thise my rupees ten hundred who shall pay ?  
An other prentis this same Mathews had,  
Merwanji Hormasji, a propre lad,  
A Parsi, swiche as worshipeth the sonne,  
And yet a cunning wight when all was donne.  
He then thus speketh into Mathews ere,  
Be not affrayed min owen maister dere.  
For I to Girdharlal will hie, and look  
Wher he hath writ this payment in his book ;  
And if this notes number ther be writ,  
Right clere it is that he hath given it.

But if Girdharlal my desir shal know,  
Full wel I wot his book he will not show.  
Therfor I of his curtesie will pray  
To show what monies Jéjvern here did pay,  
For but two thousand five hundred we took  
(So wil I swere), and he will show his book.  
Thus as Merwanji spoke it soon was donne,  
And he to Girdharlal hath straightway wonne,  
And on the entries fayre y-writ did look,  
But found no notes number in the book.  
Then Mathews on the morwes morwening  
The contrefeted note with him did bring  
To Girdharlal, and for it ask a good,  
Wherat this Girdharlal hath wexen wood,  
And straight denied that ever bad he gave,  
Or sent, to Mathews self, or Mathews knave.  
And Mathews then hath sompned Girdharlal,  
To answer in the Court of Causes Smal  
In twenty days his action for dette.  
So are the two before the Justice mette ;  
And he solempnely hath herd hir case,  
And speketh thus his dome with sober face :  
Lo, this is clere unto me, maisters all,  
This Mathews gets the note from Girdharlal,  
And from his dette doth him holely quit,  
But after finds the note is contrefit.

Full sodeynly, I wis, he then shuld show  
The thing to Girdharlal, but doth not so.  
And, for due diligence he useth not,  
To give him swiche notis, wel I wot  
(In *Camidge* versus *Allenby* is clere  
The rule, and *Robson* versus *Oliver*,  
In *Rowe v. Tipper*, *Cocks v. Masterman*),  
He nought from Girdharlal recover can.  
Than crieth Mathews sore, A cas I crave,  
And saith the Judge, A cas ye shullen have.  
So to the High Court stateth he ful plain  
The tale I told, I n'ill it tell again ;  
And thus the Lord Chief Justice speketh clere,  
This dome (quod he) is wrongly judged, I fere,  
For *Cocks v. Masterman* avayleth naught  
Whan that the signatour is falsly wrought  
On swiche a note, but whan upon a bil  
Acceptance writ is contrefit and ill ;  
For then som other rights ther wel may be,  
Or by endorsement or deliverie.  
Wher other liabilitie is none  
(As here), but by the signatour alone,  
If that be fals, the thing is naught indeed,  
Ne can ther be of notis any need.  
Next Bayley, Justice, saieth, I agree,  
Ne can acquittance of a dette be

By paying as of worth a thing of naught.  
So answer none this Girdharlal hath brought  
Why he to Mathews shuld not pay as due  
Rupees ten hundred for which he doth sue.  
So was the matter clered quite of doubt.  
My tale is done, and God save all the rout.

G. C.



VI.

FRANCIS CASSIDY.

*Reg. v. Cassidy* (4 Bom. H. C. Rep.,  
17 Cr. Ca.)

FRANK CASSIDY at Sunday School  
Was always a bad idle boy ;  
And often he would play the fool  
With apple or with toy ;  
Or while his class was learning how  
The bee improves each hour,  
Behind old Master Matthew's back  
He bulls-eyes would devour.

And nought he cared for birch or cane ;  
Alike when punished and when pardoned,  
He went and did the same again ;  
His breech and heart were hardened.

And so he went from bad to worse,  
To swearing, poaching, liquor,  
Until a perfect pest he was  
To master, squire, and vicar.

And e'en the poet mild would say,  
"I wish the press-gang or the drum  
That sweeps such worthless folk away  
For Cassidy would come!"\*  
But nought would he the poet heed,  
And in his sins persisted,  
Until at last the Sergeant came,  
And Cassidy enlisted.

