

Lang David de Villiers QC

die kans kry, “*Ek het ander liefhebberye wat wag. En niks doen is ook lekker, jy weet.*”

En so het dit dan gekom dat die memoires, van die ander liefhebberye, die niksdoen nou eers, miskien, aan die beurt kan kom:

Volgens Phillip Higgs, Lang David se junior in sy laaste marathonsaak in *Staat v I Parker*, is David se aftrede en afskeid van die Kaapse Balie telkens uitgestel as gevolg van ’n interessante verloop van die strafsak wat na verwagting slegs agt tot tien verhoorde sou duur.

Die saak staan in die wandel bekend as Suid-Afrika se OJ Simpson saak en het op 27 Mei 1996 ’n aanvang geneem. Die staat se saak was op motief en geleentheidsgetuie nis gebaseer. Na ’n verhoor van agt dae word die saak verdaag en word Lang David as senior in Augustus 1996 opdrag gegee. Die oorspronklike verhoor waarin 49 getuies vir die staat getuig het, eindig met Parker se skuldigbevinding aan moord met direkte opset op 26 Maart 1997 en ’n vonnis tot 25 jaar gevangenisstraf op 3 April 1997.

Die hof *a quo* het verlot tot appèl geweier waarna die hoofregter gepetisioneer is. Verlot is toegestaan en die appèl is terugverwys na die volbank van die Kaap die

Goeie Hoop Provinsiale Afdeling. Op 3 Augustus 1998 begin Lang David en sy span die appèl voor die Volbank bestaande uit King RP, Thring R en Knoll R. Op 31 Augustus 1998 tydens appèlargument, bring die staat ’n aansoek om verdere deskundige wetenskaplike getuie nis as gevolg van tegnologiese ontwikkeling voor te lê welke aansoek deur Lang David en sy span geopponeer word. Die appèl verander in ’n bestrede aansoek, en die volbank staan op 18 Desember 1998 die aansoek toe.

In Maart 1999 begin die staat met die lei van verdere deskundige SDR (Short Term Random Repeat) DNA-getuie nis.

Intussen het die beskuldigde se befondsing begryplikerwys na 60 verhoorde opgeraak en is daar by die Regshulpraad aansoek gedoen om regshulp. Die verdediging is sedert 1997 op regshulp in hierdie uiters komplekse verhoor waarvan die rekord alleen 10 000 bladsye beloop en die argumentshoofde sedert die volbankfase ’n lywige 516 bladsye. Sedert 1999 is Lang David en sy span nog nie ’n sent deur die Regshulpraad vergoed nie.

Eers op 5 September 2000 het die oorblywende volbank, bestaande uit Thring en Knoll RR, uitspraak gegee. Die skuldigbevinding en vonnis is tersyde gestel.

En so het David enduit en dit sonder dat die Regshulpraad hom betaal het ingevolge hulle onderneming, toegesien dat “*justice was done and was seen to be done*”. Daarom kon hy sy kamers opgee en weer van die Kaapse Balie op 14 September 2000 afskeid neem.

In die laaste fase van die marathonsaak kon David weens heupprobleme moeilik

staan. Uit eerbied teenoor die bank, ten spyte van ’n vergunning om te kan sit, het David tydens argument gestaan. Hy het ’n plan prakseer: ’n kartondoos waarop ’n kussing met tou vasgemaak is, het hom ondersteun om so die nodige eerbied teenoor die bank (waarvan regter Thring ongeveer in standerd 7 en regter Knoll waarskynlik pas in die kleuterskool was toe Lang David sy geneem het!) te betoon.

Is dit vaarwel en kan ons nou uitsien na die “groot man” se memoires, met hopelik ook die laaste marathonsaaksage daarin, of is dit tot siens, omdat David weer ’n herverskyning sal maak?

