

Glimpses Of The Past

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The hundred and twenty fifth year of this Court is being celebrated by us. I am reminded of a similar celebration when this Court had attained the age of a hundred years. In our jubilation we had however, not forgotten to look into the past and trace the history of this High Court from its inception, which was bound to include the origin and growth of the bar of this Court; We had mentioned at length and in detail the characters who contributed to the growth of this august institution and without whom this institution would have been insipid; we had not failed to recount the important events that occurred in this Court, some of the momentous cases decided inside the Court rooms. Various scholarly and learned articles appear in the two Commemoration volumes of the Centenary. I myself had the privilege of writing an article 'Origin and Growth of the High Court' which is printed in volume I at P. 97 of the Centenary commemoration volume. It would serve not useful purpose to put the same wine in new bottles.

It has, however, to be emphasised that institutions as solemn and sacred as our High Court are not remembered merely for the grand building housing them or for the number of Judges and Lawyers that are on their rolls or for the volume of cases that they entertain. What perpetuates their memory is the activity that goes on inside them, the quality of Judges who adorn its benches and the stature of the lawyers who import the atmosphere of learning and it is by a concerted effort of all these that in course of time traditions are built which are handed down from generation to generation.

Building of traditions is a very slow process but unlike the structures of brick and mortar the process of their demolition is a very quick one. It may be possible to substitute a more massive building for an existing one but it is not so in the case of the traditions which once departed can seldom be restored.

During these hundred and twenty five years this court has passed through various phases and even though the continuity of its existence has not been broken, there have been various stages in its growth and development.

The first stage was when by the Letters Patent dated 17.3.1866 issued by Her Majesty Queen Victoria, this High Court was created with Sir Walter Morgan as the first Chief Justice of this High Court, along with five puisne Judges four out of whom were the sitting Judges of the Sadar Dewani Adalat and the fifth was a bar-at-Law. They were all mentioned by name in the letters patent. From 1866 to 1869 the High Court thus formed, continued to function at Agra in the same building which housed the Sadar Dewani Adalat and in which now the District Judge Agra sits. During these three years the High Court was split into two parts and while the Chief Justice and three Judges were sitting at Agra two Judges started sitting at Allahabad. This situation was deprecated and an Article appeared in the 'Pioneer' dated 23.11.1868 criticizing this situation on the grounds of inconvenience to litigants and lawyers. Soon thereafter, the entire Court shifted to Allahabad. Of course, this was not the outcome of any political motivation as it is in the case of the move to divide the Court into benches, raised a Century thereafter.

Though this Court is not the Successor of the Sadar Dewani Adalat in the strict sense of the term it did possess besides other jurisdictions also the power and jurisdiction which was possessed by the Sadar Dewani Adalat. Not only did it get four out of six Judges but also got the bar of the Sadar Dewani Adalat. Distinguished amongst the lawyers who had shifted with the formation of the High Court were Munshi Hanuman Prasad, Pt. Ajudhia Nath and Pt. Nand Lal Nehru. Their contribution to the bar of the High Court was not confined to their own person, but continued after them. Munshi Hanuman Prasad's son was Munshi Gokul Prasad who became a Judge of this High Court and one of his grandsons was the revered late Sri Ambika Prasad, a lawyer of great distinction. Pt. Ajudhia Nath's son who attained the status of an eminent lawyer himself was Pt. Gopi Nath Kunzru, who had some years back Pt. Nand Lal Nehru when he shifted to Allahabad upon the creation of the High Court brought with him his younger brother who was to become not only a lawyer of great eminence but a national figure, namely Pt. Moti Lal Nehru.

During the years that followed the tradition of the High Court from Agra to Allahabad in 1869, the High Court was housed in the building existing on Sarojini Naidu Marg previously known as Queens Road which is now occupied by the Board of Revenue. The numerical strength of the bench was enhanced in course of time and it was during this period that Syed Mehmood the son of Sir Syed Ahmad was elevated to the bench in the year 1882 and if I may be permitted to say it was an elevation of the stature of this Court-an appointment which brought so much glory and renown to this Court. He was the first Indian to become a Judge of this Court. Amongst those who joined the bar of the High Court and distinguished this institution, mention may be made of Babu Jogendra Nath Chowdhary, Pt. Moti Lal, Pt. Sunder Lal, Dr. Satish Chand Banerji, Babu Purshottam Das Tandon, Pt. Madan Mohan Malviya, Sir Tej Bahadur Sapru, Dr. S.N. Sen, Dr. K.N. Katju. I would call this as the second stage of transition in the existence of this Court.

The building at Sarojini Naidu Marg however, with the growing needs of the Court, fell short and in 1911 the present building of the High Court was commenced. The year 1916 marks the final stage of transition when the present building of the High Court, a much more befitting one, was completed and the Court moved into it. It may, however, point out that so far as the working of this Court and its traditions go, there was a continuity throughout.

