

Sir Shah Muhammad Sulaiman

By Mr. JUSTICE R. S. PATHAK

There are few names in recent times which have aroused the imagination of the young lawyer so profoundly as that of Sir Shah Muhammad Sulaiman. Within the years given to him, he achieved a versatile excellence and an intellectual brilliance which dazzled the generation in which he lived. Like a meteor blazing its luminous course across the heavens, he left a trail of glory behind. That glory occupies a place of pride in the history of this Court.

His versatility embraced many fields, and because of the liberal tradition which was so fully expressed in him he can be said to have belonged not merely to his generation but to a line which, reflecting the genius of the human race, has moved with unbroken continuity through the centuries. In another age and in another place, he would have ranked among the great Elizabethans. His powerful questing mind, alert in the constant pursuit of Truth and devoted to the service of enlightened human values, impressed its seal on all that he did. In him, the three great driving forces of civilisation—Law, Science and Education—found a remarkable meeting place. Added to this was a love of literature which manifested itself in his keen interest in Persian and Urdu verse.

Shah Muhammad Sulaiman was born on February 3, 1886. His father, Maulvi Muhammad Usman, was among the leading members of the Bar at Jaunpur. His forbears, we are told, included a physicist.

From the very beginning, young Sulaiman distinguished himself in school and college. Devoted to his studies, he was an outstanding scholar. A first division in the Matriculation Examination and thereafter in the Intermediate Examination was followed at Muir Central College by a first division with the first place in the B. A. Examination of 1906 held by the University of Allahabad. It is interesting to recall that about the same time another brilliant student, Syed Fazl Ali, who was also later to play a significant part in the world of law, was attracting attention at Queen's College, Benares. In the same year, he secured a first division with the first place in the B. Sc. Examination. Of the two, Sulaiman obtained five more marks in the aggregate than Fazl Ali and this won him the United Provinces State scholarship for higher education in England. The scholarship enabled him to proceed to Cambridge. An assiduous student throughout, his ability earned him the Tripos in Mathematics in 1909 and the Tripos in Law the next year. Fazl Ali, who backed by financial support from his family had also proceeded to England, followed a parallel career. In 1909, both appeared in the Indian Civil Service Examination, and both were unsuccessful. They then decided upon the profession of law. Fazl Ali returned to India. Sulaiman, however, remained to qualify for the degree of Doctor of Laws from the University of Dublin. It was characteristic of the times that a doctorate in law was generally considered to confer added advantage in the legal profession. After being called to the Bar from the Middle Temple, Sulaiman returned to India in 1911.

For some time, the young barrister practised at Jaunpur, with his father in his many and varied cases. But his eager spirit and the yearnings of a youthful ambition chafed under the limitations of a law practice restricted to the district. And so the year 1912 found him moving over to the High Court at Allahabad.

There were leaders at the Allahabad Bar whose towering fame and high reputation for learning and forensic skill had travelled far and wide throughout the country. There were Mr. Jogendra Nath Chaudhri, Pandit Sunder Lal, Pandit Moti Lal Nehru and Dr. Satish Chandra Banerji. Emerging into prominence were Dr. Tej Bahadur Sapru and Mr. B. E. O'Conor. Among them, and inspired by them, Sulaiman soon came into his own.

In his early years in the profession, the young lawyer faces many trials. Pressed by the need to provide for himself and his family and often spurred by the ambition to distinguish himself in a fiercely competitive profession, he finds little time for those several diversions which beckon to the young man. To succeed, he must steel himself against their temptation, and with single-minded and almost fanatical devotion he must divide almost all his waking hours between preparing his briefs and keeping abreast of the law journals. Sulaiman did not spare himself. He maintained a familiarity with the law as enunciated in the text-books and developed by contemporary case-law which would be the envy of any lawyer today. His indefatigable industry and unremitting toil, as well as a considerable attention to detail, impressed the Judges of the Court and his seniors at the Bar. Often overwhelmed by the several briefs for the next day in Court, he sat in his office working late into the night and not infrequently oblivious of the hour for dinner. It is said that his wife, discovering that her repeated messages requesting him to rise for dinner were of no avail, would adopt the desperate strategy of switching off the electricity mains so that the office was plunged into darkness.

