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## preface to the third edition

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The readers will find that this renowned publication is having its Third Edition nearly forty years after the Second Edition. The subject is a highly attractive one in that every Advocate must know about the profession, what reputation it had in the previous centuries, and which great advocates (Barristers) adorned the profession. More so, in the present day atmosphere in which the legal profession is. For one thing, it is already over-crowded and everywhere only the senior lawyers are commanding the work and they are only a few. All others enter the profession with high hopes to earn and become famous keeping in view only those few persons at the top. In no time they get disillusioned and are obliged to follow devious methods to make a living. Besides, more new entrants are coming into the profession every year due to indiscriminate establishment of law colleges in number of places.

The various topics dealt with in this book show who a lawyer is, how he should conduct himself, his duties towards his client, his opponent, colleagues in the profession, to the court and to the society at large. The lectures given and articles contributed by learned Judges and Advocates have been incorporated in this Edition. The senior-junior relations are also dealt with which will be of immense value to the juniors. A chapter containing Bar Council of India Rules is also incorporated for the benefit of the readers. Cases on "Contempt of Court" and "Professional Misconduct" are given towards the end of this book. They throw any amount of light on what amounts to contempt of court and also the various malpractices indulged in by Advocates. Advocates, it is hoped, would imbibe the ethics of the profession clearly and thoroughly and restore the unique position the profession of lawyers occupied prior to independence gained by this country and how the lawyers played an unforgettable role in securing the same. The author has immense pleasure to revise this book as he himself followed those ethics during his practice for the last five and a half decades. He feels that every lawyer must possess this book and read it.

The author is highly thankful to all his family members in assisting him in various ways in bringing out this Edition.

Lastly, the author hopes and expects the same reception from the readers, if not more, as was given to the earlier Edition.

Gudur  
Nellore Dt. (AP)  
Dt. 15-5-2003

Y. RAMA RAO

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**preface  
to the second edition**

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It is at the persistent desire of the well-wishers of the legal profession that the second edition of the book has been brought forth. It would be simply repetition of the truth to say that the learned author had taken immense trouble and patience in compiling the matter from different sources thus making the book a unique and of superb utility for both the Bench and the Bar.

The second -edition too has been revised by competent hands and some new and useful matter has been added to make the new edition up to date. Also a new chapter "Glimpses of Professional Misconduct" is added to the present edition which would, no doubt, be a caution especially to junior members at the Bar from many a pitfall in the course of their professional career.

**PUBLISHERS**

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## preface to the first edition

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It has been said that “the supreme characteristic of a great lawyer is not so much an expansion of the brain as an enlargement of the heart, a wide and generous sympathy, a nervous system carefully attuned to all the passions and prejudices in life.” He must be a man that not only knows human nature, but has an appreciable quantity of human nature in him; a man, in whom, when his client seeks advice, he finds not merely a cold-blooded jurist, a profound oracle of the law, but a man strong in his sympathies and full of resources for evading or escaping difficulty—resources that come not altogether from law books, but from the book of experience, which he has so diligently studied, both in his own life and in the lives of others. The true lawyer, when he stands before a court or jury, stands not in his own shoes holding out his client at arm’s length, but is an advocate in every sense of the term, standing in the place of his client taking upon himself the burden of his case, and enwrapping himself so intensely in the feelings of his client that words burn on his lips as he denounces the deceiver, and tears start to his eyes as he relates the sorrows and griefs of his client under the heel of the oppressor; a man indeed, who struggles in defence of the life, fortune and honour of his client as if it were his own. Such is the truly great lawyer, as distinguished from a mere jurist.<sup>1</sup>

The preparation in the college equips the brain with legal principles but it affords the young student little or no guidance for the actual conduct of cases in courts of law. The young man just called to the bar finds important interests of his clients entrusted to him and often feels it difficult to find his way to justify the confidence that has been reposed in him. “I never felt so much in want of a leader as I did when I had to cross-examine that doctor” was the remark of a talented junior of considerable standing at the bar.<sup>2</sup>

It is not always given to every one to have a proper leader to guide him in all the exigencies of his professional career. But it is open to every one to study the methods of the great masters in the art of Advocacy.

