

The Allahabad High Court Bar Association

-The First Century (1866-1966)

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Looking back at the annals of the High Court Bar Association, one is bound to be struck by the awe and veneration which its great and distinguished members inspired and, by their examples, continue to do so. It has been a glorious history of giants who were not content with being mere great and celebrated lawyers but who transcended far beyond into much nobler fields of human activities such as the national struggle for deliverance from an alien government. I am not saying so, because the past is always said to appear more luminous from a distance, but because the contributions of some of the more distinguished members of our Bar have become matters of national history.

It would be difficult to conceive any record of public life and of eminent public men, educationists and statesmen of the country without mentioning the names of Pt. Ajudhia Nath, Sir Sunder Lal, Pt. Moti Lal Nehru, Pt. Madan Mohan Malviya, Sir Tej Bahadur Sapru, Dr. Sachchidanand Sinha, Sri Purshottam Das Tandon and last, but not the least, Pandit Jawaharlal Nehru, who all belonged to the Bar of this Court. The above is only a list of those of our distinguished members of the Bar, whose activities were not confined to the field of law, but who shone in other spheres of life, and, in their own ways, were instrumental in moulding the course of history of this nation and who are now no more with us. I cannot, therefore, help feeling proud that I belong not only to this profession rightly described by Lord Simon as "the greatest profession of the world," but that I am a member of an association to which these great lawyers belonged.

The Allahabad High Court Bar Association had its birth (under a different name) more than a century ago, and if one attempted to write its biography and to do justice to the subject, it would cover volumes. I shall, therefore, endeavour to provide only fleeting glimpses of the subject.

In the year 1869 the High Court, then known as the High Court of Judicature for the North Western Provinces, shifted from Agra to Allahabad. At that time, the Bar was composed of the Barristers of the English and Irish Bar, the Advocates of Scotland and the Vakils enrolled by the High Court. Except Mr. Syed M. Mahmood, the rest of the Barristers practising here were Europeans, who, for more than one reason, preferred to remain aloof from the Vakils. Nor for that matter were the Vakils anxious to mix with those Barristers, either socially or otherwise.

In the year 1873 the Barristers decided to form an association, called the Bar Association which came into being on February 3, 1873 with 12 European Barristers as its first members, and Mr. Jardine as its first President. The object of the Association was to consider matters connected with the interests of the Bar in the Province and especially to promote a high professional tone in all branches of the legal profession and to repress unprofessional practices.

The Allahabad High Court has had very distinguished European Barristers, viz., Sir Arthur Strachey (who later on became a Judge of the Bombay High Court and returned to Allahabad as the Chief Justice of this High Court in 1899), Sir Walter Colvin, Dillons (father and son), Conlan, Alston and O'Connor. However, with the exception of Mr O'Connor, the Barristers flourished mostly on the criminal side. Sir Charles Ross Alston was one of the most brilliant and powerful advocates this Court has had on the criminal side. He was also the President of the Bar Association for a number of years. Sir Charles joined the High Court in 1885 and practised for nearly 53 years till he died in 1937. He was a fearless advocate and would place most intricate matters with amazing brevity and clarity. In 1910 he was raised to the Bench for a short time. He was always in great demand for conducting important criminal cases in neighbouring provinces and native Indian States. He was not only very highly respected and popular among every section of the Bar but had a jovial temperament and possessed a keen sense of humour. Sir Charles was extremely short-statured; and it is said that once one of the Judges, who was very tall and hefty, told him at a certain party that he could put him in his pocket; Sir Charles took no time in retorting, "You will then carry more brains in your pocket than in your head."

Mr. B.E. O'Connor practised exclusively on the civil side and was one of the leaders of the Bar. He had a large first appeal practice and with Sir Tej Bahadur Sapru shared the leadership of the Bar on the civil side for decades. He came to the High Court in 1893 and practised till 1937 when he died. Mr. O'Connor was elected Secretary of the Bar Association in 1900 and remained so till the year 1936 with an interruption of a year or so. The length of his tenure as Secretary speaks volumes of the affection and regard in which his fellow members must have held him. It also dispels the myth that busy lawyers can have no time to attend to extra-professional matters.

The first subjects which appear to have agitated the minds of the Barristers from the very inception of the formation of their Association, were the standard of fee that they should charge for outstation cases and for appearance in District Courts of Allahabad itself and the question of suppressing the practice of 'toutism'.

