

## Sir Charles Ross Alston

By SRI BRIJ LAL GUPTA

*Advocate and Ex-Judge, High Court, Allahabad*

My earliest recollection of Sir Charles is of a figure of pigmy stature, thinly built, striding across the Marble Hall of the High Court, smoking a cigar, with its thick end in the mouth. (He thought that by lighting it at the thin end, and by throwing away the thick end after he had finished smoking, he would imbibe less nicotine). He spotted a group of gowns, and hurried to join it. Pulling one on either side of him by the shoulder to bring them on a level with his own, he started telling them quickly and confidentially, some humorous anecdote or naughty story of which he had an inexhaustible fund. The while, his eyes twinkled merrily and his face wore a mask of mock solemnity. Inevitably, his audience burst into peals of laughter, and admired his informality and friendliness. Then he strode away, as quickly as he had come, to some court-room or the Bar Library. Subsequently, on numerous occasions, I saw him do the same thing, both in the High Court as well as outside. Naturally, he was very popular with everyone: junior or senior, European or Indian, high or low.

His diminutive stature gave currency to several stories, sometimes made by himself at his own expense. The most well-known is when some advocate told him humorously, "you are so small, I could put you in my pocket!" to which Sir Charles immediately retorted: "Then, you will have more brains in your pocket than in your head".

Another story, which emphasized his dimunitiveness was made by him when the late Mr. Justice V. D. Bhargava joined the High Court Bar. He was shorter in stature than even Sir Charles. On spotting the newcomer, Sir Charles strode up to him, and grasping him by the arm, said in mock serious tones:

"My dear fellow, you have broken my long record. Thank God for sending you here, now I can also call myself tall. "

Yet another incident occurred when Sir Charles and his wife took their child for admission to a school at Naini Tal. It may be stated that Lady Alston was the daughter of Mr. E. Howard, another distinguished Barrister of this Court. While the Mother Superior and Lady Alston stood talking on the balcony of the school, the Mother Superior noticed the boyish figure of Sir Charles, pacing the pavement below. Pointing to him, she said:

"Madam; if you are thinking of getting that one also admitted to school, let me tell you it cannot be done. He is much too big for this school"

Lady Alston quietly told her:

"Mother, he is Sir Charles, my husband, not my son"

Sir Charles' wit and humour, his stories and anecdotes, his felicity of expression, his great gift of repartee made him very popular, and gave him in easy access to men's hearts. Like Falstaff, he was not only humorous in himself, but was also the cause of laughter in others, though not for the same reason.

In a letter to his daughter Rukmini, the Rt. Hon'ble Sir Srinivasa Sastri, who once travelled with Sir Charles on S. S. Kaiser-i-Hind bound for England wrote of a day with Sir Charles thus:

This one day with a Barrister of Allahabad, Ross Alston. He is a wag. He enquired and I replied:

"You do not eat meat? " "No. "

"You do not drink wine? " "No. "

"You do not smoke? " "No. "

"You do not bet? " "No. "

"You do not play bridge? " "No. "

"You do not dance? " "No. "

"You do not join the sports? " "No. "

"You do not flirt with pretty women?" "No. "

"Then why the devil do you not throw yourself overboard? "

With mock seriousness, Sir Srinivasa Sastri ended the letter to his daughter saying:

"If I were young, I should have profited by this robust philosophy".

As to his being characterized as a "wag", Sir Charles might have quoted to Sir Srinivasa Sastri the withering remark of Sir Toby Belch to Malvolio in "*Twelfth Night*":

"Cos thou art virtuous, shall there be no cakes and ale! "

Sir Charles' informality and complete freedom from inhibitions, his simplicity and friendliness and joy of living were due, perhaps, to his having imbibed the laughter and sunshine and colour of the tropical Trinidad, where he had spent his boyhood and adolescence. Though born in Scotland, he went to Trinidad very early in life and remained there up to the age of twelve years. Then he went to England for schooling and remained there for seven years. He again returned to Trinidad and stayed there until time came for him to go back to England for his legal studies. After his call to the Bar from Gray's Inn, when he was looking around for a place to establish his legal practice, he came across Mr. George Jackson, an eminent Barrister of Lucknow, who suggested to him that he should go to India. After some time spent in

Lucknow and gauging prospects there, he was advised by Mr. Jackson to shift to Allahabad, where he was enrolled as an Advocate in April, 1885, at the age of twenty-three, and practised here up to the date of his death in January, 1937. It is a question whether the decision to spend his life in India was due only to the advice of Mr. George Jackson. It may very well be that the colour and sunshine of the tropical Orient found an answering echo to the colour and the sunshine and laughter of the tropical West Indies mixed in the Alchemy of his own mind and body.

Once having settled down at Allahabad he bent all his energies and employed all his great gifts in the practice of the profession on the criminal side. In less than a decade, he came to the forefront. It may be recalled that in the history of the Allahabad Bar, the eighties of the last century were an age of giants, Europeans and Indians, both on the criminal and the civil sides. It was therefore no easy task for a newcomer to reach the top rung of the professional ladder in such a short time. Having arrived there, he maintained a prominent position in the forefront of the rank of practitioners for more than forty years thereafter, until his death. During these years he appeared for the Crown or for the defence in some of the most celebrated trials throughout Northern India, and not merely in this State. Even in his early days, he appeared in the State of Alwar in the trial of Major Ram Chandra, which attracted considerable notice all over India, and firmly established his reputation as a great criminal lawyer. On behalf of the Crown he conducted the trial of the Ali Brothers: Maulanas Muhammad Ali and Shaukat Ali at Karachi. He appeared in the Kakori dacoity case, and in the Katarapur riot case and in many others, too numerous to be mentioned.

