**Date:10.08.2020**

* **Class Directions**:
* If the hardcopy of the original text is not available to the students then they can download the pdf of the text or make use of the copy circulated in the class whatsapp groups for reference.
* In the following class series, a detailed summary of each paragraph would be provided which the students have to complement with the online class lectures.

( I )

In the 17th century relations between the courts and the executive grew sour over the question of authority as situation escalated into a power struggle in matters concerning both wings of administration. The Stuart kings and the judges were embroiled in a tug-of-war over the judges’ right to decide questions affecting the royal power and even to pronounce an independent judgment in cases in which the king had an interest. Francis Bacon in his essay ‘Of Judicature’ provides an exposition of the various roles and duties expected from a righteous judge, however this essay has a two-fold significance; it is an abstract statement of the functions of rights and virtues and defects of the judges, whose hallowed office is ideally supposed to administer the law of man after the model of God, who is the supreme law giver and the dispenser of justice in the created world. At the same time, the ulterior motive of Bacon to support the Royalist point of view comes to light at the very end of the essay when through a minor veiled reference; Bacon makes his stance clear wherein it is asserted how judges are supposed to be subordinate to the authority commanded by the Crown.

The function of the judges is to interpret law and not to frame it or impose it. Bacon has made a comparison between the corrupt judges with the Church of Rome's erstwhile practices. In the guise of exposition the Catholic Church often altered and added to the Holy Scriptures; citing antiquity they would exploit the general masses by introducing novel ideas; according to Bacon corrupt and unjust judges inflicts similar injustice upon people. They are expected to be more learned than ingenious, more respectable then affable, more cautious than bold. Their most valuable quality is integrity.

According to the Holy Scriptures someone who removes even a mere stone is worthy of curses. A judge who is corrupted, who is not dignified, has been equated with the capital remover of landmarks since one unjust decree passed by them proves to be more detrimental to the society than the actions of petty miscreants who sabotage landmarks. Perversion of justice poisons the very source of moral life. Here, an analogy is presented where miscellaneous criminals have been compared to the corrupted stream of morality whereas unjust judges have been deemed to be the polluted source or origin of the very stream. Judges should rely on his learning rather than his wisdom. They should be open to advices so that the general mass can approach them with their concerns.

The judges, while discharging their official duties, deal with the parties in lawsuits, the pleaders and advocates, ministers of justice and the clerks working under them, and above all with the Crown (the King).

Bacon opens the second paragraph by observing how judgement is often turned into wormwood for some when they encounter injustice whereas delays render their experience sour like vinegar. The principal duty of the judge is to prevent force and fraud. The most dangerous perpetration of forceful activity happens before everyone to witness, whereas fraud usually takes place behind closed curtains. Controversial and scandalous appeals and suits, which appear irrelevant, should be thrown out of the court. Bacon next compares a righteous judge to God: as God has created plain lands but raised valleys to balance his creative scope, in the same way judges should also balance their action by maintaining harmony. He should strike down upon the over-bold parties who make wrong use of their power, and at the same time he must favour the weaker lot in order to prevail justice and equality. They should hold the scales even by upholding the cause of the party who has justice on his side, when his adversary is out to overbear by a combination of violence, ingenuity and powerful advocacy.

If the wine machine is operated too harshly then it yields bitter wine. Judges must be aware of the hard construction of laws. They should refer to laws to ward off criminality and not to oppress people with difficult coercions. Penal laws which have not been used for a long time should be exercised with caution since they could have grown unfit for the contemporary context. Death sentences, in particular, should be looked upon with utmost care; severity should be cast on the crime rather than the criminal.