It was two years after the Bar Association was founded that the Vakils of the High Court decided to form their own association and in 1875 the Vakils' Association was established. The objects for which this

association was formed were, "(a) To consider matters affecting the interests of the legal profession in the North Western Provinces and more specially of the Vakils, (b) To promote a high professional tone among the members of the profession, and (c) To watch the state of the law and the progress of legislation, and to take such steps as may be deemed necessary in respect thereof."

The first President of the Vakils' Association was Pt. Ajudhia Nath who attained a very high position at the Bar. He was a fearless advocate and contributed a great deal towards the public life of the country. Pt. Ajudhia Nath was a venerable figure and looked majestic with a long flowing beard. He was the Chairman of the Reception Committee at the IV Session of the Indian National Congress held at Allahabad in 1888 where his powerful address was greatly appreciated.

There existed a traditional, but healthy, rivalry between the Barristers-particularly European Barristers and Vakils of this Court. This gulf naturally widened further because of the existence of two Associations in the Bar of the same High Court. The European Barristers, because of their race and the fact that Englishmen were ruling this country, had developed a complex against the "Native Vakils" (which term they often used in their proceedings). They always considered themselves superior to the Vakils, more so because under the rules then existing, the junior-most Barrister was entitled to claim seniority and the right of pre-audience against any Vakil howsoever senior. The Vakils for their part thought that this complex amongst the Barristers emanated from the large practice which the Vakils enjoyed on the civil side almost to the complete exclusion of the Barristers and the superior intellect of some of the outstanding Vakils and their independent outlook and attitude towards public questions. The fact, however, remained that the leadership of the Allahabad High Court Bar always belonged to the Vakils (later on Advocates), e.g., Sir Sunder Lal, Mr. Jogendra Nath Chaudhri, Pt. Moti Lal Nehru, Sir Tej Bahadur Sapru, Dr. Satish Chandra Banerji, Mr. Pearey Lal Banerji, Dr. Kailash Nath Katju, Pt. Shyam Krishna Dar, Dr. Narayan Prasad Asthana, Pt. Gopal Swarup Pathak, and Pt. Kanhaiya Lal Misra. I am not for a moment, forgetting that we have had eminent Barristers also, as leaders of the Bar, e.g., Messrs Ryves, O'Connor, Boys, Alston, Dillon, Colvin, Conlan and Sulaiman.

It was in 1896, nearly thirty years after the High Court was established, that the Chief Justice was given power to admit a Vakil to the status of an Advocate, if, in his opinion, the lawyer was of an outstanding ability and merit. Mr. Ram Prasad, Mr. J.N. Chaudhary, Pt. Sunder Lal and Pt. Moti Lal Nehru were admitted in 1896 as the first batch of Vakils to the status of Advocates.

Although these four Vakils had been admitted to the status of Advocates, they refused to join the Bar Association and continued to remain members of the Vakils' Association. The Bar Association, as mentioned earlier, was dominated by Europeans and the Vakils were in no mood to be dominated by them.

Although Vakils and Barristers had their differences over smaller issues, quite often on the question of right of pre-audience, there was never any major clash between the two, except once. When the first batch of Vakils was raised to the status of Advocates, a question arose whether they could wear the same gown which was worn by the Barristers of England. The members of the Bar Association objected to it and, on this objection being raised, the then Chief Justice, Sir John Edge, decided that Vakil Advocates would wear the gown which the Chief Justice himself wore, i.e. Q. C.'s gown and since then the Vakil-Advocates had been wearing the same gown as did the Judges, till later when the rules were changed and both the Barristers and the Advocates had to wear the same gown.

It will not be out of place to mention that the two Associations (until 1957 when they were amalgamated) were housed in different portions of the High Court building, which, incidentally, happened to be at quite a distance from each other. Several attempts were made right from 1929 onwards to amalgamate the two Associations; but, for one reason or the other the amalgamation could not be brought about earlier than 1957.

The Vakils' Association continued to exist till the year 1928. After the passage of the Indian Bar Council Act, 1926, the Vakils' Association changed its name and it became the Advocates' Association. The Barristers' Association which was known as Bar Association somehow assumed the name of Bar Library some time in the year 1922.

Apart from the Advocates' Association and the Bar Library, the Bar had a third Association which had a comparatively small membership. It came into existence under unfortunate circumstances. Indian Barristers when they started practice in the Allahabad High Court and applied for membership of the Bar Library, more often than not, were blackballed and it was only in the second or third attempt that they were elected. When Mr. Nihal Chand, a Barrister, was blackballed, he refused to have anything to do with the Bar Library. In those days a Barrister was eligible for membership of the Bar Library only after six months practice in the High Court. During that period he had no option but to join the group around Mr. Nihal Chand and some of them stayed on in that group, specially as there was no admission fee and no subscription to pay. This group gradually grew and was given official recognition in 1933 by the then Chief Justice, and since then it was known as 'High Court Bar Association'. They were also given a couple of rooms and the Association consisted of both Barristers and Advocates.

