Chapter 7
LANDMARKS IN THE LAW

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Front Cover of the Book Landmarks in the Law

"Law is the King of Kings
Nothing is superior to Law.
The Law aided by the power of the King,
Enables the weak to prevail over the strong”

MANU VII-22 *

Landmarks in the Law was written by Lord Denning in 1984 and becomes the last flower of the garland better known as the Christmas Series. It is an Oxford paperback of 312 pages with ISBN13: 9780406176141.

In the Preface Lord Denning quotes that, The Closing Chapter was actually the closing chapter of his judicial life. Since the retirement he had done lots of things. He delivered a number of
lectures, appeared on the Television (T.V.). Here, with the help of chapter-27, V 17-
Deuteronomy of the Holy Bible, he condemns the selfish encroachments.[80]

‘Cursed he that removeth his neighbour’s landmark.
And all the people shall say, AMEN.’

He opens the book with a beautiful quotation from Thomas Fuller telling us the supremacy of
law. [81] NEMO EST SUPRO LEGES (Fuller’s interpretation)

‘Be you never so high, the law is above you.’

The researcher opens the critical studies of this book with a quotation from MANU-VII/22. It is
miraculous to note that both the jurists tell same elements of law in the same manner, though
they belong to the different counties and to different ages.

PART I HIGH TREASON

Part-I of the book elaborates the legal position of High Treason in England. It has been
elaborated with the help of three precedents. First of all, Lord Denning tells us about the trial of
Sir Walter Raleigh. He was tried for the High Treason, which is punishable by death. It is the
most severe crime under the common law. It is governed by a Statute of 1351. (The
Treasure Act 1351). It is written in Norman French. It is on the Statute Book of Her Majesty. [82]

‘Whosoever commits treason by levying war against the King or be adherent to
the King’s enemies in his realm, giving to them aid and comfort in the realm or
elsewhere…….’

In short treason is a very serious offence throughout the Queen’s Realms for which the capital
punishment is inflicted. Mercy petitions are normally not allowed in such matter. Lord Denning
illustrates the historical as well as the contemporary position of this serious offence by tracing
the following cases.

REX V RAWLEY (Criminal Trials by David Jardine, 1838).

Sir Walter Raleigh (In Elizabethan times – Rawley) was an aristocratic personality. He was very
close to the Royal House. He was entrusted with many delicate responsibilities. He also visited
the New Land (America) and brought immense wealth to England. His friend Lord Cobham
confessed and Sir Edward Coke Q.C. charged him for High Treason against the King under the provisions of the Act of 1351. According to them Sir Raleigh was conspiring and trying to advance Arabella Stuart, the Crown of England, with the help of the alien powers like Austria and Spain. Cobham never appeared before Raleigh only his confession was presented. The jury convicted him under the Statute of 1351 and capital punishment was inflicted in 1603. It was exceptionally delayed for 13 years. Meanwhile he tried to please the King through his permitted expeditions. However for the reasons unknown, in 1618, the King ordered to execute the capital punishment of 1603 which was still in force. Accordingly Raleigh was beheaded on 29/10/1618.

Here Lord Denning has risen following points in relation to the Trial by Sir Edward Coke and the execution of Sir Walter Raleigh after such long delay of 13 years.

1. He finds the bad conduct of counsel for the prosecution.
2. He finds certain procedural faults in the confessions.
3. Evidence unlawfully obtained.
4. Examination before trial.
5. Doubtful delay in inflicting punishment.

Then Lord Denning tells us about the position of the **Treason Act 1351** in the 20th century. Here he traces **R v CASEMENT (1917)1 KB 98.** The trial of Casement took place in 1917. The case raised some new points. Here, the guilt was committed not in the U.K. or any of the Commonwealth Realms under The House of Windsor, but in Germany an alien country. It was considered very carefully by their Lordships, whether Casement had committed High Treason or not. Casement was an Irish volunteer who became successful in acquiring the sweet will of the Royal Government around 1911. The Royal Administration had also bestowed the Grand Title of ‘SIR’ upon him. However, he then went to Ireland and started to agitate for Irish independence. He joined the German forces in 1916 with 50 Irish Prisoners. He was captured and brought to London. In those times, the important cases were tried at bar. It is a trial by three judges of the Kings Bench, along with juries. The case for Casement was argued by Mr. Serjeant Sullivan, an experienced and much earned Advocate but, he lost the case. Casement was found guilty and was hanged at Pentonville prison. After 50 years his remains were returned to Ireland. Lord Denning then traces us an interesting account of **JOYCE v DPP (1946) AC 347.** It is about the trial of William Joyce in 1945. He was an American citizen. He came to Ireland and then to
England. In 1933 when he was 27 years old and applied for the British passport and declared
himself a British subject. He went to Germany in 1931 and joined the German Radio Company
as an announcer of English news. He broadcasted a purely false and nasty Nazi propaganda on
behalf of the enemy. In 1945 when England won the War, he was arrested in Germany and was
brought to trial. Lord Denning states the statement of offence and the particulars of offence thus-

“William Joyce to wit on the several days when an open and public war being
prosecuted and carried on by the German Realm and it’s subjects against our
Lord the King and his subjects you traitorously adhere to and aid and comfort the
said enemies in part beyond the seas....’

