

Retired judge finding a new avenue to share his voice

Larger-than-life Harvey Brownstone may have given up the gavel, but not his desire to do what's right, writes Jane Burbage

By Jane Burbage Contributing Columnist
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Much has been written about the retirement of one of the Ontario Court's finest judges, Harvey Brownstone.

He has given up his gavel, but not his desire to be, and do, what's right.

Harvey was one of the brightest students at law school.

He entered at the age of 19, whereas most of us couldn't get admitted without spending a year or two more in university.

Everyone respected his brilliant mind, but those of us privileged to call him friend found his integrity, passion for justice, and preparedness to tell the

truth, beyond brilliant. He was a rare individual in so many respects; in his adolescence and early days in the profession he railed against hatred and intolerance, more so than most of my friends.

He was openly gay, and I vividly remember wondering why anyone would care.

Harvey was and is larger than life; he was a skilled advocate, and passionate about what could and could not stand in society. As we were graduating in the '80s, ignorance was everywhere, including our own profession. To this day, I am still dismayed a profession whose mandate is to seek and do justice made it harder for Harvey.

But Harvey stood up and was accountable for who he was, and what he cared about. And he cared about just about everything.

Harvey's judicial rulings were real, and raw, living reflections of the intolerance in this world.

Harvey had the power to effect change, but he exercised that power with a wise eye to the impact his decisions would have in years to come.

As a woman, I know well what my gender had to put up with to be taken seriously as we entered the profession in the 1980s. Often it is the victims who, once earning the right to speak for others victimized by the system, are in the best position to judge it. They have been there, in the trenches, and can urge a course correction in our collective thinking.

Woven into Harvey's decisions, as he navigated matrimonial law where families were torn apart and children manipulated to serve their "protectors," and later, in criminal court deciding the fate of serious and sometimes repeat offenders, Harvey harnessed his compassion, but called it as he saw it. He was tough, but always fair.

Sitting in his courtroom in downtown Toronto one day, I realized that Harvey was parenting parents, and parenting those whose lives had been all but destroyed by crime, addiction and the unfairness of life. It could be argued he was parenting our society in an effort to help us listen more, hear better and change.

Harvey has an awareness of what it felt like to be on the receiving end of unfairness, and he made sure it never happened in his courtroom.

I am thrilled Harvey will move forward in the direction he always wanted to, which is to understand, and shine a light on other peoples' unique lives. His interviews demonstrate a curiosity and desire to have all of us listen to and learn from our individual and collective stories. Harvey invites us to collaborate, not condemn.

The court has lost one of its best, but now all of us are free to hear what Harvey knows and can openly share about who we are as human beings, and who we should strive to be. Get ready, world. Harvey is very much still here, and his voice is all the stronger.

L. Jane Burbage attended McMaster University and Queen's University and was called to the Ontario Bar in 1983. She has been practising law for more than 30 years and was certified by the Law Society of Upper Canada as a specialist in civil litigation in 2001.