



A.J. Milne

*(Photograph: Natal Witness)*

## *Alexander John Milne (1929–1993)*

A devastating loss befell the South African judiciary and, indeed, the country's legal profession when on 17 December 1993, a day before his 65th birthday, the death occurred unexpectedly of Mr Justice John Milne while on holiday with his wife in England.

That he should have been thus struck down in his intellectual prime at the pinnacle of a brilliant career and, apparently, while in sound health was a circumstance of fate as cruel and capricious as it was unheralded.

Alexander John Milne was born in Durban on 18 December 1929 and was destined to become in time the illustrious son of an illustrious father. After matriculating from Hilton College he read law at Exeter College, Oxford, before returning home to be admitted as an advocate of the Supreme Court of South Africa, Natal Provincial Division, on 12 June 1953.

Having set his foot firmly on the path of the Law, John Milne followed surprisingly closely in the footsteps of his father, the late Mr Justice Alexander Milne (universally and very affectionately known as Sandy) who, after similarly reading law at Exeter, had in his time established a flourishing practice at the Natal Bar where he was held in the highest esteem, as in later years was his son, John, by friend and adversary alike.

Following an acting judgeship in 1968 at the remarkably young age of thirty-nine, John Milne was appointed permanently in March 1971 to the Natal Bench where until October 1969 his father had presided as Judge President of Natal, a judicial office of prominence John Milne was himself destined to hold from October 1982 to December 1987. From then until his untimely death he was a judge of appeal in the Appellate Division in Bloemfontein where Sandy Milne, too, had held an appointment some years before.

Although their careers followed much the same course, albeit a generation apart, their paths crossed professionally on one occasion when for a period in 1968 and 1969 father and son shared the rare, if not unique, distinction of sitting together as judges in the same division of the Supreme Court.

A bald catalogue of John Milne's achievements at the Bar and on the Bench cannot possibly hope to illustrate the immense intellectual capacity he commanded to absorb the full spectrum of the law, or to reflect his ability to apply its provisions in his own inimitable and scholarly fashion to the kaleidoscope of disputes and miscreants that passed in a constant parade before him.

For some, fortunate to be in his court at the time, a vivid illustration of his judicial prowess and, without doubt, his physical stamina was to be seen at the trial in late 1983 and early 1984 of the murderers, Grundlingh and Phillips. After five exacting months overseeing the proceedings, hearing evidence and, on occasion, questioning a witness in his painstaking and courteous manner, Judge Milne commenced his summing up extempore and, almost six hours later with only the lunch adjournment to interrupt him, he ended his address. His performance on centre stage, for such it unquestionably was, was a spellbinding masterpiece of precision and clarity.

A multitude of his judgments, scattered throughout the South African Law Reports over many years, will remain a monument to his very considerable contribution to the development of our law and to the administration of justice in South Africa. They will bear testimony, too, to John Milne's judicial acumen, to the lucidity of his style and to the impeccable language in which they are couched. All in all, they reflect the quiet refinement, dignity and personal elegance that were the hallmarks of the man himself.

That his death is a grievous loss to the cause of justice there can be no doubt. Equally so, in the changing fabric of our society, the law and its development by way of judicial interpretation will be deprived of his valuable experience and his wisdom. But, perhaps, most grievous of all is the incalculable loss South Africa itself must likely bear in these times of social adjustment when the soundness of his judgment and the breadth of his vision could have contributed very substantially to the process of reform and, more especially, to a clearer understanding and definition of such legal complexities as personal liberties, the equitable restoration of land to the dispossessed, the concept of ownership and other probable conflicts of a private or a public kind that are likely to be encountered on the road upon which our country's journey is now set.

It was said of his father and may now without question be said of John Milne

that he was consumed by an intense and burning sense of justice and of what was right and of what was wrong. It was these qualities, which he evinced in abundance from his earliest years, that placed him at the forefront of his peers.

Alexander John Milne bore an illustrious and honourable name. He carried it, unsullied, throughout his life and it now remains with us, beyond reproach or decay, to enrich our legal heritage and as an enduring memorial to a wise and able judge and a universally respected gentleman.

MICHAEL DALY