

SPEECH BY MR. S. G. PAGE,
GOVERNMENT PLEADER, HIGH COURT, BOMBAY, MADE ON
MONDAY, 28TH SEPTEMBER, 1992.

My Lords, the early morning of 18th September 1992 brought to the Member of legal fraternity, the sudden, shocking and tragic news of passing away of Hon'ble Mr. Justice Hidayatullah, a jurist, scholar and educationist.

My Lords, late Chief Justice Hidayatullah had a brilliant academic career. He was called to the Bar at Lincoln's Inn in 1930. Soon after his return to India, he began practicing as an advocate at Nagpur High Court. He acquired a large practice and made his own mark in the profession. His unparalleled mastery in law brought to him a distinction of becoming the youngest Government Pleader in 1943 and the youngest Chief Justice of the Supreme Court in 1958. Even with these honours, Mr. Justice Hidayatullah remained humble as he was right from the beginning of his career.

Mr. Justice Hidayatullah became lecturer in jurisprudence in the University College of Law, Nagpur in the year 1930. Later he became dean of the faculty of law, Nagpur University. He was also a member of the faculty of law, Sagar, Vikram and Aligarh Universities, between 1954 to 1956. His scholarly achievements brought him many honours, interalia including doctorates in law (honoris causa) from the Ravishankar, Rajasthan, Banaras Hindu University and the University of Philippines. He was conferred similar honours in literature by Bhopal and Kakatiya Universities. Mr. Justice Hidayatullah was a scholar in Hindi, Urdu, Persian and French, besides English. He had working knowledge of some other Indian languages including Sanskrit and Bengali.

On July 20, 1969, Hon'ble Mr. Justice Hidayatullah was sworn in as acting President of India after resignation of late Mr. V. V. Giri, the then Vice President and acting President of India. On August, 31, 1979 he was elected unopposed as the country's sixth Vice President. As Chairman of the Rajya Sabha, he became part of the law-making process enriching it with his human qualities, brilliance in law and scholarship. His ready wit and timely repartee often enlivened the atmosphere and conveyed his point far succinctly. He always believed in maintaining decorum and the dignity of the Parliament even while expressing one's strongest feelings of sufferings of the people in the Country. Once, one member of Rajya Sabha entered in the House with garland of onions in protest of the scarcity being faced by the citizens and was expressing his views in strong language. As Chairman of the Upper House, late Mr. Justice Hidayatullah quietly asked the concerned member, how he would demonstrate the scarcity of car-tyres and the shoes. The expression achieved its desired result.

Mr. Justice Hidayatullah had taken an active interest in the scout movement for more than 40 years. He was the Chief Commissioner of the Madhya Pradesh Boy Scouts Association and Vice President of the National Council. A member of the International Council of former scouts and guides, he was awarded the War Service badge and the silver elephant in 1940 the highest honour in Indian Scouting.

During the distinguished career as Judge of the High Court and the Supreme Court, Mr. Justice Hidayatullah has shown untiring devotion to the duties. He had been an extremely thorough and patient Judge with unremitting industry and keen sense to discover truth and do justice. Law, liberty and justice were upheld with

consummate ability and independence by His Lordship. On public controversies, some of his judgments are thought provoking. He disputed the correctness of any attempt to whittle down fundamental rights while making it clear that the right to property was not forever sacrosanct. The distinction between the law and order and the public order, has been brought out succinctly in the reported judgment by late Mr. Justice Hidayatullah in Dr. Ram Manohar Lohia V/s. The State of Bihar, A.I.R. 1966 Supreme Court, page 740 and the said Judgment is being followed till today. On the view once expressed by Pandit Jawaharlal Nehru that a Judge should also keep in mind the social values while delivering his Judgment, late Mr. Justice Hidayatullah said: "The Judge should certainly consider what is happening around him, but his interpretation should strictly be judicial." It is to be noted in golden lines that during the long period of judicial career of late Mr. Justice Hidayatullah, there was no adverse comments or no adverse complaints from the members of the Bar.

On my behalf and on behalf of the Advocate General, I join Your Lordships and my other brothers at the Bar in paying humble tributes to late Chief Justice Hidayatullah and in conveying our deep condolence to the members of his family with following words:

"IN HIS DEATH, REMAINS FRAGRANCE OF THE REMEMBRANCE FOR
EVER."

Speech by Shri J. R. Gagrati,
President, Bombay Incorporated Law Society made on
Monday, 28th September, 1992.

My Lords,

On behalf of the Bombay Incorporated Law Society and myself I associate myself with all that has been said before me.

We have met today to pay our tribute and respects to the late Mr. Justice M. Hidayatullah and to extend our condolences to the members of his family.

A tribute is due to Mr. Justice M. Hidayatullah as he is perhaps the only person to have held all the three highest offices in the Judiciary, the Executive and the Legislative Branches in our country.

He was the Chief Justice of India during 1968-1970.

He was the Acting President of India twice in 1969 and 1982.

He was the Vice President of India during 1979-1984.