In November, 1957, the three Associations amalgamated and since then they are occupying the new building and the amalgamated associations decided to call it the High Court Bar Association.

The objects for which these two original Associations were formed could be said to have been achieved

in a fair degree. Their records would show how scrupulously and cautiously they had been guarding the interest of the profession. The records are replete with resolutions touching upon various aspects of the profession in general and the conduct of their members in particular. The Associations always kept a constant vigil and, whenever they found any inroads into civil liberties particularly, they took action promptly registering their protest in the strongest words. One will also find from the records the efforts made by the two Associations in toning up and maintaining a high code of professional conduct by members of the Bar; and in this respect, even an important member of the Bar would not be spared if he were found guilty. The high standard of professional ethics that was expected of a member of the Bar in those days would appear from the following incident. One Mr X, a Vakil, practising in the High Court, changed his office from one locality to another and had the following notice published in a journal that came out from Allahabad:

"Notice

The undersigned hereby informs his clients that he has removed his office from Kydganj to Chowk, Mohalla Mirganj, that is, to the house well-known as Kothi so & so. All communications to him should, therefore, in future be made to the above address. Hour of attendance from 6-30 to 9-30 in the morning, and from 5 to 9 in the evening.

Mr X

Vakil, High Court, Allahabad"

This notice at once attracted the vigilant eye of the Association which demanded of the member explanation as according to the Association the notice amounted to advertisement. The lawyer gave his explanation, which, however, failed to satisfy the Association. The member's conduct was accordingly condemned as unprofessional and he was expelled from the Association and the matter was referred to the High Court. There are several other instances where the Association took prompt action against members whose conduct tended to soil the fair name of the profession.

The Vakils' Association was a well knit body and this was demonstrated in connection with an incident in 1927 which would stand unique in the history of the Association. Sir Tej Bahadur Sapru was the president of the Association and Pt. Shyam Kishan Dar (later a Judge of this Court) was its Secretary. Mr Justice Dalal and Mr Justice Pullan, both members of the Indian Civil Service, constituted a Bench to hear cases under Order XLI, Rule 11 CPC. They used to read the papers of the cases at home. Next day when the cases were taken up, they would confine the arguments to points advanced by them and did not allow the counsel to build up their arguments, with the result the cases could not be placed properly. This caused a great deal of resentment among lawyers and Sir Tej took a serious view of the matter and called a meeting of the Association as, in his opinion, this manner of hearing of appeals was likely to shake the litigant public's confidence in the administration of justice. Thereupon the Association passed a resolution in the following terms:

"Resolved that a courteous, polite but firm letter be sent by the Secretary to Mr Justice Dalal and to Mr Justice Pullan representing to them the general dissatisfaction against their impatience while hearing cases in Court. The letter should be drafted by the Secretary and be approved by the President."

Accordingly a letter was sent to the two learned Judges under the signature of Pt. S.K. Dar, the Secretary of the Association. The Acting Chief Justice, Sir Cecil Walsh was of the opinion that Mr Dar was guilty of contempt. He sent for him and asked him to apologise and on Mr. Dar's pointing out that he had only signed the letter, enclosing the resolution, as Secretary of the Association and there was no question of his personal apology, the learned Acting Chief Justice issued a notice of contempt against him. The matter was considered by the Vakils' Association and every member of the Association headed by Sir Tej Bahadur Sapru signed an identical letter which was sent to the learned Judges and the copy of it was sent to the Acting Chief Justice. Thereupon notices were issued to all the members of the Association to show cause why they should not be dealt with for contempt of court.

As every member of the Vakils' Association was involved, the Barristers were requested to defend them and Mr O'Connor, Mr B. Malik (later on Chief Justice of this Court) and Dr M.N. Agarwal were selected to represent the members of Vakils' Association. The Bench, constituted for hearing the case, consisted of Sir Cecil Walsh, Acting Chief Justice and Sir Benjamin Lindsay. Mr Justice Lindsay on coming to know what the case was about told the Acting Chief Justice that he refused to make himself ridiculous and would not like to be on that Bench. The other English Judges adopted a similar attitude and then Sir Shah Mohd. Sulaiman was approached who agreed to be a member of the Bench provided he was given 24 hours' time to mediate. His mediation resulted in a happy ending and the proceedings were dropped.

