



BAR/BALIE

BRIEF/NUUS

THE QUARTERLY NEWSLETTER OF THE CAPE BAR

LIFE ON CIRCUIT

Many of our colleagues at the Cape Bar do not know what goes on at the South Cape Society of Advocates. Perhaps some do not even know that it exists. Alfred Schmidt, a member, tells more.

Sitting at the far side of the Cape Bar has its advantages and disadvantages in George and Knysna – like all smaller outposts. We (known somewhat loosely as the South Cape Bar) have Victoria Bay, Buffalo Bay and Herold's Bay around the corner, none of us have been mugged and the traffic is, well, non-existent.

Then again, we cannot access the Davis library without an air ticket, or order sandwiches from Advocado, or pop down to the Five Flies for a beer.

We are of course not a separate bar, but have arranged ourselves into a society – the South Cape Society of Advocates formed in the latter part of 2008.

There are 14 members – 3 of whom keep chambers in Knysna and the rest of whom keep chambers in George. Of the 14 members 2 are silks (De Vos SC and Hiemstra SC), 9 are senior juniors (Barnard, Bruwer, Coetsee, Harms, Joubert, Lotz, Van der Bergh, Van der Merwe, and Van Wyk) and 3 are juniors (Badenhorst, De Bruyn and Schmidt) [alphabetically and not by seniority].

The majority are associate members of the Cape Bar, some opting to keep their association with both their previous bar and the Cape Bar.

Die Oostelike Rondgaande Plaaslike Afdeling ("die Oostelike rondgang"):

In terme van artikel 7 van die Wet op die Hooggeregshof, No. 59 van 1959 kan die Regter-President van elke Provinsiale Afdeling by kennisgewing in die Staatskoerant die jurisdiksionele area van die betrokke afdeling in rondgaande distrikte verdeel. Elke hof wat in sodanige rondgaande distrik sit sal bekend staan as 'n rondgaande

plaaslike afdeling vir daardie distrik, en sal vir alle doeleindes geag word 'n plaaslike afdeling te wees.

Die Regter-President van die destydse Kaap van Goeie Hoop Provinsiale Afdeling het by wyse van Staatskoerant GN 578 gedateer 22 Augustus 1980 die jurisdiksionele area van die Afdeling in vyf rondgaande distrikte verdeel, waarvan een die Oostelike Rondgang is.

Die Oostelike Rondgang bestaan uit die landdroshofdistrikte van Ladismith, Calitzdorp, Oudtshoorn, Mosselbaai, George, Knysna, Willowmore en Joubertina, en sit in George.

Dit volg dat enige aangeleentheid waarvan die jurisdiksie in enige van die landdroshofdistrikte vestig of gevestig word, binne die jurisdiksionele gebied van die Oostelike rondgang val en deur daardie hof aangehoor kan word. Die Oostelike rondgang hoor slegs siviele aangeleenthede.

Aangesien daar slegs een regter per sitting is, kan hersienings en appelle nie aangehoor word nie. Buiten dit is daar geen beperking op die sake wat deur die Oostelike rondgang aangehoor kan word nie.

Daar is vier rondgang termyne per jaar, van ongeveer 5 weke elk. Die huidige termyn het op 10 Mei 2010 begin en eindig op 11 Junie 2010.

Die rondgang word normaalweg waargeneem deur 'n senior regter – tans is Sy Edele Regter W J Louw op rondgang.

"So what do you guys do in George?"

A question often posed to me and my colleagues. Well, we don't only do "a couple of motor vehicle accidents over



Die tweede jaarlike jaareindfunksie verlede jaar by die Knysna seiljagklub. Voor vlnr (sittend) Hiemstra SC, Sy Edele regter N C Erasmus, Sy Edele Regter H J Erasmus, Muller SC Agter vlnr Lotz, Barnard, Badenhorst, Coetsee, Joubert, Van der Bergh, Van der Merwe, Van Wyk, Bruwer, De Vos SC, Schmidt (afwesig op foto: Harms)

December” as an attorney once suggested to me. I guess there’s a standard answer for each of us – mine (as junior) goes along the following lines:

Obviously there is not a third division motion court to get your practice going. Fridays of each term are reserved for motions and one day (a Monday) for unopposed divorces. An exclusive motion practice is out of the question. So trial work and drafting forms the bulk of my practice.

