



**Dr. RASH BEHARI GHOSE,**  
M. A., D. L., C. I. E.

## The Hon. Dr. RASH BEHARI CHOSE,

### A STUDY.

**D**R. RASH BEHARI GHOSE is the acknowledged leader of the wakil bar in the High Court of Calcutta at the present day, and it is an admitted fact that as a jurist, a scholar, a legislator and a successful advocate, he is the foremost man of his generation among his countrymen. He is the author of a work on the law of mortgages in India which has now passed through several editions and which is generally considered by the bench and bar all over India as the standard work on the subject in this country. He has for many years enjoyed a practice at the bar which has rarely been equalled and never surpassed even in a province which has been fertile in capable lawyers during the past forty years. While a member of the Supreme Legislative Council, he introduced two important measures, both of which are now incorporated in the law of the land, which have been productive of immense good to his countrymen at large. He has for many years taken an active interest in the proceedings of the University of Calcutta and has rendered important services to the Faculty of Law, of which he was the President for some years. His knowledge of English and Indian law is profound and he can apply the principles to be deduced from

English and American precedents which he has at his finger's ends, to the circumstances of Indian litigation with the readiness, the ease and facility of a Subramania Iyer or a Blashyam Iyengar. He has been the architect of his own fortune and he had nothing but his own brains to start in life with. He now enjoys a commanding position at the bar in a province where the permanent settlement of the land revenue and the unearned increment of the soil due to the many progressive administrative measures and the influx of foreign capital have made the litigating classes increase largely in number and prosperity during the last half a century. His career, which he owes to steady hard work and honest industry, is another example that we have, of the eminent success that can be attained in life by any young man of to-day who is willing to tread in his footsteps, and deserves more than a passing notice.

Dr. Rash Behari Ghose is the eldest son of Babu Juggobundhoo Ghose and was born in an obscure village, Torekona, in the District of Bardwan on the 23rd December, 1845. His father held a respectable situation in life and belonged to what has been called the middle class. Dr. Rash Behari Ghose received his early education at the town of Bankura, and he seems to have been destined from his earliest years for a career at the University. While in his sixteenth

year he appeared at the Entrance examination in December, 1860, and passed it in the second division. The success that he attained at his examination was far below his deserts and is due to the fact that he was compelled to appear at the Entrance examination a year before his time while he was yet in the preparatory class, there being nobody in the Entrance class that year in his school, who had a better chance of passing the examination than Dr. Ghose, although he was a year too early. From Bankura, Dr. Rash Behari Ghose removed to Calcutta early in 1861 and prosecuted his further studies at the Presidency College, then under the control and guidance of one of the greatest educational officers of the last century. Dr. Ghose showed himself to the best advantage in the First Examination in Arts at which he presented himself in December, 1862, and he headed the list of successful candidates; almost the same success attended him at the B.A. degree examination in January, 1865, and he was the first Indian student who passed the M. A. examination in English with first class honours, which he did in January, 1866. The years that he had spent at the College he had utilized to the best advantage. He had not confined himself within the narrow and prescribed limits of the University course; but while never losing sight of the requirements of the examinations

or inattentive to the lectures of his professors he thought himself at liberty to employ his spare hours, of which he had many, in reading the immortal classics of the English language, which had already become his favourite study. By the time he left college he was thoroughly familiar with the writings of the great English and the Continental authors through translations into English. -- Shakespeare, which has delighted so many generations of Englishmen and Englishwomen, he almost knew by heart, and he uses down to date a very large number of Shakesperian idioms and expressions in all that he says and writes. Possessed of a memory which is equally tenacious and capacious, he had seldom to traverse the same ground twice and the range of his information soon became extensive. He formed his own style on the model of his favourite authors and his youthful composition excited the interest and attracted the attention of the principal and professors of the first college in Bengal. He passed his Bachelor of Laws Degree Examination in 1867, and left his college with the reputation of being well grounded in literature and law and having a quickness of grasp and calibre of mind, rare even amongst the highly intellectual race to which he belongs.

Dr. Rash Behari Ghose was enrolled as a vakif of the High Court of Calcutta on the 15th February,

