

In this issue • In hierdie uitgawe

Die algemene jaarvergadering van die Algemene Balieraad van Suid-Afrika het einde Julie 1999 plaasgevind. In hierdie uitgawe van *Consultus* word heelwat ruimte gewy aan die besprekings en besluite wat op die vergadering geneem is. Die regsprofessie in SA, en in besonder die Balie, staan in die kruisvuur soos selde tevore en dit is paslik dat daar in diepte verslag gedoen word oor die beraadslagings op die vergadering. Dit is ons voorneme om ook in 'n volgende uitgawe verdere standpunte te publiseer

The Bar's strategy for reform

It has been said that a lawyer's highest loyalty is at the same time the most intangible. It is a loyalty not to persons, but to procedures and institutions. This explains the Bar's continuing concern with the reform and improvement of the law. The special obligation of the profession with regard to legal reform rests on considerations too obvious to enumerate. Certainly it is the lawyer who, firstly, is in the best position to know when the law is working badly, and, secondly, has the competence to put it in order. This applies especially to reform of the Bar as a significant social institution whose purpose according to a recent memorandum of the Johannesburg Bar is "...to serve the public interest by means of an organisation of specialist practitioners into societies who will not only establish, teach and regulate ethical practice, but also teach skills, and nurture newcomers in regard to the traditions of the Bar and of their obliga-


tions to the Court, clients, colleagues, and country."

When the lawyer fails to interest himself in the improvement of the law or his profession, this is usually due to a preference for retaining the comfortable routine of accustomed practice, or a distaste for stirring up controversy within the profession, or perhaps in hope that if enough time is allowed to pass, the need for change will become so obvious that no special effort will be required to accomplish it. The danger of this approach is that change may be thrust from without upon an unwilling Bar.

An unreal atmosphere surrounds much public discussion of the legal profession. The Bar can provide the insight that is needed to improve such discussion. The adoption by the General Council of the Bar of a general policy statement entitled "GCB Strategy 2000", which is published in full in this issue, is, therefore, a much-needed and pro-active step in the best tradition of legal reform. The document deals with various problems in the administration of justice and suggests practical solutions, including proposals for the greater use of advocates in the criminal justice system, an urgent assessment of deteriorating working conditions in the courts, an expanded *pro bono* service by South African Bars, support in judicial training, and enhanced use of arbitration. Not least it sets out the internal action which the GCB intends taking in its relations with constituent Bars and the attorneys' profession.

Other contributions

The annual report of the out-going chairman, Peter Hodes SC, gives a comprehensive overview of the main events of the past year. These include the changes in the make-up of local Bar councils in regard to colour and gender, some signs of progress too in relations with the Advocates for Transformation (National), the GCB's court actions against persons practising as "independent" advocates, its involvement in legal aid, and its concerns about problems in the system of judicial appointments by the Judicial Service Commission. The in-coming chairman, Jeremy Gauntlett SC, in his report deals with the GCB's new strategy. He also takes up the cudgels in regard to proposals for a fused profession and control of the Bar.

The structures of the attorneys' profession have already been drastically changed. In his contribution on developments in that profession the co-chairperson of the Law Society of South Africa, Julian von Klemperer, expresses satisfaction with the steps which the profession has taken. More important, he points out that his profession has reached consensus on the necessity of a Legal Practitioners Act providing for the regulation of all persons who deal with the public in respect of legal services. Jeremy Gauntlett SC discusses in depth the role of Bar associations in fostering the rule of law in his speech delivered at the Commonwealth Law Conference. In her well-researched contribution, Nazreen Bawa of the Cape Bar deals with the relatively new concept of judicial education. 

Letters to the editor

Pupillage

Warren Radloff
Member of the Cape Bar

Pupillage is more daunting than professional crocodile wrestling. Crocodile wrestlers are paid. Pupils on the other hand must wrestle with a volume of law in a short space of time, stave off the debt collectors snapping at their heels, and then there is the

looming spectre of the Bar exam. In the end pupillage is perhaps a greater test of your nerve than your intellectual ability.

I have always wondered why you have to be admitted as an advocate before you can write the Bar exam. I ask this, as not all pupils who have passed the Bar exam intend to go into practice. Some who have failed the exam have opted for the Rebel Bar, this is possible because they have already been admitted. An effective way of restricting the growth of the

Rebel Bar would be to make the passing of the Bar exams a requirement for admission as an advocate.

The pupillage programme itself cannot be faulted. It involves completing a series of tasks laid out in rule 8.6 of the Uniform Rules of Professional Conduct. In other words, attending a number of civil and criminal trials. There are lectures and advocacy training courses to

* *Continued on page 4.*

consistently and successfully resisted by the whole of the Bar, including those many members who normally supported the government in policies and legislation. It was well understood that to remove the control of the profession from the provincial Bar Councils and General Council of the Bar would have meant the end of the independence of the profession. What was also well understood was that the independence of the Bench was inextricably linked with the independence of the Bar'.

