

World Bars join forces

Jeremy Gauntlett SC

Chairman, General Council of the Bar of South Africa

Last month I attended the meeting of the council of the International Bar Association (on which the GCB's chair serves, by virtue of its membership of the IBA) and a meeting of Bar leaders in Istanbul. In addition, I scheduled meetings with leaders of the Bar of England and Wales. The series of meetings in the event proved very beneficial.

I met up in Istanbul with Ashwin Trikamjee, representing the LSSA (and also currently a deputy secretary-general of the IBA for Southern Africa). Former GCB chair Malcolm Wallis SC also attended the IBA meeting, principally to further the arrangements for a gathering of world Bars which he has promoted (together with Glenn Martin SC of Australia and Frank Clarke SC of Ireland), and which had originally been scheduled for Dublin this year (see also page 2 of this issue).

A lengthy discussion of Bar leaders took place in relation to the question whether such a gathering should take place and if so, when and where. This was attended by Lord Brennan QC (immediate past chairman of the Bar of England and Wales) and Peter Gross QC (chairman of the international relations committee of the council of the Bar of England and Wales), Nigel Emslie QC (Dean of the Faculty of Advocates of Scotland), Frank Clarke SC (Ireland), Glenn Martin SC (Australia), Malcolm Wallis and myself. We all approached the question of such a gathering with the caution it obviously requires, in terms of commitment and attendance. Discussion nevertheless yielded unanimity that the current situation of the referral profession – flourishing if measured in terms of its growth, but under regulatory and various forms of political attack in several parts of the world – made it desirable for the case for an independent Bar to be publicly examined.

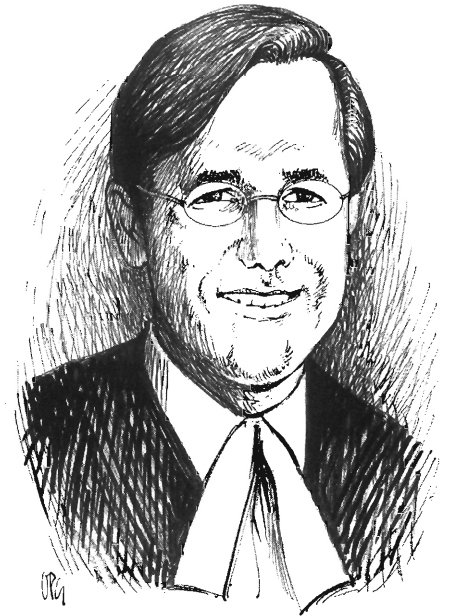
Nigel Emslie is urgently investigating the possibility of holding the proposed gathering in Edinburgh. It was

agreed that such a gathering could be enormously beneficial, particularly if appropriate media attention is co-ordinated. This in itself will entail appropriate and prominent speakers, and the selection of topics focussed on the case for an independent referral profession, the current state of play regarding its regulation, and a focus in particular on growth for the junior Bar.

I reiterated the stance I have previously expressed on behalf of the GCB as regards financing. This is that the circumstances of the South African Bar make it neither appropriate nor possible to commit the GCB and its constituent Bars to underwriting the costs of any such gathering. I proposed instead that each national Bar ascertain internally what commitment there is, obtain an appropriate deposit from interested individuals within a designated time frame (probably 30 November 2001), and in turn be liable for no more than the forwarding of these deposits and the commitment by individual members they represent. This, too, was approved.

Lord Brennan is shortly to approach Prime Minister Blair for a commitment to open the conference. I have offered to endeavour to approach former president Mandela again (he is an honorary life president of the IBA, committed as we know from his attendance at our AGM last year to the existence of the Bar, and well disposed towards Blair) with a view to securing his co-appearance with Prime Minister Blair on the occasion. Other speakers likely to be approached include Lord Steyn, Sir Sydney Kentridge, those involved currently in the regulation debate and leading businessmen and solicitors committed to the existence of the Bar.

During the remainder of my time in Istanbul, I attended sessions on globalization of the legal profession, human rights, and the meeting of the council itself (Malcolm Wallis standing in for me on my departure). I was able to



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thank Dianna Kempe QC (current president of the IBA) for the IBA's support for the GCB (and the wider legal profession in South Africa) when we called for this urgently in the run-up to our meeting with the Minister of Justice on 20 April 2001. While the IBA has its faults and weaknesses, the fact remains that it is the only all-embracing gathering of world leaders in the legal profession. I believe that the GCB needs in future years to pursue a threefold strategy: to participate visibly in those meetings of the IBA (particularly the annual Spring meeting of Bar leaders) beneficial to it; to seek with our colleagues in other independent Bar organisations around the world in building up the voice of the referral profession within it; and to join in strengthening the IBA's voice in maintaining or developing independent Benches and Bars where these are under attack. Those aspects of the IBA's life (particularly focussed on the non-referral profession, and orientated to the interests of large North American and European firms) of lesser value to us need not require our involvement.