Because of the airport, however, our practices are not limited to the Eastern Circuit and members appear regularly in the other divisions - mostly in the Cape, Pretoria and Johannesburg.

What we also do is to have the traditional lunch with the judge on circuit, typically during the last week of the term. We have social functions – typically once every two or

three months. There we also do what counsel do – we argue and (the juniors) drink too much.

The social highlight is the formal year end function, which last year was held at the Knysna Yacht Club. The function is attended by members and partners as well as the chairperson of the Cape Bar and his (and in future possibly her) partner. Last year now retired Judge H J Erasmus and Judge N C Erasmus also attended.

The answer is simple actually – we do everything that counsel do. ☐

Ama-bar-bar

James Mackenzie

The Cape Bar cricket side recently completed another season, the final match being a competitive affair at the Elgin Country Club against a strong State side led by Johnny De Lange.

The State batted first on a flat deck and despite some tight bowling from the Bar attack - particularly a fired up Gordon who put his back into it and had State batsmen bobbing and weaving to his chin music - posted a challenging 186/4 in 40 overs.

The Bar's openers Heyns and Bozalek strode to the crease with purpose, knowing a solid opening stand to be essential to the run chase. The speed and length of the opening bowler's run up came as a surprise to both batsmen, who negotiated the fiery opening overs with circumspection. They were slowly finding their feet, with Bozalek in particular starting to impose himself off the front foot, when Heyns played forward and was rapped high on the front pad, umpire Acton raising his finger without hesitation to a speculative appeal. Mackenzie, in at three in Cooke's absence, was untroubled by the bowling until lightning struck twice: Another long stride forward; a rising delivery short of a length striking the pad on the roll; a hopeful inquiry from the bowler; and Acton quick to send another batsman packing. Bozalek was eventually out for a well-crafted 24, after which the cudgels were taken up by Smit who played with reassuring confidence for a man on debut, scoring a hard hitting 36. It was however too much to ask of the lower order, who took the bar to a respectable 164 all out, and a narrow loss.

De Lange was gracious in victory, declining to comment on the State's selection policy, and singling out Acton as man of the match. More than one State player observed how refreshing it was to meet an honest lawyer. Acton's future in the Justice Ministry looks rosier than his prospects of being selected by Krige for the new season.

The disappointing loss should not detract from what was a successful season of cricket. Krige had a talented squad at his disposal, causing him more than a few selection headaches for the big games. The batsmen generally scored

the runs required, with Cooke and Melunsky having had particularly fine seasons, but with others chipping in with crucial knocks. Few will forget Krige's memorable innings to steer his side to an unexpected victory over a powerful touring Johannesburg Bar eleven. The bowling attack was balanced, and bowled sides out with the pace of Jansen Van Rensburg, Muller, and of course Gordon; boasted dependable seamers in Albertus, Joubert, Acton, Garland, Heyns and the metronomic Rogers, John; with two wily spinners in Bozalek and Cooke.

Mention should also be made of the keeper Beale who had a tidy year behind the stumps.

The highlight of the season was the fine win over a determined ENS XI, the match played in front of a hostile crowd at the annual ENS staff and family day at The Oval in Newlands. The trophy is back where it belongs.

The future of Bar cricket looks bright. □



*The Bar side before taking the field against ENS.
 Clockwise from left: Melunsky, Heyns, John Rogers, Shaene Muller, Gordon, Jansen van Rensburg, Mackenzie, Bozalek, Krige (Captain) and Cooke.*

Orange quarters

LISE SMITH

The 15 on Orange Hotel certainly caters for the legal community. Situated close chambers and the High Court, it offers the perfect location for visiting counsel, attorneys and members of the bench. The most significant indication of this is the special room rate which they offer for lawyers: where the 70 m² deluxe rooms (facing mountain or city) would usually cost R3500 p/p per night, members of the legal profession only pay R1900.

The Judges' Lounge, a unique bar built in honour of the legal profession, contains a purple pool table and 700 law books (regrettably not a full set of law reports, which

would have been a bonus if a guest should happen to be drafting late-night heads!) The Judges' Lounge is open 24 hours, which according to the press release means that "a nightcap at the Judges' Lounge is a legal necessity". On Thursday 29 April 2010 a special launch of the Judges' Lounge was held and all members of the Cape Bar were invited.