As Vice President he was the Chairman of the Rajya Sabha.

All the three offices he held with dignity, distinction and independence.

He was a man of many parts – Law, Literature, Public Affairs, International Affairs and Education.

In the field of Law he held all offices which any lawyer can aspire to hold – Government Pleader; Advocate General of C.P. & Berar; Judge of the Nagpur High Court; Chief Justice of the Nagpur High Cou; Judge of the Supreme Court and culminating as the Chief Justice of India. He served as a Judge for 25 years. The Law Reports contain his judgments which show a deep learning in law

with a literary flair. Even non-lawyers find his Judgments easy and interesting to read. Among his landmark Judgments are – the case of R. D. Udeshi – where he laid down the law of obscenity in India in relation to Lady Chatterley’s Lover by D. H. Lawrence, the case of EMS Namboodiripad where the Chief Minister had disparaged the Judiciary by suggesting that Courts and Judges favour the rich and the Chief Minister was convicted for contempt, and the well-known Privy Purse Case of the ex-Rulers of Indian States.

In the field of Legal Literature he has about 12 publications to his credit with the famous “A Judges Miscellany” which has now run into Fourth Series and his interesting Memoirs “My own Boswell”. He has edited as General Editor the Constitution of India and as Editor Ratanlal Dhirajlal’s I.P.C., Indian Evidence Act, Criminal Procedure Code and Mulla’s Mahomedan Law. He has also authored numerous Monographs and Articles. He was a voracious reader and writer. He was a thinker and path-finder of new concepts and ideas.

In the field of Public Affairs he represented India at International Conferences at London, Washington, Hague, Tokyo, Sydney and at other cities in all the five continents and did India proud.

In the field of Education he was conferred with Honorary Degrees of LL.D. by national and international Universities. He was conferred Awards and Honours both in India and abroad including the Order of the British Empire.

He held various high offices in the field of Education including as Chancellor of Delhi and Punjab University, Hyderabad University and Jamia Millia Islamia University.

Above all he was a very warm, sincere and sensitive family man and friend and it was a privilege to know him and his family. He had untiring zeal, interest and energy till the very last.

In his Memoirs he says :

“I was never in the mood of Lord Macaulay who said – I shall retire early I am very tired – I know that life meant that one must continue to occupy his time with work.”

We extend our sincere condolences to his widow Pushpa, his son Arshad who is a Senior Advocate of this Court, and to members of his family. May his soul rest in eternal peace!

Speech by Shri I. M. Chagla,
President, Bombay Bar Association made on
Monday, 28th September, 1992.

My Lord the Chief Justice, My Lords,

We are meeting this morning to honour the memory of Mr. Mohammad Hidayatullah, Acting President, Vice President, Chief Justice of India, of Nagpur and Madhya Pradesh. But a mere catalogue of his public offices is to miss the essence of the man: philosopher – statesman, jurist and author but, above all, a gentleman. Urbane of wit, erudite of learning, humane of temperament and catholic in outlook!

It was in the year 1948 that he married Pushpa Shah; coming as he did from an orthodox Muslim background it was not only a demonstration of love, but an act of great personal courage and a reflection of his total commitment to secularism.

Mr. Hidayatullah's honours, and they were considerable, became him well. Of them all, the one he prized the most was being made Honorary Bencher of Lincoln's Inn. It was, in his view, and I think justifiably, the ultimate recognition of his judicial accomplishments.

In a sense, we are doing Mr. Hidayatullah a signed honour today by according a Full Court Reference to one who was never, strictly speaking, of this Court; and it is in the fitness of things that it should be so. He belonged to the entire nation and was, in the beginning, very much a Nagpur man; not only his early education but his practice was in the Nagpur High Court of which he became Chief Justice. And on his retirement from public office, Bombay, his adopted home, claimed him very much as its own.

The pages of the Law Reports reflect as much his legal learning and contribution to the development of the law, as his erudition; his judgments were all written with elegance and were often infused with the appropriate literary allusion.

As Chairman of the Rajya Sabha, he had the awesome task of dealing with some unruly scenes. He did so with aplomb and finesse, often with a witticism that helped defuse the situation.

As Acting President and Vice President, he walked with Kings, Presidents and Prime Ministers, but never lost the common touch. He was always approachable and was kindliness to all. He brought to his chamber work, in his Opinions and in arbitrations, an understanding and humanity, and gave satisfaction to all.

With Mr. Hidayatullah's passing away we have lost the last of the giants that belonged to the pre-supersession generation. Those were the halcyon days when Judges were judged, never by their political philosophy, but only by their judicial performance. And for those of us who despaired at the time, he offered us hope in these words:

".....we need not shed tears over what has happened and we can look forward – not be forward looking, but look forward – to an era which will be as good as the one which has gone before."

We shall miss him greatly. On behalf of the Bombay Bar Association, I offer my heart-felt condolences to his widow Pushpa and his son Arshad, his daughter-in-law Nayantara and his grandchildren.