The private diary of Advocate WJ Hiscock: A glimpse of life at the Johannesburg Bar in 1925

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The discovery of the diary

Mr Bekker, a resident of Mondeor, Johannesburg, found a handwritten book on a rubbish dump in the South of Johannesburg. He brought it to a friend of his son, my brother Andre, then a law student at Wits, now a member of the Johannesburg Bar. The book was a diary. It consisted of 384 handwritten pages. The book was maroon with a black spine. Affixed to the cover was a label which once had been white. It bore the inscription “Diary for 1925, Private” and a monogram. In addition some words, now illegible, had been added. Presumably this was a reference to the fact that the diary also extended to 28 March 1926.

Who was WJH?

My brother lent the diary to me. I was then practising at the Pretoria Bar. I read the diary with keen interest. It was clear to me that this was the diary of a man who had practised as an advocate in Johannesburg. His name was not recorded in the book. Who was he? This question intrigued me and I was determined to find out who the author of the diary was.

The monogram was a clue. But I could not make it out. It seemed to consist of a “W” with a tail piece and an “N” so that there also appeared to be an “A”. I learnt from an entry in the diary that the monogram stood for WJH. The entry for 10 October read “Anniversary of my (WJH’s) birthday.” Time went by until it occurred to me that the WJH might have made some contribution to legal writing. After some time I found a reference in the 1924 South African Law Journal to an article entitled “The Bar and the BA Degree”. The article was written by WJ Hiscock.

It occurred to me that the diary could be that of WJ Hiscock. It took several visits to the office of the Master of the Supreme Court to obtain the file relating to the deceased estate of WJ Hiscock. According to the death notice, William John Hiscock was a South African national, born in Somerset East, Cape. He died on 5 January 1949 aged 85 years and three months. Occupation — retired advocate. He was resident at 82 Turf Club Street, Turffontein at the time of his death.

Hiscock married Katherine (Mary) Papenfus who died in 1934. Three girls, Enid, Cecily and Kathleen were born of this marriage. He divorced her and married Rachel Johanna Jacoba de Villiers in Johannesburg on 13 July 1920. Rachel was born on 26 March 1887. An entry in the diary for 26 March read: “Carleen Smith brought wife some flowers and handkerchiefs from her mother for wife’s birthday anniversary ie today.”

The discovery of the diary

The diary was indeed that of WJH, late of the Johannesburg Bar.

Incidentally Hiscock left the sum of £600 in his will to the Johannesburg Bar Council: “to be utilized by the Council as it in its sole discretion may decide”. Among his possessions, listed in the estate, were law books valued at £12-10-0.

A glimpse of life at the Bar in 1925

Diaries are by their nature private property and are not usually intended for publication. The diary is that of a member of the Bar in the ordinary. He did not take silk and was of course not elevated to the bench. His diary records everyday life in meticulous detail, but seldom discloses the private thoughts of the author. The diary is very much a detailed account of daily events and happenings. Daily expenses are also recorded.
Hiscock made a point of recording the prevailing weather conditions at least thrice daily. He went to "the club" daily to look for post. He and his wife often went to the bioscope. Mrs Hiscock appeared to have often purchased popular reading matter.

Mentioned in the diary is the visit of the Prince of Wales to Johannesburg on 25 June. The day was proclaimed a public holiday. The death of Queen Alexander on 21 November is also noted.

Many of the entries are of little interest to a latter day reader. They are for the most part mundane. This is not of course to criticise the author. His was a private journal and we are privileged to have this glimpse into the past. Some entries refer to people, places and events which have achieved a place in legal history. The diary also offers some glimpses into the practice of law at the Bar and relations between the Side-Bar and the Bar in 1925-26. I use the word glimpses judiciously because the style is a terse one. The author's private thoughts seldom intrude into the record of events.

Hiscock's article in the SALJ is an impassioned plea for lawyers to ensure that they have a broad education. He advocated that the new lawyers should read widely and study widely for as he says: "Only men of a broad grasp of intellect are really capable of seeing legal or other problems in their true perspective, and a wide range of knowledge is of the greatest assistance in this connection" (p 206). He applied these principles in his own life even at the stage when his practice was presumably nearing the end of its life for Hiscock was 61 in 1925.