Then at the depôt he was taught,  
With many another raw recruit,  
To march like geese, as soldiers ought,  
Who join the British foot.  
And so at last away he went  
(Some wished he had gone sooner),  
The Forty-fifth his regiment,  
To serve the Queen at Poona.

\* I hate that Andrew Jones, he'll breed  
His children up to waste and pillage.  
I wish the press-gang or the drum  
Would with its rattling music come  
And sweep him from the village."

—Wordsworth, Poems proceeding from Sentiment  
and Reflection, *Andrew Jones*.

One morning there, hé, while in drink,  
Did threaten the Drum-Major's life,  
I know not why, nor do I think  
There was just cause for strife.  
But this I know, when evening came,  
And he was almost sober,  
He tried his threats to execute,  
Two days before October.

He took his rifle from its stand,  
Unseen, unheeded, tóo, by all,  
He loaded it, with shaking hand,  
With powder and with ball.  
But as his brain was muddled still  
With all his morning's tippie,  
He quite forgot to put a cap  
Upon the rifle's nipple.

Then with the weapon off he went,  
As though it fit for use had been,  
And with a murderous intent  
He entered the canteen.  
There at Drum-Major Griffiths' head  
The rifle he presented,  
But ere he pulled the trigger, was  
By Sergeant Bell prevented.

So then they tried him in the dock  
On charges drawn with lawyers' skill,  
That, with gun loaded at full cock,  
He made attempt to kill.  
And Taylor for the prisoner urged,  
Not loaded was the rifle,  
For want of cap ; so there could be,  
By reason of this trifle,

Not any risk to life or limb,  
And therefore no attempt to slay.  
The jury yet convicted him,  
And Judges twain did say  
That though the Indian Penal Code,  
Sec. three hundred eleven,  
Could not apply, 'twas otherwise  
With Sec. five hundred seven ;

And under this, averments all  
Of risk to life, and loading gun,  
Were wholly immaterial—  
(Made, I suppose for fun).  
So Cassidy his way from Court  
To prison sadly wended,  
And, after all, with a Report  
His uncapped rifle ended.

My gentle reader, you, I see,  
With patience wait the poet's moral :  
'Tis this—however drunk you be,  
Ne'er with superiors quarrel,  
Nor e'en at empty heads present  
A rifle, though unloaded,  
Since *you* may suffer for the intent,  
Though *it* hath ne'er exploded.

W. W.



## VII.

### THE SONG OF HOKEY- POKEY.

SHOULD you ask me, whence these legends,  
Whence these stories so peculiar,  
With the reek of Hindu temples,  
With the smoke and smell of incense,  
With the stink of butter burning  
At the altar of the idol  
Monstrous-headed many-handed,  
With the savour of the law courts,  
With the sound of raucous pleaders,  
With the drone of drowsy judges  
And their waste of wind and wisdom,  
With the strife of furious Swamis,  
Rage of Sawasthans contending,  
And the chiding of Chalvadis,  
'Mid the noise of castes disputing  
As of tempests in a tea-cup ?

I should answer, I should tell you,  
From the dusty plains of Deccan,  
From the din and dirt of Poona,  
From Kaladgi and from Dharwar.  
I repeat them as I learned them  
From our cunning Law Reporters.  
Should you ask where these Reporters  
Found these stories so peculiar,  
I should answer, I should tell you,  
In the judgments of the High Court,  
Where the unsuccessful parties  
Take appeals from District Judges.

Ye who love to hear of wrangles  
O'er forgotten creeds and customs,  
Or of castes convulsed with quarrels  
For a cause no man can fathom,  
Listen to these wild traditions,  
To this song of Hokey-pokey.  
Ye who love a nation's legends  
Sung in such a nasal treble  
Scarcely can the ear distinguish  
Whether nose or mouth hath sounded,  
Listen to this Indian legend,  
To this song of Hokey-pokey.