Joyce was given full opportunity to prove his innocence, if he had. His all human rights in
custody were also protected. The Royal Administration even proposed the appointments of the
‘Free Advocates’. Joyce could not defend him. He was duly found guilty and was consequently
hanged on 3rd January 1946. Lord Denning has given evidence before the Royal Commission in
1953 he quotes his learned opinion against the capital punishment. He says-[84]

“Is it right for us to hang a man?
Which none of us would like to become witness?
The answer is ‘No, not in a civilized society.’

PART II TORTURE AND BRIBERY

Part- II: of the book is given to illustrate the various aspects of torture and bribery. According to
Lord Denning these offenses are extinct in England. However, they are active in many parts of
the world. Lord Denning gives us the Case of Francis Bacon (1620) 2 STATE TR 1087. He
was born in 1560 in an aristocratic family. He was elevated by the Queen as the Lord Chancellor.
He was charged for bribery and nepotism. The Lord Chief Justice gave his judgment: [85]

“This high Court hath thereby, and by his own Confession, found him Guilty of
the Crimes and Corruptions complained of by the Commons, and of sundry other
Crimes and Corruptions of like nature. And therefore this high Court having first
summoned him to attend, and having his excuse of not attending, by reason of
infirmity and sickness, which he protested was not feigned, or else he would most
willingly have attended, doth nevertheless think fit to proceed to Judgment : and
therefore this high Court doth adjudge :
That Lord Viscount St. Albans, Lord Chancellor of England, shall undergo a fine and ransom of 40,000. – That he shall be imprisoned in the tower during the King’s pleasure. – That he shall for ever be incapable of any office, place, or employment, in the state or commonwealth. – That he shall never sit in parliament, nor come within the verge of the Court. This is the judgment and Resolution of this High Court.”

On the last day of May 1620 he was carried a prisoner to the Tower. A barge came to the stairs of York House. He was taken to the Traitor’s Gate. He was soon released, however, and went to Gorham bury. But he had to sell York House and reduce his establishment at Gorhambury. He spent most of his time in his chambers in Gray’s Inn. [86] In the State Trials it is said:

“An old story tells that he caught his death of cold whilst experimenting with a chicken. But I expect it was what is now called influenza. He died on 9 April 1626.”

The above case shows the spirit of the laws in England where even a Lord Chancellor faced a common trial. Lord Denning then turns to tell us an interesting account of Lord Macclesfield, who was appointed Lord Chancellor in 1718 and proved himself a very able judge, his decisions being regarded with much respect. (One of the most famous of his cases was Mitchell v Reynolds (1711) 1 PWMS 181, the leading case on covenants in restraint of trade.) However he fell into the illegal practice of selling offices. He did not take bribes like Bacon. However he started to select the new Masters in Chancery and demanded an honorarium. Lord Macclesfield increased the price for offices so rapidly that the new Masters had started to get it back from the parties in Chancery. The Masters started to delay the matters and then extract money from the parties for setting the things right in a short time. Anyhow the whole sorry story came out. The Lord Chancellor was immediately impeached. He was found guilty and further fined $ 30,000.

Then Lord Denning tells us the importance of nemo judax causa sua (No one shall be a judge in his own cause). He narrates the famous case of Lord Cottenham (DIMES v GRAND JUNCTION CANAL (1852) 3 HLC 759) This is an important case of a Lord Chancellor who teaches us the next lesson- that a judge must not have even the slightest interest in any case depending before him. Over a hundred years ago the then Lord Chancellor, Lord Cottenham, was a shareholder, having 92 shares in the Grand Junction Canal Company. The Company had a dispute with one Mr. Davies who claimed that the canal to be his private property. He put a bar
across it and threw bricks, stones and the lime mud into it. The Company applied for the equitable remedies against the said Mr. Davis. It was granted by the Vice Chancellor of the Grand House of Lords in its judicial capacity. The Lord Chancellor Cottenham affirmed the decree. Lord Cottenham never disclosed amidst the long judicial proceedings that he himself was a shareholder in the Company. The Grand House of Lords, after consulting the other Law-Lords, held that the decree must be set aside. In the course of his speech His Lordship Lord Campbell declared. [87]

“No one can suppose that Lord Cottenham would be, in the remotest degree, influenced by the interest that he had in this concern, but it is of the last importance that the maxim that no man is to be a judge in his own cause should be held sacred... It will have a most salutary influence when it is known that, in a case in which the Lord Chancellor of England had an interest, his decree was set aside.”

PART III EQUITY [CHANCELLOR'S FOOT]

Part- III: of the book is given to Equity which according to John Selden is the ‘Chancellor's Foot’. Lord Denning here gives us an account of The Life and Works of Thomas Wolsey. He was born in 1471 in a poor family. He was educated at Oxford. He was appointed as Lord Chancellor of England by King Henry VIII. The King wanted divorce from his first wife Catherine. The Pope appointed Wolsey and Compaggio as Papal Commissioners. The King had now bestowed his favour upon Anne Boleyn. She disliked Wolsey. The divorce proceedings delayed. There may be some pressure from the King of Spain as Catherine was a Spanish princess. Wolsey was dismissed from all designations. He was caught and charged for sedition. The charges were proved.

