

One Hundred Years Random Thoughts

By SRI SANKAR SARAN
Ex-Judge, High Court, Allahabad

One hundred years is a long period of time in the life of an individual and it is long enough even in the life of an institution. Our High Court is celebrating its centenary this November. Undoubtedly it is a solemn occasion. In the midst of rejoicings let us not forget to take note of the fact that in this long period the fate of hundreds of thousands men have been decided and properties worth crores of rupees have been adjudicated upon.

My memory of the High Court goes back to the year 1904 when I came over as a little boy with my father who started practice here. There were six judges-only one Indian, Mr. Justice P. C. Banerji, to be followed later on by another Indian Mr. Justice Karamat Husain. In those days people talked of the High Court, its Judges and members of the Bar with awe.

When my father was at school an English Barrister, Mr. E. A. Howard's father, went from Allahabad to argue a criminal case at Gorakhpur. The schools were closed and the Sessions Judge, Raja Parmanand, arranged for seats for the students so that they could have a good view of the Barrister.

Years, later when my father started practice here, once he was going to Gorakhpur. We had to change the train at Bhatni Junction those days. It was early morning and my father took a stroll on the platform. Some one recognised him and told his companions, "Here goes a High Court Vakil". They all got up and saluted him.

To talk to a Judge was a rare privilege. A leading lawyer of Allahabad had a dependent brother whose pastime was to meet the Judges. In those days Judges used to go out for long drives in the evenings in their horse carriages. This dependent brother used to go to one of them and ask for a drive. In this way he used to spend his evenings in the company of the Great. One evening he approached a Judge for a drive. The Judge thought of a practical joke and readily agreed. He took him up to the Phaphamau Bridge where the Judge asked him to get down and walk back home. This long trudge probably so disheartened him that he gave up the practice of free drives.

While the highest court of appeal was at Agra, the court language was Urdu and naturally enough for long years the change over from Urdu to English was not a very easy process. There, was one Judge, perhaps Mr. Justice Aikman, who was particular about good pronunciation. A lawyer got up before him and started, "My Lord, I appear for the *appeelant*". The Judge correcting the pronunciation said, "You mean the appellant".

"Yes, My Lord, I appear for the *appeelant*."

Thinking that counsel had not properly heard him, the Judge repeated, "You mean the appellant".

"Yes, My Lord "I mean the *appeelant*."

The Judge gave up the attempt and heard the appellant's argument till the end. Defective knowledge of English could create problems if there was no understanding between the Bench and the Bar.

One day the clock of the Court stopped and the Judge wanted to know the time. He asked counsel appearing before him if he could tell him the correct time. The counsel looked at the Court clock and answered back, "Shut up, My Lord". One can well imagine the discomfiture of the learned Judge, for he did not repeat the question.

There was a very well known story of a Barrister who seldom got cases. He used to argue with great zeal when he did succeed in getting a case. A dacoity had taken place and this is how the learned counsel started his argument.

"In the district of Banda there is a village S and nearby there is a small jungle and dacoits gathered there, some coming from the east, others from the west, still others from the north and from the south. Having collected there they went to village S and looted the house of a rich man there and came back again to jungle, where they sat distributing the booty."

The learned Judge who was hearing the case got impatient and shouted, "Where are we, Mr. Sarbadhikari, and where are we?"

The polite and patient reply was, "Still in the jungle of Banda, My Lord, distributing the booty."

In the good old days applications and *ex parte* motions were laid before a Judge who used to sit half an hour before the regular court work started. Sometimes the application Judge used to take a little longer than half an hour and his companion Judge would come and take his seat near him. Applications were taken by Judges according to turns. A newly arrived Judge from England was taking the applications one day, and after 10.30 when some technical point was raised he leaned to his companion Judge for guidance. Promptly came the remark from the counsel arguing the petition:

"My Lord, the jurisdiction of your learned brother sitting to your left to whisper in your ears, does not begin till you take the regular list."

Naturally enough both the Judges felt embarrassed but the counsel remained unperturbed.

Coming down to my own time I can recall many interesting things. There were about ten judges. There was a large number of English Barristers and Indian advocates and vakils in the court. Mr. C. C. Dillon and his son Mr. G.W. Dillon, Sir Charles Ross Alston, Mr. G. P. Boys, Mr. F. O'niel, Mr. Nihal Chand and

Mr. J. N. Banerji among Barristers and Mr. Satya Chandra Mukerji and Shaila Nath Mukerji had more or less monopoly of criminal work. In civil work, Pandit Sunder Lal who just passed away, Mr. J. N. Chawdhury had recently retired from the profession, Pandit Moti Lal Nehru, Sir Tej Bahadur Sapru and Dr. Satish Chandra Banerji were undisputed leaders of the Civil Bar.

Each of the lawyers, especially the criminal lawyers, had his own peculiarities. Sir Charles Alston, direct and devastating, was a very successful lawyer. In ten minutes of his argument he used to pooh pooh the prosecution case. If he did not succeed in those ten minutes there was little chance for his winning the case. Mr. Boys, on the other hand, was ponderous and detailed and he would read out all relevant evidence till he was satisfied that nothing further could be done in the case. When he was elevated to the Bench-I write from memory-Sir Charles Alston welcoming him said, "If genius had been rightly defined as capacity to take infinite pain, your Lordship is a genius." I often had the opportunity of rubbing shoulders against these giants and I have the highest opinion of Sir Charles Alston.

