

## Cape Bar

# Tribute to David Meyerowitz SC

Taken from a speech delivered by the Judge DM Davis at a dinner given in honour of David Meyerowitz SC in Cape Town on 30 October 2008.\*

In celebrating a life of achievement of one as distinguished even as David Meyerowitz, it is startling to contemplate the extent to which chance plays a powerful role in the shaping of our lives.

David Meyerowitz completed his LLB degree at the University of Cape Town in 1937. He was anxious about obtaining articles of clerkship with a law firm so he sought employment in the civil service. There was a problem. He was offered employment in the Patents Office in Pretoria, but at that stage he was courting his wife Eva. Pretoria quite sensibly was not an option. He obtained a position at the Master's Office in Cape Town. It was thus by accident that Meyerowitz began his long association with the law of administration of deceased estates. The first edition of the first comprehensive text on the subject was published in 1949.

By then Meyerowitz had completed articles of clerkship and was a member of the Cape Bar. This book commended him to others in the fiscal community, in particular Dr Erwin Spiro and Dr Aubrey Silke. In 1952 these three men joined forces to produce a journal devoted to 'the law, practice and incidence of income tax and death duties'. In the very first editorial in the January 1952 issue of *The Taxpayer*, the editors wrote the following:

'All these things make a close study of the taxing laws, both legislative and judicial, a necessity if the taxpayer wishes to pay no more than he must; more often than not it is impossible for him to do so. It is true that he can and usually does seek the advice of those versed in the intricacies of taxation matters, but even for them much time and effort are required to keep abreast of the ever changing law.

We were persuaded, therefore, that a periodical which would provide its subscribers with an up-to-date account of the changes in legislation and practice, as well as the current legal decisions in taxation matters, and which would at the same time bring to their attention interesting features and problems connected with taxation, would be welcome. It was with this object that *The Taxpayer* was conceived.'

It is obvious from this first edition of *The Taxpayer* that Meyerowitz's expertise in administration of estates, estate duty and estate planning would make him a critical member of the editorial team. In the first issue, the beginning of a two-part series dealing with the formation of trusts and companies, and their effect on death duties and income



David Meyerowitz SC at the dinner in his honour.

tax, was published. This was the first article dealing systematically with the area of estate planning, for which Meyerowitz would become the doyen. By 1962, he had already published two editions of a book entitled *Estate Duty and Donations Tax*.

A further fortuitous occurrence was the move of Dr Silke to the United Kingdom. By 1961 Silke was no longer a member of the editorial board. Before then, he had - on his own - written a comprehensive work on the South African tax system, *Silke on South African Income Tax*. This prompted Meyerowitz and Spiro to respond in 1962 with their own book. Again, almost by chance, *Meyerowitz on Income Tax* was born and Meyerowitz's field of expertise had expanded to income tax. The book became central to any tax library in South Africa. Basil Wunsch, then an attorney of the

Supreme Court of South Africa, and later a judge, reviewed the work in 1990 when he said:

'In my view, this is an excellent text book for any person who considers income tax legislation and practice ... the authors have an exceptional ability to analyse complex legislation.' (1990) 107 *SALJ* 528.

The two major works *Meyerowitz on Administration of Estates* and *Meyerowitz on Income Tax* capture the essence of David Meyerowitz the writer and tax lawyer. Carefully written, with clear analysis, always up to date, they reflect a level of dedicated scholarship in a specialised area of a kind that is truly rare. Even in books that have not hit the top of the book sellers' list, such as *Meyerowitz on VAT*, the quality of the writing and analysis marks the work as an exceptional contribution to the fiscal field.

One of my colleagues who holds the same high regard for Dave Meyerowitz as we all do, Dennis van Reenen, told me the following story. He was to fight a case in the Appellate Division in Bloemfontein. His opponent was Meyerowitz. At that stage van Reenen, then a junior, had a pupil by the name of Jeremy Gauntlett, now one of the leading silks in this country. Van Reenen generously paid for pupil Gauntlett to accompany him to the hearing in Bloemfontein. At the airport in Cape Town, he introduced Meyerowitz to his pupil. Meyerowitz took one look at Gauntlett and said to van Reenen, 'I am in no need of staff.' In many ways this anecdote reflects the character of David Meyerowitz. He has always been his own man. He never has been in need of teams of assistants to help him with any of his projects, whether it be arguing a case in court, or preparing the journal or one of his textbooks.

