

become silks, or do silks become judges?
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New members' fees

Anthony Stein, Johannesburg Bar

The lot of pupil members and new members of our Bar is much on the minds of members at the moment. As a relatively new member, I must say that one feature of new life at the Bar which adds insult to financial injury is the member fee that appears on one's account from the very first month of practice. Where one has earned no income whatsoever for six months, the Bar council sees fit to place itself preferentially amongst one's circling creditors from the very outset, in full knowledge that no income will be received for another three months and seven days. Would it be too much to ask that we see our way clear to place a moratorium on new members' fees for three (or if the Bar is in generous mood, four) months from the date of commencing practice?

When one starts out, the membership fee may be a flea amongst vultures but its bite is sufficiently irritating for one to scratch into a gaping wound. The Bar council must do all that it can to prevent further and unnecessary bloodshed.

"Kaapse Kroegraad"

Willie Duminy SC, Cape Bar

I enclose a copy of a report published in *Die Burger* on 11 January 2003.

That esteemed publication advised its readers that Keerom Street Chambers was fully let to "die Kaapse Kroegraad". A spokesman for the company which recently purchased the building, was confident that "die Kroegraad" would not vacate the building in a hurry.

Membership of the Cape Bar has never been limited to the abstemious, but is this not going a bit too far?

"E" Advocates Inc

Craig Watt-Pringle SC, Johannesburg Bar

I have made use of electronic legal publications since the advent of the SA Law Reports and Statutes produced on CD ROM by Jutastat about a

decade ago. Juta and Butterworths are to be lauded for making this technology available to us, yet I have frequently been frustrated by the fact that the products and services have in material respects not properly met our requirements. Matters have improved considerably since Butterworths ditched its "books on screen" software in favour of the more accessible "Folio Views" search engine which is (in my opinion) the far more successful program used by Jutastat. Butterworths eventually adopted Folio Views but configured it in a manner which makes it less user friendly and reliable than the Jutastat version.

With increasing numbers of advocates making use of electronic publications and of e-mail and the internet generally, "e" technology has become central to the manner in which we practise. This should enable us to influence decisions regarding the products and services made available to us.

We should rectify these deficiencies by discussing our needs internally and thereafter acting as a lobby group in our dealings with the "e" industry. As a group we have considerable purchasing power. I would accordingly suggest the formation of "e" sub-committees at each constituent Bar and an umbrella committee at GCB level. The purpose of this letter is to gauge my colleagues' enthusiasm and willingness to participate in such an initiative. Please let me have your views, preferably by e-mail (craigwat@law.co.za).

Aboard the Johannesburg Bar Council – why I remained

*Khotso Ramolefe**



Now that the dust has settled, most of the people have had their say, and some quiet has been restored, or so it appears to me, perhaps I should now also have my say. And when I have, I would hope that the speculation will end and a fuller picture emerges, the other view having been placed before everyone.

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When I was nominated for election to the Johannesburg Bar Council, needless to say, I had an opportunity at that stage already either to reject or accept the nomination. I chose to accept it, and in so doing, recognised that hovering in attendance was the possibility of election. In the end I was elected, and as such, I remain.

The news of my election was broken to me over a telephone on Saturday afternoon, 26 October 2002. I was also notified, during the same telephonic conversation, of the first meeting of the newly elected Bar council scheduled to be held on Monday afternoon, 28 October 2002 (the main meeting). The purpose of the main meeting was, as we all know, to elect both the new chairman and vice-chairman.

Rumours had been doing the rounds, mid-morning on the Monday of the main meeting, that some of the elected Black members had resigned (in-between the announcement of their election on Saturday and the time of the rumours). Furthermore, it was said that the remaining Black members would also resign at the main meeting.

Some time before the main meeting, I received a telephone call from a Black colleague inviting me to a different meeting ("the special meeting") scheduled to be held shortly before the main meeting. I attended the special meeting, and for the first time got an opportunity of being informed of the reasons for the mass resignation.

As I understood them, the reasons given for the resignations were that, despite constitutional changes to the composition of the Bar council, not enough had been done for transformation, and Black members had felt that there was no point in being part of the Bar council. A declaration setting out these reasons had been prepared and was circulated at the special meeting for signature. Those who felt moved to sign it, signed. I did not.

From the special meeting we proceeded to the main meeting. There, the outgoing chairman explained the purpose of the meeting, whereafter some heated debate over the resignations ensued. I implored the gathering to realise that, whatever happened, we

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Aboard the JHB Bar Council

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needed to elect a chairman and vice-chairman.

