

# Johannesburg

The Johannesburg Bar is transforming  
Les Morison SC

What does it mean, this word, transformation? I was unexpectedly appointed the chair of the transformation committee of the Johannesburg Bar for 2014. I had to answer the question quickly. I decided it meant two things: skills transfer and cabal breaking. I set about trying to achieve both.

- **Skills transfer:** At the Bar this is traditionally achieved after pupillage in two ways: on your own, by working on challenging briefs that make you get out of your comfort zone and sweat blood in front of a skeptical judge against a hostile opponent; with another, by working with someone better than you. Central to both processes is being briefed. Without briefs, skills transfer stops in its tracks.

- **Cabal breaking:** At the Bar there are collections of practitioners in particular fields of expertise: construction, intellectual property, tax, competition. Many of us want to get into these and other specialist fields of work. Very few do, particularly not PDI counsel.

What solutions have been tried to date?

- *Cocktail parties.* Attorneys meet junior counsel and are informed of junior counsel's suitability. A high level of skepticism has evolved at the junior Bar as they fill up on snacks and drinks without seeing a brief thereafter.
- *Third counsel.* We have used a rule that requires the use of a third counsel in a matter. The third counsel often feels left out, an appendage.
- *Studies.* We have had a study done on transformation at the Bar by Deloitte and Touche. That cost some three hundred thousand rand about ten years ago. We had a study done last year by Prof Jonathan Klaaren at Wits for five hundred thousand rands. It was published in October 2013
- *Junior funds.* Certain groups collect a fund which the more senior members can then use to draw in juniors in the same group without extra cost to the attorney or client, and the junior gets

to work on the brief paid for by the group.

- *Counsel seconded to attorneys firms.* Some of our juniors were seconded to attorneys firms for

as long as three months to see how the firms worked, develop relationships and build up a supply of potential briefing attorneys.

- *Subsidisation.* The senior Bar subsidises chambers rentals and Bar subs to enable juniors to find their feet financially in the early years of practice.

I studied Professor Klaaren's report. It is not yet complete as a further workshop is envisaged. It makes a number of recommendations which I have distilled into a few key forms of intervention:

- *Financial support.* The junior funds have been successful in the groups where they are used, and should be broadened across the Bar, though group financial management of a high level is essential to make a junior fund work.
- *Better mentoring.* There is a tendency amongst busy practitioners to throw juniors in at the deep end of a given task. We need to take more time with our colleagues. Talk through the problem, research the solution together and give feedback on work done. Have lunch together, talk about life at the bar, the characters on the bench and enjoy one's colleagues.
- *Post pupillage programs.* The GCB holds Wallenberg for a select few and makes a huge contribution to post pupillage training for those involved. More of this type of thing will promote transformation significantly.

Our transformation committee has put together four initiatives for this year which it intends to provide to next year's transformation committee as a foundation for the ongoing project of transforming our bar:

- *The specialised practice education group pilot projects.* Under Pat Lane SC and Philip Ginsburg SC in construction and intellectual property law respectively these projects draw together five role players: client (eg Eskom) attorney (eg Bowman Gilfillan) senior counsel, PDI junior counsel (including women of all races) and educational institution (eg Wits) with a view to

producing a small number of PDI counsel skilled and supported in their chosen field within a year;

- *The follow up 'Klaaren workshop.'* Craig Watt-Pringle SC, Muzi Sikhakane SC and Kirsty McLean are convening the workshop to complete the research and recommendation process to provide an improved understanding and foundation for all future transformation efforts;
- *The Acting Judge conference.* Terera Mafakudzi, Jean Meiring, Usha Jugroop and Naki Stylianou. In October this year we convene a conference on acting judges. We see this as a means of supporting and inspiring our more senior members to focus on the excellence of their practices and making themselves available to provide high quality acting appointments to the local bench with skills in judgment writing and roll management;
- *The two counsel rule.* Willem Van der Linde SC, Chris Georgiades and I. We are working on a rule that will require silks over five years' standing to always work with a junior, with at least one third of their juniors being from PDI backgrounds. The cost to the client is negotiable with the senior. It can be kept at the usual two thirds or the junior can simply charge his or her normal fee, or the cost to the client can be kept as low as if there were only a silk on brief, the junior being paid a portion of the silk's fee, eg where silk would normally bill R2 400/h they would charge R1 800/h and the junior would be paid R600/h.

All of these projects are under discussion within the sub-committees and may emerge, consequent upon such discussion, in very different form. The purpose of this note is simply to keep members apprised of the work being done in this important area of our profession.

If the make-up of the profession does not mirror contemporary South African society it will not engender confidence in the law on the part of the average person. **A**

'Half of the time I don't know what they're talking about; their jokes seem to relate to a past that everyone but me has shared. I'm a foreigner in the world and I don't understand the language.'  
– Jean Webster [American novelist, 1876–1916].



## Book commemorates Group 621's centenary

On 6 February 2014, a cocktail party was held at Group 621 to celebrate the publication of a book entitled 'Group 621 Centenary 1913–2013,' which retraces its history to its foundation, in 1913, by the legendary Colonel Stallard. The book alights upon some of Group's most luminous members, like Rex Welsh QC, Bram Fischer QC, Sir Sydney Kentridge QC and Chief Justice Chaskalson. The event was attended by eighty members, former members and friends of the Group, and addressed by Group leader Mike van der Nest SC, David Unterhalter SC and the book's editor, Frank Snyckers SC. **A**

Above: Harold Mbowane (Group 621 employee), Mmakgomo Maenetje (pupil), Richard Mkhabela, Dolores Muller (Group 621's legendary receptionist), Mzukisi Mgxashe (pupil), Hamilton Maenetje (leader of Duma Nokwe), George Manaka (employee).

Below: Former Justice of Appeal Jonathan Heher (emeritus member), Peter Solomon SC, former Justice of Appeal Johannes Conradie (emeritus member), Nicholas Taitz, director at Knowles Husain Lindsay Inc and great-grandnephew of former Group 621 leader Norman Rosenberg QC.

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