I had the unusual opportunity of appearing against Pandit Moti Lal Nehru in a criminal case. A high Indian Official's son, a Lieutenant in the Army, had married a much married elderly European lady. The father was shocked and said something uncomplimentary about his daughter-in-law who prosecuted him for defamation. The father-in-law was convicted both by the Magistrate and the Sessions Judge. Pandit Moti Lal Nehru had non-co-operated with the profession but as a friendly act he appeared for the father-in-law. The case was argued before two Judges. One of the judges was terribly upset at the conduct of this elderly lady marrying a young man. The other Judge was friendly disposed towards the lady because he thought the parties were free to choose their partner in life. In the midst of the argument Pandit Moti Lal said, "My Lord, is it defamation to call a prostitute a prostitute?" At this remark the complainant burst into tears and one of the judges was visibly moved. Of course, the conviction was maintained but the sentence was nominal.

I have it on the authority of the late Sir William Tudball that one Judge used to pray for light in murder cases and the Prayer was always answered 'Hang him.' There is an amusing story about this Judge. He belonged to some sect which did not believe in taking oath. This Judge came to the High Court many times as officiating Judge and every time he came, oath was administered to him in the Court by the Chief Justice. When he became permanent and came to the Chief Justice's Court to take the oath, as soon as the ceremony was about to begin, he turned his face away from the Chief Justice and looked at us of the Bar and said, "I have taken the oath more than once, I do not see why I should have to take oath time after time". This was rather an embarrassing position. Sir Grim wood Mears who was administering the oath, just remarked, 'I see' and began administering the oath and the protesting Judge quietly repeated the oath after him. Thereafter the Chief shook hands and sent away to his own Court-room, as if nothing unusual had taken place.

Some Judges get the reputation of being very convicting and others just the opposite. But I have seen the flow of human kindness in case of one's own countrymen by a convicting Judge. In good old days Britishers were tried in the High Court and the trial used to be by a Jury. The practice was that the Chief Justice used to preside over the Sessions Trials in the High Court. He used to come in full formal Judicial Robes and the Registrar, High Court, generally an English LC.S. Officer, used to act as the Clerk of the Court. I remember a case where a Tommy had kicked to death a Pankha coolie and the Tommy was convicted but told in all solemnity, "The Jury have returned the verdict of guilty." "H! you have been found guilty by the Jury and I agree with the verdict and convict you. But in passing sentence I wish to take notice of the fact that you are in a foreign country, hundreds of miles away from home. Conditions here are hard but the law must take its course. Accordingly, I sentence you six months' rigorous imprisonment and direct that you can be sent to some jail near a hill station."

Sir Louis Stuart had the reputation of being very convicting. In the summer vacation of 1922, four European trials were fixed for disposal. Babu Lalit Mohan Banerji, Government Advocate, should have attended to them. But he had gone on a holiday to Kashmir and entrusted those cases to me. Mr. Justice Stuart was a Judge who was to preside over the trial. The first case was of an Englishman or a fairly high class Anglo-Indian serving in the Army. He was charged with an offence under section 377, I. P. C. On behalf of the prosecution I put the case as fairly as possible. Mr. Justice Stuart was very pleased with my performance and spoke to several people about it. This created the impression that even he was soft towards Europeans. The next case was of a soldier who had embezzled some money. I put the case to the Jury as fairly as possible. Mr. Justice Stuart was not at all pleased and he interrupted me several times while I conducted my case. His summing up the Jury was very strong and one-sided. The Jury returned the verdict of guilty. Justice Stuart came back to the Court-room almost running to hear the verdict of the Court and shouted, "H. S. stand up. The Jury have found you guilty and I entirely agree with the verdict. I convict you and sentence you two years' rigorous imprisonment. I consider you a disgrace to the Regiment to which you belong and disgrace to the British Army itself. He shouted to the Jailor, "Take him away" and ran back to his Chambers.

There is an amusing story he repeated concerning himself. As a Sessions Judge he had gone for local inspection to the house of a woman where a murder had taken place. The evidence was that the witness had seen the occurrence in the first floor from the road by the hanging lantern in the room. The lawyer for the accused said that the light had been provided for the inspection and that there was no light in the room at the time of the occurrence. Judge Stuart remarked, 'nonsense'. After a little while Mr. Stuart looked for the lawyer but he was not there. People told him that he had left after his remark. Mr. Stuart sent for him and asked him why he had left. The reply was, "You have insulted me by calling me nonsense". The Judge replied, "You were and are at a perfect liberty to call my remark non-sensical". That showed the man in spite of his very rough and almost forbidding exterior. All these little things that go unnoticed but make life in Courts interesting.

Looking back 13 years after retirement from the Bench, I still feel pleased and amused at some of the incidents of those days. I could write pages about so many incidents but I cannot go on indefinitely. .

High Court Judges have rendered lot of social service even from the so-called "ivory tower" in which they are supposed to live. Sir George Knox built up the Girls High School in Allahabad and worked as the Vice-Chancellor of the University. Mr. Justice Karamat Husain was actively associated with the Crosthwaite Girls College. Mr. Justice Banerji and Mr. Justice Gokul Prasad were Vice-Chancellors of the Allahabad University. In recent times Sir Douglas Young rendered good service to Boys Scout and Guide and so did Sir Iqbal Ahmad after him. My own feeling in the matter is that in view of the detached outlook of the judges in constructive work, their guidance should lighten the burden of those who carry on the day to day running of the institutions.