1867: He had like all young men who had joined the profession of law in this country either before or since, a period of hard and severe struggle before him ere he earned that success which he so well deserved. Dr. Rash Behari Ghose joined the bar at a time when it was led on the appellate side by that great man, equally eminent as an Advocate and as a Judge, but too early lost to his native country by a premature death—the late Hon'ble Mr. Justice Dwarka Nath Mitter. The reputation which Dr. Rash Behari Ghose had earned at the University and preceded his advent to the bar and he was fortunate enough to attract the interest of Mr. Dwarka Nath Mitter, then on the eve of his elevation to that seat on the bench of the highest Court in the land which he was destined to adorn. Dr. Rash Behari Ghose did not fare better during the first few years of his professional life than hundreds of others who join the profession of law without his qualifications. He had his struggles and his moments of depression, and he had to fight every inch of ground in that uphill journey which brought him at last to the sight of the promised land. But he took care not to waste these precious years of youth and early manhood when health and energies were fresh and he laid up during that trying period that stock of legal knowledge which has since commanded admiration and brought him to the high-

est pinnacle of material success. He read up not only the books relating to the laws of his own country and the decisions of the courts thereon, but he extended his operations much further afield and he dived deep into the text-books and decisions of the various branches of English law, mastered its artificial technicalities and stored up its central truths and its instructive principles in different chambers of the brain ready for use at a moment's notice. After four years' constant and uninterrupted study Dr. Rash Behari Ghose thought himself competent to appear at the Honours in Law examination of the Calcutta University which when properly conducted by capable men, is one of the most difficult examinations existing anywhere. He satisfied the high standard required of the candidates at this examination and he was declared to have passed with success in 1871. Four years later he was selected to fill the chair of the Tagore professor of law, and the subject he was to lecture upon, had been selected to be the Law of Mortgages in India. He had read up this most interesting and complex subject both as a practical lawyer and a jurist who studied law as a science and delighted in tracing the doctrines of the modern day in the conceptions of the Roman world and of the feudal ages. His lectures which embodied the result of his studies and were of value to the lawyer of the present day were highly

useful and interesting, and when they came out in a collected shape, they took their place in the front rank of Indian text-books on the subject. The Indian Legislature had not yet codified the law of mortgages and the need of a text-book embodying the principles on the subject and placing the leading cases in an easily accessible form, was very great, till the passing of the Transfer of Property Act in 1882. The book was in great demand; the first edition was soon exhausted. It was several years before Dr. Rash Behari Ghose had the requisite time at his disposal that was needed in bringing the book up to date and rewriting large portions of it by the light of enlarged study and experience. The book has now gone through three editions, (a fourth is expected shortly) and the *Law of Mortgages in India* in its present form is a first-rate work, which is referred to with respect by the bench and the bar all over India; and which, besides giving us a treatment of the subject from the historical and the practical standpoint, contains a mass of useful criticisms and suggestions that would have an important bearing in settling the law regarding this abstruse branch of it, in future in this country. In codifying the Law of Mortgages in India, Dr. Whitley Stokes, the Law Member of the Supreme Council, found Dr. Rash Behari Ghose's book of great value to him and he has



and on the resignation of his seat in the Supreme Council by the late Sir Romesh Chandra Mitter, Dr. Rash Behari Ghose was selected to fill the vacancy in 1891 and was re-appointed for another term in 1893. He was elected President of the Faculty of law of the University of Calcutta in 1893, and continued to be so till 1895. He was created a Companion of the Indian Empire in 1896 in recognition of his valuable labours in the Supreme Council, where he not only took an intelligent interest in all questions then before the Council and took part in the debates concerning them, but he introduced two bills of his own of a highly important nature. One of these bills provided for adding a section to the Code of Civil Procedure enabling any person whose immovable property had been sold in execution of a decree to get back his property if within thirty days of the day of sale he put into Court the amount of the purchase money with five per cent. in addition. Another bill provided for the partition of joint family property and aimed at preventing strangers coming into portions of a joint dwelling house, if any co-sharer was willing to pay the same price which a stranger had paid for the portion of the dwelling house of which he sought possession. Both these bills were accepted by the Government and have been passed into law. They have been very beneficial in their influence on the

conditions of Indian life, and his countrymen have every reason to be grateful to Dr. Rash Behari Ghose for what he did for them during his tenure of office in the Supreme Council.

Dr. Rash Behari Ghose has been prominently before the public during the last twelve months in connection with his political activities and public duties. As chairman of the Reception Committee of the Twenty-second Indian National Congress held in the city of Palaces in December, 1906, Dr. Ghose delivered a speech which would fitly rank with the best productions of the English language. The chaste and brilliant style in which that address was couched, its numerous allusions to the higher regions of English classics and the bold and manly stand that he made in giving expression to the sentiments of the majority of his educated countrymen in regard to the most well-known measures of the Government during recent years, all render it worthy of being read over and over again and thoroughly digested. Three months later Dr. Ghose, from his place in the Imperial Legislative Council delivered an equally able speech in the course of the budget debate. That speech also was couched in the most finished vein and every portion of it contained sound reflections on the present political situation of the country which his "critical colleagues" who are in charge

of the administration would do well to take to heart) Dr. Ghose gave eloquent expression to a grievance which is widely felt all over India in the matter of Civilian District Judges being mostly below the mark in the discharge of their duties as Civil Judges, especially during the first few years of their incumbency in the office of District Judge. The system that gives us non-professional men as Judges either on the Civil or Criminal Side is a relic of that scheme of administration which was formulated in the early days of the rule of the East India Company and is totally unsuited to these progressive times. The Civil Service may be the most distinguished service in the world and its members might sing its praises in season and out of season but the most brilliant leader in the *Times* or the most eloquent and long drawn passages in the speeches of Lord Dufferin or Lord Curzon would not convince any right-thinking man in any civilized country that the members of the Indian Civil Service drink legal knowledge with their mother's milk; and can hold their own without any previous study of law, after six to eight years of service as joint-magistrates or settlement officers with the best graduates of the Indian Universities—men as capable as any to be found in the ranks of the Civil Service—who are thoroughly familiar with the decisions of the great