Grooming of new entrants to the Bar was considered as a sacred duty cast upon the seniors, but every

new entrant as a rule, went to the chambers of the known seniors to pay their respects which brought about fellowship and mutual consideration amongst the members of the brotherhood.

It would be interesting to point out that during their training the new entrants were known as Articled clerks. In the early years, when short-hand was not known, the judgments were dictated by the Judges to junior lawyers. This system furnished an opportunity of education and training to the young lawyers which otherwise, they would not get. I do not think it may be possible to revive this tradition in the present times, but the introduction of some system of training is a matter, which requires serious attention. The question that is staring us is, can we afford to leave the coming generation to their own fate and imbibe scholarship and learning at their choice by the process of trial and error.

Professional conduct was subject to scrutiny of Judges. The Advocates' Act of 1961 excluded it from the purview of Judges but the experience during this period would point out that a combination of the two systems i.e. scrutiny by bar council as well as Judges, may be more workable and bring better results. It cannot be suggested that Judges have no concern with the conduct of lawyers and it has to be remembered that lawyers and Judges together form a team. At the same time, a strong and united bar is indispensable as has been a tradition of this High Court. An interesting instance when the unity of the bar manifested itself, may be cited. In 1927 Mr. Justice Dalal and Mr. Justice Pullan, both incidentally, members of the Indian Civil Service, were sitting in a bench to hear cases under order 41 rule 11 C.P.C. they were in the habit of reading the cases at home and then they would start the hearing of cases with their own questions which did not furnish a satisfactory opportunity to the lawyers. A resolution was passed by the Association and I would particularly like to emphasize the language of the resolution for those who might have in the recent times witnessed scenes in the court rooms. The resolution read "Resolved that a courteous polite but firm letter be sent by the Secretary of the Association to the learned Judges" representing to them the general dissatisfaction against their impatience while hearing cases in Court. "The letter was sent under the signatures of the Secretary who happened to be Mr. S.K. Dar. A notice for contempt was issued to Mr. Dar. In reply similar letters were sent under the signatures of every member of the Association headed by Sir Tej Bahadur Sapru who was the President. Contempt notices were issued to all the members, but ultimately the matter was settled amicably with the intervention of Sir Shah Mohd. Suleman who was then a Judge of this Court.

It is a matter for serious consideration that with the abolition of the system of training and other educative traditions the introduction of some qualifying test for entrance into the bar is most essential for improving the quality of the bar. Example may be given of the Supreme Court where Advocates on record are enrolled only upon passing the qualifying examination.

Another great tradition of this Court has been that members of the bar were not confined to their profession and laudable examples of their contribution to the social, educational and political life of the nation, abound. I do not feel the necessity of going into greater details as the mention of some names alone would sufficiently illustrate this phenomenon. Pt. Moti Lal Nehru, B. Parshottam Das Tandon, Dr. Satchidanand Sinha, Dr. K.N. Katju, Sir Tej Bahadur Sapru, Pt. Sunder Lal. It needs to be mentioned that the bench and bar of this High Court has supplied so many Vice-Chancellors to the University of Allahabad and I cannot resist the temptation of mentioning them in detail.

1887	Sir John Edge	Chief Justice
1894	J. Canlan	Bar-at-law
1898	R.S. Aikman LL.D.	Judge
1900	Sir George LL.D.	Judge
1906	Pt. Sunder Lal	Advocate
1908	Sir Robert Aikman	Judge
1909	Sir Henry Richards	Judge
1912	Sir Sunder Lal	Judge
1917	Sir P.C. Banerji	Judge
1919	Sir J.C. Piggot	Judge
1920	Justice Gokul Prasad	Judge

The atmosphere that has prevailed in the Court, can be judged from the fact that these eminent Judges and jurists could squeeze time out of their avocation for educational activities.

Another feature which deserves particular mention is that till very recently adjournment of cases was sought very rarely. In part heard cases, adjournment was never sought and I have known of so many lawyers coming to Court even if they had fever and arguing their cases. Quick disposal of cases was

undoubtedly an outcome of this healthy tradition but the devotion of the members of the Bar to duty was a feature which needs particular emphasis more so in the present situation.

We have to remember that lawyers or Judges are product of their own generation, their own environment and are modeled according to the needs of the time and the erosion of values which has pervaded the rest of the world is bound to affect the environment of this institution, but I thought we would be failing in our duty to posterity if we do not recount and narrate the past to the present generation and I would like to humbly point out that it was inconceivable that there would ever be any controversy about facts on the record at least in the High Court and I wish we all, the bar and the bench, endeavor to restore that probity of conduct in the proceedings inside the court. Similarly, it may be pointed out that it is beneath the dignity of a lawyer not to disclose to the court a decision adverse to him. If it happens bonafidily it shows his ignorance or lack of preparation and if otherwise the less said the better.