Chapter 10

CONCLUSIONS

Illustration - 29
Lord Denning leaving “The Garden”

‘The Inn that shelters tonight is not the end of journey, Law like the Traveller
must be ready for tomorrow’.

Benjamin Cardozo (1870 - 1938) Hon Justice, Supreme Court of the U S A.*

10.1 Concluding Remarks

This attempt of writing a thesis for the doctoral thesis upon ‘The Life and Works of Lord
Denning’, a living legend of our times, is dedicated to the eminent biographer Adv. James
Boswell, who long ago had written an exhaustive biography of his preceptor Jonson (The Life of
Jonson, LLD). Boswell actually lived a certain part of his life with Johnson. The present
researcher entered the Bar in 1998 when Lord Denning had retired as the Master of the Rolls and
was peacefully living in Whitechurch, England. No doubt we are fortunate to call ourselves his
‘contemporaries’, however; the biographical elements stressed here are certainly based on a
number of other books, reviews and interviews and also certain other sources. Lord Denning’s
own book, The Family Story has also been considered for tracing his ancestry and his early life.
The whole Christmas series of five books upon which a major part of the thesis rests automatically covers the achievements of Lord Denning both as a judge and as a jurist. The researcher opines that the footprints of Lord Denning are worth imitating for the young lawyers, judges, jurists, legislators and last but not least the law students all over the world. Whenever the American Judiciary is referred, we remember the classic judgments of Justice Holmes. In the same way whenever the British Judiciary is reformed we are compelled to remember Lord Denning. Justice Holmes never became the Chief Justice of the Federal Court. Lord Denning was elevated as a Law Lord to the House of Lords, the Apex Court for the [British] Commonwealth (Now excluding India, Pakistan and certain other countries which do not recognize the Queen as the Head of the State). However, from his inner voice, he returned to the Court of Appeal. (Albeit, his membership to that Grand House continued as he was a Life-Peer of Her Majesty’s Realm). According to him, ‘The Supreme Court of Appeal’ is the only court which shapes the course of law. He wanted to remain Judge in the ‘de facto’ judicial capacity rather than an ‘Honorary’ one in the ‘Advisory Jurisdiction’ (In the House of Lords, the Judgments are the ‘Advises’ to the Monarch, further the number of last appeals is very scanty) His grand sacrifice was for yearning to do justice in the real sense of the term and for which his life was fully committed, than to achieve name, fame and glory in a leisurely manner. He always encouraged the young Barristers and Solicitors. He never allowed his personal bias to meddle in his judicial work. He was made tremendous change in the Common Law and also influenced the Commonwealth Law. Some of his judgments were reversed by the House of Lords but time proved their correctness. Eric Crowther says – [36]

“What Lord Denning said today will become the law tomorrow.”

The University of Buckingham U. K. has started Denning Law Journal in his honour. Lincoln’s Inn has started a Lord Denning Scholarship for the brilliant law students. Magdalen College, his alma mater has recently renamed its liberty as ‘Lord Denning Library’. Lord Denning Appreciation Society has also been formed in U. K. by the great jurist Jim Crockery.[37]

“Always prepare the first few sentences of a speech – it is highly important to start off slowly, clearly, with confidence without fumbling for words.”

No doubt, Lord Denning is the most influential judge of the 20th century. His judgments on war pensions and his reports on Profumo Affair made his name famous all over the world. Doctrines of
Equitable Estoppels, Fundamental Breach and Red Hand Rule are contributed to him. He has also refreshed the Doctrine of Precedent which now suits the needs of the modern times. His Revival of Misprision has itself become ‘a Landmark in the Law’. Now, lastly, let us consider the greatness of Lord Denning by just collecting the thoughts of the great contemporary legal luminaries. Their kaleidoscopic study is bound to throw ample light upon the greatness of His Lordship especially to his contribution to the philosophy of life as well as law.

10.2 TRIBUTES.

1) Lord Bingham (The Lord Chief Justice of the Realm)[38]

“Lord Denning was the best loved and the best known judge of this or perhaps any generation. He was a legend in his own lifetime. His memory will be cherished by his countless friends on the Bench and the Bar and still further the people throughout the Commonwealth.”

2) Lord Irvene of Lairge [39]

“The name of Denning was a by word for law itself. His judgments were the models of simple English which the ordinary people understood”.

3) Sir T. Blair (Formerly Queen’s First Minister U. K.)[40]

“Lord Denning’s Judgments were the models of simple English including he was prepared to use law far its true purpose – the interest of fairness and justice. He had a tremendous feel for the ordinary people. He was truly a “PEOPLE’S JUDGE”!”

4) Lord Halisham of St Marylebone [41]

“The trouble with (Lord) Denning is he is always remaking the law and we never know where we are, He was obviously a very great judge and he will go down in history as one of the most controversial Judges of the 20th century”.

