

Sydney and Felicia Kentridge Award

The Sydney and Felicia Kentridge Award for Service to Law in Southern Africa was presented to Jules Browde SC by the GCB at a gala dinner on 25 July 2008. The award is presented annually to a person who has made an exceptional contribution the development of the law in Southern Africa



Jannie Eksteen SC, GCB chair, presenting the Sydney and Felicia Kentridge Award to Jules Browde SC of the Johannesburg Bar.

What makes Jules Browde special, however, is his integrity, his commitment to the Bar as an institution, his values rooted in his respect for the dignity of all persons, and his public commitment to the struggle for a better life for all.

Former Chief Justice Arthur Chaskalson paid tribute to Jules Browde SC:

No task could be more pleasant than being asked by his colleagues at the Bar to pay tribute to Jules Browde for his long service to law and justice in South Africa.

Jules was admitted to the Bar 60 years ago. Although he remained in practice at the Johannesburg Bar for over 50 years, there may be some here tonight from other Bars, or possibly younger members of the Johannesburg Bar, who did not have the opportunity of working with Jules, of seeing him in action in Court or in other structures of the Bar, in which I would include the old common room.

Prior to the migration from Innes Chambers, the Bar common room at Innes Chambers, and before that at His Majesty's Buildings, was a centre of collegiality at which issues of the day were discussed, concerns of the profession debated and gossip exchanged. There were no fixed seats, nor was protocol observed. Juniors and silks would sit together. A table at which there was never an empty seat was one to which Jules had gone. Others, young and old, would quickly fill up the seats to sit with one of the most loved members of the profession, to listen to his stories and to exchange thoughts with him. They were attracted by his warmth and friendliness, his mischievous sense of humour, and above all by his integrity. It is unfortunate that with the growth of the Bar, and its fragmentation into separate chambers in different parts of the city, the common room no longer exists. But then since so much has changed in recent years, a great

deal for the better, it is perhaps understandable that institutions will also change. I regret, however, that the common room has gone.

Life in South Africa and at the Bar has undergone many changes since Jules graduated with a BA from Wits in 1939. That was when the Second World War broke out. Jules immediately joined the army and served in the artillery in East and North Africa and later in Italy. When the war ended he returned to Wits to do a law degree and graduated with an LLB in 1947. It was a time of hope. Jules, like many of those who had seen service in the war, and had witnessed or learnt about life under the Nazis, about the holocaust and other atrocities, returned to civilian life with the hope that a better world awaited them. In 1945 the United Nations was established, and this hope for a better world was reflected in its Charter, in which a commitment was made to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small; to promote social progress and better standards of life in larger freedom; to practise tolerance and live together in peace with one another as good neighbours.

As we now know, that hope did not materialise, though living conditions in much in the world have changed for the better since the time of the Second World War. The struggle for a better life is, however, an enduring one, and we can and should still aspire to the goals set in the charter.

That hope was still alive in most of the world in 1948 when the Universal Declaration of Human Rights was adopted, proclaiming that all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. That, however, was the year in which white South Africans used their political power to adopt apartheid. Jules, who had joined the international struggle against fascism and the tyranny of Nazi Germany, now found himself engaged in another struggle in his own country, a struggle against apartheid; against institutionalised racial discrimination and unjust laws.

Jules made it perfectly clear where he stood in relation to that struggle. He and his wife Selma were outspoken in their condemna-

tion of racism and discrimination. I mention Selma because they have similar values, and have shared a long and valuable life together, in which what one does, the other is part of. We can learn lessons from their lives. That it is important to struggle for justice, and to speak out when there is a need to do so. In this context I feel compelled to express my own deep concern about the thoughtless, ill-informed and politically motivated attacks on our courts by some in the political arena. Our Constitution provides that courts are independent and subject only to the Constitution and the law, which they must apply impartially and without fear, favour or prejudice; that no organ of state may interfere with the functioning of the courts; and that organs of state, through legislative and other measures, must assist and protect the courts to ensure the independence, impartiality, dignity, accessibility and effectiveness of the courts. Few things could entail more danger for our democracy than the reckless undermining of the integrity of our courts, that we see at present.

