

# General Council of the Bar

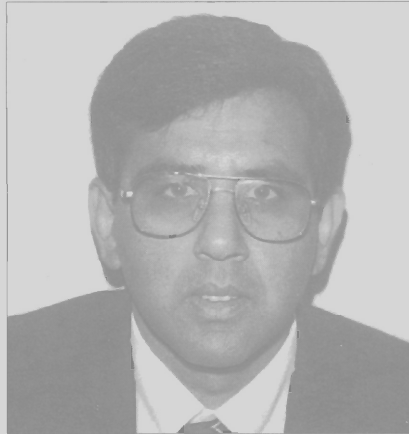
## *Executive Committee meeting*

Nazeer Cassim, honorary secretary

**T**HE agenda of the first Executive Committee meeting of the GCB for this year on 25 January 1997 reflects the adaptability of the Bar to the changing contours of the practice of law. Rigidity and non-compromise belong to the museum of social and legal antiquities. The blacklist system is not the law of the Medes and Persians: ironically the ALS has not put up alternative proposals. At the 26th Biennial Conference in Berlin in October 1996, the Chairman of the GCB, Wallis SC, was elected Deputy Secretary-General for Southern Africa. The 2002 IBA Conference is to be held in Durban and will be co-hosted by the GCB and the ALS. Ipp J, from Australia, and Friedman J P were lead speakers in a one-day seminar on case management sponsored by the GCB for better and more effective management of the courts. The proposals emanating from the seminar are to be subjected to more detailed scrutiny by working groups established to work in conjunction with the Rules Board. Chief Justice Mohamed was appointed Honorary President of the GCB.

### Members' interests

The interests of members are, as always, paramount. Grobler SC and Epstein SC presented reports on their respective meetings with the Legal Aid Board. From all accounts, members are paid more promptly by the Legal Aid Board and the tariff is more generous than previously.




Members are advised to place their names on the roster for Legal Aid work. The Board has adopted a practical and speedy method to resolve fee disputes.

The GCB is determined to test certain practices of certain members of the "independent bar", in particular taking money directly from members of the public, in the courts. The MMF White Paper is under scrutiny: the GCB resolved to take opinion on the constitutionality of the ability of the State to abolish the common law claim against an individual who has committed a delict. The advocacy programme is in full swing. A number of members visited London and the Faculty of Advocates in Edinburgh in January 1997, and Grobler SC's findings are that there is much to learn - not only for pupils and junior members, but also the more experienced advocates - regarding the developments abroad. *Dit is nie te laat om te leer nie!* The advocacy train-

ing programme is now prescribed material for the pupils. The major part of the funding for training members as instructors and courses conducted for pupils by barristers from the United Kingdom has been borne by the Overseas Development Agency of the United Kingdom. Nevertheless, for the period May to December 1996, the direct costs to the GCB amount to R149 238,00. R43 563,13 was spent on workshops for trainers and pupils, the administrative costs of the Advocacy Centre in Durban were R96 688,75 and R9 986,13 was spent on meetings of the training committee. These costs are likely to increase in the future and, on a practical note, a policy decision has to be made as to whether the GCB funds training or whether pupils (as elsewhere) pay for their training.

### Public interest

Members of the Pretoria Bar have taken a stand to participate in public life. Prinsloo SC proposed that the GCB express its dismay at the level of lawlessness and crime and the inability of the authorities to govern in that regard. There is clearly a need for our members to engage actively in assisting the state to maintain respect for life and property, and thereby attempt to avoid a state of anarchy. The challenge to the profession is its ability to be meaningfully involved in combatting crime and restoring a nation where people respect the rights of others. 

## GCB News

### Nasionale Balie-eksamenraad

**D**IE bedanking van Lotter Wepe-ner SC as eksaminator in strafen bewysreg is met spyt ontvang. Die ABR en die Nasionale Balie-eksamen-

raad is veel dank aan hom verskuldig vir die uitstekende werk oor die jare verrig.

Koos van Vuuren word in sy plek as eksaminator en Dali Mpofo as mede-

eksaminator in hierdie vak aangestel. Nog 'n nuwe aanstelling as mede-eksaminator is Soraya Hassim in die vak siviele verhoor.

Tydens die eerste inname van 1997 het 131 pupille met hul pupilskap begin en hulle sal die Nasionale Balie-eksamen van 31 Mei tot 3 Junie 1997 aflê.

**Laws and administration committee**

This committee is currently attending to:

*Project 94 – Arbitration: A draft international arbitration act for South Africa.*

**Supreme Court Rules committee**

This committee considered and commented on a draft set or new rules for the Supreme Court of Appeal on behalf of the General Council of the Bar of South Africa.