In discussion with David, he said that one of his great difficulties was always to puzzle out his opponent's case. Invariably, he suggested to me with a twinkle in the eye, he was none the wiser at the end of the case! After careful preparation and analysis, he invariably

\* Reproduced, with permission, from the January 2009 edition of *The Taxpayer*.

held a firm view that his position was the correct one. Another of my colleagues, Roger Cleaver, reminded me that in a matter which Meyerowitz had argued before a full Bench, the then Judge President, Gerald Friedman, suggested to him that he might want to concede at least partially with regard to a certain point which had been debated vigorously in court. Meyerowitz looked straight at Friedman and said: 'My Lord, I am not paid to make concessions.'

Tonight we celebrate an extraordinary life of dedication to the field of taxation. It is remarkable that, at 92 years, many within the tax community, myself included, would still consult Dave Meyerowitz first if we had a complex tax problem. He has always been, and remains, the pre-eminent practitioner in the field. To have maintained this standard way into his 90s is testimony to an extraordinary intellect and a wonderfully practised mind.

When I began in the field in the late 1970s, estate planning had begun to become a practical concern. A series of articles written by Meyerowitz in the 1965 and 1966 editions of *The Taxpayer* were all one needed to teach students about the area of estate planning.

These articles were classics. They carved out a field *de novo*. To my mind, those articles represent something even more important: the ability of one writer to have ensured that tax is ultimately a subject for lawyers. Meyerowitz has always insisted that tax requires a rigour of legal analysis and a legal mind which goes beyond the interpretation of one statute. If the field today is more sophisticated, it remains in need of the same crisp, clear analysis from lawyers and accountants (a grudging concession on my part). That we have a body of analysis in this country to assist us is due, in large measure, to the dedication and work of one individual, David Meyerowitz.

It is unlikely that South Africa will again produce a specialist, able to conduct an exceptionally busy chamber practice, litigate regularly in the tax courts and write complex works on income tax on an annual basis, maintain a book on the administration of estates, and ensure - almost single-handedly - that a monthly journal is produced on time with content that is fresh, clear, and of significant application to the tax community in this country. That is the unique legacy of David Meyerowitz SC. 

## Kwazulu-Natal

By Zuleka Rasool, Durban Bar

### Condolences

The KwaZulu-Natal Bar is saddened by the passing of Steven Wallace, who was called to rest in May 2009. Steven joined the Bar in 2006 and was formerly an attorney. He leaves behind his wife and two children. Steven was a pleasant and hard-working member of our Bar and will be sorely missed. The members of the KwaZulu-Natal Bar express their deepest sympathies and condolences to the Wallace family.

### Congratulations

Several members of our Bar have become proud parents in the past few months. They can be easily identified by the manic, sleep-deprived glints in their eyes.

### Farewell

Kavita Beemchand, Michelle Poseman, Nokwazi Sosibo and Wendolynn Bowler have left the KwaZulu-Natal Bar to tackle new goals in their life. We wish them well in their future endeavours.

### Acting appointments

The following members of the KwaZulu-Natal Bar have contributed to excellence on the Bench: Joe Nxusana, Jacqui Henriques and Barry Skinner SC. We are grateful for their contribution to the judiciary. 

## Port Elizabeth

By David Smith, Port Elizabeth Bar

It is difficult to believe that we're already six months into 2009. In this time the Port Elizabeth Bar established a transformation committee to address, inter alia, race and gender briefing patterns. Recently, rank juniors met to discuss the efficacy of the so-called 'senior-junior mentoring programme,' an initiative that requires a silk or senior-junior to share his or her marked fee with a rank junior. Its purpose is to foster skills-transfer and to introduce younger members to established attorneys. It may well be an under-utilised mechanism for juniors to gain exposure to High Court litigation.

In June 2009, the PE Bar said farewell to Melanie Badenhorst. She joined the Bar in December 2005 and is emigrating to Australia with her wife, Claire.

Judge Kroon recently sustained injuries in a car accident whilst in Bloemfontein. We have been advised that he is recuperating well at his home in Grahamstown. He and his wife, Jenny, are in our thoughts. We also wish Olav Ronaasen a speedy recovery after a sudden illness.

One of our members, Albert Beyleveld, recently travelled to New York City to appear in a matter that involved a local client. It seems that there is no place that the Clifford-Ponzi scheme has left untouched! 

## Legal Crossword Number 8: Answers

- Across**
- Unexpressed (TACIT)
  - Dispute (LIS)
  - What you do to your appeal when you waive it (PEREMPT)
  - A bit added to a contract (ADDENDUM)
  - Prohibitory interdicts often tell you to do this (DESIST)
  - Committing the act of contractatio (STEAL)

- Down**
- Culpa (BLAME)
  - What an act is when it's a child (BILL)
  - A bad point in your argument serves as one (IMPEDIMENT)
  - A frightfully complicated phenomenon in conflict of law (RENVOI)
  - What you wish your opponent would do to his tongue (AMPUTATE)
  - The character of being so well known as to require no law (TRITE)