Then Lord Denning tells us the story of Sir Thomas more. He was appointed Lord Chancellor in reign of the despotic Tudor Monarch, King Henry VIII. More was an expert on equity. Like Wolsey the sweet will of the King remained upon him for a short time. More denied to recognize the King as the Supreme Head of the Church in England. He was beheaded by the Royal Administration and subsequently canonized by the Church of Rome. After telling the stories of two prominent Lord Chancellors of the Tudor Age, Lord Denning further tells us about the contribution of Sir John Scott as an authority on equity. He was a strong and highly conservative
Lord Chancellor. He was famous for making delays in judicial proceedings. Actually delay defeats equity. The vast discretionary powers should be carefully used. In a lecture in 1952, Lord Denning stated- [88]

‘We stand at the threshold of a new Elizabethan era. Let us play a worthy part of it’.

He firmly stated that he had actually tried to establish the modern equity principles by recognizing the new legal doctrines of Promissory Estoppels, Proprietary Estoppels, Constructive Trusts, Licenses of Land, Mareva Injunctions and so on. Lord Denning becomes very humorous when he states that the aforesaid modern equity is not at all variable like the ‘Chancellor’s foot’.

PART IV MARTYRDOM

Part- IV: of the book is devoted to Martyrdom. According to Lord Denning a true martyr is one who does not seek credit for himself. He suffers death or pain because of his faith in which he strongly believes. He rejects remuneration. Lord Denning warns the judges by saying that they should be careful and further they should not to pass a sentence so severe so as to make an offender a martyr. Here he traces the land mark cases on blasphemy.

Hugh Latimore and Tolpuddle Martyrs (Book of Martyrs Vol III P 419)

The Reign of Terror continued under Queen Ann. Her Majesty was a staunch Roman Catholic. She wanted to revive the Papal jurisdiction over England and thus to increase the Roman Catholicism in all parts of her Commonwealth Realms. Once, 300 Protestant Bishops were kept in captivity. Cardinal Pole was the apex Papal Representative in England. Two staunch Protestant fathers, Nicholas Ridley and Hugh Latimore were captured and tried for blasphemy, as they declared their controversies in relation to the Doctrine of Transubstantiation. It was recognized by the Church of Rome. Shorter Oxford Dictionary says that the ‘transubstantiation means the transfer of the whole substance of bread and wine into the actual body of and blood of Lord Jesus Christ.’ Latimer and Ridley openly opposed the Roman doctrine. The charges of blasphemy were declared to have been proved. They were openly burnt in the premises of the Baliol College. He then tells about the Tolpuddle martyrs. George Loveless was a farmer from the village Tolpuddle. He regarded John Wesley as his preceptor. They were the followers of the
Methodist church. Loveless founded a ‘Friendly Society of Agricultural Labourers’, in his own village. Founder members were six. The membership was increasing. The new members had to take a secret “Spiritual Oath.” Their activities were treated as doubtful and they were charged for taking false oaths leading to further sedition. They were held guilty. The Royal Administration was pleased to grant them pardon. However the activists decided to migrate to the Royal colonies in Canada. Then Lord Denning further turns to describe the importance of *Taff Vale Rly Co. v Amalgamated Society of Railway Servants* (1901) 1 QB 170. In this case, around 1900, the judicial trend were still against the trade unionism. The Royal Courts used to hit them hard by issuing the exemplary damages. The great *Taff Vale case* can tell the story to understand the contemporary scenario. One must know that the trade unions were originally registered as the friendly or the agricultural societies. The members paid the fund for the activities of the union. Now in the present case the Railway Union called a strike at Cardiff. The workmen left work and set up peaceful pickets so as to stop their other brethren not to go to work. However there was no compulsion. The trains totally stopped and the company lost its huge profits. The Legal Advisor of the Railways advised them to take legal action against the union itself, seeking an injunction and damages. The Supreme Court of Appeal dismissed their petition. The House of Lords, in a miraculous judgment, overruled the Supreme Court of Appeal. The Lords issued an injunction against the trade union and restrained it from setting up the pickets, and stated that the Railway Company could recover the exemplary damages which against the trade union funds. The damages were assessed at £ 23,000/- The General Strike of 1926. It was a massive strike in the history of the UK. Sir John Simon declared it as illegal strike. Though the strike collapsed it paved the way for various labour welfare legislations throughout the Commonwealth Realms. In the then British India, the Crown sanctioned *The Trade Union Act* in the same year.