We believe this to be true.


The third feature of the strategy concerns the Bar internally. While there is no place for complacency, the 54th AGM of the GCB gave good reason for hope as regards unity within the GCB. Members will recall that internal tensions had erupted within the Johannesburg, Pretoria, Natal and Cape Bars. These were met by intensive discussions, constitutional amendments devised to ensure the representation of black and female members, and subsequent elections. A solution however broke down at

national level as regards what was termed GCB "governance". The demand by Advocates for Transformation (National) was for equal control, as this was defined. The GCB offer was one of equitable representation of blacks and women.

In the result, the four biggest Bars were represented at the Johannesburg meeting by delegations equally balanced as between white males and blacks and women. This was not pursuant to any prescriptive quota, but the response by all the Bars to the need to choose their own delegates in a way which properly reflected race and gender. And because the delegates were selected in this way, the discussions which took place were collegial, frank and constructive – for all of us, the most creative and sensible we have known.

There was, in the result, consensus on three issues: the Bar cannot compromise on excellence in its standards of pupillage, advocacy training, examinations and court work; it cannot however be indifferent to the historically-induced skewing of membership; it must recruit the best people it can for the

profession and in so doing, ensure that the imbalance in membership is addressed. It was agreed that there are two principal ways of doing this: through measures such as bursaries during pupillage for the promising, and endeavours to ensure that the promising stay in the profession. You will hear more of this during the course of the year.

Thanks to its lean, mean secretariat the GCB has avoided any increase in dues. At the same time the AGM doubled the GCB's contribution to its bursary scheme (to which Mercantile Bank also makes a valued contribution) and to advocacy training. The GCB, you will note, has a new and expanded leadership, more reflective of the Bar's membership. It also intends to work differently, by dividing portfolios of responsibility between the chair, deputy chair and vice-chair. The GCB's greatest weakness is its loss of impetus between meetings of the Executive, and constituent Bars and individual members feel irredeemably out of the loop. We hope to change that but to do so we shall need, in a very difficult year, much collegial support. 


Letters to the editor

Continued from page 2.

attend, the latter are particularly helpful in showing the pupil what real advocacy entails. Finally the pupil is granted about three weeks of study leave to prepare for exams.

The one failing is that you need six months to do justice to this programme. Pupillage is effectively three months long (for example, pupillage commences in February with the first of the exams on 6 May). To be more effective the running of pupillage would need to be increased by about two months, with exams to be written at the very end.


Two further ideas that might be contemplated are the holding of lectures in the mornings only and the swapping of pupil masters amongs the pupils once or twice during pupillage. The former suggestion would lessen any chance meeting with the denizens of the inner city when you have to locate your car after dark. The latter suggestion would be a useful means of broadening your practical experience.

Lastly, a word in parting to the current and prospective pupil, learn everything in the curriculum and "spot" at your peril. 

Law Reports for Vista

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We, the Vista Sub-Faculty of Law (Soweto Campus), would like to thank Advocate H Saldulker of the Johannesburg Bar for her initiative in raising funds for a second set of law reports for our campus. The Vista Sub-Faculty of Law (Soweto Campus) has had a single set of law reports for some 600 students since the inception of the Faculty of Law. As a result of Advocate Saldulker's initiatives generous contributions towards the funding of the second set was made by judges, advocates, and attorneys. Her efforts culminated in the realisation of a further set of law reports for the university which is greatly lacking in resources for its students. A complete set of law reports has been purchased and is being utilised by our students. Our very special thanks to Judge Goldstein of the Witwatersrand Local Division for his very generous contribution. We are overwhelmed by the generosity of the Judge President of the Constitutional Court, Judge A Chaskalson, the ex-Judge President of the Labour

Court, John Myburgh, the chairman of the Legal Aid Board, Judge Navsa, Advocates George Bizos SC and Trengove SC of the Legal Resources Centre, judges of the Constitutional Court and of the Witwatersrand Local Division, members of the Johannesburg Bar and of the attorneys' profession, and academics for their contributions* towards the acquisition of the law reports. We would also like to convey our gratitude towards Judges Goldstein and Malan of the WLD for taking time off from their heavy workload to lecture to our students on 'Civil Proceedings in the High Court' and 'Negotiable Instruments' during the April recess. We are gratified by the gesture of Judge Wunsh of the Witwatersrand Local Division and Judge Zulman of the Supreme Court of Appeal to lecture to our students in the near future. We hope and appreciate that the members of the judiciary and the legal profession will emulate their example by sharing their legal expertise with the students of Vista. We do understand that judges have a heavy workload and their unstinting support for Vista University is very much appreciated. 

** List of contributors' names omitted due to lack of space – Editor.*