A particular value of the IBA session was the opportunities it afforded for informal liaison with leaders of the profession from around the world. Apart from those I have mentioned – with whom I enjoyed particularly beneficial discussions informally about a

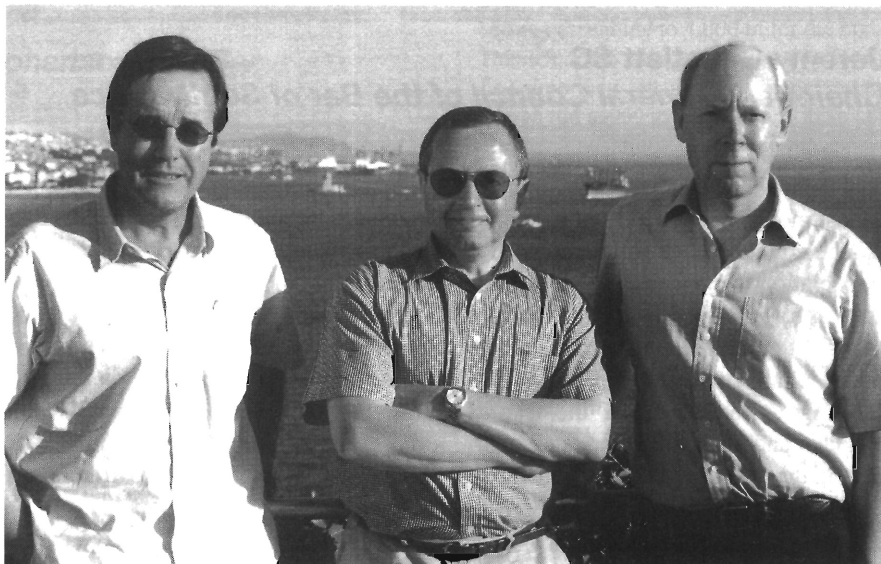
range of mutual concerns and interests – I was able to meet the chair of the American Bar Association, IBA office-bearers and support staff, and Lord Goldsmith QC. Peter Goldsmith has recently led the IBA delegation to Zimbabwe, and delivered a particularly hardhitting report which is canvassed in this issue of *Advocate* (the full text of this is available at www.ibanet.org. I believe all Bars should draw the attention of members to this important document).

In my six days in London (the costs associated with which I was fortunately able to allocate to my practice commitment), I was able to fit in meetings with Sir Sydney Kentridge QC (who heads the committee convened by the Bar of England and Wales to deal with the report of the Office of Fair Trading regarding regulation of the Bar), Roy Amlott QC (current chairman of the UK Bar Council), Peter Gross QC (who, as I have explained, is the chairman of its international relations committee), Stephanie Hawthorne (editor of *Counsel* magazine), and Linda Dobbs QC (prominent member of the Criminal Bar who had previously contacted me in a respect on which I shall shortly expand).

What I discussed can broadly be divided into three categories. The first concerns the issue of regulation of the profession. The Bar of England and Wales is currently engaged in an information-gathering exercise concerning the ways in which independent Bars around the world practise. We have undertaken to co-operate in this regard, and I have asked that we reciprocally receive the results of this exercise. I also discussed in some detail with Sydney Kentridge and Roy Amlott troublesome areas such as advertising, non-payment of fees, and joint appearances with non-members of Bar societies. These are matters which I would like us to discuss at the forthcoming AGM.

The second area which I canvassed was the question of our current and future relations with the Bar of England and Wales. I indicated that we had benefited enormously from the support we have received in the past, and continue to receive, regarding advocacy training. I stressed the need

Bar leaders in Istanbul



At the meeting of Bar leaders in Istanbul from left to right: Jeremy Gauntlett SC, GCB chairman, Peter Gross QC, chairman of the international relations committee of the Bar of England and Wales, and Nigel Emslie QC, dean of the Faculty of Advocates of Scotland.

for the Council of the Bar of England and Wales to know what a difference it had made to the professional lives of many new practitioners in South Africa, and how it served as an important aspect of achieving advancement of the disadvantaged in particular. I also referred to the fact that we in turn (with funding procured from the US ambassador to Lesotho) have administered an advocacy training programme in Lesotho (which is also to be followed up by a further session). Peter Gross was particularly interested in the thought of a joint venture relating perhaps to Namibia and/or Botswana. Again I hope to report shortly on further progress in this regard.

The third area concerns the importance of mutual support in relation to attacks on the Bench and the Bar. The Bar of England and Wales has itself issued strong statements regarding the situation in Zimbabwe, and is very concerned about the indications of possible martial law or social disintegration there. I have informed them of recent negative developments in Namibia (where a charge of contempt of court has been laid against the Windhoek Bar Council which described the refusal of the current judge president there – Mr Justice Pio Teek – to make an order in an habeas corpus

application as “a travesty of justice”).

I also had discussions with Linda Dobbs and Peter Gross about a programme she has mooted for practitioners to spend a short period of time working in English chambers. She believes that some funding can be obtained in this regard, and I shall again advise members of developments.

I myself have always been concerned in the past about the high cost of international travel for Bar representatives, at a time when we need to ensure substantial financial commitment to important areas such as pupillage and advocacy training. I am however convinced that we need to accept that inevitably part of our future is tied up with the survival and growth of the referral profession elsewhere in the world, that we are considering similar problems to which our colleagues elsewhere are also exploring situations, and that good personal relationships with Bar leaders elsewhere in the world is in itself important to us. I thought the discussions I was able to schedule in the time I had available to be enormously valuable and often inspiring, and I look forward very much to discussing what seemed to me to be the more provocative and creative aspects with colleagues at our AGM. 