**Parliamentary committee**

Since October 1996 to date this sub-committee has considered and commented on the following legislation on behalf of the GCB:

- Proceeds of Crime Bill, 1996

- The Intellectual Property Laws Rationalisation Bill., 1996
- National Road Traffic Bill, 1996
- Wreck and Salvage Bill, 1996
- Proposed Termination of Pregnancy Bill, 1996
- Safety Matters Rationalisation Bill, 1996
- Implementation of the Justice Laws Rationalisation Act, 1996
- Proposed amendment to section 276A(1) of the Criminal Procedure Act 1997 (Act 51 of 1997)
- Proposed amendment to section 2 and 2A of the Attorneys Act, 1997 (Act 53 of 1997)
- Witness Protection Programme Bill, 1997
- National Prosecuting Authority Bill, 1997
- First draft of the new Correctional Bill: Department of Correctional Services.

**GCB Professional Rules of Ethics: arbitrations**

The GCB resolved at its recent meeting that the Professional Rules of Ethics be amended by the insertion of the follow-

ing at the end of the first sentence of Rule 5.8.1: “except in the case of a member receiving an instruction from a formal arbitration body recognised by the General Council of the Bar”.

It was also resolved that AFSA and IMMISA be recognised as formal arbitration bodies for purposes of Rule 5.8.1.

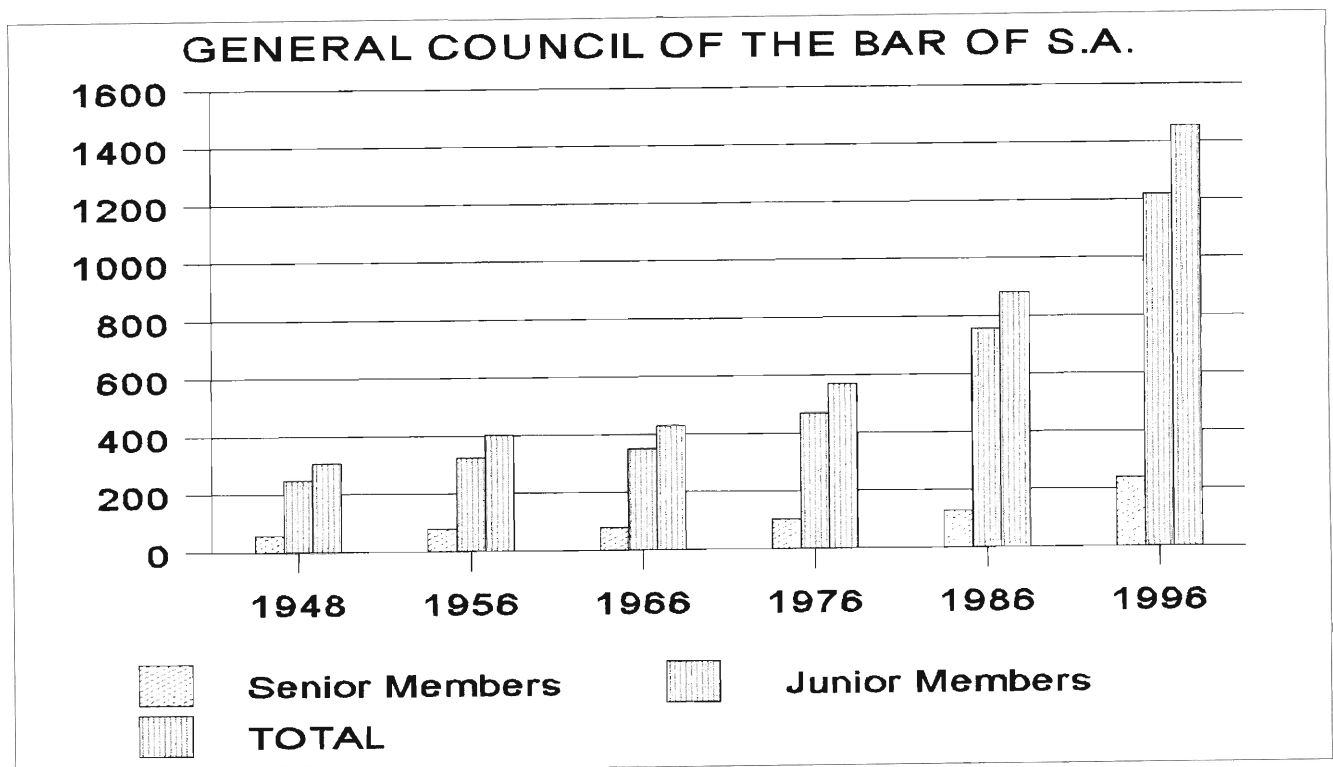
**International Bar Association**

Malcolm Wallis SC, chairman of the GCB, has been appointed as deputy secretary general for Southern Africa of the International Bar Association. He has also been invited to act as co-chairman of the newly established Barristers’ Forum of the IBA (see the report on page 28 of this issue).

**Honorary president of the General Council of the Bar**

Chief Justice Ismail Mahomed has been elected as honorary president of the General Council of the Bar. The president of the Constitutional Court, Judge Arthur Chaskalson, is also an honorary president of the GCB.

**Growth of the Bar**



The above graph illustrates the growth of the Bar during the period 1948 to 1996. Total members as at December 1996 were 238 seniors and 1 218 juniors.