English and Indian Judges, and the principles laid down by European and American text-writers which are a sealed book to the majority of our district Judges. How harshly this system works in practice would be appreciated only by those who are aware of the fact that the best men of the civil service are drafted to the executive branch and that the decision on questions of fact by district judges sitting in first appeal are final and cannot be re-opened either in appeal or revision. Dr. Ghose laid his unerring finger on this weak spot in the administration of Civil Justice all over British India which cannot be denied by any Indian administrator however brilliant and capable, and we earnestly trust that his speech on this subject would be the harbinger of some real reform in this direction. It is too early yet to speak of Dr. Ghose's labours in connection with the Civil Procedure Code Bill which is now before the Supreme Legislative Council. We must also notice the remarkable speech which Dr. Ghose delivered in the Supreme Council on the 1st of November last, in supporting his vote against the Seditious Meetings Act. With a wealth of legal learning, which all his official colleagues had to profess respect and admiration for, he showed how the act then being considered was an exceptional piece of legislation which was not modelled on the jurisprudence of any European

country except perhaps Russia, although the seditious agitator was not an unknown figure in those countries and modern Europe was honeycombed with secret societies of anarchists and socialists. It was no use, however, opposing a measure which the official hierarchy had made up its mind to pass and with regard to which their attitude was of that member of the House of Commons who at the end of a long Parliamentary career observed, "I have heard many speeches which convinced me but not one which changed my vote."

Dr. Rash Behari Ghose has completed his sixty-second year, but is still in the full possession of his physical and intellectual vigour. He belongs to a long-lived family and his father who was a well-preserved old man of eighty, was capable of taking a brisk walk of four or five miles till his last illness in October, 1908. Dr. Rash Behari Ghose passed the greater part of his professional life at Bhowanipur, that nursery of vakils and Indian Judges of the Calcutta High Court, but he removed to another quarter of the town near the Sealdah station some years ago and is now living in a grand house on the Theatre Road. He is a man of reformed views though he never aggressively puts them before his countrymen. He was one of the few Bengalis who strongly supported Sir Andrew Scoble's Age of Con-

sent Bill in 1891, and he has availed himself of the long vacations of his Court in visiting France, Italy and England, not to speak of countries nearer India. His sympathies with the Congress movement are well known to his countrymen, and on some occasions he had been induced to appear in the ranks of Congress delegates, during the early years of the Congress, and has latterly taken an active part in its deliberations. The adherence of men like Dr. Ghose to the principles laid down by the founders of the Congress movement nearly a quarter of a century ago show clearly that those principles are sound in the main and that the new school of political thought which has arisen in late years is one which would not tend to advance the best interests of our country. In his speech at the Congress in December, 1906, Dr. Ghose told his audience what our line of action should be in regard to the advancement of political reform and how we must exercise self control and sobriety of action in all that we do. He presided at the meeting that was held to condemn the administration of Lord Curzon after that erratic pro-consul made his celebrated speech at the Calcutta University convocation, and the tact with which he pronounced his indictment on that administration showed that he knew how deal with complicated situations in political. Ghose has always refused to be led awa

visionary sentiments of his younger countrymen in Bengal, which find an echo in some other parts of India, and while yielding to none in independence and capable of expressing what he felt with first-rate ability, he always adheres to strictly constitutional lines, which none can know or follow better than such a distinguished student of the systems of jurisprudence of Western countries either of ancient or modern times. He has not adopted European modes of life or dress and his official dress is the *chupkan* and *choja* of his countrymen. He married twice but never had any issue and he has now been a widower for many years. He has strong affections for those nearly related to him and he does all that is necessary for their comfort and advancement in life. He goes to bed very late and prolongs his studies till the small hours of the morning. As a necessary consequence he is seldom up before nine and he has never witnessed one of the most glorious scenes of nature, the mellow radiance of the yet unrisen sun suffusing the eastern sky and the crimson rays of the blood red orb bursting forth in all their glory, at early dawn. He suffers at times badly from gout but otherwise his health and physique is grand. Apart from his professional work he devotes still some hours every day to his countrymen. He works as hard as any living man and strongly supp

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