5) Shri. Balramji Gupta (Eminent Indian Jurist) [42]

“Lord Denning was a legal genius. A Judicial Laureate. His reign was glorious, often spectacular. We may sum up in a Shakespearean Couplet:

“He was a Judge. Take him for all in all.
Like of him you will never see again!”

6) Geoffrey Rivlin [43]

“Lord Denning was an adventurous and a progressive judge and as a Master of the Rolls, was responsible for the important developments in Civil Law.”
7) Lord Woolf:[44]

“Until his (Lord Denning’s) times on the whole it was the great criminal cases that caught the public imagination. With him for the first time, it was the civil cases, because he was projecting the little man against the big battalions.”

8) The Hon. Mr. Justice C. K. Thakker (Judge High Court of Gujarat, Ahmedabad – INDIA) [45]

“The contribution of Lord Denning will never be forgotten in the legal world. Take any branch of law and you will find a judgment (given by him)”.

9) Ms. Suchitra Vijayan: (Indian Legal Expert) [46]

“Lord Denning must have had his own prejudices and bias. But as a judge he never acted upon them”

10) http://www.luyulei.in/ases/06_00_00 [47]

“The death of Lord Denning marks the passing of one perhaps – the last of a sparse succession of major judicial figures who have succeeded in shaping areas of the law with a conformity with world view”.

The researcher concludes by quoting the very words of the Baronees Margaret Thatcher (former Prime Minister of the United Kingdom who recently left this world for Heavenly Abode)[48]

“Lord Denning was probably the greatest English Judge of modern times. He combined a love of liberty with a passion for justice. His ‘Life and Works’ will always provide inspiration to the coming generations.” (http://www.c-s-p.org)

10.3  FULFILLMENT OF THE OBJECTIVES OF RESEARCH:-

Let us have a bird’s eyes view upon the very objectives of the Research Work (P4).

The First Objective is to enable the Indian law students to understand the biographies of the great legal luminaries like Lord Denning. As earlier stated, many biographies of Lord Denning appeared in his life time. The most prominent are the biographies written by Iris Freeman and Edmund Heward. They were written in 1993 and 1997 respectively. They were written when His Lordship was alive. The researcher has attempted to write a short but complete biography by way of compiling the present research work on the life and works of Lord Denning. Thus the first objective of the research work is fulfilled.
The Second Objective of the research work is to develop art of writing biographies of great luminaries like Lord Denning with special reference to his contribution to the philosophy of law. The researcher has considered this objective very carefully by studying minutely the whole Christmas series of five eminent legal memoirs of His Lordship which he wrote when he was an octogenarian. The legal classics selected for the research work throw an ample light upon his legal philosophy which is an outcome of his own action research which the world witnessed. The researcher has collected the crux of the Denning philosophy in a separate chapter i.e. chapter VIII Lord Denning’s contribution to the philosophy of Law. Thus the second objective of the research work is fulfilled.

The Third Objective of the research work is to study the influence of Lord Denning on Indian Judiciary and the case law. The researcher has minutely considered this objective by providing a separate chapter i.e. Chapter IX ‘Lord Denning’s Contribution to Indian Socio-Legal Problems: A Pragmatic Approach.’ The researcher has fully considered the leading Indian socio-legal problems. The Indians are the most religious and peace loving people. They follow the policy of religious toleration. They respect each other’s religion. Thus they can be easily assimilated in the societies of the other countries. However, they do not like anyone, even the State to interfere in their religious affairs. In India, the customs can be changed not by the leaders but by the religious preachers. The Queen-Empress Victoria had already granted the Indians this important human right in 1858. Mandla v Dowell Lee (Sikh Boy’s Turban Case), the judgment of the House of Lords is a source of law. It must be treated as a great learned opinion and has a guiding force of law even in the present scenario. India is still facing many socio legal problems and Lord Denning judgments can provide us the solutions. Mohammed Ahmed Khan v Shah Banu Begum (AIR.1985 SC 945) and Ayodhya Reference Case (AIR1993) and still such types of related pending legal matters can find their solutions in the massive number of the Denning Judgments. The problems of migration of the Indian citizens to the other associated Commonwealth countries and the Commonwealth Realms under Her Majesty as are in fact, the problems of over population in a comparatively small geographical territory. (Approximately 2% of the surface land mass area of the globe nourishing more than 28% of the human population). This severe problem has consequently brought extreme poverty and unemployment. It is also responsible for the increase in crime rates. Throughout the research work the researcher has fully
appreciated the legal and judicial views of Lord Denning, except one, in the Case of Pravin Lal Thakrar, where, one may agree or may not agree, he has honestly kept his academic opinion. In short, this most important objective has been fulfilled.