Ye who sometimes in our law courts  
Wonder why a fool litigious  
Squanders all his wealth, disputing  
O'er a claim for something worthless ;  
Smile to hear the learned pleaders  
Citing precedents and cases .  
In a cause that's simply nonsense ;  
Sigh to think how judges' talents,  
And the public time and money,  
On frivolities are wasted ;  
Stay and read these curious cases,  
Read this song of Hokey-pokey.

I.—THE CURD-POT (*Narayen v. Balkrishna*,  
9 Bom. H. C. Rep. 413.)

IN the temple of Vithoba  
And of Tukaram, at Dehu,  
There the stand, the Garud-par, is  
For the image of the eagle.  
Here the worshipper, the Bava,  
Son of Sadanand, Narayen,  
When the March winds blew and blustered,  
In the breezy month of Falgun,  
On the seventh of the Vadya,  
Broke a curd-pot, Dahi-handi,

And the curds and whey, escaping,  
On the ground before the eagle  
Made a nasty little puddle,  
While the people shouted "Wa! Wa!"  
Once his kinsmen got before him,  
And, ere he could reach the temple,  
Just before another image,  
(That of Tukaram, the Bava),  
Broke their curd-pot, Dahi-handi,  
And the people shouted "Wa! Wa!"  
Then Narayen, in his anger,  
Sued his brothers, uncles, cousins,  
Claiming to recover from them  
Damages, rupees five thousand,  
Which the pious Kallianji  
Would have given to Narayen,  
If he first had smashed his curd-pot,  
At the image of the eagle.  
Through three Courts the case was taken,  
And at last it was decided  
Loss of possible donation  
Too remote a damage seemeth,  
But defendants violating  
Plaintiff's right to break his curd-pot  
First within the temple's precincts,  
Must a paltry sum of money,  
For the paltry damage, pay him.

So the plaintiff spent his thousands  
Half a hundred to recover.

II.—THE LINGUM. (*Shankara v. Hanma*,  
I. L. R. 2 Bom. 470.)

IN the Bagalkot processions  
Of the caste Lingayet, Shankar,  
Chalyadi hereditary,  
Proudly bore the sacred symbols.  
What they were I know not rightly,  
But I rather think the lingum  
Was among the most conspicuous.  
Nought of pay or fee received he,  
But the reverence of the gazers,  
And at times a free donation  
From some pious rich adorer.  
Hanma once, with seven others,  
Seized the sacred symbols, bore them,  
Proudly bore them in procession,  
And received the votive half-pence.  
Shankar then, for declaration  
Of his right to bear the lingum,  
And for loss of votive half-pence,  
Filed his action 'gainst the intruders.  
Through three Courts the case was carried,

Twice in each Court was contested,  
 And at last the High Court Judges  
 Held no cause of action was there  
 For gratuitous donations,  
 While the claim to be Chalvadi  
 Of the Bagalkot Lingayets,  
 As a claim of caste precedence,  
 Was excluded from the law courts,  
 By the second Regulation,  
 Eighteen hundred twenty-seven.

III.—THE PALKI. (*Sri Sunkar Bharti Swami*  
*v. Sidha Lingaya Charanti*, 3 Moore Ind. Ap.  
 198 and I. L. R. 2 Bom. 473.)

IN his palki, carried crosswise,  
 Sat Sri Sankar Bharti Swami,  
 Chief of all Smartava Brahmans.  
 Lo! another palki, crosswise  
 Carried on the road before him!  
 Then the Swami swells with anger:  
 Loud he crieth, "Whose the palki?  
 Who thus dares, beside the Swami,  
 To be carried crosswise?" Trembling  
 Answered him the awe-struck people,  
 "Sidha Lingaya Charanti,  
 He, the Guru of Lingayets,

Dareth thus to beard the Swami ! ”

• In the Zilla Court of Dharwar  
Then the Swami sues the Guru,  
For a wrongful interference  
With his privilege peculiar  
In a palki to be carried  
Crosswise on the public highways.  
Thence from Court to Court the contest  
Hotly rages, till it reaches,  
After years, the Privy Council.  
Here their Lordships made the parties  
Pay between them pounds two thousand  
Forty-seven, fifteen shillings,  
And the cause once more remitted  
For the Judges to determine  
Whether ever cause of action  
Had existed for the plaintiff.  
And the learned Judges of the  
Sadr Divani Adalat  
Found at last there never had been,  
Since the wrong that he complained of  
Was an interference merely  
With a personal distinction.

