

In Memoriam

MASTER ROBERT WARDEN LEE

by Professor F. H. LAWSON, D.C.L.

Master Robert Warden Lee, who died in his chambers in Gray's Inn on 6th January last, at the age of 89, had a career unique in its character and importance. Any details down to a fairly late date can be found in a rather colourless obituary which appeared in "The Times" the next day. There is no point in repeating them here. It is a better tribute to his memory to give a picture of the man and his achievement.

He was educated at Rossall and Balliol, where he must have been one of the last survivors of the Jowett régime. His ability as a classical scholar of the old humanist type, which he showed by obtaining firsts in Mods and Greats, remained with him all his life. In his sixties he published anonymously a short history of the Popes in Latin hexameters with a characteristic dedication to his daughter Imogen, now Mrs. Pilch. in the words "Vin primam classem, dictis adverte parentis". A year later he published a similar history of the Archbishops of Canterbury addressed to his old friend and colleague, Archbishop Lang. Such amusements came easily to him and did not astonish those who knew him.

After leaving Oxford he had a short career as a civil servant in Ceylon, retiring on medical advice. To learn that was indeed a surprise, for Lee was a short wiry man who was rarely ill and hardly seemed to age. Even in his eighties all that one could detect was a slight tendency for his alert attention to flag after a short time. He recovered from the amputation of a leg in 1955 and learned to use a wooden leg quite effectively.

It was in Ceylon that he became acquainted with Roman-Dutch law, with which he was identified for the last fifty years of his life. But in the first part of his academic career Roman-Dutch law was rather a side line, for from 1899 to 1914 he was a very active law tutor at Oxford; later it was his pride to remind his idle and degenerate successors in the Faculty that he used to have forty-five pupils at a time. He was one of a small band of energetic young law tutors, including Holdsworth, Hazel, the redoubtable "Don" Carter, and the only survivor, Sir John Miles, who forced the law professors to acknowledge them as equals and led in time to the full recognition by the Colleges that law was a subject that had to be taught by Fellows and not merely outside lecturers or coaches. During that period he taught English law as well as Roman law and took part with Jenks, Geldart and Holdsworth in a remarkable enterprise, the drafting of Jenks's **Digest of English Civil Law**, his

part being the law of contract. He retained his interest in the work as late as 1938, when, with help, he revised his contribution for the third edition. It was doubtless his experience with Jenks's **Digest** that prompted him later to undertake the editorship, with A. M. Honoré, of a similar digest of South African law. He had the clear and precise style of an elegant draftsman.

In 1914 he migrated to Canada for seven years to serve as Dean of the Faculty of Law and Professor of Roman Law at McGill University, Montreal. In the same year he married Amice, the elder daughter of Sir John Macdonell, K.C.B., who was Senior Master of the King's Bench Division and King's Remembrancer and also Quain Professor of Comparative Law at University College, London, and whose book of **Historical Trials** he afterwards edited. Mrs. Lee had connections with America, and indeed her mother had as a young girl been presented to President Lincoln during the Civil War. Lee was active in Canada in many ways and both he and Mrs. Lee were delighted to be able to revisit North America, where their daughter was temporarily resident in 1952. Both spoke on the radio in the U.S.A.

Lee had from 1906 held the part-time chair of Roman-Dutch law at University College, London. In 1921 he was recalled to Oxford as the first and only Rhodes Professor of Roman-Dutch Law (the post is now a readership) and became a Fellow of All Souls. He had already published the first edition of his **Introduction to Roman-Dutch Law**, five editions of which appeared in the period from 1915 to 1953. It is a classical book which could only have been written by one whose intimate knowledge of Roman and English law as well as of Roman-Dutch law enabled him to see the peculiar qualities of modern Roman-Dutch law and the debt it owed to Roman and English law as well as to the older Dutch writers. It is admirably clear, attractive and well proportioned, and is indeed the first book that might be recommended to anyone who wishes to understand the characteristics of a modern civilian system largely founded on Roman law. Probably every lawyer in South Africa and Ceylon at one time started his studies by reading it, and although it is now regarded by some as academic, it is perhaps still widely used. At all events Lee is still a household word among South African lawyers.

Lee was fortunate in the time when he wrote, for Roman-Dutch law, which had recently undergone a remarkable renovation at the hands of Lord de Villiers and other great judges, was still plastic and was developing rapidly. It deserved the attention of a keen-witted jurist with a capacious and co-ordinating brain. Lee followed up his book with a standard text, translation and commentary of Grotius's **Introduction to the Jurisprudence of Holland**,



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the first and perhaps still the most influential of the great Dutch law books ; and from 1950 onwards he took a leading part in editing the Digest of South African Law which has already been mentioned. His oral teaching was as important, for many inhabitants of South Africa and Ceylon who have since become distinguished, passed through his hands at University College London or Oxford, or heard the lectures he delivered under the auspices of the Council of Legal Education.

Although those lectures were more frequently on Roman than Roman-Dutch law, he waited until his seventies before writing systematically on the former subject. Then, in 1944, he published his **Elements of Roman Law**, a book of great utility, which combined a translation of almost the whole of Justinian's Institutes with a clear systematic account of the main principles of Roman law and short indications of some of their developments in mediaeval and modern times. He was peculiarly qualified to include the latter because of his knowledge of Roman-Dutch law, but in fact his range was far wider and extended to French and German law—had he not acquired a first-hand knowledge of French-Canadian law at Montreal ? Naturally he knew Holland. Dutch was one of the many languages he spoke fluently. Thus he was a well-known comparative lawyer and had friends in many countries.

He took a great part in the International Academy of Comparative Law organized by the late Elemer Balogh, and eventually became its President. He received many honours from foreign universities and learned societies, became a Fellow of the British Academy and was active on many committees and in many societies in this country.

He was no mere academic lawyer. Having been called to the Bar at Gray's Inn in 1896, he was at one time briefed in appeals to the Privy Council, mainly from Ceylon. He was also an advocate of the Transvaal Bar and an advocate, later K.C., of the Bar of the Province of Quebec. Thus it was only proper that he should have been elected a Bencher of Gray's Inn in 1934. As a full Bencher—other Inns would probably have made him only a Honorary Bencher—he took his turn as Treasurer in 1945. In 1955 he resigned his Oxford chair and came to live in a flat in Gray's Inn.

Lee was a debonair man who enjoyed life and company, with some detachment from both. His poker face and dry humour, at times verging on cynicism, made him a formidable leg-puller. Even his friends never quite knew where they had got him. An exact scholar himself, he could on occasion make devastating remarks about what he regarded as arid scholarship. A happy worker, he had the farsightedness and sense of proportion which prevented him from ploughing the sands. He had an exceptionally long working life and never seemed to grow old.