Readers would find the lives of great lawyers of this Court dealt with at different places in this Volume and it is not necessary to write about them here. I, however, cannot resist the temptation of saying a few words about some of them.

Mr Jogendra Nath Chaudhary, it is said, has been one of the greatest Advocates this High Court has produced. He had an extraordinary command over the English language and there have been few who could equal him in legal learning. Once there were two cross first appeals and Mr Jogendra Nath Chaudhary and Pt. Moti Lal Nehru were appearing against each other. Mr Chaudhary was in the habit of

marking the paper books, which he had looked into, with red and blue pencil. Having a very large first appeal practice, he had not been able to look into these appeals. However, as the appeal in which Pt Moti Lal Nehru was appearing for the appellant was listed first, Mr Chaudhary had thought that he would look into the brief while Pt Nehru would be arguing for the appellant. Before Mr Chaudhary arrived in the court Moti Lal ji had discovered that Mr Chaudhary had not looked into the briefs as he had noticed that they were not marked. When the case was called out, Pt Moti Lal stood up and in order to put Mr Chaudhary in some discomfiture and to place him in a tight corner, requested their Lordships to hear the first appeal in which Mr Chaudhary was appearing for the appellant first as that was the substantial appeal and Pt Nehru's client had a very nominal claim in his appeal. The learned Judges thought that it was a fair suggestion and asked Mr Chaudhary to open his appeal. Mr Chaudhary understood Pt Moti Lal's game. He, however, stood up, glanced at the grounds of appeal and discovered that the case involved a question of fraud. It is said that Mr Chaudhary gave such a masterly exposition on the elements of fraud for nearly three hours that he kept the whole court-room spellbound and when the court rose for lunch at one o'clock Mr Chaudhary looked into the facts of the case during the interval and thereafter argued out the appeal on facts after the court reassembled.

About Pandit Madan Mohan Malviya, it has been said by Sir Tej Bahadur Sapru that he could not think of anyone who worked with such devotion and spirit of sacrifice in so many fields and achieved distinction in everyone of them as the great Pt Malviya. He was considered to be a lawyer of keen intellect, extremely fair in the presentation of his case and courteous to his opponents. He was held in high regard by Judges not only for his ability but for his spotless character. So great was Pt. Malviya's command of English that on one occasion a great British politician (in introducing him to the audience in one of the rooms of the House of Commons) expressed his surprise that, without ever having been to Oxford or Cambridge as a student, Pt Malviya should have possessed such wonderful felicity of expression in a foreign tongue. It was after his retirement from active practice that at the persuasion of friends Malviyaji agreed to argue the famous Chauri Chaura riot appeal. There was naturally a great crowd in the court to hear him. Pt. Malviya's arguments rose to such great heights that Sir Grimwood Mears, Chief Justice, who was one of the two Judges hearing the appeal, rose from his seat thrice during the course of arguments and bowed to Malviyaji. After the arguments were concluded and while reserving the judgment Sri Grimwood stopped the proceedings and told those present in the Court that while it was not possible to say what would be the fate of the appeal, it was necessary to observe that it was the extreme good fortune of those who had heard Malviyaji in the case and in his opinion no one else could have argued the appeal better. As one of the Presidents of the Congress, as the single handed founder of the famous Benaras Hindu University, as a skilful debater in the Central Legislature, in the proceedings of which he took a very prominent part for years, Pt Malviya was a leader of whom not only the Allahabad Bar but the whole country is proud.

Dr Satish Chandra Banerji was another jewel of this Court. He was a Doctor of Laws of the Allahabad University and was a Premchand Roychand Scholar. He was a very keen student of Shakespeare and it is said that on Sundays, and other holidays, students from the University used to go to his house on Edmon stone Road for the solution of their difficulties. Even in the midst of the preparation of a heavy first appeal, he used to receive students with kindness and used to help them in their academic problems. If he had not died at the early age of 42 the history of this Bar might have been different. In those days the trio of Sapru, Banerji and Sinha (Dr Sachchidanand Sinha) was the object of universal admiration for their learning and culture.

Mr Satya Charan Mukerji was the undisputed leader among the Indian Members of the High Court Bar on the criminal side. He was a lawyer of great ability, experience and learning and possessed amazing memory.

The position of the Rt Hon'ble Sir Tej Bahadur Sapru in this High Court was unique. Having joined the Allahabad High Court Bar in 1898, where he practised for 50 long years, he was enrolled as an Advocate in 1906, then considered a great distinction as it placed him on a footing of equality in status with the members of the English, Irish and Scottish Bar.