IV.—THE UMBRELLA. (*Sangapa v. Gangapaya*,  
I. L. R. 2 Bom. 476.)

“ SURELY some mysterious meaning  
Underlieth all umbrellas.  
What would Sairey Gamp, or Paul Pry,  
Or the Reverend Mr. Stiggins,  
What King Coffee of Ashantee,  
Be to us without umbrellas !”  
So thought Sangapa, devoutest  
Of Lingayets, at the yearly  
Festival of Gangapaya  
Maha Purush, as he hastened  
With umbrella to the temple,  
There to set it o’er the idol.  
Then the bamboo, Nandicola,  
From his dwelling to the temple,  
With the beat of drum, the Tom-tom,  
Must he bring, and there must worship  
First of all adorers, offer  
First the cocoa’s milky kernel.  
But defendants him obstructed,  
Would not suffer his umbrella  
O’er the idol to be opened,  
Brought another Nandicola  
To the beat of other Tom-toms,  
And their own umbrella opened

O'er the image of the idol.  
So the plaintiff sued defendants.  
Twice in Courts of the Mofussil  
Was there judgment for defendants  
On the plea of limitation.  
On that question, in the High Court,  
Plaintiff, his appeal preferring,  
Would have been, it seems successful.  
But their Lordships still decided,  
Though on other grounds, against him.  
For the suit was instituted  
Plaintiff's title to establish,  
Not to office or to payment,  
But to personal distinction.  
So the Sadr Court's decision  
In the *Palki case* was followed,  
Holding no such suit maintainable,  
And *Narayan v. Balkrishna*,  
Though not over-ruled distinctly,  
Gave, their Lordships said, no warrant  
For a contrary opinion,  
Since in it the question whether  
Any action lay was never  
Mooted by defendants' pleader,  
And the Sadr Court's decision  
Was not e'en so much as mentioned.

7

Thus at last, it seems, 'tis settled,  
In the precincts of our law courts  
Is no place for Hokey-pokey.  
Hokey-pokey, the Beloved  
Of Vakils and District Pleaders,  
Who so oft has lined their pockets,  
Now is lost to them for ever.

H. W. L.



## VIII.

### A DREAM OF DARK WOMEN.

I READ, before his Digests Branson wrote,  
Right through thick tomes of wearisome  
Reports,  
With every statement, argument, and note,  
And judgments of the courts.

And as I read, a drowsy languor stole  
O'er all my senses, till by slow degrees  
My weary eyes waxed dim, and all my soul  
Was lapped in dreamful ease.

But yet the half-shut chambers of my brain  
Some fitful rays of light admitted still ;  
Of Hindu wives I seemed to read again,  
And of a Hindu's will ;

Then boys in undivided families  
With sisters claiming stridhan joined in  
dance ;  
Adopted sons, and widows strove with these,  
Who sued for maintenance ;

And judges grave I saw, in conclave met,  
High-throned in spacious courts, where row  
on row  
The snowy-banded barristers were set  
In ranks, black-gowned, below ;

And once I seemed to grasp a parchment deed,  
And rise, yet silent stand in act to speak,  
Because I lacked the advocate's first need,  
Illimitable cheek.

And, last, methought that I had reached a  
room  
Where never sunlight entered, nor fresh air,  
But all around was a sepulchral gloom,  
And odours everywhere

Of musty volumes mouldering on their shelves,  
Within whose unturned pages, at his wish  
Unchecked, the darkling cockroach safely delves,  
Or lively silver-fish.

Tall book-cases arose on either side,  
Up dusty walls, high to the cob-webbed  
roof,  
About whose murky rafters sparrows hide,  
And shrilly chirp aloof.

I knew the room, I knew the ancient smell,-  
The grimy panes through which one nought  
can see,  
The ponderous tomes unused, I knew them  
well,  
The old Law Library !