The Fourth Objective of the research work is to study the relationship between Lord Denning’s views and emerging English Constitutional law and the Commonwealth law. Without a doubt Lord Denning was a strong patriot. He followed Lord Kitchner’s appeal and fought in the First World War. He honestly tried to reform Her Majesty’s judicial administration through his legal reforms. By giving impetus to the Right to Information and the Public Interest Litigation, he actually brought democratic principles in the Royal Administration. The Queen’s Most Excellent Majesty Elizabeth II has gratuitously and successfully brought decentralization under her sovereignty in many parts of the Commonwealth Realms. It is said that the drama of history is played on the stage of geography. Her Majesty must have considered the convenience of her subjects by taking into account the vast geographical distances between the British Isles and her other Commonwealth Realms. She has given her Royal Assent to The Government of Australia Act 1982, The Government of Canada Act 1982, The Government of New Zealand Act 1986. Her Majesty is the Apex Royal Authority over all these and other Commonwealth Realms (Total 16 Realms) under the respective provisions of these enactments passed in Her Pleasure. They are now the parts of the Written Constitution of the respective Realm.

Thus, today, the United Kingdom remains the only Realm under Her Majesty with an Unwritten Constitution. Her Majesty is physically present in London, while, at Canberra, Ottawa, Wellington, Gibraltar, etc. the Vice-Roys (Governor-Generals) are appointed in her sweet will. Her Majesty travels widely through all of her Realms to understand various difficulties of her subjects and directs the Royal Administration accordingly.

The Queen has also allowed the Decentralization of the Apex Judiciary, i.e. The Privy Council in London, once the highest Court of Appeal for all the present sixteen Commonwealth Realms. (App. II) In Lord Denning’s prime time, there were still many more Realms. Most of them are now fully independent Republics. The Queen’s Privy Council of Canada is functioning at
Ottawa. Same is the position of Australia, where there is a **Royal Executive Council of Australia** at Canberra. There is no need to send the last appeals to London from these Commonwealth Realms. However the New Zealanders and the certain other Commonwealth Realms can still send their last appeals to the Privy Council in London. Even, the last appeals from Brunei -Dar-e-Salam can still be admitted to Privy Council in London, if the Sultan of Brunei, has given his Royal Assent to those matters which are to be sent there. Lord Denning’s ratios and the obiters are regarded with high respect all over the world. He was truly an Ambassador of Common Law.

However, it should be noted that the real objective of the research is embodied in the sacred Mahabharata, one of the oldest human texts. It states that the perfect path lies in following the footprints of the great souls. Lord Denning was truly such a great soul whose footprints must be imitated by not only the present but also the future generations of the legal experts.

**10.4 SUGESTIONS FOR FUTURE RESEARCH:**

As earlier stated, the eminent literary expert Lytton Strachey has wailed for a very megre quantity of the exhaustive and illustrative biographies all over the world. Same is the position of the theses on the ‘Life and Works’ of the great souls. After an exhaustive search, the present researcher has been able to find only 10 theses from the universities scattered all over the globe. Every branch of knowledge is enriched by the great souls. The researchers are studying the ‘Philosophies’ and not the ‘Philosophers’. It has been becoming a bad trend in the Research Methodology. It is equally necessary to study the biographical elements of the great personalities. They themselves must become the ‘Subjects’ of Research. Theses must come on the ‘Lives and Works’ of the great philosophers like Socrates, Plato, Aristotle, Chanakya, The great scientists like Archimedes, Newton, Pythagorus Aryabhatta, Bhaskaracharya, Pasteur, Einstein, Khurana, The great poets like Homer, Virgil, Valmiki, Vyas, Shakespeare, Dante, Khayyam, Dnyaneshwar, Kamban, Ghalib, The last but not least the great legal luminaries must be selected for the exhaustive studies. The future researchers opting for the legal biographies may proceed upon the inspiring Life and Works of the great jurists like Cicero, Hugo Grotious, Sir Frederick Pollock, Dr Julius Jolly, Dr. Julius Stone, Mr. Motilal Setalwad, Adv. Geremy Bentham, Mr. John Austin, Prof. Alfred von Savigny, Dr. Hans Kelson, Prof. HLA Hart,
Olivecrona, Lord Atkin, Lord Brougham, Lord Lindley, Lord Halsbury, Lord Atkinson, Lord Jenkis, Lord Goddard, Lord Diplock, Mr. Justice Oliver Wendell Holmes, Lord Halisham, Sir Edward Coke, Lord Blackstone, Mr. M. Hidaytullah, Mr. Nani Palkhiwala, Mr. M. C. Setalwad. These are the symbolic lists.
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39 House of Lords Act 1999 Online
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END NOTES OF PART III [CHAPTERS III – VII]

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