Barristers practising at the Allahabad Bar had so far generally confined themselves to criminal practice. Sulaiman was among the first to break from tradition. He travelled widely into the civil law and soon commanded an extensive civil practice. He was in demand not merely in the High Court but also in districts far removed, and with the growing volume of his work began to emerge as a leader at the Bar. He was clear-headed, and quick to appreciate the demands of each case. In argument, he possessed a clear, incisive style which unburdened by embellishment or flourish quietly carried his point home.

His comprehensive grasp of the law and his brilliant and discriminating intelligence attracted the attention of two successive Chief Justices, Sir Henry Richards and Sir Grimwood Mears, and, at an age still comparatively young, he was offered an officiating appointment on the Bench. He officiated as Judge of this Court from April 15, 1920 to August 11, 1920, and then followed two brief periods in 1921 and 1922. He returned to the Bar and resumed practice, but his return was short-lived. His judicial acumen and talent which had drawn favourable notice from all those who had appeared before him during the periods of his officiating appointment, moved the Government to offer him a permanent seat on the Court. On April 4, 1923, he was elevated to the Bench as Puisne Judge, and the occasion is recorded by the Allahabad Law Journal Reporter with this appreciation:

"Dr. Sulaiman's career in the High Court has been one of uniform brilliance and it must be a great sacrifice on his part to accept the Judgeship of the High Court. In doing so, he has upheld the best traditions of the Bar which require that a successful advocate is bound, in point of moral obligation to the State, to serve on the Bench when called upon by His Majesty the King to do so. As an officiating Judge, on two occasions, he made himself universally popular among all sections of the Bar by his courtesy, patience, and evident desire to do justice."

The Judge now replaced the lawyer. Sulaiman brought to the judicial scene a combination of qualities which very soon placed him among the great Judges of the Court and, indeed, among the outstanding of the country. As Sir Tej Bahadur Sapru was to observe later:

"Nature had endowed him with gifts of an extraordinary character. Possessed of a penetrative intellect, a mind which could dissect and analyse things as very few other minds could, a power of expression and exposition, he did not take much time on the Bench before he made everyone feel that we had got a Judge of unusual ability and unusual gifts. . . He earned the respect of everyone for his depth of learning, for his sweep of mind and for the promptness of his decisions."

He was open to conviction to the last, and even, it is said, after the hearing had concluded. Amiable in temperament, he encouraged junior counsel to give their best to their case, and it is universally acknowledged that no junior appearing in his Court ever felt nervous merely on the ground that he was opposed by eminent senior counsel. But he possessed little patience for the idle point or frivolous submission and, although controlled by his deeply ingrained sense of courtesy, his indignation would pour out in an ever quickening flow of observations meeting and demolishing the argument of counsel. Proverbially, there have always been two kinds of Judges, the silent Judge and the talking Judge. Sulaiman was not a silent Judge. But then it has been observed that a quick and restless intelligence under the pressure of a powerful mind often finds it difficult to restrain itself. It is unable always to obey that constraint which at times accompanies, and sometimes disguises, a less energetic temperament.

In 1929 he was knighted by the King-Emperor. He acted as Chief Justice in the absence of Sir Grimwood Mears, and thereafter served as a member of the Peshawar Enquiry Committee constituted for enquiring into the riots in Peshawar in 1930.

Upon the retirement of Sir Grimwood Mears as Chief Justice, Sir Shah Sulaiman was appointed to that supreme office on March 16, 1932. It was a momentous event and one of profound significance for the Province. It was an event which aroused the pride of Indians and ranked close to the powerful emotion which was already sweeping the country in the wake of the movement for political independence. He was not the first Indian to occupy the office of Chief Justice-Sir Shadi Lal had already preceded him in that respect at Lahore-but his appointment evidenced the conviction in the British mind that the Indian race could be confided with the helm of judicial administration.

Shortly after assuming office as Chief Justice, he was appointed to serve on the Capitation Rates Tribunal in England, presided over by Sir Robert Garran of Australia, with Lords Dunedin and Tomlin and Sir Shadi Lal, as his colleagues. Difficult problems of military finance arose before the Tribunal, and Sir Shah Sulaiman aroused the respect of the Bar in England for the facility with which he tackled them.