And from a desk within a corner set  
A voice said, " You can enter, if you please,  
But annual subscriptions ne'er forget  
To pay, twenty rupees."

I entered, and I heard one standing near,  
Her eyes with sorrow flooded, say " Ahem !  
Approach, the story of my woes to hear.  
I was the widow Prem.

When childless and intestate Uka died,  
My husband, all his wealth by deed I gave  
To Bechar, houses, fields, and bonds beside,  
For aye to hold and have.

Then did three judges solemnly declare  
My power o'er moveables was uncontrolled ;  
But lands I might not give if Uka's heir  
Should his consent withhold."<sup>(1)</sup>

Then I made answer to the lady, " Yea,  
Where man makes laws for woman this must  
be :  
The male's preferred." But said another  
" Nay,  
It was not so with me,

The daughter of that Ramdas Hirachand,  
Who died, from his three brethren separate,  
The lord of many houses and much land,  
And moveable estate ;

For when his brother stirred litigious strife,  
The Court Supreme, ' The widow's right '  
did say  
' In wealth immoveable is for her life,  
In moveable for aye.'

(1) *Bechar Bhagvan v. Bai Lakshmi*. 1 Bom. H. C. Rep. 56.

And when my mother's widowed race was run,  
To me the court did absolutely give  
My father's land, although my uncle's son  
And uncle were alive."<sup>(2)</sup>

"Because thou wast thy father's heir," replied  
A third, "yet would thy mother nothing  
more

Take as thine heir, hadst thou in childhood died,  
Than that she had before.

Of Krishnanath the widowed wife was I,  
And when his only daughter-heiress died,  
Childless, unmarried, named Devkuvarbai,  
As heir to both, I tried

Partitioned lands ancestral for mine own  
To claim, but judges, after long debate,  
Declared I could entitled be alone  
To widow's life estate,

And with remainder to my husband's heirs."<sup>(3)</sup>

"Ah me!" a fourth exclaimed in tones of woe  
That thrilled my heart, "the Hindu widow fares  
Ever most hardly so!

(2) *Pranjivandas Tulsidas v. Devkuvarbai*. 1 Bom. H. C. Rep. 130.

(3) *Lakshmibai v. Ganpat Moroba*. 5 Bom. H. C. Rep., 128 O. C. J.

I, Vithal's childless widow, was held bound  
 Nor house, nor lands, nor rent, to alienate,  
 Although I sought a holy fane to found,  
 And pious trust create.

But at my death his sister, 'twas decreed,  
 My husband's lands should absolutely take,  
 With perfect powers by act, by will, or deed  
 Disposal due to make,

And they should be to her as stridhan ; so,  
 Excluding son and nephew, when she died,  
 The lands remaining to her daughter go,  
 Thence through the female side." (4)

"Yet harder case," a fifth rejoined, "was mine,  
 That held the younger widow, though un-  
 chaste,  
 Should have the lands, the gold, the jewels fine,  
 And might not be displaced.

Yea, she must have them all; nor might there be  
 Of all my husband's rich possessions left  
 But one poor moiety in aught for me  
 Thus doubly now bereft—

(4) *Bhaskar Trimbak v. Mahadev Ramji*. 6 Bom. H. C. Rep., 1 O. C. J.

Though she, the wanton, to the memory  
Did daily wrong of him our husband dead—  
Because, forsooth, in widowhood was I  
To Ramsing duly wed!" (5)

So sharp and shrilly shrieked she in her rage,  
I, starting, woke to find that I had slept,  
My heavy head down-drooping o'er the page,  
Which it still open kept.

A. T.

(5) Parvati kom Dhondiram v. Bhiku kom Dhondiram.  
4 Bom. H. C. Rep., 25 A. C. J.



IX.

SHYLOCK REDIVIVUS.

*Kavasji v. Wallace* (1 Bom. H. C. Rep. 113).

*Scene*—BOMBAY. A COURT OF JUSTICE.

