

South African Bar tackles rift

Text of a media statement by the chairman of the GCB on 29 October 2001:

At a special general meeting in Johannesburg on 26/27 October 2001, the General Council of the Bar – the federal body for South Africa's ten Bars and 1800 advocates in private practice – moved decisively to end five years of divisions about governance of the profession.

At its AGM in July, the GCB amended its constitution for a transitional period of two years. This is to provide for a national executive of which at least half would comprise Black members. This weekend's meeting of delegates from the ten Bars saw the election of three leading members of Advocates for Transformation – Justice Poswa SC, TN Aboobaker SC and Norman Arendse SC – to the GCB executive.

The new national executive is: Jeremy Gauntlett SC (chairman); Willem van der Linde SC (deputy chairman); Justice Poswa SC (vice-chairman); Patric Mtshaulana (honorary secretary); Fayeeza Kathree (assistant honorary secretary); Mabel Jansen SC; Ishmael Semenya SC, TN Aboobaker SC; Norman Arendse SC, and Archie



Members of the new GCB national executive from left to right: Mabel Jansen SC; Archie Findlay SC (ex officio), Fayeeza Kathree (assistant honorary secretary) (front), Patric Mtshaulana (honorary secretary) (back), Jeremy Gauntlett SC (chairman), Willem van der Linde SC (deputy chairman), Justice Poswa SC (vice-chairman) and TN Aboobaker SC. Ishmael Semenya SC and Norman Arendse SC were not present at the meeting.

Findlay SC (ex officio, as chair of the National Bar Examination Board).

The meeting also dealt with a range of other matters concerning the Bar. It noted progress being made by the drafting team (on which the GCB serves) for the Legal Practice Bill, and relating to transformation of individual Bars.

After the meeting, Gauntlett said: 'I believe this is a decisive breakthrough. It means that advocates are united as never before in seeking to deal with challenges both within our profession, and more generally relating to the administration of justice.'

Johannesburg Bar Council 2001/2002

The Johannesburg Bar Council for 2001/2002 elected in terms of its new constitution is as follows:

Seniors: Nazeer Cassim SC, Hilton Epstein SC, (Ms) Karin Foulkes-Jones SC, Altus Joubert SC, Chris Loxton SC, Essop Patel SC, Pieter Pauw SC, Gerrit Pretorius SC,

Ishmael Semenya SC, Arnold Subel SC, Willem van der Linde SC, (Ms) Sharise Weiner SC.

Juniors: Azar Bham, Tim Bruinders,

Mohammed Chohan, (Ms) Fayeeza Kathree, Colin Lamont, Vincent Maleka, GM Malindi, (Ms) Kgomotso Moroka, Patric Mtshaulana, (Ms) Makie Nobanda, (Ms) Karen Schneid, Craig Watt-Pringle.

Altus Joubert SC and Ishmael Semenya SC have been elected as chairman and vice-chairman respectively.

Governance and the profession: the GCB and AFT

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Following his meeting with Justice Poswa SC on 29 September 2001 Jeremy Gauntlett wrote as follows:

"Thank you for our meeting in Durban today, at which we were able to discuss the two issues canvassed in our recent letters. I shall shortly send you a typed transcript of our discussion (bar the concluding minutes, which you have recorded).

As regards the first issue (the Bill), I believe that a positive aspect was our agreement that practising members of Bars are overwhelmingly agreed both that the advocates' profession should continue as a separate branch of the wider legal profession, and that its governance must lie in the hands of advocates.

At the same time, it is clear, we all accept that there are regulatory matters in relation to which all branches of the profession need to liaise. The GCB believes that the proper balance is struck in its accreditation model, as developed through the drafts circulated to AFT.

You made it plain that the major difficulty for AFT with the GCB's model lies not so much in its own terms, but in the linkage you see with the second issue (the 50/50 model).

I think it is important that you clarified AFT's current position that it requires the 50/50 representation not to be Black/White, but an AFT/Other nomination. You noted that this meant that white members could be included in the AFT

component; and that it was contended that only AFT nominees could truly represent the interests of Black members.

I believe that the fundamental GCB objection remains as stated: that, as a matter of legal principle, the constitution of a voluntary association cannot be amended to provide for the nomination of half of its executive by another body; and that as a matter of fact, it is apparent that not all Black advocates are members of AFT, or support this proposal. You acknowledged the force of the first difficulty, but differed as regards the second.

I reiterate that the solution lies in implementing the GCB amendment, and that individual Black members and any or all of the bodies to which they belong or which they support, are free to nominate appropriate leadership through their Councils for election at the special general meeting to be held on 27 October 2001."