It is in the public interest

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- He seems to suggest the "independence" of advocates is based largely on the fact that they take instructions only on referral from attorneys, and alleges that the Bill will abolish the referral system because "it requires all lawyers to take work directly from the public".
- Finally, the judiciary's independence does not depend upon its members being drawn from the Bar. The continuance of the advocate's profession depends upon the expertise they offer, not upon petty job reservation.

Confusion: working off Third Draft Bill

In his reply to the Minister's letter Jeremy Gauntlett wrote as follows on 4 February 2001:

"The letter from Minister Penuell Maduna, 'Aim of the lawyers' Bill is to protect the public interest,' dismisses the Bar's critique of the Legal Practice Bill as based on 'factual inaccuracies,' and a call for 'petty job reservation.'

On January 11, the minister accepted the Bar's proposal (first made in October) that we meet to discuss our differences. We welcome that step forward and would not want to pre-empt the matter here. We are sure the minister does not intend that either. But one matter requires immediate correction: the attempt to characterise our critique as riddled with errors.

What the minister's letter does not disclose is that he is working off a different text to ours. The confusion is unsurprising, because what he appears now to use is, in fact, the third draft of the Bill.

This draft, moreover, was posted on a departmental web-page two days before Christmas and without notice to all those bodies the Policy Unit affects to consult.

To add to the muddle, the draft was rendered inaccessible without use of an appropriately-named 'Acrobat Reader.' In these circumstances, the head of the Policy Unit went on leave, setting a unilateral deadline of January 31 for responses.

The new draft removes some of the inanities in its predecessor to which the professional associations had to draw attention. But major structural flows remain; it is these which, at the level of basic policy, we shall be glad to raise with the minister.

Chief among these is the inspiration, now disclosed, for the attempt to impose a statutory council of ministerial nominees on lawyers. It includes, we are now told, the statutory council for quantity surveyors.

To resist this has little to do with 'petty job reservation'." 🕮

The appointment of judges in England

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appeals and then hears the odd civil trial. I am looking forward to the day that the racial injustices of the past have been fully abolished, and that each and every individual in South Africa can again compete on merit – or am I dreaming? 🕮

Serving the public interest

Writing in *Counsel* April 2000 Jonathan Hirst QC, the (then) chairman of the Bar of England & Wales is sharply critical of the English Access to Justice Act 1999 which provides for the establishment of the Criminal Defence Service (CDS). It allows the new service to "employ persons to provide representation" to defendants in criminal proceedings.

Hirst raises the following points:

- "He who pays the piper …?"

We are also entitled to ask why a partial nationalisation of the provision of defence advocacy services is a desirable objective in its own right, given this (the British) Government's general move away from the state sector. Defendants are always bound to suspect that a state employed defender is not fully independent of the prosecution being brought by the State. The lessons from the US bear this out.

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