As Chief Justice of this Court, he enjoyed the confidence and co-operation of his colleagues in the fullest measure. With his inherent qualities and the reputation which he had already acquired as a member of the Court he was the natural leader of the team of judicial talent which adorned the Bench.

A word may be said here of the dispatch with which he executed the business of the day. One remarkable instance is afforded by the hearing and decision of the appeal in what is popularly known as the Meerut Conspiracy Case¹. The trial of the case had taken as long as two years before the Sessions Judge. The record contained voluminous evidence. When the appeal in the High Court came on for hearing, it was generally expected that even at a modest estimate a few weeks would be occupied. But before Sir Shah Sulaiman and Mr. Justice Young, the hearing lasted merely eight days, and immediately upon the conclusion of counsel's submissions, Sir Shah Sulaiman dictated judgment in open Court.

It is difficult within the limitations of a pen portrait to trace in any detail Sir Shah Sulaiman's contributions to the development of the law in this Court. But reference may be made to some later Full Bench decisions in which he participated. With his capacious intellect and versatility, he was at home with equal facility in every branch of the law. It could be a matter arising out of the Companies Act, as in *Shiam Lal J. Dewan versus Official Liquidators of the U. P. Oil Mills Co. Limited (in liquidation)*² where he held that a winding-up order does not give a fresh start to a liquidator, contributory or creditor for the purposes of limitation and that the period of limitation would depend upon the relief sought as if the proceeding were a suit seeking that relief on behalf of the company, or complicated questions of the Hindu law, as in *Chhotey Lal versus Ganpat Rai*³ where he discussed at considerable length the entire law relating to the pious obligation of a Hindu son to discharge his deceased father's debts, in *Ram Lal versus Chiranji Lal*⁴ where he expressed the opinion that the circumstance that money was borrowed by the manager for the purposes of a new business was not sufficient reason for the alienation of joint family property, and that justification for such alienation could be found only if the business was the mainstay of the family and that there was pressure of necessity for continuing it, and in *Rajpali Kunwar versus Sarju Rai*⁵ which required consideration of the Hindu Law of Succession as modified by the Hindu Law of Inheritance (Amendment)

1 1933 A.L.J.R. 799

2 1999 A.L.J.R. 1203

3 1934 A.L.J.R. 483

4 1935 A.L.J.R. 177

5 1936 A.L.J.R. 659

Act, 1929. In *Genda Lal versus Hazari Lal*⁶ he detailed the principles relating to the application of the principle of *res judicata* to execution proceedings and thereby removed much controversy that had existed in the Court. The law of transfer of property was the subject of a number of important decisions in which he participated, one of them being *Alam Ali versus Beni Charan*⁷ where the rights of a third mortgagee upon a suit for sale by the second mortgagee were pronounced upon. The law in India relating to receivers was considered in *Ram Swarup versus Anandi Lal*, where the question was whether under the provisions of the Code of Civil Procedure, it was competent for the Court to appoint a receiver of the property mortgaged pending the decision of an appeal against a mortgage decree, and Sir Shah Sulaiman reviewed the case-law which had issued from the different High Courts in India and compared the law in India with that followed in England, Ireland and America. What should be the fair ratio of distribution of compensation awarded for agricultural land, acquired by the Government under the Land Acquisition Act, as between the landlord and the occupancy tenants was considered by him in *Shiam Lal versus Collector of Agra*.⁸ The question was a difficult one and called for a careful weighing of the respective rights of the landlord and the occupancy tenants almost to the point of mathematical precision, and the entire bundle of rights of each claimant was subjected to the minutest analysis. The law relating to pre-emption in the United Provinces owes a fair measure of its development to the several decisions rendered by him. Criminal law received at his hands the same intensive research which he devoted to the civil law. His mastery over its principles was undoubted.