## Natal

Contributed by Shelley Walker, Durban Bar

### Acting appointments

Acting appointments during the fourth term were held by Skweyiya SC, Pentzhoorn SC, Alkema SC, Gyanda SC, Hollis SC, Van Zyl SC, Seegobin and HQ Msimang.

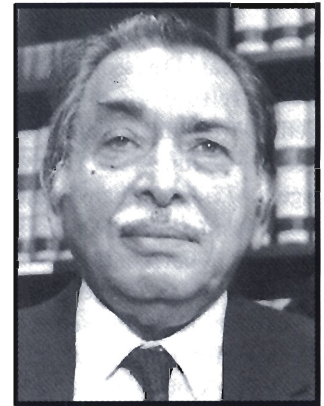
The Natal Society of Advocates held its 71<sup>st</sup> Annual General Meeting on 2 September 2000. John Pammenter SC was re-elected chairman, and AJ (Spicko) Dickson SC was elected vice-chairman. Other silks elected to the Bar Council were Marumo Moerane SC and Ms Pingla Hemraj SC. According to the Society’s policy, AFT nominates half of the candidates for election to the Council, and members were elected on that basis.

### Comings and goings

Rajesh Choudree rejoined the Durban Bar, and JPA (Sean) Garaghty left.

## We remember ...

### Judge Hassan Mall



We add our voices to the many throughout the country who mourn the passing away of Judge Hassan Mall.

The late Judge Hassan Mall was born in Ghawla, India, on 19 June 1922, and emigrated to South Africa at the age of four. He obtained his law degree from the University of Cape Town in 1951, was admitted as an advocate in 1952, and thereafter joined the Durban Bar.

In addition to coping with the demands of practice and the additional burdens placed on ‘non-white’ advocates at the zenith of the apartheid era, Judge Mall played an active role in public life. He served as secretary of the Natal Indian Congress and joint secretary of the South African Indian Congress. He was banned under the Suppression of Communism Act from 1962 to 1967.

Despite this ignominy, Judge Mall’s qualities as an advocate and as a person won him the unqualified regard of his colleagues. In 1978 he became the first person of colour in Natal to be awarded silk and in 1987 became the first person of colour in South Africa to receive an acting appointment to the Bench. He made history again in 1993 when he was elected chairman of the Natal Society of Advocates.

After a number of acting judicial appointments, Judge Mall was elevated to the Bench of the Natal Provincial Division on 1 February 1995. He officially retired from the public service on 19 June 1997, at the age of 75. Even then he did not consider his life's work complete, but continued to act as a judge of the Natal Provincial Division, serving as chairperson of the Amnesty Committee of the Truth and Reconciliation Commission until his death.

During his years as a silk, Judge Mall was called upon to head a number of Commissions of Enquiry and, from 1994 until his death, he was chancellor of the University of Durban-Westville. He was also a trustee of the Mahatma Gandhi Memorial Trust.

He died on 18 August 2000 at the age of 78, leaving his wife, Sylvia, a son, Enver, and two daughters, Marcina and Shereen.

At a memorial service in the Durban High Court, Natal Deputy Judge President, Judge VEM Tshabalala, paid tribute to his late colleague in the following words:

"In the *Daily News* editorial of Tuesday, 18 August 2000, Judge Hassan Mall was described as a 'man of few words but much action'. How apt this description is of Judge Mall ...

"He was a role model to black advocates and gave direction to us in his quiet and unassuming manner ...

"Although a kind and humble person he was firm on principle and contributed to the transformation of the Bar. As a judge he treated counsel with courtesy and respect, bent on encouraging rather than frustrating counsels' efforts ...

"We, the advocates of the Natal Bar, will remember Judge Mall as one of the great men of our time. His example of personal achievement combined with selfless service will live on, an inspiration to us all. He will not be forgotten."

The Natal Bar is in the process of establishing a bursary fund, to be known as the Hassan Mall Bursary Fund. Contributions to the fund will be voluntary and the proceeds will be used to assist deserving pupils. It is our fervent hope that this fund will be a fitting memorial to one whose actions characteristically spoke louder than his words.