It was only after ten years of steadily rising practice that he got his first great chance in a case of great importance under the Hindu Law. Sir Tej was pitted in it against some of the eminent leaders of the High Court Bar. The case lasted for some weeks, and he argued it with such consummate skill and rare forensic ability that at the conclusion of his address he was unreservedly complimented by the Chief Justice presiding over the Bench. It was this case which established his reputation and at once marked him out for the highest position at the Bar. He soon built up an extensive and lucrative first appeal practice, and there had scarcely been an important case since then in the High Court of Allahabad in which he had not been engaged either by the appellant or the respondent.

By 1912, when he was engaged in some important commercial cases, in the Lucknow Chief Court (absorbed in 1948 in the Allahabad High Court) he opposed successfully Sir Rash Behari Ghosh, then the doyen of the Indian Bar, and thus came to occupy a front rank position throughout the United Provinces. By 1916 when he was engaged in a sensational 'waqf' case, in which Muslims as a community were keenly interested and Sri Rash Behari again opposed him, he had come to be acknowledged as one of the foremost leaders of the Bar possessing an all-India reputation. His services had since been in constant demand all over the country. Henceforward he appeared in several cases of importance in the High Courts of Calcutta, Patna, Lahore, Nagpur, Madras and other places; and had the 'first refusal' of almost all the cases in the country.

Very seldom did Sir Tej indulge in wit or humour, but when he did, the effect was generally devastating. A

journalist in London, who once rang him up at night, got it as much as he merited. "Our Indian Office has just cabled that you have been offered a peerage", he told him. "What of it?" asked Sir Tej. "Well Sir" persisted the eager but exasperating newshawk, "Could I know what title you have chosen?" "Certainly" replied that inveterate smoker (Sir Tej), "It is the Duke of Blazes", and hanged the receiver down. That was, indeed characteristic of him, even in court. He stated his case with almost scientific precision. He was at his best when provoked by a Judge by some harassing question. In the course of his submissions, in the "Search light" contempt case, in the Patna High Court, when pressed hard by the Chief Justice (whose decision had led to the contempt proceedings being instituted) he made in all solemnity the following submission "My Lords, there is no presumption that a judge need know law." No Judge, on that Bench was provoked after that into heckling Sir Tej.

It may safely be asserted that, while few advocates in India stood higher than he did in forensic ability, deep legal erudition and profound knowledge of Constitutional Law, there was, perhaps, none who excelled him, in the present generation, in upholding the best and highest traditions of professional standards. In personal and public life also he upheld the best and highest traditions of social conduct. And it was that which invested him with a moral grandeur which, coupled with his vast erudition, made his name loved and respected throughout this country and abroad.

In sheer forensic eloquence few could match Mr Pearey Lal Banerji. Those who had the good fortune of hearing his father, namely, Mr Dwarka Nath Banerji, another eminent and distinguished lawyer of this Court, say that his delivery and command over English language was even superior to that of Mr Pearey Lal Banerji. P.L.B., as he was affectionately called, was Advocate General of U.P. which office he filled with great distinction. With Dr. Kailash Nath Katju he shared the leadership of the Bar for decades. Of his many splendid performances the one that stands out was when he was called upon to defend the great P R Das of Patna High Court who had been charged by a Bench of Allahabad High Court with having committed contempt of Court. It is said that P L 6 surpassed himself in forensic ability and secured discharge of the notice of contempt.

The Allahabad Bar has produced some of the greatest Judges of the country and the Court has given Chief Justices and Judges to almost every High Courts in India. This Bar gave the country not only the first President of the Constituent Assembly, namely, Dr Sachchidanand Sinha, who joined the Allahabad Bar in 1896 and remained here till 1910 when his election to the Imperial Legislative Council forced him to shift to Calcutta (the then capital of India) where he joined the Calcutta High Court, and the first Prime Minister of the country, Pt. Jawahar Lal Nehru, but has also given (till 1966) three eminent lawyers to look after the Law Portfolio of the Government of India, namely, Sir Tej Bahadur Sapru, who was the Law Member of the Viceroy's Executive Council and Dr Kailash Nath Katju, and Sri Gopal Swaroop Pathak as the Law Ministers.

While concluding I would add that if only 1 were free to dwell at length upon the roles which some of our members, who are happily still in our midst- have played not only in the field of law and administration of justice but also in the realm of political and social affairs of the country, I am sure any impartial observer would' look upon our Bar with still greater veneration.

* (Legendary figures like Dr. K.N. Katju were very much with us...in 1966...when this article was written)