

We remember them...

The late Chief Justice P J Rabie SC

Tribute by Chief Justice Ismail Mahomed,
Bloemfontein

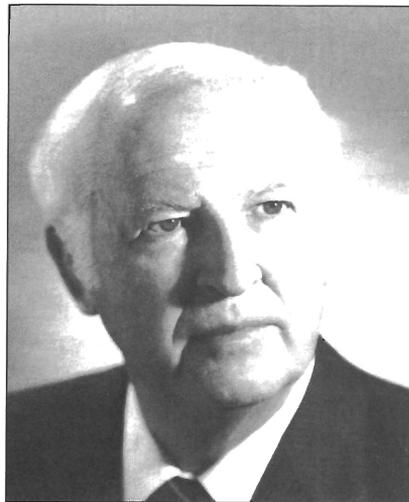
PIETER Jacobus Rabie was born in the Free State in 1917 and matriculated at Koffiefontein in 1934. He then studied at the University of Stellenbosch where he obtained the degrees of Bachelor of Arts, Master of Arts in Latin and Master of Arts in Greek, all three with distinction.

After winning the Queen Victoria Bursary, he commenced his studies in classical languages at the University of Michigan. He was awarded the degree of Doctor of Philosophy in 1943. Upon his return to South Africa Mr Justice Rabie was appointed as a lecturer in classical languages at the University of Stellenbosch.

He also commenced studies in law and at the end of 1948 he obtained the degree of Bachelor of Laws, again with distinction. Shortly thereafter he commenced practice as an advocate at the Pretoria Bar and took silk in 1962. In 1966 he was appointed as a judge of what was then the Transvaal Provincial Division of the Supreme Court. Less than four years later he acted for the first time as a judge of this court and became a permanent Judge of Appeal in April of 1971.

From 1976 to 1982 Mr Justice Rabie was the chairperson of the South African Law Commission. During his period of office on that Commission, Parliament piloted important legislation initiated through the Commission. This included major changes to the law on divorce in 1979. His contribution to the law was recognised by the University of Stellenbosch which awarded to him an Honorary Doctorate of Laws in 1982. In 1980 he also received a special decoration for outstanding service.

Mr Justice Rabie was appointed as



The late Chief Justice Pierre Rabie

Chief Justice in 1982. He held this office until 1989 but he continued his contribution to the law thereafter. His book on the *Law of Estoppel in South Africa* was published in 1992 and right up to the time of his death on 28 December 1997 Mr Justice Rabie was actively involved in legal research and development.

During his productive career as a judge, Justice Rabie authored many important judgments. I mention only a few. In *Magna Alloys and Research (SA) Pty Ltd v Ellis* 1984 (4) SA 874 (A) he departed from the approach which had previously suggested that a plaintiff who relied upon an agreement in restraint of trade was obliged to establish that such a restraint was reasonable. He held that in such a case it was for the defendant to show that the enforcement of the restraint conflicted with the public interest.

Another example is *Plaaslike Boeredienste (Edms) Bpk v Chemfos Bpk* 1986 (1) SA 819 (A) in which Mr Justice Rabie held that in our law the right of a principal to repudiate a

contract entered into in consequence of the bribery of his agent, is not based on fraud but on the wrongfulness of the methods used by the other party to procure the conclusion of the contract.

The many qualities of Pierre Rabie as a jurist and as a man are perhaps best captured by advocate D P De Villiers in his tribute when he said:

“Hy was die natuurlike heer of ‘gentleman’: saggeaard, met inherente hoflikheid en vriendelikheid, en ’n volkome afwesigheid van hovaardigheid, arrogansie of bombasme. So het hy alle mense op alle vlakke van die lewe gehanteer. En ’n tikkie stille humor het nooit ontbreek nie.

Verdere basiese eienskappe was ’n hoë intelligensie en besondere deeglikheid. Dit het meegebring dat hy uitgemunt het as ’n navorser, in die verwerking van sy navorsing, en in die heldere verwoording van die resultaat. Sy gepubliseerde uitsprake getuig oorvloediglik hiervan”.

During his term of office as Chief Justice Rabie also earned the respect of his colleagues by his ready accessibility and his quiet administrative efficiency.

Pierre Rabie’s field of interest was much wider than just the law. He was for example a very considerable cricket enthusiast. He opened the bowling for the University of Stellenbosch in his younger days and continued for many years to play cricket when he was in Pretoria.

He married Annalie le Roux in 1947. Two daughters and a son were born from this marriage and at the time of his death Pierre Rabie had nine grandchildren. We extend our very deep sympathies to Annalie and the members of her family. 