#### **Neville Fuller**

We were also greatly saddened to learn of the death of our former colleague, Neville Fuller, on 17 August this year. After graduating cum laude from the University of Natal, Fuller served articles with Smythe and Company in Pietermaritzburg and was chosen candidate attorney of the year in his last year of articles. He then practised for a time as an attorney before being admitted to the Bar in October 1961. Fuller retired from full-time practice early last year, at which time he was the longest-standing member of the Pietermaritzburg Bar. After his retirement to the Natal South Coast, he became an associate member of the Durban Bar and practised as such until his death. During his years at the Pietermaritzburg Bar, Fuller co-authored Volume 3 (Statutory Offences) of *SA Criminal Law and Procedure* with Prof JRL Milton. He also played an active role in public affairs and served as a City Councillor during the early 1990s. We extend our

condolences to his wife, 'Winks', and all the members of his family.

## **Port Elizabeth**

*Contributed by Patrick Scott*

### **Acting appointments**

Johnny Horn SC is at present acting, and will continue acting until the end of the term.

H van der Linde SC had an acting appointment from 31 July 2000 to 15 October 2000.

### **New members**

Idris Dala commenced practice at the Port Elizabeth Bar in July 2000.

### **Members leaving**

JP Marais has left the Port Elizabeth Bar to take up an appointment with the office of the Director of Public Prosecutions in Umtata. Kevin van Tonder emigrated to Vienna.

### **New pupils**

The Port Elizabeth Bar at present has eight new pupils.

### **End of year function**

The end of year function is to be held on 22 November 2000 at The Bush Camp.

## **Noord-Kaap**

*Bygedra deur Japie Schreuder*

### **Regters**

Regter Buys neem tans waar as regter-president aangesien regter Steenkamp met langverlof is. Gedurende die derde kwartaal was regter Buys met langverlof.

### **Lede**

Die Kimberley Balie se ledetal staan tans op ses. Die afdeling in die ledetal is onder

andere teweeggebring deur die probleme wat ondervind is met regshulpwerk, asook die feit dat mosiehofwerk tot 'n groot mate deur prokureurs self hanteer word. Die oorblywende lede streef egter steeds daarna om die Balie, as instelling, se werksaamhede op dieselfde wyse as vroeër voort te sit.

### **Aftrede van Du Plessis SC**

Charl du Plessis SC tree aan die einde van hierdie jaar af as Direkteur van Openbare Vervolgings in die Noord-Kaap. Adv Du Plessis, wat op 5 Januarie 1944 gebore is, is 'n boorling van die Karoo (Richmond) waar hy ook skoolgegaan, hoofseun en Dux-leerling was. Sy universiteitsopleiding het op Stellenbosch begin, maar is na 'n jaar verskuif na die Universiteit van Kaapstad waar dit in 1968 voltooi is nadat hy die BComm LLB-grade verwerf het. Hierna was hy in Kaapstad werksaam as staatsaanklaer, staatsadvokaat en senior staatsadvokaat. Op 1 April 1979 is hy bevorder tot Adjunk Prokureur-Generaal te Bloemfontein en in Mei 1979 is SC-status aan hom toegeken. Op 1 Desember 1988 is hy as Prokureur-Generaal van die Noord-Kaap aangestel en op 1 November 1998 as Direkteur van Openbare Vervolgings. Adv Du Plessis is getroud met Jeanne en het twee kinders, naamlik Hanneke, 'n regsadviseur by Ou Mutual in Kaapstad, en Jacques, 'n rekenaarstelselingenieur te Johannesburg. Adv Du Plessis sal onthou word vir sy aange-name persoonlikheid, maar wat tog ferm standpunt kon inneem. 'n Afskeidsgeselligheid, wat deur die meeste regslui bygewoon is, is op 19 Oktober gehou.