

OBITUARY - CHIEF JUSTICE CURLEWIS.

By Adv. A. Shacksnovis.

2

With the retirement of the Rt. Hon. Chief Justice Curlewis in 1938 from our highest judicial office, the nation lost one of its greatest and ablest servitors in the administration of justice. Now, with his passing at the age of 77, the South African people mourns one of its greatest sons - not only a wise and humane judge and a learned and distinguished lawyer, but the very exemplar of a true South African gentleman and sportsman.

Born at Paarl in 1863 he was educated primarily at the public school there, and then matriculated and graduated as Bachelor of Arts from Bishops, the old Diocesan College at Rondebosch.

After teaching for 18 months at Cradock, he spent five years in the old Cape Civil Service. Meanwhile he read assiduously for his law degree. While on a visit to the old Transvaal Republic in 1887 he decided when qualified to practise there. Typical of the man - he at once took special lessons in Kimberley at High Dutch and read the old "Volkstem" regularly, to become bilingual. On graduating as Bachelor of Laws in 1888 he was called to the Transvaal Bar.

He soon made his mark and was several times given acting appointments on the Bench of the old Republic.

When the Anglo-Boer War broke out he was acting as a judge, and tribute was paid to his trueness of citizenship and loyalty as a republican burgher, and his sterling judicial qualities, by his appointment as President of the Special Criminal Court which operated in Johannesburg after the abolition of the jury system during the stress of war. Without rest he spent a vacation from the Bench in the public service, accompanying Professor Molengraaf in the sad task

created by the difficulty of identifying the Boer dead, helping to organise and apply the identification card system and personally visiting laagers as far afield as Ladysmith.

In 1903 he was appointed to that distinguished Transvaal Bench which was headed by Chief Justice Rose-Innes. From that year onwards, he had an unbroken judicial career for 35 years, becoming Judge-President of the Transvaal in 1924, a Judge of the Appellate Division in 1927, and Chief Justice in 1936, in succession to his lifelong colleague and friend Sir John Wessels. He was Acting Governor-General of the Union for interim periods in 1933 and 1937.

While at Bishops he had played both cricket and football, and eventually he captained a Pretoria Sixteen against the first English cricket touring side to play there. His passion was racing - he once owned and raced thoroughbreds; he was a member of the Jockey Club of S.A. and President and Life Member of the Pretoria Racing Club. He was a fine shot, and like many true South Africans, his pet hobby was farming. In private life he was practical in sympathetic charity, and a peerless host.

The affection with which he was always, throughout his career at Bar and Bench, referred to as "Curly" is a monument to the love, respect and esteem he enjoyed, but his greatest monument is his judgments in the Law reports of 35 years - an enduring record of a life of magnificent service.

Ever modest and unassuming, he was as gigantic in greatness and goodness of character, heart and mind, as he was diminutive in stature. His genius was not that of brilliant inspiration and improvisation (not always an infallible genius) but rather that of

inexorable mental and moral honesty and infinite moral courage, always reinforced by an unlimited capacity for work, systematic logical analysis and unparalleled mastery of detail as well as broad principle. He took nothing for granted. A story is told of him that Judge Wessels was once to join him in sitting on a case, after Curly should have disposed of a few unopposed applications, usually dealt with formally. Judge Wessels sent a messenger from his Chambers into the Court where Curly was thus sitting, to find out how soon he was likely to finish. The messenger reported that "Curly was still busy opposing the unopposed applications as usual." That was his way. He gave no decision until he was completely and absolutely satisfied, however minor or unopposed or trivial the cause. All cases were to him equally important.

His greatest quality in the eyes of the Bar was the terrier-like tenacity which which he insisted on worrying out every problem to his final determination of the right and just solution as he himself - apart from anyone else - saw it. He thus deservedly earned the reputation for what is often regarded as the greatest attribute of a judge. - that of being unflinchingly "sound." He was regarded by all lawyers - and the records testify it - as being more often than other judges - in the right. He was called by some the Great Dissenter - not in any way at all disparagingly - but because he never hesitated to differ from even the most senior and distinguished and ablest of his colleagues - and was not dissuaded by any adventitious factor, from giving what he thought the right decision. Ample tribute to this magnificent moral and judicial courage is to be found in the fact that more frequently than with others, his dissenting judgments were vindicated on appeal as against those of the majority, and less

frequently than with others, were his judgements reversed on appeal.

His passion for precision and right controlled and schooled the Bar before him to thorough argument. All counsel who knew him or appeared before him held, and hold him in affectionate memory. He was the essence of old-world courtesy and grace of manner and manners - on and off the Bench. He was an exemplar of tact and sympathy in argument and debate, but this was always knit with firmness of purpose to reach the proper decision. Patient with the most plausible and appealing argument he was rarely, if ever, deceived or misled by an unsound one.

By his service our country was blessed - it may be long before we see his like again - and so Vale and Requiescat.

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