With a reputation whose brilliance was acknowledged throughout the land, it was no surprise when in May, 1937, it was announced that Sir Shah Sulaiman had been appointed a Judge of the Federal Court of India. The new Court was constituted under the Government of India Act, 1935 and for the first time under British rule a focal point was created within the country to which important and grave questions of law proceeded from the High Courts and which, moreover, was vested with original jurisdiction in matters of constitutional importance in disputes between the Central Government and a Province or between one Province and another. When the news of his appointment was announced, there was great rejoicing in this Court, and in a reference before a Full Court shortly after the announcement tributes were paid and congratulations showered upon him. When the time approached for him to leave for Delhi, there was a fond but sad farewell. Sir Shah Sulaiman assumed office as Judge of the Federal Court on October 1, 1937.

Almost from the very beginning of the history of the Federal Court, and indeed in the very first case, *In re C. P. Motor Spirit Act*⁹ his ability as a jurist came clearly to the fore. It was a reference made by the Governor-General to the Federal Court for opinion in a dispute between the Government of India and the Government of the Central Provinces and Berar respecting the competence of the Provincial Legislature to impose retail sales tax on motor spirit and lubricants. Characteristic of his keen enquiring mind, Sir Shah Sulaiman sought out the distinction between customs and excise duties on the one hand and retail sales tax on the other. He rested the distinction between direct and indirect taxation on concepts ordinarily familiar only to the economist and the student of public finance and appropriately set it in the historical context to which it belonged. The opinion which he delivered has been described by that eminent British lawyer, J. H. Morgan, K. C. in the following terms:

"Now I have just been reading the judgments of the Federal Court at Delhi in that important case. One of those judgments stands out conspicuous and pre-eminent and may well prove to be *locus classicus* of the law on the subject. It is a judgment worthy of the highest traditions of the House of Lords as an Appellate Tribunal and of the Privy Council itself. I refer to the brilliant judgment of Mr. Justice Sulaiman. In depth of thought, in breadth of view, in its powers alike of analysis and of synthesis, in grace of style and felicity of expression it is one of the most masterly judgments that I have ever had the good fortune to read. Everyone in India interested in future development of the Constitution should study it."

In *United Provinces versus Governor-General-in-Council*¹⁰ Sir Shah Sulaiman resolved the doubt whether the scope of the administration of justice extended to cantonments even as it did to other areas, and repelled the contention that the cantonments were outside the jurisdiction of the Provinces in the matter of legislation regarding courts of criminal jurisdiction. A decision of wide importance was rendered in *The United Provinces versus Atiqa Begum*,¹¹ where the Federal Court was called upon to examine whether the Legislatures in India were entitled to enact legislation having retrospective effect. Sir Shah Sulaiman expressed the opinion that they did. Upon another interesting question raised in the case, he recognised the right of the Government to prefer an appeal even though no decree had been made against it, provided it had been impleaded as a party to the proceeding before the High Court and was interested in the constitutional question arising in the case. The doctrine of the "unoccupied field" in its application to the Legislative Lists in the Government of India Act, 1935, was considered by him and the principles flowing from that doctrine were laid down in *Subrahmanyam Chettiar versus Muttuswami Goundan*.¹² His judgments bear the stamp of his genius and scholarship and have earned him a place among such immortals as Sir Barnes Peacock, Sir Muthusami Iyer, Sir Bhasyam Iyengar, Mr. Justice Mahmud, Sir Pramoda Charan Banerji, Mr. Justice Dwarka Nath Mitter and Mr. Justice Ranade.

It is not easy for a busy practising lawyer to find time for activities unconnected with the profession of law. Those who have succeeded in making effective contribution in other fields did so either when they were