**PART V FREEDOM OF ASSEMBLY**

Part–V of the Book is fully devoted to the Freedom of Assembly. Lord Denning introduces the chapter by quoting Art 20 from the Universal Declaration of Human Rights. Everyone has a right to freedom of peaceful assembly and association. These fundamental Human Rights are implemented in England. He gives the cases of William Penn and William Mead. William Pen and William Mead were Quackers (Quacker means those who urged everyone to quack i.e. to tremble at the word of God). They fear the ‘Sin’ remain many miles from its existence. William
Penn wrote a book, 'No Cross No Crown'. Both were engaged in business. On 14th Aug 1670 they were captured and charged with unlawful assembly because they were addressing a meeting of Quackers without the permission of the Lord Mayor. They were found guilty. No transportation took place because Admiral Penn, the father of William Pen paid the fines. Outwardly this Quaker case seems to be simple but it raises a fundamental question of the Freedom of Assembly. According to Lord Denning the present position in England is far better than the Historical incidences. The case must have been traced in order to trace the importance of the present good governance. They Lord Denning turns towards the Chartist Movement it brought male/female equality in all walks of life. Here he gives us the most important Vincent's Case (1839) 9 CP 91. The Reform Act was promulgated in 1832. It abolished the rotten boroughs but it could not satisfy the working classes of the United Kingdom. In 1839 the Chartists Movement appeared. The volunteers demanded the electoral reforms. Their objectives were to effect more changes in the unwritten constitution of all the Commonwealth Realms with special reference to the United Kingdom. The movement was strongly supported by the women, who were demanding the electoral rights. They arranged secret meetings at which speakers appealed to the working classes to revolt and to use physical force for the purpose. Some of these meetings were held at Newport in Monomouthshire where one Mr. Vincent, a staunch supporter of the Chartism addressed the immense crowd in very provocative word. The speech created the issues in relation to peace and maintenance of law and order. This led to the prosecution in of the aforesaid Mr. Vincent. The Crown Court found him guilty of the unlawful assembly. The judge told the jury: [89]

*I take it to be the law of the land that any meeting assembled under such circumstances as, according to the opinion of rational and firm men, are likely to produce danger to the tranquility and peace of the neighborhood is an unlawful assembly.*

Further Lord Denning traces the contemporary case – R. v Chief Constable of Devon 1982. It is a case of the nuclear protesters. The UK Electricity Board proposed to build a nuclear power station. They selected a possible site in Cornwall. They spotted their specific marks on to the site. Demonstrators and the volunteers came and tried to stop the government survey. They started to stop the vehicles. They tied themselves to the rig. They, now, were making obstacles in the government work, which is a severe criminal offence. It was also an unlawful assembly.
Some of the members were engaged in affray. It was also a breach of the peace. The Royal Police Department was fully entitled to use the reasonable force to remove the demonstrators and the volunteers and free the working site. Lord Denning said: [90]

“I go further. I think that the conduct of these people, their criminal obstruction is itself a breach of the peace. There is a breach of the peace whenever a person who is lawfully carrying out his work is unlawfully and physically prevented by another from doing it. He is entitled by law peacefully to go on with his work on his lawful occasions. If anyone unlawfully and physically obstructs the worker – by lying down or chaining himself to a rig or the like – he is guilty of a breach of the peace. Even if this were not enough, I think that their unlawful conduct gives rise to a reasonable apprehension of a breach of the peace. It is at once likely that the lawful worker will resort to self-help by removing the obstructer by force from the vicinity of the work so that he obstructs no longer. He will lift the recumbent obstructer from the grounds. If I were wrong on this point, if there was no breach of the peace or apprehension of it, it would give a license to every obstructer and every passive resister in the land. He would be able to cock a shoo at the law as these groups have done. Public works of the greatest national importance could be held up indefinitely. This cannot be. The rule of law must prevail.”

PART VI MATRIMONIAL AFFAIRS

Part-VI of the book touches the important aspects of Matrimonial affairs. In this regard he quotes Sir William Scott. The Royal Administration elevated him as Lord Stowell, the great judge and a senior to Lord Denning, whose contribution to the field of Family Law must be remembered throughout the Commonwealth Realms. The reformative approach of His Lordship is respected even in the present Republic of India, which is just an associated member of the Commonwealth and not a Realm under the Grand Royal House of Windsor. The massive Codification of Hindu Law, a major branch of Family Law for this country, which recognized many novel concepts like the Divorce, the Registration of Marriages, the Custody of Minors, Alimony and Palinony etc. are the clear reflections of various judgments of the Grand House of Lords through its Judicial Committee, the Privy Council. Today, the Hindus in India are governed not by the ancient uncodified Hindu Law but by the enactments like – The Hindu Marriage Act 1955, The Hindu Adoptions and Maintenance Act 1956, The Succession Act 1956, The Hindu Guardianship Act 1956. The Uncodified Hindu Law is only applicable where the Courts are unable to trace the matter from the Codified Text. This is a great Social Revolution which is an influence of the Privy Council judgments on the cases referred from the
various Commonwealth Realms like the UK, Australia, Canada, New Zealand, Falkland, Isle of Man and many others. Lord Stowell’s judgments in Evans v Evans (1790) 1 HC 35 has been quoted here to stress the importance of maintaining the marriage bond as far as possible. Lord Stowell has declared through the Obiter Dicta-[91]

“Yet it must be carefully remembered that the general happiness of the married life is secured by its indissolubility. When people understand that they must live together, except for a very few reasons known to the law, they learn to soften by mutual accommodation that yoke which they know they cannot shake off they become good husbands and good wives from the necessity of remaining husbands and wives; for necessity is a powerful master in teaching the duties which it imposes. If it were once understood that upon mutual disgust married persons might be legally separated, many couples who now pass through the world with mutual comfort, with attention to their common offspring and to the moral order of civil society, might have been at this moment living in a state of mutual unkindness, in a state of estrangement from their common offspring, and in a state of the most licentious and unreserved immorality. In this case, as in many others, the happiness of some individuals must be sacrificed to the greater and more general good. That the duty of cohabitation is released by the cruelty of one of the parties is admitted, but the question occurs, what is cruelty? This, however, must be understood, that it is the duty of courts, and consequently the inclination of courts, to keep the rule extremely strict. The causes must be grave and weighty, and such as shew an absolute impossibility that the duties of the married life can be discharged Mere austerity of temper, petulance of manners, rudeness of language, a want of civil attention and accommodation, even occasional sallies of passion, if they do not threaten bodily harm do not amount to legal cruelty: they are high moral offences in the marriage – state undoubtedly, not innocent surely in any state of life, but still they are no that cruelty against which the law can relieve.”