The outstanding characteristic of his advocacy was an absolute fearlessness combined with a power of expression, which rendered clear the most intricate matters. His special genius was to find out important and crucial points in the case, and not to waste time over minor matters or in long and tedious arguments. His cross-examination of witnesses was brilliant. His rapier thrust, his logical faculty, the power and eloquence of his advocacy combined with an absolute fairness in the presentation of his cases, were an inspiration to juniors, and an intellectual treat to anyone who watched his performance in court. His quickness, and the directness of his approach very often proved the complete undoing of the Crown Pleader, who in the fond belief of a long innings by Sir Charles, was, on the swift conclusion of his short address, suddenly called upon to take the crease, and did not know what to do.

Some stories of his anxiety not to waste time either his own or of the court may be told. When at the end of a day, after Sir Charles' arguments in a case, his junior expressed the hope that the appeal would be allowed, Sir Charles told him never to prejudge the issue, but to wait until judgment was delivered. Next day when the court assembled, Sir La] Gopal Mukerji, one of the members of the Bench, who had read the record overnight, enquired of him, why notice of enhancement should not be issued to his clients, and expected that Sir Charles would naturally ask for the usual fortnight's time to answer the notice. But Sir Charles replied that if his arguments of the previous day did not convince the Bench, they were not likely to have that effect a fortnight later, and it was no use prolonging the agony.

On another occasion, when an admission Judge, after perusal of judgment, enquired of him, what was there in his revision, he answered shortly: "Nothing". Whereupon the Judge enquired why he had filed it, and Sir Charles replied: "Because the client wanted your Lordship's opinion and not mine. " On yet another occasion after Sir Edward Bennet had perused the judgment of the Sessions Judge and the Magistrate, he enquired of Sir Charles what was the question of law involved in the revision: Sir Charles replied: "It is writ large on the face of the two judgments. If you cannot see it, I cannot make you. "

Munshi Ram Lal was his clerk. He was a very competent man and Sir Charles had great respect for him. He used to prepare his notes of arguments, and used to stand behind him in court. Once the Judge enquired why he said that there were only six prosecution witnesses, while the record showed that there were seven. Sir Charles turned to his clerk, who replied loudly enough for the Judge to hear: "There were seven, but one was disbelieved by the Sessions Judge. " Sir Charles told the judge: You see, my Lord, my Munshi can never be wrong. "

With his great gifts as "an advocate and his outstanding position at the Bar, he combined a singularly high standard of professional honour and integrity, and no one through all the years of his long career at the Bar could say that he deviated by a hair's breadth from the rules of the strictest professional propriety.

To the junior members of the Bar, European or Indian, Barrister or Advocate, he was not merely kind but generous. He had a big heart and he helped his juniors earn handsome fees, and was unstinting in their praise. On the occasion of Sir Shah Mohammad Sulaiman's elevation to the Bench, he paid a most handsome tribute to him. Sir Shah Sulaiman's great learning and ability was pointedly brought out by him during his speech, when he observed that those qualities were remarkable in one, whose age was less than even the number of years that the speaker had put in at the Bar.

He was always helpful to the members of the Bar. Story is told of Dr. N. P. Asthana, having a rough time in the admission of a Criminal Revision. The holdall of Munshi Asharfi Lal, a legal practitioner of Agra had fallen off a moving train. Munshi Asharfi Lal pulled the chain and recovered his holdall, but was prosecuted and convicted for stopping the train. Sir Charles happened to come into the court room at the psychological moment, when the guillotine was just about to fall on Dr. Asthana's case. Sir Charles whispered to Dr. Asthana, but loud enough for the Judge to hear, that when, in similar circumstances, Sir Henry Richard had pulled the chain to recover his hat, there was not even a hiss. This did the trick, and the revision was admitted.

In the days of colonialism and colour prejudice, Sir Charles was colour blind. May be, this was due to his nurture in the Caribbean, the land of Worrel and Weekes, Sobers and Kanhai, Walcott and Constantine, or May be, it was due to the free masonry of the legal profession, which he had truly imbibed.

This country has reason to be grateful to him for the removal of a most humiliating blot on its Criminal Procedure. It provided for the trial of European British Subjects by European Juries in the High Court, while natives were triable by magistrates and subordinate judges. In 1922 when the Rt. Hon'ble Sir Tej Bahadur Sapru was Law Member of the Viceroy's Executive Council, he sought the advice of Sir Charles Ross Alston as an expert on Criminal Law and Procedure for removing this glaring example of racial discrimination. Sir Charles not only advised his clients, the European community to accept the necessary amendments in the Criminal Procedure Code, but it was his advice and personal influence which made it possible for the Government of India and the Indian Legislature to pass the necessary legislation.

It was a just tribute to his distinguished position at the Bar, that in 1909 he was elevated to the Bench and occupied his seat with distinction. He did not like to continue on the Bench for long, as the lure of the profession was too strong for him. Later on he was Kinghted by His Majesty's Government.

He had an extremely genial personality. No other leader of the Bar was more popular with the junior section. He had always something very refreshing to say. Mr. B. E. O'Connor, his contemporary on the Civil side said of him:

"He overflowed with humanity and was incapable of anything even remotely suggesting pettiness or smallness. His acts of kindness were innumerable, but they never saw the light of day. He preferred to do good by stealth, and the good he did lived after him."

It can truly be said of him that he was a great gentleman.