6 1935 A.L.J.R. 1189

7 1935 A.L.J.R. 1294

8 1936 A.L.J.R. 605

9 A.I.R. 1939 F.C. 1

10 A.I.R. 1939 F.C. 1

11 1940 F.C.R. 110

12 1940 F.C.R. 188

practically briefless, as did Buckley who wrote his treatise on the Company Law when he had only recently been inducted into the profession, or had reached that prime of their professional career when the flow of work was assured and the years of struggle and uncertainty behind. Sir Shah Sulaiman, despite his heavy involvement with the legal profession, continued to indulge in his passion for mathematics and physical research in astronomy. It was a passion which, after the law, commanded his undeviating allegiance. With his elevation to the Bench, he gave himself to it with increased devotion. Always a scientist by temperament, it was his delight to retire in the evening to that part of his residence where, surrounded by scientific tomes and mechanical weights and other devices, he applied himself to the discovery of the laws of the universe. Those laws were still imperfectly understood. Over a long period the Law of Gravitation propounded by Newton had wielded undisputed sway, and the student of science employed it in his attempt to explain the motions of the solar planets and their satellites. The theory was, however, demonstrated to be inexact and its soundness was disputed by Einstein, who propounded his Theory of Relativity. Einstein's theory attempted to relate space and time in a union described as the "space-time continuum". The theory created a revolution among the savants of science. Sir Shah Sulaiman, however, could not bring himself to accept Einstein's theory in all its implications. He developed a distinct theory, which assumed that radiation flowed from the surface of bodies in a motion which was the resultant of the forward velocity of light and the rotational velocity of the electron. This theory, while departing from Newton's Law of Gravitation, sought also to explain the divergences noticed upon the application of Einstein's theory. It won considerable distinction in India and abroad and eminent scientists, who included Dr. Harlow Shapley of Harvard, a powerful figure in the world of applied mathematics, spoke in terms of the highest appreciation of its mathematical results. The path of scientific research is long and difficult, often attended by frustration and apparent failure: But the driving force of Sir Shah Sulaiman's intellectual vigour drove all obstructions from his path. And how formidable were the obstructions in those now distant days of colonial rule is not easy to realise in an age-grown accustomed to the availability of vast funds and facilities in a country anxious to catch up with the scientific achievements of the outside world.

A man of law and a man of science, he was fascinated by the moods and rhythms of life. And Sir Shah Sulaiman discovered them in literature. His refined and cultured mind was attracted to Persian and Urdu poetry, and he frequently presided over literary gatherings where such compositions were recited. It was not the fascination of the mere dilettante. His interest reflected the philosophical urge of a man in love with human values.

His other love, Education, influenced him from his earliest years in extending his assistance to several educational institutions. He was a member of the Court of the Aligarh University and of the Allahabad University for several years. He participated in the deliberations of the Executive Council of the Allahabad University. In 1928, he presided over the All-India Mahommedan Educational Conference at Ajmer, and later over the All-India Adult Educational Conference at Delhi. The Aligarh University especially is heavily indebted to him. For it was there that as Vice-Chancellor he effected a reorganisation of its academic and administrative life which put new vigour into its working. His advice was frequently sought, and freely given, in matters relating to finance and scientific research. Almost to the end of his life he continued to visit the University regularly during the week-end.

Sir Shah Sulaiman commanded attention wherever he was. Endowed with a distinguished presence, nobility was writ on his brow and good breeding in every gesture; his thoughtful mien and calm, unruffled temperament emphasised a natural dignity. A thinker and a scholar, with a mind sensitive and scintillating, he moved through life wearing distinction with assumed ease.

He had many years yet of the normal span of life before him. But Destiny, who had from his birth chosen him for her own, decided otherwise. On March 12, 1941, at the zenith of his career and in the full possession of his powers, he was stricken with a cerebral hemorrhage and within a few hours he passed away. The numerous family of his friends and admirers mourned the departure of a great man. His death was a profound loss, and not only to those who knew him. The unfulfilled years of scholarship in law and research in science were bereaved. To this Court the intelligence of his death came as a severe blow. Here, he had spent the longest and most eventful years of his life and now, apart from the legal wisdom enshrined in his judgments, there was only the memory of the effulgent brilliance of his presence.

As one passes through the Marble Hall, outside the door of the Chief Justice's Court Room the eye falls on a simple marble tablet set in the wall and inscribed with the legend:

IN AFFECTIONATE MEMORY
OF
SIR SHAH MOHAMMAD SULAIMAN, KT.
M. A. , LL. D. , BARRISTER-AT-LAW
PUISNE JUDGE 1923
CHIEF JUSTICE 1932
JUDGE OF THE FEDERAL COURT 1937
DIED MARCH 12, 1941
THE JUDGES AND MEMBERS OF THE BAR
OF THIS HIGH COURT
HAVE PLACED THIS TABLET.

He has passed into history, and the glory that was the man now belongs to the ages.