Hiscock frequented the public library on a regular basis. He records the books that he borrowed. Many were on law and jurisprudence; others were on politics and sociology. The public library was not the only library he tapped. His diary contains frequent references to the books, meticulously recorded, which he borrowed and returned to Morice (G T Morice KC), a fellow advocate at the Johannesburg Bar. Morice had been a judge in the South African Republic prior to the annexation of the Transvaal and was at the time President of the Special Court of Swaziland. An entry in Hiscock's diary for 10 November reads: "... also called at Morice's Office - he has gone to Mbabane." Presumably Morice went there on official business.

It seems that Hiscock practised from home. He moved during the course of the year to number 21 Boustred's Building. He records numerous visits by attorneys and clerks to his home bringing briefs or discussing fees and pleadings. Reuter, an attorney, and Jacobs, his clerk, were frequent visitors. Attorneys Bevan, Kaplan and Bourbon also briefed Hiscock. A point of interest to latter-day advocates is that Hiscock returned his briefs in person to the offices of his instructing attorneys. Hiscock also went to see Reuter on many occasions in order to persuade Reuter to part with the agreed fee.

The civil side of Hiscock's practice consisted mainly of divorce matters with an occasional sequestration thrown in. Declarations were drawn for £3-3-0. Return days were charged for at the rate of £2-2-0. A bill of costs was taxed in a divorce matter, Christiaan v Christiaan, at £49-12-9.

During 1925 he was offered a brief with a silk in a matter involving one Geldenhuys. The silk was De Wet KC. Hiscock says in his diary: "I met ex Minister of Justice De Wet KC in robing room." It seems that De Wet rejected the proffered fee of £10.

Attorneys were then, as now, subjected by advocates to a blacklist. Hiscock made inquiries from time to time with the Bar Secretary, Hope, (AA Hope) whether certain attorneys were on the blacklist. On one occasion Hiscock was obliged to return a brief because the attorney in question was still on the blacklist.

Hiscock's practice consisted largely of criminal matters. He received the occasional brief from an attorney but most of the briefs came from the Crown Prosecutor or the Registrar of the Court. Dock defences originated from the office of the Crown Prosecutor, while the Registrar was responsible for paying for pro Deo defences. Advocates were paid £5-5-0 for dock defences.

Minimum fees were then laid down by the Bar Council. Hiscock mentions early in the year that he received a new fee list from Hope, the Bar Secretary. Jury trials were still in operation at the time.

Hiscock also mentions a talk he had with Currie and Wills regarding the practice followed by the English Bar in allowing barristers to accept briefs without the intervention of an attorney. Discussion also turned to an apparently recent resolution of the Bar Council forbidding members to take work from attorneys who briefed advocates who were not members of the Bar.
Hiscock also had two or three appeals in 1925. This necessitated his travelling to the Supreme Court in Pretoria. On 16 January Hiscock travelled by train to Pretoria for a criminal appeal. He went by train which left at 8.05 am and arrived in Pretoria at 9.20 am. He spoke to advocate Morgan Evans at the station. At court he met advocates Evans, Claassens, Van Leuhoff and various other acquaintances. His case was last on the roll. It was heard by Greenberg and Van Pittius JJ. De Wet KC congratulated Greenberg who replied. It appears that Greenberg had been elevated to the bench in November of the previous year. Hiscock’s case was called in the afternoon. Beardmore appeared for the Crown. The case was dismissed without the Crown being called upon.

On 30 January, a sweltering hot day, Hiscock was back in Pretoria. One appeal was heard and dismissed, the other appeal was postponed. Hiscock met several well-known advocates namely De Villiers, the Attorney-General, Davis, Tindall, HH Morris, Blackwell and Beardmore. He also met advocate Lucas on the train returning to Park Station.

On 27 February Hiscock went to Pretoria to argue an appeal of Minnie Markus v Rex on a brief from Reuter. A fee of £5-5-0 was agreed upon (the fee for another appeal was £7-7-0). Hiscock purchased a return ticket at the Johannesburg station for 10/-.

FOOTNOTES

1 See File 634/49 in the office of the Master of the Supreme Court, Transvaal.
2 This was probably Lot 179, the immovable property valued at £1200 referred to in the estate.
3 See 1929 SALJ 137.

As will be seen from the above facsimile of a list of members of the Johannesburg Bar dated 29 October 1924 - embodied in the records of the Johannesburg Bar Council - Hiscock was indeed a very senior junior member of the Bar in 1924

Conclusion

Hiscock was an ordinary member of the Bar. The entries in his diary have given us a tantalising glimpse into life at the Bar in the mid 1920s. Our appetite has been whetted but there remains little more for us to gather, and so, reluctantly we close the private diary for 1925 of William J Hiscock.