Lord Denning’s first biographer Mr. Iris Freeman wrote in 1992, about a typical case of family law, in which in an appeal, His Lordship strongly rejected the wife’s plea of getting the custody of the minors. If that request was allowed, there would be no chance of saving a future possible union. According to Freeman it was the influence of the sacred teachings of Lord Jesus Christ. However, according to researcher it was the joint influence supported with the views of the senior masters like Lord Stowell. Then Lord Denning tells us about the burden of proof in adultery and mentions the case Loveden v Loveden (1810) 2 HC 1, decided by himself. A wife was charged with adultery with a fellow of Merton College, Oxford. Sir William Scott clearly found the charges proved. Lord Denning quotes: [92]
“It is a fundamental rule, that it is not necessary to prove the direct fact of adultery; because, if it were otherwise, there is not one case in a hundred in which that proof would be attainable: it is very rarely indeed that the parties are surprised in the direct fact of adultery. In every case almost the fact is inferred from circumstances that lead to it by fair inference as a necessary conclusion; and unless this were the case and unless this were so held, no protection whatever could be given to marital rights. The only general rule that can be laid down upon the subject is that the circumstances must be such as would lead the guarded discretion of a reasonable and just man to the conclusion.”

The judgments of Lord Stowell have now become the light houses for the judges and the advocates practicing in the Family Law all over the world. After paying a warm tribute to the grand old maser of the family law, Lord Denning turns to elaborate the famous and landmark **Case of Queen Caroline** (Campbell–Lives of the Lord Chancellors, Volume VIII pp. 308, 309). The case has already been turned into a classic example of the Common Law Judicial System based on the Principles of Natural Justice. The case stresses the ancient Roman Law principle- NEMO EST SUPRA LEGES ( No one is Superior to Law ) The case has further stressed certain family law principles. The King George IV, then Prince of Wales, was determined to get rid of Princess Caroline. He never wanted to make her the Queen sitting with him on the Throne of the Commonwealth Realms. He had doubt of her character. He sent papers in a green bag to the House of Lords relating her conduct. He wanted the Law-Lords to make a fair inquiry. The Lords advised the Monarch to give her full opportunity to defend herself. The result was that a Bill was introduced to deprive the Princess her title as Queen of the Commonwealth Realms. The further aimed to dissolve her Royal marriage with the King-Emperor. A special order was made by which the advocates appearing for both the parties could be heard at the bar and witnesses to be examined properly. Nearly the whole talent of the Privy Council Bar was engaged. Five eminent Brrristers were engaged by both the parties. The House of Lords had asked some lawyers to be the Amicus Curie. Nearly all the advocates who pleaded in this case were elevated to high judicial offices of the Realm in the course of time. The Queen’s party was led by the eminent Legal Expert of the day- The Rt. Hon. Mr. Brougham, Bar-at-Law. He made all things clear in his opening speech-[93]

“It has been argued, I am informed, by the promoters of this bill, that my illustrious client is to be dealt with as if she were the lowest, not the highest, subject in the realm. God grant that she had never risen to a higher rank than the
humblest individual who owed allegiance to his Majesty. She would then have been fenced round by the triple fence whereby the law of England guards the life and honor of the poorest female. Before such a bill could have been introduced against any other individual, there must have been a sentence of divorce in the Consistory Court, there must have been a verdict of a jury who might have sympathized with her felling... she would have been tried by twelve honest, impartial, and disinterested Englishmen. She has, therefore, good cause to lament that she is not the lowest subject of his Majesty, and I can assure your Lordships that she would willingly sacrifice everything, except her honors, which is dearer to her than her life, to obtain the poorest cottage which has ever sheltered an Englishwoman from injustice.”