Apart from catering for the legal market, however, the hotel also extends its hospitality to a wider audience. It is a five-star hotel and a member of the African Pride hotels group. According to general manager Douglas Allen, the hotel aims to stimulate all five senses. A constant flow of



A purple pool table and 700 law books combine contemporary and old world within the legal theme



The Judges' Lounge at 15 on Orange is open 24 hours.

lounge and African music fills the restaurants and bars, the air is scented with an Issey Miyake-inspired fragrance (citrus-based for the 15 on Orange connection), and the design and textures of the retro-contemporary furniture offer something for sight and touch.

The hotel contains another bar, the Murano Bar, as well as Cinnamon coffee shop and Savour restaurant. All menus are served at all restaurants. The Murano Bar has a two-storey high chandelier made out of over 10,000 individual murano glass links imported from Italy. A 12-seater VIP lounge is suspended above the bar. It only has six items on the menu, including oscieta caviar, fresh west coast oysters on the rocks, and salmon sashimi.

There is also a private dining area available and four differently sized board rooms. A sound-proof room with high-quality surround sound can be booked by small private groups wishing to use the big screen and stretch out on the couches.

The 7th floor of the hotel hosts Suntra Spa, of which the trademark treatment is the Rasul: a traditional Arabian cleansing ritual in a private chamber “under the light of a thousand stars”. After salt and mud detoxifies and rejuvenates the body, warm steam shrouds the room, followed by a downpour of “warm tropical rain”.

The hotel has a unique staffing policy. It does not outsource and everyone who works there is employed by the hotel. The salaries are slightly higher than at other hotels, and all interviews are done by the general manager himself. The hotel opened on 14 December 2009 and he has conducted 1500 interviews thus far.

Everything at 15 on Orange exudes decadence. As Allen puts it: “There are 14 five-star hotels in Cape Town, and then there’s 15 on Orange.” At least as far as this healthy self-esteem is concerned, the 15 on Orange hotel fits right in with the Bar community. □

Legal New Releases

New Release
ISBN: 9780409046762



A Guide to the Consumer Protection Act
Author: E van Eeden

Legal practitioners and advisors as well as marketing professionals will find this extensive work a valuable and useful guide to the new Consumer Protection Act. It breaks the Act down into manageable components and it sets out the main concepts and areas of interest, both from a business and a legal perspective. *A Guide to the Consumer Protection Act* includes a copy of the Act at the back of the book.

New Edition
ISBN: 9780409045451



Amler's Precedents of Pleadings (7th edition)
Author: LTC Harms

The new edition to this well known title offers legal practitioners, advisers and law students a quick and easy guide to pleadings and causes of action. Causes of action are discussed analytically. Each claim is followed by a plea dealing with a defence directly related to that claim and authorities are cited after each proposition. A wide range of useful sample precedents are included.

Best Seller!
ISBN: 9780409046052



Corporate Governance: An Essential Guide for South African Companies (2nd edition)
Author: R Naidoo

This essential guide contains over 40 real life illustrations of corporate governance principles, including AIG, SAA, Fidentia, Satyam and others, this work also contains a variety of practical appendices, e.g. differences between King II and III, a guide to the main JSE Listings Requirements, a comparative reference to the old and new Companies Acts and a guide to statutory and recommended governance practices.

New Release
ISBN: 9780409047073



Handbook of the SA Law of Maintenance
Author: L van Zyl

The complete reference on maintenance matters. *Handbook of the South African Law of Maintenance* is a concise exposition of the common-law and statutory provisions relating to maintenance for busy practitioners and justice officials – the only book you need to become an expert on this topic.

Best Seller!
ISBN: 9780409023831



Life Insurance in SA
Authors: PM Nienaber and MFB Reinecke

An indispensable reference work for everyone involved in the long-term insurance field, whether it be an underwriter, agent, intermediary or claimant, and certainly the legal representative of a claimant. *Life Insurance in South Africa* enables the lay public to have a better understanding of how the Ombudsman's office functions and the role it plays in the settlement of complaints.

New Release
ISBN: 080BANKLAWSYS



Banking Law and Practice
Author: J Moorcroft

A concise and practical guide to banking and the law. *Banking Law and Practice* contains a discussion of the case law, legislation, common law principles and the work of academics pertaining to banking and the law, with the relevant public and private law dealt with in one volume.