*Enter Arnould J., Wallace, Defendant's Attorney, Attorney's Clerk, and Kavasji.*

*Arnould, J.*—Is Wallace here ?

*Wallace.*—Ready, an't please, my lord.

*Arnould, J.*—Hast thou the plaint perused ?

*Wallace.*—My lord, I have.

*Arnould, J.*—How sayest thou ? Is the money  
due for rent

From thee to plaintiff which he would  
recover ?

*Wallace*—My lord,

That I do owe the money is most true,  
Most true I cannot pay it now or here.  
For eight long years I used and occu-  
pied

The plaintiff's house, and paid him on  
account,

From time to time, such petty sums as I  
Could from my slender means best  
spare, and he

Was well content, nor ever threatened  
me

With action or distress. The total now  
Hath swelled to sixteen hundred odd  
rupees,

Nor ever could I pay so large a sum  
In lump, least now and here, so far from  
home,

A stranger, and unfriended, and alone.

*Arnould, J.*—Then Kavasji must give thee  
time.

*Kavasji.*—Must I ?

Why must? Nay, not a day or hour.  
I claim

But that mine is, which he confesses due.

*Attorney.*—But here he hath not wherewithal  
to pay.  
What wilt thou gain by gaining this  
decree,  
Except the power, that's worthless for  
itself,  
To mew his limbs in prison, and break  
his spirit  
By hard confinement? Bethink thee.  
None the more  
Wilt thou gain payment thus—rather  
the less,  
For, once imprisoned, he perforce must  
lose  
His staff appointment and his pay.  
These gone,  
With them are gone his means to satisfy  
Thy claim, and so thou lovest all thy due.  
Be kindly wise, or wisely kind, and wait  
Till he returneth to his home. Once  
there,  
What money hath he by him he will  
send,  
And, for the balance, from his friends  
will borrow.  
So wilt thou gain what otherwise is lost,

For here he hath not money of his own,  
Nor hath he here acquaintance who  
can lend.

*Kavasji.*—I care not, I. He took my house,  
withheld,  
Against the law, my rent, and shall I  
not  
Take as I please that which the law  
allows ?

*Attorney.*—Be patient yet. Lo, he will pass  
his bond,  
Instant, upon his safe return, to pay  
Thy debt in full, with interest and costs,  
And I will be his surety, if he fail,  
Myself to answer his default, and pay  
The sum entire from my peculiar means.

*Arnould, J.*—Be thus persuaded, Kavasji, and  
take  
The bond and surety. Otherwise thou  
liest  
Beneath the charge that thou not seek'st  
thine own,  
But dost attempt the process of the law  
To wrest away from the plain course of  
justice,

And make of that which should a weapon  
 be  
 Most potent for protection of the right  
 An engine for infliction of a wrong.  
 For men will say, if thou refuse the  
 terms  
 Now offered, that in truth thou dost  
 not care  
 Thy money to recover, but dost seek  
 A private grudge to gratify, or wring  
 Some hard usurious bargain from his  
 need.

*Kavasji.*—Well, be it so, and grant that one or  
 both  
 Of these be my true object, yet can I  
 By law or justice be obstructed, I  
 Who seek the justice that the law doth  
 give ?

*Attorney.*—O, be thou damn'd, execrable dog !  
 Justice and law to thee are but as masks  
 To hide foul-featured villainy from  
 view !  
 Have I not offered thee, but now, thy  
 rights,  
 All thou by law canst justly claim, and  
 more ?

*Dunbar.*—Yet this, if he refuse, none can  
compel.

*Kavasji.*—O, learned counsel! Righteous advocate!

I do refuse; and ask for my decree.

*Dunbar.*—And yet bethink thee, Kavasji. The  
bond

'Gainst Wallace gives thee double remedy,

Or here, where rose the action's cause,  
or there,

Where he resideth, and thou hast beside,  
In this his surety joined, security.

*Kavasji.*—I will not take the bond, but the  
decree.

Where is 'your vaunted English justice gone,

Of which you boast it never is denied,

E'en to the vilest, that respecteth not  
Creed, caste, or colour? Shall I have  
it not?

