



### Hon'ble Mr. Justice Budruddin Tyabji

Mr. Tyabji belonged to a respectable Sulaimani Bohra family that first settled in Cambay nearly three centuries ago. He was born on the 8<sup>th</sup> October 1844 and was the fifth son of Tyab Ali Bhaimia, the founder of the family.

His father took a great pride in his brilliant school career, decided to send him to England to become a barrister. Mr. Budruddin left for London in April 1860. His father did not intend him to join the profession he had chosen before having a sound foundation of a general and liberal education as it is understood in England. Accordingly Mr. Budruddin was first put into a private college and was to have taken an Arts degree at the London University. He passed the Matriculation examination, but just on the eve of the next examination his health broke down, and his eyes became so weak that under the peremptory orders of his medical adviser he had to return to India and to give himself complete rest for a year. When he returned to England, he joined the Middle Temple and was called to the Bar in 1867. He was the first native of India to attain that position – though the late Mr. W.C. Bannerji followed him within a year. On his arrival here he was enrolled as an advocate of the Bombay High Court.

Mr. Budruddin Tyabji had not to wait long, in fact he had not to wait at all, for practice to come to him. His first year's income was Rs. 6,000; and this grew to Rs. 124,000 a year towards the close of his career as counsel. Mr. Tyabji soon rose to the top of the profession and he was much sought after in all cases of importance. He had also a large and lucrative practice in the Moffusil, especially in Kathiawar. His career at the bar was uniformly successful.

The last *cause celebre* in which he appeared before being elevated to the Bench was a criminal case against a member of the Sachin reigning family. It was owing mainly to his able and consummate advocacy that the case ended in favour of the accused. The earnest persuasiveness with which Mr. Tyabji advanced the cause of his client dwells vividly in the minds of those who had the privilege of hearing him on the occasion.

In June 1895 Mr. Tyabji was raised to the High Court Bench. He was the first Indian barrister who was selected for the high honor in this part of India. The place which he was appointed to fill was in no sense reserved for a native of India, and his nomination came about by virtue of his merits and standing at the bar. The qualities of mind which had secured to Mr. Tyabji a distinguished position at the bar were helpful in making him a successful Judge on the Bench.

“The same mental gift of a strong common sense,” remarked a leading Anglo-Indian paper, “the possession of which had distinguished him as an able and learned advocate and learned advocate and a leading and influential public man, also distinguished him *par excellence* as a Judge. His knowledge of the principles of English Jurisprudence is both vast and profound as is traceable in the many learned judgments he has delivered from the Bench. No other Judge can show more kindness and courtesy to the advocate appearing before him than does Mr. Justice Budruddin whose judicial courtesy has by this time become proverbial among the members of the Bar. At the same time he is regarded a “strong” Judge – which word it should be observed in legal phraseology stands for the antithesis of “irresolute” and “wavering.” And probably no higher compliment can be paid to a Judge, by the profession than that he is ‘strong’, -for there is nothing more unpleasant than a Judge who either does not know his own mind or knowing it, makes announcement of it in a halting manner. The whole character of Mr. Justice Budruddin Tyabji as a Judge cannot be better summed up than in the phrase, *Suaviter in modo fortiter in re.*”

Mr. Budruddin Tyabji was naturally very quick and impatient of temper, and he was often very severe-perhaps too severe on the advocates that appeared before him, if he suspected that the counsel was unprepared or that he was wasting the time of the Court either by repetition or irrelevant arguments or statements. Those of the practitioners, however, who had the privilege of knowing the real motives that actuated him and who knew of his unceasing attempt to control the natural severity of his temper and of his compunction when he had against his own wishes and desires caused pain or dissatisfaction, were willing to look upon this failing with leniency. At the same time it was recognized that his sense of justice and absolutely unbiased mind added to his vast experience made it quite safe for any junior to be pitted in his Court against the leaders of the Bar.

Mr. Budruddin inherited from his father his boldness and courage. To these he added his independence as a Judge. In the course of a conversation with a writer, he once remarked that when a case came up before him for adjudication which involved points of law, he first thought out his conclusions on general principles of law unfettered by cases this way or that way. And then with a view to ensure the correctness or otherwise of his own conclusions he would look into all cases for and against. Some of his distinguishing traits as a Judge were the rapidity with which he reasoned out his judgments and the lucidity with which he analysed evidence of a most complicated nature and the directness with which he came to his conclusions both upon facts and law as they arose in cases before him.

On one occasion in a case relating to a Mahomedan Wakf, the Advocate General (Mr. Lang) appeared before him and happened to remark that there was not likely to be any Mahomedan authority on the point. Mr. Budruddin from the Bench remarked: “Mr. Advocate-General to say that such a point as this is not covered by the reported decisions

of Mahomedan law.” The Advocate-General replied with an apology that he did not mean that there were not authorities on the point but that they were difficult of access for him.

A noticeable habit of his was his daily walk from the Court house to the end of the Queen’s-road, which nothing prevented him from taking during the last nine years.

The career of Mr. Budruddin Tyabji whether on the Bench or at the Bar was eminently successful. He was a reliable counselor in cases of doubt and difficulty. He will be considered a model to imitate for generations to come.

The news of the death of Mr. Justice Budruddin Tyabji, which occurred in London on the 19<sup>th</sup> August 1906 was immediately cabled to Bombay. Mr. Tyabji was reported to be in excellent health and spirits for some time past. The incident becomes the more regrettable when it is remembered that he was on the eve of departure from London for this country to take his seat for the second time as the Acting Chief Justice of the Bombay High Court.

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