New Edition
ISBN: 9780409045468



Hiemstra Suid-Afrikaanse Strafproses (7de uit)
Outeur: A Kruger

Hierdie nuwe uitgawe bevat die opgedateerde wetgewing asook toonaangewende sake aangaande strafproses wat die vele veranderings op die gebied van die strafproses weergee. Die boek het 'n gebruikersvriendelike indeks en 'n alfabetiese lys van sake wat naslaanwerk vergemaklik. Onderwerpe sluit onder andere die volgende in: inhegtenisneming, borgtog, vermoë van beskuldigde om verrigtinge te begryp, geestesongesteldheid en strafregtelike toerekenbaarheid, verhoor voor hoër hof, getuies, bewyslewering en appèlle.

New Release
ISBN: 9780409032819



A Practical Approach to the Children's Act
Authors: H Bosman-Sadie and L Corrie

A vital resource for every person in the field of child care. Accessible and straightforward in its approach to the subject matter *A Practical Approach to the Children's Act* is a complete, user-friendly guide that will assist you with the practical implementation of the Act.

August Release
ISBN: 9780409044782



Financial Advisory and Intermediary Services Guide
Authors: J Moolman, C Pillai, N Bam, J Appasamy

A practical and reliable guide for all role players in the Financial Services Industry. The *Financial Advisory and Intermediary Services Guide* includes a commentary on the Act, regulations and Codes of Conduct as well as practical examples and Ombudsman's Rulings.

July Release
ISBN: 9780409048353



Harassment in the Workplace: Law, Policies and Processes
Authors: R le Roux, T Orleyn, A Rycroft

This book traces the developments regarding sexual harassment in the workplace and also explores other forms of harassment in the workplace, such as: racial harassment; workplace bullying; and the victimisation of a whistleblower employee. It contains not only theoretical considerations but also practical aspects of harassment, such as mediation, investigating, litigation, arbitration and the liability of the employer.

July Release
ISBN: 9780409048964



The National Credit Act Explained (2nd edition)
Author: JM Otto

Extensively used by judicial officers, legal practitioners, role players and decision makers in the banking sector and the credit industry. The second edition has been completely revised, with references to more than 60 cases and publications.

July Release
ISBN: 9780409048384



Taxation of Costs in the Higher and Lower Courts, A Practical Guide
Authors: A Kruger and W Mostert

This title offers a practical guide to the taxation of costs, providing guidance as to how to deal with a Bill of Costs in practice. Although the main focus is on Taxation in the High Court and the Magistrates' Court, the book also considers costs in other courts such as the Labour Court, Competition Court and National Credit Regulator.

July Release
ISBN: 9780409048391



Essential Evidence
Author: DT Zeffertt

While this title covers the major concepts that make the law of evidence so rich in texture and such a wonderful subject for analysis, it is still easy to read and useful for practical problem solving. Written as a companion work to *The South African Law of Evidence*.

New Edition
ISBN: 9780409022735



The South African Law of Evidence (2nd edition)
Authors: DT Zeffertt, A P Paizes

This work is an authoritative and comprehensive guide to the law of evidence in South Africa. The work includes in-depth analysis of recent case law and statutory reforms which have significantly impacted on the law of evidence in South Africa. It clarifies what evidence is admissible, and why, and is therefore the ideal guide for preparation for trial.

For more information or to order your copy please call 0860 765 432 or visit www.lexisnexis.co.za

Major Works Special Offers

SAVE 30%

Bound Statutes

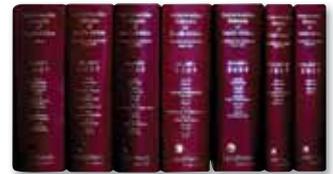
ISBN: 9780409046793
Format: Hardcover

This year LexisNexis celebrates publishing 100 years worth of legislation – our *Bound Statutes* contain all Acts (unrepealed) from 1910 to 2010 in printed Bound format.

Bound Statutes are published in 8 hard cover volumes and the text is in English only. The publication is supplemented by *Gazwatch* (weekly newsletter containing details of legislative activity for the week), and is free of charge to all *Bound Statutes* subscribers. Bound Statutes are re-issued annually.

Included in this publication are all Acts in force with the exception of purely financial measures such as Appropriation and Pensions (Supplementary) Acts. Principal Acts appear in full and in amended form, and Amending Acts, where proclaimed, are presented in summarised form indicating the subject matter of each section. We consolidate amendments into the Acts to enable the subscriber easy access to current legislation. Sections amended are also annotated providing details of all changes that have occurred.

This compact, attractive and easy to use publication is a “must have” for every successful practice.



