

Letters to the editor

Die Balie en die algemene publiek

JPJ Coetzer SC,* Pretoria

Ek geniet die blad want ek stel steeds veel belang in die professie as sodanig en al die ontwikkelinge daaromheen, hier sowel as in die buiteland. Ek stel dit egter aan julle dat julle te professietegnies geraak het. Julle plaas nie genoeg stof om die gewone mense in te lig en hulle belangstelling te prikkel nie. Een van die belangrike oogmerke met die loodsing van *Advocate* se voorganger was juis om die Balie – waaroor daar baie wanopvattinge by die algemene publiek bestaan – by diesulkes bekend te stel. En, met respek, hieraan word nie meer voldoen nie. Wat van bv misdaad ten opsigte waarvan daar tans baie onrustigheid by alle Suid-Afrikaners, swart en wit, bestaan? Wat is die Balie se standpunt hieroor en watter oplossings doen hy aan die hand om 'n veiliger Suid-Afrika te bewerkstellig? Die publiek sal graag wil weet. Daar is ook talle ander aangeleenthede wat Jan en alleman intens raak waaroor die Balie kan leiding gee en wat dus aangespreek behoort te word.

Die bostaande doen nie afbreuk aan die goeie werk wat die redaksie andersins doen nie. Advokate kan werklik nie kla dat hulle nie behoorlik ingelig word nie. Hiervoor verdien julle groot waardering.

Die redakteur antwoord soos volg: Ek het begrip vir u mening en stel dit op prys dat u wenke ter verbetering aan die hand doen. Dit is wel korrek dat ons min artikels van 'n algemene aard wat ook vir die publiek van belang is, publiseer. Die rede hiervoor is dat die tydskrif voorkeur moet gee aan artikels wat vir die praktiserende advokaat van belang is – kragtens 'n missie-oms krywing wat reeds in 1996 in werking getree het. Ten spyte hiervan bevat heelwat artikels egter ook inligting wat vir die publiek van belang is. 'n Voorbeeld hiervan is Steenkamp RP se stuk oor “Misdaad-

voorkoming in die Noord-Kaap” in 2002 Augustus *Advocate* 21.

Ek moet ook meld dat heelwat materiaal die afgelope jaar of drie gewy is aan die Balie en sy plek in die regspleging in die lig van die Departement van Justisie se omstredende konsep wetsontwerpe oor regspraktisyns. Die doel was juis om van nuuts die Balie bekend te stel by die publiek (en die owerheid).

Do judges become silks, or do silks become judges?

Sytze Alkema SC, Durban Bar

I recently had sight of a letter from Altus Joubert SC relating to the desirability of “... [protecting] the integrity of the institution of silk”, together with the Johannesburg Bar Council criteria by which candidates for the conferment of silk are judged in order “to protect the integrity of the institution of silk”.

These documents found their way to an agenda of a meeting of silks of the Society of Advocates of KwaZulu-Natal, where the requirement “... to protect the integrity of the institution of silk” was discussed in another context. I was fortunately unable to attend that meeting due to other commitments, but I nevertheless sent a fax of apology to our chair, in which I raised an issue which has intrigued me for some time.

The issue is: do judges presiding over civil proceedings wear silk robes; or do silks wear judges' robes who preside over civil proceedings? This is my letter:

“Dear Singh

Meeting 30 January 2003

Firstly, ... I simply wish to make the following observation relevant to the requirement “... to protect the integrity of the institution of silk”.

The two physical or external features (save for old age, potbellies, red noses and bloodshot eyes) which distinguish silks from juniors and other members of our profession, are firstly; the issue of Letters Patent, and secondly, the right and privilege to wear the silk robes in court.

In regard to the first feature, how can the integrity of the institution of silk ever be protected if those privileges of appearance conferred by Letters Patent

are not observed? Is the first step in the recognition of the silk institution not to make copies available of Letters Patent to those judges who have never been issued with Letters Patent? Or at least to make them aware of the content and meaning of Letters Patent?

It is the second feature which concerns me most.

As far as I know, there are no ‘judges robes’ worn by judges who preside over civil matters in our high courts and Supreme Court of Appeal. The robes worn by these judges are silk robes which they became entitled to wear consequent upon the issue of their Letters Patent.

Since the time our judges are appointed from outside the ranks of senior counsel, I noticed with some amusement how silk robes are worn by former attorneys, lecturers, juniors and politicians appointed to the Bench. I listened with growing astonishment to some of the judgments and pronouncements of these judges, clothed in the robes of silk.

If we want to protect the integrity of the institution of silk in the consideration of silk applications, should we also not object to the wearing of silk robes by those never appointed a silk?

I am intrigued by the criteria of the Johannesburg Bar Council by which candidates for the conferment of silk are judged. If the same criteria are applied by the JSC in the appointment of judges, who will ever be appointed to the Bench? If our profession also wishes to protect the integrity of the Bench, why do we apply different criteria for the appointment of judges? The main aim of the meeting seems to be to find ways of expediting the transformation process. Yet, on the same agenda, we seek to uphold certain criteria for the appointment of silk. If the appointment of judges from the ranks of silks was abandoned in the name of the transformation process, why on earth do we want to protect the integrity of the institution of silk?

Or do we employ different methods to expedite the transformation process in the profession, to those methods employed by the JSC to expedite the transformation process on the Bench? Now that judges presiding over civil litigious matters wear silk robes, and we aim to protect the integrity of the silk institution, my question is this: do judges

* Mnr Coetzer is 'n voormalige direkteur-generaal van die Departement van Justisie. Hy was redakteur van *Consultus* gedurende 1988–1995.