*Dunbar.*—Be well assured thou shalt. But  
answer me,

How came this money to be due?

*Kavasji.*— For rent  
Of that my house which he hath hired  
in Sind.

*Attorney.*—More sinned against than sinning.

*Dunbar.*— How comes he  
Here to be sued that hired a house in  
Sind?

*Wallace.*—On ten days' leave from Sukkur  
have I come.

*Attorney.*—Alas, poor soul! From Sukkur  
succourless!

*Wallace.*—And if, on expiration of that time,  
I fail to join my office there, I lose  
My post. He, knowing this, hath sued  
me here,  
Refusing every offered compromise,  
Perchance because he wishes to extort  
Hard terms from me, which I must  
needs accept,  
Or in the debtors' prison find my ruin.

*Kavasji.*—We do but waste the day in idle  
talk.

Why so I wish it, matters not. Suffice  
The wish I have with his confession  
join'd.

Give me my just decree, and let me go.

*Dunbar.*—Tarry a little ; there is something  
else.

The debt is due, but here no action lies.  
In Sind the cause of action, and in  
Sind

Defendant's dwelling. Therefore he in  
Sind

Must to the law make answer, and this  
court

No jurisdiction hath to hear this suit.

*Attorney.*—

O, honest lawyer ! Hearken, Kavasji !

O, honest lawyer ! Upright advocate !

*Kavasji.*—Is that the law ?

*Dunbar.*—Thyself shalt see the clause,  
Twelfth in the Letters Patent of the  
Court.

For as thou urgest justice, be assured  
Thou shalt have justice, more than thou  
desirest.

*Attorney.*—O, learned counsel ! Mark me,  
Kavasji !

O, learned counsel ! O, wise barrister !

*Kavasji.*—I take his offer. Let him sign the  
bond.

*Dunbar.*—Thou hast refused it in the open  
Court.

The offer's not repeated.

*Attorney.*— Kavasji !

A learned counsel, righteous advocate !

*Kavasji.*—Give me my principal and let me go.

*Dunbar.*—The justice that thou askest shalt  
thou have,

No less, nor more, than that the law  
allows.

*Attorney.*—O, honest lawyer ! I thank thee,  
Kavasji,

For teaching me so fair, so new a word !

*Kavasji.*—Shall I not have barely my costs of  
suit ?

*Dunbar.*—Thou shalt have nothing, Kavasji.

*Attorney.*—Save leave  
To hang thyself. That much thou  
mayest have.

*Kavasji.*—Why, then, the devil give him joy of  
it !

I'll stay no longer question.

*Dunbar.*—Tarry, sir.

The law hath yet another hold on you.

'Tis 'stablished in the practice of the  
court

That if, for any cause, a plaintiff's suit  
Shall be dismissed, he pays defendant's  
costs.

In this predicament I say thou stand'st.

*Arnould, J.*—That thou shalt see the difference  
of our spirits,

I'll not dismiss thy suit, for that would  
bar

A suit hereafter in the proper Court.

But holding I no jurisdiction have,

Since such a ten days' visit cannot be

A "dwelling" in the meaning of the  
clause,

I strike the case out, and return the  
plaint

To Kavasji, for had he told the Judge

To whom it was presented all the facts,

It ne'er had been accepted; and the costs

Of the defendant must the plaintiff pay.

WM. S.

NOTE.—The characters above represented are purely imaginary, as, for dramatic effect, the poet was obliged to invent facts not disclosed by the Report, in which it does not appear that the creditor was so obdurate, the debtor so candid, or the attorney so generous, as here shown.

## L'ENVOI.

Now, strike your sailes, yee iolly Mariners,  
For our first voiage here is fairely done,  
And we must land the weary passengers,  
Who in our bark with us so far have gone,  
Ere with their traveil's length they bee for-  
done,  
For see, their eies are dull, their checks are  
pale,  
And they through many toiles have stoutly  
wonne.  
Perchance hereafter we again may saile,  
If e'er the breath of prayse shall blow a fav'r-  
ing gale.

E. S.