SAVE 30%

BF&P

ISBN: 060BFOPSETSYS
Full Set (27 volumes)
Format: Looseleaf

Butterworths Forms and Precedents is a well-established, trusted source of non-litigious forms and precedents essential to the law practitioner. BF&P is extremely practical as it contains essential precedents used in the practice of law in a format that can be downloaded and amended. It offers various precedents covering a full spectrum of legal titles vital to the legal practitioner. It contains a preliminary note which serves as a commentary to the precedents thereby providing you with a legal framework for the forms and precedents.

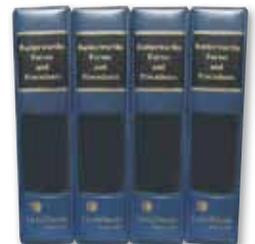
Key benefits

- The precedents are easy and efficient to use as a DVD containing an electronic version of the publication accompanies a purchase of a printed set. This saves time as precedents may be copied and amended without having to retype the whole document.
- Preliminary notes at the start of each section place the precedents in context by setting out a general outline of the law.
- There are also relevant statutory and case references as well as references to various texts for further research.

Mini-sets of *Butterworths Forms and Precedents* are available:

- Commercial Transactions Library
- Intellectual Property Law Library
- Citizenship
- Property Law Library
- Law of Persons

MINI-SETS:
SAVE 15%



SAVE 30%

LAWSA

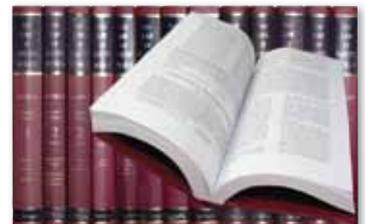
ISBN: 060LAWSARESYS
Format: Hardcover
WA Joubert SC MA LLD LLD
M Kuhne BA LLB LLM

The *Law of South Africa* is an encyclopedia of South African law containing various topics. *Lawsa* is used as a starting point for legal research as it states the law as it stands. *Lawsa* makes reference to relevant legislation, case law, text books and journal articles which facilitates for detailed research both online and in print. This publication is widely used by judges, advocates, attorneys and legal academics.

Key benefits

- The only work of its kind in South Africa
- Contains a systematic and full exposition of the law of the Republic of South Africa
- Written by a team of eminent jurists, academics and practitioners
- Titles are arranged and published alphabetically
- Established as the South African counterpart of the famous *Halsbury's Laws of England*
- Quoted extensively in judgments, *Lawsa* contains over 150 titles in 32 hard cover volumes.

The *Lawsa* set includes a Cumulative Table of Cases (Volume 33) and a Consolidated Index (Volume 34) which is published every second year. *Lawsa* is updated by *Current Law* and the *Lawsa Cumulative Supplement*. The supplement indicates details of all changes between the operative date of the respective volume and the operative date of the supplement. The supplement contains references to both legislation and case law. The *Cumulative Supplement* is arranged alphabetically and divided into two parts which is published every year.



PERSONAE

Congratulations to the following parents of newborn babies:

Alan Newton (Sophia Grace, 7 March 2010)

Darol Kleinhans (Kirsten, 29 March 2010)

George Sibanda (Zayden, 11 April 2010)

Wynand Jonker (Ella, 18 April 2010)

Yasmina Steyn (Yaseen, 11 May 2010)

JP Steenkamp (Oliver, 18 May 2010)

Richard van Helden (Anna Claire, 20 May 2010).

Congratulations also to:

Mary-Anna McChesney who married Stephen Breyer-Menke on 10 April 2010.

Howie and **Lise Kieck** who got married to each other on 5 June 2010.

The members of the Cape Bar who are acting on the Bench this term are
Cloete SC, Gamble SC, Jacobs, Olivier SC and Steyn SC.

Gamble SC and **Steyn SC** on being appointed to the Bench!

The Bar Brief congratulates **Jacobs SC, Kahahowitz SC, Katz SC** and **Stelzner SC**
on taking Silk during December 2009.

Editorial Team:

Editor:

Lise Smit (smith@capebar.co.za)

Publications Committee:

Frans Rautenbach (Chairperson), Geoff Budlender SC, Andrew Brown,
Denvor Filand, Ellen Fitz-Patrick, Sharashini Pillay, Zeynab Titus

Contributors:

James Mackenzie, Alfred Schmidt, Lise Smit