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 wanopvattings 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-omskrywing 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 "Misdaadvoorkoming 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 omstrede konsep wetsontwerpe oor regspraktisyns. Die doel was juis om van nuuts die Balie bekend te stel by die publiek (en die owerheid).

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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

become silks, or do silks become judges?
(*See also page 10 of this issue* – Editor)

New members' fees

Anthony Stein, Johannesburg Bar

The lot of pupil members and new members of our Bar is much on the minds of members at the moment. As a relatively new member, I must say that one feature of new life at the Bar which adds insult to financial injury is the member fee that appears on one's account from the very first month of practice. Where one has earned no income whatsoever for six months, the Bar council sees fit to place itself preferentially amongst one's circling creditors from the very outset, in full knowledge that no income will be received for another three months and seven days. Would it be too much to ask that we see our way clear to place a moratorium on new members' fees for three (or if the Bar is in generous mood, four) months from the date of commencing practice?

When one starts out, the membership fee may be a flea amongst vultures but its bite is sufficiently irritating for one to scratch into a gaping wound. The Bar council must do all that it can to prevent further and unnecessary bloodshed.

"Kaapse Kroegraad"

Willie Duminy SC, Cape Bar

I enclose a copy of a report published in *Die Burger* on 11 January 2003. That esteemed publication advised its readers that Keerom Street Chambers was fully let to "die Kaapse Kroegraad". A spokesman for the company which recently purchased the building, was confident that "die Kroegraad" would not vacate the building in a hurry.

Membership of the Cape Bar has never been limited to the abstemious, but is this not going a bit too far?

"E" Advocates Inc

Craig Watt-Pringle SC, Johannesburg Bar

I have made use of electronic legal publications since the advent of the SA Law Reports and Statutes produced on CD ROM by Jutastat about a decade ago. Juta and Butterworths are to be lauded for making this technology available to us, yet I have frequently been frustrated by the fact that the products and services have in material respects not properly met our requirements. Matters have improved considerably since Butterworths ditched its "books on screen" software in favour of the more accessible "Folio Views" search engine which is (in my opinion) the far more successful program used by Jutastat. Butterworths eventually adopted Folio Views but configured it in a manner which makes it less user friendly and reliable than the Jutastat version.

With increasing numbers of advocates making use of electronic publications and of e-mail and the internet generally, "e" technology has become central to the manner in which we practise. This should enable us to influence decisions regarding the products and services made available to us.

We should rectify these deficiencies by discussing our needs internally and thereafter acting as a lobby group in our dealings with the "e" industry. As a group we have considerable purchasing power. I would accordingly suggest the formation of "e" sub-committees at each constituent Bar and an umbrella committee at GCB level. The purpose of this letter is to gauge my colleagues' enthusiasm and willingness to participate in such an initiative. Please let me have your views, preferably by e-mail (craigwat@law.co.za).

Aboard the Johannesburg Bar Council – why I remained

*Khotso Ramolefe**

Now that the dust has settled, most of the people have had their say, and some quiet has been restored, or so it appears to me, perhaps I should now also have my say. And when I have, I would hope that the speculation will end and a fuller picture emerges, the other view having been placed before everyone.

When I was nominated for election to the Johannesburg Bar Council, needless to say, I had an opportunity at that stage already either to reject or accept the nomination. I chose to accept it, and in so doing, recognised that hovering in attendance was the possibility of election. In the end I was elected, and as such, I remain.

The news of my election was broken to me over a telephone on Saturday afternoon, 26 October 2002. I was also notified, during the same telephonic conversation, of the first meeting of the newly elected Bar council scheduled to be held on Monday afternoon, 28 October 2002 (the main meeting). The purpose of the main meeting was, as we all know, to elect both the new chairman and vice-chairman.

Rumours had been doing the rounds, mid-morning on the Monday of the main meeting, that some of the elected Black members had resigned (in-between the announcement of their election on Saturday and the time of the rumours). Furthermore, it was said that the remaining Black members would also resign at the main meeting.

Some time before the main meeting, I received a telephone call from a Black colleague inviting me to a different meeting ("the special meeting") scheduled to be held shortly before the main meeting. I attended the special meeting, and for the first time got an opportunity of being informed of the reasons for the mass resignation.

As I understood them, the reasons given for the resignations were that, despite constitutional changes to the composition of the Bar council, not enough had been done for transformation, and Black members had felt that there was no point in being part of the Bar council. A declaration setting out these reasons had been prepared and was circulated at the special meeting for signature. Those who felt moved to sign it, signed. I did not.

From the special meeting we proceeded to the main meeting. There, the outgoing chairman explained the purpose of the meeting, whereafter some heated debate over the resignations ensued. I implored the gathering to realise that, whatever happened, we

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