Jules appeared for Oliver Tambo to apply for his admission as an attorney, for Mandela & Tambo when attempts were made to evict them from their offices because they were in 'white Johannesburg', and he used his legal skills wherever possible to assist victims of apartheid. He was a founder member of Lawyers for Human Rights when it was established in 1980 and from 1983 until 1993 he was its chairman. During this period, which included several years of arbitrary rule under a state of emergency, Lawyers for Human Rights, at no small risk to those involved in its activities, publicised human rights abuses and confronted such abuses through litigation it conducted. Jules at all times supported that work and identified himself with it.

Jules has held judicial office as a member of the Court of Appeal of Lesotho, of the Court of Appeal of Swaziland, and he has served as an acting judge in South Africa on various occasions. He has also presided over a number of important commissions.

For the past six years Jules has been the Integrity Commissioner for the Gauteng Provincial Legislature. Who better than him to be an integrity commissioner. It is, however, a hazardous job involving

enquiries into whether there have been proper disclosures by members of the Gauteng Legislature of their financial interests, which drags him into asking about share dealings, visits to restaurants, bottles of blue label whiskey and incorrect media reports. Hazardous, because it seems now to carry the threat of being sued if an adverse finding is made – a threat not likely to deter Jules, and indeed one he has apparently already experienced and survived. According to a report in the *Sunday Times* of uncertain date that I came across on the internet, a merchant banker took exception to a report prepared by Jules Browde SC, as commissioner in an insolvency enquiry, in which, so the *Sunday Times* said, the banker was accused of having put about R5 million into his own pocket. He was to sue Jules for R100 million. I did not know Jules was that wealthy, but we live and learn.

There have been many talented members of the Bar; Jules is one of them, skillful in court in trials, motions, appeals, and all types of cases, and wise in his advice to his clients. What makes Jules Browde special, however, is his integrity, his commitment to the Bar as an institution, his values rooted in his respect for the dignity of all persons, and his public commitment to the struggle for a better life for all.

The respect in which Jules has been held by his colleagues was demonstrated by his regular election to the Bar Council of which he was chairman in 1983 and 1985, and by his being asked by the General Council of the Bar to represent it at the Truth and Reconciliation hearings into the legal profession. The respect in which he is held beyond the Bar is demonstrated by the award to him of the degree of Doctor of Laws, *honoris causa*, by his old University, Wits, recognising him as 'a bold-hearted campaigner against injustice' and his commitment 'to securing basic equity for all South Africans'.

Tonight the Bar honours him again by conferring on him the Sydney and Felicia Kentride Award for service to law in Southern Africa. An honour truly earned and well deserved.



Eyes on the courts
Continued from page 4

The question whether the judges' conduct constituted misconduct is admittedly different to whether the judges breached Hlophe JP's rights. But the JSC will probably consider a breach in determining whether there was misconduct. The minority judgments raised the dangers of a court pre-empting the decisions of the JSC and effectively usurping its constitutionally ordained functions given the relevance in both forums of judicial ethics and the need for oral evidence.

Whether the court should have granted any declaratory relief will be an important question on appeal. Ironically, what might be of greater practical importance is the SCA's willingness to test the conclusions on the merits. Unless overruled on appeal, or at least shown to be in doubt, the JSC might well consider it appropriate to have regard to those findings even if the SCA holds that it was not a proper case for the grant of a declaratory order. Grounds of appeal include a failure to have regard to precedent on the rights in question and the justifications offered by the judges for the conduct.



South Africa honours Sir Sydney with the Order of the Baobab



On 22 April 2008, Sir Sydney Kentridge QC received the Order of the Baobab in Gold from President Thabo Mbeki at a ceremony held in the Union Buildings – 'For his exceptional contribution to the fight against unjust apartheid laws and embracing the vision of a non-racial, non-sexist, free and democratic society.'

