

Special issue

Middle Temple and SA Conference

The rule of law under a written and unwritten constitution

The editorial committee of *Advocate* has decided to devote a special issue to the Middle Temple and SA Conference which was held in Cape Town from 23-26 September 2010. The papers have been grouped according to topic. In this issue papers on judicial and professional independence and comparative law are published.

Contents

19 Middle Temple visit a memorable success: report and photos by Jean Meiring and Frank Pelsler

Judicial independence

24 Judicial independence – a substantive component? by Justice Edwin Cameron, Constitutional Court of SA

29 Judicial independence by Lord Mance, United Kingdom Supreme Court

33 Selecting judges: merit, moral courage, judgment and diversity by Lord Clarke, United Kingdom Supreme Court

40 Judicial appointments in South Africa by Justice Dennis Davis, Western Cape Supreme Court and Judge President of the Competition Appeal Court

43 Judicial appointments by former Constitutional Court Justice Yvonne Mokgoro

48 Judicial decisions and allocation of resources by Justice Nial Fennelly, Irish Supreme Court

Professional independence

51 The independence of the Bar by Baroness Deech, chairman of the BSB, England and Wales

55 The independence of the Bar and an independent legal profession: a South African perspective by Jeremy Gauntlett SC

Comparative law

58 The role of comparative and public international law in domestic legal systems by Emeritus Professor William Binchy

63 The role of comparative and public international law in domestic legal systems by Deputy Chief Justice Dikgang Moseneke

The following papers will be considered for publication in forthcoming issues of *Advocate*:

Remedies

- The judicial role in cases involving resource allocation by Geoff Budlender SC
- Challenging government decisions: codified and uncodified judicial review by Professor Hugh Corder
- Fashioning constitutional remedies in SA: some reflections by former Constitutional Court Justice Kate O'Regan
- Challenging government decisions: codified and uncodified judicial review by Jeffrey Jowell QC
- Fashioning remedies by SCA Deputy President LTC Harms

- Fashioning remedies in English public law by Lord Burnett
- Fighting corruption: the lessons of Hong Kong by Bertrand de Speville

Prosecution

- The rule of law and prosecutions: to prosecute or not to prosecute by Keir Starmer QC

Costs

- The reform of the costs regime by Lord Justice Jackson
- Wallis Reform of the costs regime by KZN High Court Justice Malcolm Wallis
- The reform of the costs regime in SA by Labour Court Justice Dunston Mlambo

Statement of Conference

Following full debate and discussion, the Middle Temple South Africa Conference, convened in Cape Town on Heritage Day, 2010

- pays tribute to the achievement of constitutional democracy in South Africa, and to the role of judges and lawyers in that arduous process;
- notes the fundamental importance of the Rule of Law as a founding value in the Constitution of South Africa and as a constitutional principle in the United Kingdom and Ireland;
- expresses its commitment to the independence of the judiciary and to an independent Bar and legal profession in both of our jurisdictions and beyond;
- underlines the need for the appointment of a diverse and inclusive judiciary on the grounds of merit, free of political influence;
- supports the autonomy of prosecuting authorities in their decisions to prosecute and in the handling of prosecutions;
- supports independent media, freedom of speech and access to information as essential to fair trials and the Rule of Law;
- welcomes the prospect of continued close relations and reciprocal support between the judiciary and the Bars of our respective countries.