It was not a trial but a debate in the House of Lords. King-Emperor George IV was 48 while the Queen was 46 at the time of ‘Debate’. The King wanted divorce. Lord Liverpool put the Bill to deprive the Queen of her title and to dissolve the Royal marriage. Princess Caroline had gone to the Continent. Meanwhile, the King-Emperor George III died and George IV became the King-Emperor and the Princess Caroline became Queen-Empress Caroline. She immediately came to England and found that the newly published Prayer Book of the Church of England had omitted her name. Mr. Brougham excellently pleaded for the Queen. Even his talent was admitted by his opponents. His long speech divided the Lords in opinion. The case against the Queen-Empress was dismissed. It was a judgment of an Apex Judicial Organ against its own Sovereign! A Landmark in World History. Mr. Brougham acquired immense glory and fame. The Queen remained present at the time of Coronation. However, she was refused admission. She lonely returned to the Royal Palace and then immediately died. According to Lord Denning Though Mr. Brougham had saved his client from the charges, she was guilty of misconduct. It is said that the King himself was also engaged in misconduct at the time only when he was a Prince of tender age. His personal behavior only improved after the sacred ceremony of Coronation which put the ultimate responsibilities of all the Realms upon him as the Crown is never a Bed of Roses. Then Lord Denning traces the incidents related to Lord Melbourne. He remained the Prime Minister of the Empire in the Victorian times. He was sued by George Norton for criminal activities with his wife Caroline Norton. The debates in the House of Lords could not rightly settle the matrimonial rights of the spouses against each other. The Nortons lost their case in 1836, however, in 1848 even Lord Melbourne died and certain evidence was found in his diary and his testaments. Famous English novelist, Charles Dickens wrote Pickwick Papers in 1837. The Novel depicts the contemporary social scenario. Then Lord Denning traces certain other
cases and engagements especially of 1857 and 1923. The later brought full equality between the men and women. The position of the burden of proof in matrimonial cases is fast changing. In many countries a policy of protective discrimination in favour of women is followed. The B.B.C. asked Lord Denning to guide them for their programme on good books. Lord Denning chose ‘Pickwick Papers’. He states that the modern young generation is away from good reading. The novel contains an imaginary case Bardell v Pickwick and in the setting of the Victorian times. The novelist Charles Dicknes presents the Victorian life 'as it is' and not 'as it should be'. As the story is already discussed in 'What Next in the law' the researcher omits the same here. Accordingly to Lord Denning, the depicted imaginary case (BARDELL v PICKWICK) is quite real in social sense. It has brought the following Legal points for the consideration.

A. Breach of Promise of Marriage (before the Restoration a matter of the Ecclesiastical Courts now the Common Law Courts)

B. Rules of Evidence (Now to be read under the Law Reform (Enforcement to Contract) Act 1954. The marriage engagements may not be in writing.

C. The Conduct of the Counsel must be fair. [Modern Professional Ethics]

PART VII FREEDOM OF THE INDIVIDUAL

Part VII of the book is devoted for the Freedom of the individual. It is the base of the Hamlyn Lecture 1949 in which Lord Denning was specially invited to deliver the lectures. He spoke on the Writ of Habeas Corpus and its value. According to him it is the backbone of the modern human rights. Lord Denning condemns the evil practice of slavery. He states that in the last 200 years more than 15 million black slaves were transported by sea to America. They were treated like animals, bought and sold. Now, Article 4 of Universal Declaration Human Rights 1948 prohibits all forms of slavery. The evil practice actually arose in ancient Rome. England was one of the early nations which banned the evil practice. He quotes from Sir John Holt. (Smith v Poram 1705)[94]

‘As soon as a Negro comes to England, he becomes free. One may be a villain in England but not a slave.’

The great social reformers Granville Sharp and William Wilberforce tried to abolish this inhuman system. Jonathan Strong, an African slave who was going to be transported to Jamaica.
They also tried to rescue a number of other slaves in the United Kingdom in 1834 – Emancipation Act was promulgated which banned all forms slavery throughout the Queen’s Realms. Lord Denning praises Lord Reid for excellent judgment in Nissan v Attorney General (1970 AC) which guarantees the Human Rights throughout the Commonwealth Realms. Here Lord Pearson and Lord Reid denied to distinguish Her Majesty’s subjects and the citizens of the other countries, in relation to the amount of compensation of the properties seized by the UK Forces in Cyprus, a disputed territory between the Greek Crown and the Republic of Turkey.

PART VIII INTERNATIONAL TERRORISM

Then Lord Denning discusses various aspects of the Liversidge Case, a landmark legal matter of the 20th century and decided by his senior master, Lord Atkin. It is related to the Security of the State. Then Lord Denning tunes towered Misprision and the International Terrorism. The researcher has stated them in Chapter-VIII.

PART IX GENERAL WARRANTS

Part IX of the book is devoted to General Warrants. His Lordship, here provides us the Case of R v John Wilkes (1770) 4 BURR 2527. His paper The North Briton (Ed No. 45 – Saturday 23-4-1763) criticized the modus operandi of Emperor George III. The Royal Administration was irritated. The Emperor was very angry with the journalist. Wilkes was caught. The whole stock of The North Briton was seized from him. He remained in tower for a number of years. A Writ of Habeas Corpus was filed for his release. It must be remembered that Wilkes was a Member of Parliament, for the lower house, ie- the House of Commons. Although, he continuously claimed the parliamentary privilege, it was clearly denied to him. The House of Commons with full majority decided to expel him for the seditious libel in No. 45. Meanwhile Wilkes fled to France.

The Solicitor – General laid information against him for publishing a seditious and scandalous libel in the North Briton No 45. A separate complaint was also lodged for an obscene libel in his an Essay on Women (a parody based on the classic piece of the great poet Alexander Pope - An Essays on Man). The trial was fixed for 21-2- 1764. His illegal light was treated as a confession of guilt. The judicial proceedings started in his absence. The jury found him guilty on both the
offences. On 5-8-1764 the Sheriff of Middlesex ordered him to appear. However, he did not appear. On 1-11-1764 he was, by the Law of the Realm declared an- OUTLAW. That was a fearful sentence on him it meant the total forfeiture of his real estate; and a lifelong rigorous imprisonment with many incapacities (No visit of the family members, No medical aid in those times) when spotted by the Royal Police Department in future.