“There is a very prevalent notion that all discussion or comment on the subject of cross-examination is necessarily useless, if not worse. This seems to have arisen partly from a superficial view of the matter, and partly from a misapprehension of a passage in Quintilian, in which he is supposed to intimate his opinion that the faculty of interrogating witnesses with effect must be the result either of natural acuteness, or of practice. If the Roman critic meant, what he certainly does not express—his language being that no rules can be laid down for the guidance of advocates in this respect—he was almost inconsistent with himself; for in the very chapter from which the above passage is taken he gives a series of rules for that purpose, which have been

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1. *Robinson’s American Advocacy*

2. *Harris’ Hints on Advocacy*

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preface  
to the first edition (*contd.*)

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admired in every age, and are recommended by high authorities in our own law. It would indeed be strange if, while perfection in all other arts and sciences is attained by the combination of study and experience, the faculty of examining witnesses with effect—which depends so much on knowledge of human nature, and acquaintance with the resources of falsehood and evasion, and is coeval with judicature itself—should be destitute of all fixed principles.”<sup>3</sup>

No less a man than the late Mr. Joseph Choate spoke of the value of studying the lives of the master minds of old and deducing right principles of conduct from the recorded experiences of the great advocates of ancient and modern times. In the course of his address, at the Farewell Banquet by the Bench and the Bar of England, 4th April, 1905, at Lincoln’s Inn hall Mr. Choate said, “In my youngest days I could not resist the attraction of those historical and dramatic scenes and incidents in the lives of the world’s great advocates which everybody knows. Who would not have given a year’s ransom, a year of his life, to have heard Somers in the case of the *Seven Bishops*, in a speech of only five minutes breaking the rod of the oppressor, winning the great cause, and at one bound taking his place, the foremost place, among the orators and jurists of England? Or Erskine, the greatest advocate anywhere and of all time, when he dared to breast even the mighty Mansfield’s admonition that Lord Sandwich was not before the court, “And for that very reason I will bring him before the court!” and he entered the tribunal that morning an absolutely briefless barrister, and went out with thirty retainers in his bag and followed by a crowd of solicitors engaged in a race of diligence to see which should reach his chambers first. Or Webster pleading before the Supreme Court of the United States for the little college in the hills where his intellectual life began, and throwing successfully around it the shield of that most beneficent of all constitutional provisions that no State shall pass any law impairing the obligation of contract. I started in life with the belief that our profession in its highest walks afforded the most noble employment in which any man could engage, and I am of the same opinion still, until I became an ambassador and entered the *terra incognita* of diplomacy. I believed that a man could be of greater service to his country and his race in the foremost ranks of the bar than anywhere else, and I think so still. To be a priest, and possibly a high priest, in the Temple of Justice; to serve at her altar, and to aid her to maintain and defend those inalienable rights of life, liberty and property upon which the safety of society depends; and succour the oppressed and to defend the innocent, to maintain constitutional rights against all violence, whether by the executive, or by the legislature, or by the resistless power of the press or, worst of all, against the ruthless rapacity of an unbridled majority, and restore it to its proper place in the

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3. *Best on Evidence.*

(*contd.*)

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preface  
to the first edition (*contd.*)

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world; all this seemed to me to furnish a field worthy of any man's ambition."<sup>4</sup>

It has been our main aim to collect in these short volumes the experiences of some of the great and successful advocates in the East and the West. We have refrained as far as possible, from laying down rules and principles at any great length. Wherever any such principles have to be enunciated, we have done so by citing them in the choice words of the best and acknowledged writers on the subject. But we have preferred imparting instruction by illustrations rather than by exposition.