As I sat there listening to the various speakers, my mind was focussed on one thought: whatever our problems, we needed to ensure that the vehicle gets a driver, starts moving, and takes all of us to those places, old and new, which we needed to visit as we continued with efforts to achieve our common professional goals, including, of course, transformation. In addition to expressing the view about electing a chairman and vice-chairman, I lamented the fact that those members who had resigned before both meetings had not cared to take us into their confidence by at least coming to address the gathering about their reasons for resigning.

The main meeting was adjourned/postponed. Another two or three followed, and, eventually, a chairman and vice-chairman were elected, this being what I, for my part, had insisted we do throughout.

Now, why did I not resign? For a few reasons. First, I always held the view (and still do) that of all the Bar councils the Johannesburg Bar has had in its 100 years of existence, the one just elected could *never* have been accused of not having done anything about transformation. Why, this Bar council is in all respects like a newly born baby, without sin, save of course (if people persist) for the sinfulness of its forebears. That being so, it was for me only fair and responsible to give it an opportunity to carry on (I say "carry on" because the whole exercise is after all a process) with the realisation of our common goals, including transformation. If we denied the new Bar council the opportunity, this would be like wringing a promising cockerel's neck before it had had a chance to crow. Secondly, the previous (and the presently elected) Bar council contained Black members, some of whom I hold in high regard. To me, transformation seemed to be on track.

An attack to my above reason has been, as I listen to people at the forefront of the debate, that the problem is really with the "structure" of the Bar council. Well, as for structural defects, our

society and all of its institutions, including our own judiciary are replete with these. But would this ever give us reason to quit? Hardly. One of our objectives has been to elect credible Black candidates into these institutions so that they can drive the programme of transformation.

Thirdly, I find it curious, and odd, that individuals would sit quietly on the previous Bar council, and only at the beginning of term of the new Bar council, seek to persuade me with the charge that the Bar council is not conducive to achieving the objectives of Black members. These members' failure to tell us at any time during the past year about their experiences can hardly augur well for their regrettable attempts to present blemish-free faces. And in any event, can these members ever speak about "the Bar council" as if it were something external to them, when in fact they were part of that Bar council? I am startled. It might just be that the mass resignation can only be explained in terms of a "strategy". And if it can, so much for strategy.


Who is to drive transformation and/or access to the profession? Inasmuch as all members are perfectly entitled to expect this or that from the Bar council, and specifically, to expect that junior members should be given whatever practical help they need, there are so many things that the more senior members can do in their individual capacities to help. Only a little imagination is needed. Can anyone explain why not a single Black member gives of their time and skills to teach pupils? Is there anything that precludes senior Black members from giving up a Saturday morning to help coach (if they so choose, only Black) pupils? Would the Bar council frown upon the more established Black members adopting a pupil, or a new member, and helping them financially? If only at worst as an arrogant response to what is perceived to be White indifference to Black problems, these and similar plans would help us further the economic advancement of our own.

I have been pained by the most saddening experience of having Black members expect me to be part of a decision, only because others, more

experienced and with impeccable political credentials, feel that a course of action is the only correct one, and that I should be made to feel uncomfortable if I refused to drown my independence in a sea of one-mindedness. It will be remembered that the Bar, unlike a political party, is in the first instance about individuals. While I accept that I owe my election largely to the electoral system devised to ensure Black representation on the Bar council, it would have been greatly appreciated if Black members had discussed the dynamics prevailing at the Bar with me immediately after my nomination, instead of presenting me with a "resign or else" situation.

Now if there is one thing that I wish my colleagues, Black and White, would grant me, it is this: to be able to retain my independence, and to have the freedom to make all such judgments as I consider proper. If I should ever decide to resign from the Bar council (I could) then I would at least have the joy, like everyone else, of being comfortable with my reasons for resigning.

Finally, I need to observe, without being cynical, that notwithstanding the accusations made against the Bar council and its structure, in the declaration of 30 October 2002*, our Black colleagues resolved to engage the new Bar council, not as its members, but as members of the Johannesburg Bar who are affiliated to the General Council of the Bar. What these members hope to achieve through the General Council of the Bar is precisely what we should be endeavouring to achieve through participation in the constituent Bars.

Two options are before us. The one is for all of us to sit inside our establishment and decide how best to re-arrange things. The other is to leave the establishment, enter the bush, find a tree, sit under it, and decide how best to effect the re-arrangements we consider necessary and proper for our house. No doubt members will choose what is good for them. For now I remain ever unconvinced by the espoused reasons for the mass resignation. 

* See page 22 for the "Declaration of 30 October".