PART X FREEDOM OF THE PRESS
Part X of the book is fully devoted to the Freedom of Press which is part and parcel of the Freedom of Expression. The improper use of it may give rise to defamation which is a felonious tort punishable under the provisions of Fox's Libel Act 1752. (In India, punishable under Section 499 of the Indian Penal Code Act- XLV of 1860). Lord Denning has also discussed the various aspects of the most heinous crime of blasphemy and it’s contemporary position in the Commonwealth Realms. According to Oxford Dictionary, 'blasphemy' means speaking of God and sacred books with nasty words’.

Here he refers the famous Taylor's case VEMT 1678. At Guildford, UK, in 1678, one Taylor, uttered a blasphemous expression, horrible to hear or to reproduce, which the researcher quotes with sad heart, but only for the academic purposes -[95]

"That Jesus Christ was a bastard, a whoremaster, his religion was a cheat: and that he neither feared God, the devil, or man."

Chief Justice Hale declared - [96]

"That such kind of wicked blasphemous words were not only an offence to God and religion, but a crime against the laws, state and Government, and therefore, punishable in this Court. For to say, religion is a cheat, is to dissolve all those obligations whereby the civil societies are preserved, and that Christianity is parcel of the laws of England: and therefore to reproach the Christian religion is to speak in subversion of the law. Wherefore they gave judgment upon him, (viz) to stand in the pillory in three several places, and to pay one thousand marks fine, and to find sureties for his good behavior during life.”

When Lord Justice Hale heard the argument of the Queen's Counsel, he gave an opportunity to defense. However the defense totally collapsed. Lord Hale declared- [97]

'Christianity is a part and parcel of the Laws of England and the Queen’s Realms’
Taylor committed Blasphemy. He was inflicted to stand in a pillory at three public places and further to pay 1000/- Marks and still further to produce three sureties for good behavior up to death. Lord Denning has also stressed Woolston's case. The ratios are more or less the same as Taylor's case. According to Lord Denning the Christianity deserves a special status under the Laws of England and certain Queen’s Realms. The Royal Administration gives assurance of full religious freedom to all subjects and which can even be extended to the temporary visa holders like the overseas students or work permits.

PART XI PERSECUTION

Part XI of the book fully describes the various aspects of persecution. According to Longman dictionary, persecution means 'to treat someone cruelly over a period of time especially because of their religious belief'. In this chapter Lord Denning has deeply discussed the various aspects of persecution of the Jews in legends and literature as villous of the contemporary age. According to Lord Denning the Jews are from the territory of Israel. Due to specific political situation most of them migrated to various European countries like Italy, Greece, Germany, Russia, France and England. The Jews never forget of their ancient mother land. They have specific traditions which separate them from the Christianity and Islam. Though the Jews live in European countries and speak the relevant European languages, they have never forgotten their original mother tongue, Hibrew. It is taught to their Childers at their home by private tutors. Lord Denning the position of the Jews in England. He quotes Prof. G.M. Trevelyan- [98]

'The Jews were the 'King's Sponges' They sucked up his subjects money by putting their own'. [History of England 1945 3rd Edition (Page 187)]

He further states [99]

“In 1290 Edward I had expelled them by putting end of taking loans from them. The English society became independent. Gen. Cromwell allowed them in 1655. So anti-Semitism is less strong in England than on the Continent.”
[English Social History, 1946 2nd Edn Page 32.]

The Royal Government has always treated all the subjects with equality. England is far more tolerant than any other European power. The Empress Victoria had appointed Benjamin Disraeli, a Jew as the Prime Minister. However the Jews in Germany were persecuted by Hitler who became the dictator by following the democratic method. According to Encyclopedia Britannica
600,000 Jews were killed by the Nazi Regime while a number of them escaped Germany, and went to South America, North America and even Australia. (It is interesting to note that some of the Jews also made India their home. - Bombay and Thiruananthpuram are the places where some of them live. There is a well built beautiful Synagogue at the Camp Region of Poona). Lord Denning has quoted an interesting case **De Costa v De Paz 1754 (2) Swan-487** In that case a Portuguese Jew made a will and directed that his £1200 be invested to the British Government. It must be utilized for the ‘Daily Reading of the Jewish Scripture and advancing and propagating their Holy Religion. Lord Hardwicke declared- [100]

"England is constitutionally is a Christendom. The will is fully invalid as it cocontradicts to the Christain religion."


‘Jesus was a Jews’

According to Lord Denning Christians and the Jews must come together in the search of the Truth. Lord Denning thought upon the leading problem and strongly supported with his noble concept of restoration of peace in the world.