It has been truly said that "the novelty of an argument is often the charm that holds a waiting audience. If one expects to win law suits before a Judge and Jury, and all of them must be won or lost this way, he will early learn the advantage of striking statements and original illustrations. By apt stories Lincoln won many cases. By their use Depew pleased people, and the art of pleasing is a wonderful acquirement for a Court-room. The ancients were ever alert to enforce a point by illustration. Fables and short sayings, facts drawn from example, were favourite means of making strong reasons impressive. Among the great mass of people, even today, matters are still reasoned out by comparison. There is a certainty of conviction in all such arguments. They please many senses at once. They capture the ear, interest the mind, and hold the attention. A rare fable, a short pithy story, or a forcible quotation will take with a crowd, or jury, and create sentiment."<sup>5</sup>

In the preparation of these volumes we have consulted books too numerous to mention. In fact, we have studied all the best books that have been written in England and America on the subject of Advocacy. But prominent mention has to be made of the following standard works to which the authors have made constant reference, without a close and careful study of which, it would not have been possible for the authors to have commenced the preparation of these volumes :—Moore on Facts, James Ram on Facts, Wellman's Cross-Examination and Day in Court, Wrotlesley's Examination of Witnesses, Cox's Advocate, Harris' Hints on Advocacy and Illustrations in Advocacy, Hardwicke's Art of Winning Cases, Elliott's Advocate, Elliott's General practice, Donovan's Tact in Court, Skill in Trials, Modern Jury Trials, and other excellent treatises of the same author on Advocacy, Daly's Preparation for Trial, Ballantine's Experiences, Will's Circumstantial Evidence, the Works of Taylor, Best and Wigmore on Evidence, Robinson's American Advocacy, Robinson's Bench and the Bar, Strahan's Bench and the Bar in England, Hawkins' Reminiscences, Alverstone's Recollections of the English Bar and the Bench, Peter Burke's Romance of the Forum, Reed's Conduct of Law Suits, Sir George Witt's Life in the Law, Purcell's Forty Years at the Criminal

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4. American Law Review, Vol. 39 Pages 586 and 587.

5. Donovan's Tact in Court.

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**to the first edition (*contd.*)**

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Bar, Howell's State Trials and other series of state trials and biographies of eminent lawyers, to the authors and publishers of which works we hereby acknowledge our great indebtedness. We are also indebted to several excellent articles, cuttings and jottings in several of the prominent legal journals in America, England and India. Prominent mention would have to be made of the Green Bag, the American Lawyer, the American Law Review, the Canadian Law Times, the Harvard Law Review, and the English Law Journal. Chief among the Indian Journals consulted are the Madras Law Journal, and the Criminal Law Journal. Although some of these books and journals had been consulted on a previous occasion, opportunity has been taken to read them all once again to trace the incidents and anecdotes to their original sources and make fresh and more suitable extracts for the preparation of these series.

Our grateful thanks are due to the Honourable Mr. T.R. Venkatrama Sastri, Advocate General of the Madras High Court for the very kind and valuable foreword which he has written for this work.

Our thanks are also due to Mr. R. Narayanswami Iyer B.A., B.L., High Court Vakil, Editor and Proprietor of the Madras Law Journal for kindly allowing us the use of the very excellent and rare collection of books in his library and to Messrs. A. Ramratnam Iyer B.A., LL.B., A. Rajagopala Iyenger B.A., B.L., and P. Raghavier B.A., B.L., Vakils, for the help rendered by them in the preparation of these works.

We are conscious that the work is far from being perfect. Any suggestions for improvement from our learned brethren in the profession will be gladly received and given effect to in the subsequent editions of this work.

In the preparation of these small volumes our main aim and earnest endeavour has been to acquaint the junior just commencing practice with the experiences of the successful advocates of old, so that they may start their career with courage and confidence:

*Lives of great men, all remind us,  
We can make our lives sublime,  
And departing, leave behind us,  
Footprints on the sands of time.*

MADRAS  
October, 1927

P RAMANATHA AIYER  
N.S. RANGANATHA AIYER

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