**PART XII MURDER**

**Part XII** of the book is fully devoted to the heinous crime of murder. During the productive times of Lord Denning, the law of murder received a great change. The capital punishment received a death blow to be inflicted in the ‘Rarest of rare cases’. The jurists are also thinking the principle of, victimlogy to be implemented through the courts. Lord Denning here compares murder and manslaughter. He is in favour of the second term. He gives top host important to ‘mens rea’ rather than ‘actus rens’. He then refers the famous **Woolmington v DPP 1935 AC 462**. The case shifted the burden of proof for proving the innocence on the accused. It is a sad story about a young man and his beloved. Reg was a milkman and a tender girl Vi lived with her mother in a neighbouring village. They fell in love. She became pregnant. They got married in 1934 before the baby was due. They went to live in a small hut on his farm. In November 1934, Reg found himself uneasy and decided to meet Vi at any cost. She was at her mother’s house. He took a gun, got on his bicycle, and rode to her mother’s house. Next door there lived Vi’s aunt. She told the court her story. She heard the door slammed. Then Reg came out. He got on
his bicycle and rode off. The aunt went into the house and found her niece Vi lying on the mat. She had been shot through her heart. Reg was caught by the police and was charged with murder. He said -[101]

I want to say nothing. Except I done it and they can do what they like with me. It was jealousy I suppose. Her mother enticed her away from me. I done all I could to get her back. That’s all.

Six weeks later he was tried at Taunton and Bristol Assizes. The jury found him guilty of murder. He was sentenced to death. The case is highly important for the Law students because at that time Lord Denning was junior at the Bar. The law in relation to murder is fast changing. Even Lord Denning had opposed the capital punishment in his advanced years.

PART XIII  LORD DENNING’S  MOST IMPORTANT CASES

Part-XIII the last part of the book deals with the certain most important legal matters in the life of Lord Denning. It is in relation to his Report which he issued as the Head of the Royal Commission on Profumo Affair. As usual the book ends with an epilogue by quoting the spiritual lines of St. Paul-[102]

‘Whatsoever things are true----- think on these things.’

CRITICAL OPINION ON THE WHOLE CHRISTMAS SERIES:-

Whether a judge should write his life experience or not is an academic question. Lord Denning was also advised not to write anything about his judicial experiences. However received not only a book but also an excellent classic series from him. They are the life experiences of an Apex Judge. As earlier stated the whole series has a magical coherence. According to the researcher, the books of this series (except ‘The Family Story’) are ‘Legal Literary Classics embedded with the life experiences of the author. The rest of five books may be treated as the ‘Bible for the Templars’. The Family Story is a successful attempt of His Lordship at the literary form of autobiography. The series is capable enough to reveal Lord Denning’s philosophy of life. His attitude towards many complex socio-legal problems is clearly seen as the series faithfully portray the contemporary age (1899-1999) in which His Lordship lived. He was already an octogenarian when the series was completed. They are the ripened and well pondered life
experiences collected in tranquility. The researcher has provided the critical studies of each of the separate book amidst the general studies and the assimilation forms the separate chapters of the concerned books in the present thesis. The further critical studies on the life and his selected works are embodied in the coming three chapters. The researcher has separated the philosophy of Lord Denning and has made it an exhaustive chapter, which will follow to this part. The researcher found that Lord Denning had much interest in the complex socio legal problems of the Indian people who are also the fellow Commonwealth citizens. The Commonwealth citizens are not treated aliens in the countries of each other on the reciprocal basis. There is no need to quote the last part of the previous sentence but the researcher is compelled to quote it sadly. Certain developments in the Post-Denning era must be considered very minutely.

The judgment in SUE V HILL (1999) HCA 30, pronounced by The Hon. High Court of Australia [103] must be studied carefully. (There are dissenting judgments). According to the researcher, the loyal subjects of Her Majesty, living or going anywhere in Her Realms must not be distinguished, because the Head of the State is common to all these Realms. They are the ‘Realms’, only for the technical purposes but, they truly are a single ‘Realm’ in the real sense of the term. The History of the World Wars can easily prove the inferences of the researcher. Further, the Commonwealth citizens not living in any Realm under Her Majesty (the Republics like India, Pakistan, Mauritius etc or the Kingdoms like Lesotho, Swaziland, Tonga etc) must also be treated with a consideration of the historical and the cultural unity, because they, too, regard Her Majesty as the Head of the Commonwealth. Thus Lord Denning and India, has been treated as a separate chapter in which the researcher has studied the relevant aspects critically. The researcher, with due respect to His Lordship, has clearly stated that some of his judgments witness certain aspects of the infringement of the principles of natural justice. It is once again stressed that the Christmas series is primarily for the laymen and then for the lawyers. His Lordship has not expected any technical legal knowledge from his readers. The ensuing three chapters are the critical studies on the life and works of Lord Denning.

As already stated above the Christmas series is an outcome of an octogenarian mind who had witnessed many upheavals in his life. The researcher, with due respect to the immense contribution of His Lordship must point out that there is only a single flaw spotted by him so far.
That is the flaw of repetition. Certain cases like Central London Property v High Trees (1847) KB 130 is found in his classic ‘The Discipline of Law (page 199) and also in his one another classic ‘The Closing Chapter’ (page 254). Dorset Yacht Co. v Home Office [1969]2 QB 412 has also been mentioned in two classics- The Discipline of Law [p250-53] and The Closing Chapter [p126]. Same is the position of certain incidents and annotations from the literature.