

Editorial

Confidence in the legal system

AS recently as 1985 the HSRC Main Committee, in an inquiry into intergroup relationships, found that the administration of justice and its administration were suspect among large sections of the population, and termed this state of affairs a large-scale crisis of legitimacy. We have no reason to assume that this finding no longer applies.

The legal system of a civilised country is one of the pillars upon which it rests, and no country that strives to uphold civilised norms can therefore afford to allow doubts about its legal system to arise or to continue. It is of fundamental importance, therefore, that effective steps be taken to restore full confidence in this sphere.

One of the methods that can be employed to achieve this, according to the Committee's report, is the granting of more legal aid. This point of view is valid, since the inability of a large part of the population to gain access to the courts or to defend itself effectively in court will obviously lead to a lack of confidence.

The recent announcement by the Minister of Justice in Parliament that the State's financial grant to the Legal Aid Board was to be progressively increased and that steps are envisaged to obtain contributions from the private sector as well is therefore to be welcomed. Whatever the practice in other countries may be in this connection, the private sector in South Africa, considering the unique problems of this country, ought to be prepared to contribute generously to legal aid.

It is suggested, however, that the Legal Aid Act should be adapted in such a way that the private sector will be more inclined than it is at present to contribute to the legal aid fund. From a legal point of view, the Legal Aid Board is indeed autonomous, but its composition and

the way in which members of the Board are appointed, as well as other provisions of the Act, have hitherto unfortunately had the effect that the legal aid scheme is being regarded and experienced purely as a "State" scheme, and that the view is held that only the State should provide the funds. If, however, the Act is adapted as proposed, there is little doubt that large business concerns and others from the private sector will be prepared to make considerable contributions to the legal aid fund and also to participate actively in other ways in the activities of the Board. Thus a giant step forwards will be taken towards eliminating the suspicion with which our legal system is at present being viewed, at least by some members of the population.

Another solution to the problem identified by the said Committee is that more blacks should be brought into the legal profession. This idea too is meaningful and logical, and therefore deserves support. Accordingly it is heartening that the number of black advocates at the Bar is growing, and if this is not already being done the hope is expressed that the State will also make increasing use of black advocates in the public service. A related problem is raised in a contribution entitled *The Demise of Latin for Legal Practice* appearing elsewhere in this issue, namely that black law students find it difficult to obtain bursaries. Bodies that make such bursaries available (including the State) should take note of this.

It is trusted that the authorities will make the necessary adaptations in other fields as well, so as to eliminate the problem under discussion entirely. The Bar declares itself prepared and willing to give such co-operation as might be required of it in this regard. ■

Redaksioneel

Latynvereiste ter ruste?

LUIDENS *Hansard* (10 Mei 1988, kolom 9749) het die Minister van Justisie daarop gewys dat die advokate self in die finale instansie diegene is wat daarby belang het of 'n kursus in Latyn vereis moet word alvorens 'n betrokke persoon as advokaat toegelaat kan word en konkludeer:

“Die hele kwessie van Latyn berus dus grootliks op die standpunt wat die advokate daarop huldig.”

Ons aanvaar dat noudat die Algemene Balieraad van Suid-Afrika besluit het om aan te beveel dat die Latynvereiste vervat in die Wet op Toelating van Advokate geskrap word, die knoop deurgehak sal word. Sodoende sal 'n aangeleentheid waaroor oor vele jare vele woorde geskryf en gesprek is finaal ter ruste gelê word.

Dat so 'n ter-ruste-legging in sekere kringe met ontroering en nostalgie beleef sal word ly geen twyfel nie. Want al is dit so dat die voorgeskrewe onderrig in Latyn nie voldoende is om 'n advokaat in staat te stel om die ou regsbronne (wat meesal in Latyn geskryf is) self te vertaal nie, staan dit vas dat die bestudering van Latyn 'n belangrike bydrae tot die algemene vorming van regstudente lewer - logiese denke, dissipline, taalvaardigheid, en so meer. 'n Groot aantal regsgeleerdes huldig derhalwe die mening dat afskaffing van die vereiste, minstens vanuit 'n opvoedkundige oogpunt beskou, 'n terugwaartse stap sal wees.

Verhewe ideale het egter nie langer plek in die wêreld van vandag nie. Wat in die huidige tydsgewrig van belang is, is realiteite en niks anders nie. En die realiteite van die huidige

situasie verg blykbaar dat Latyn as toelatingsvereiste tot die advokaatsberoep moet verdwyn en daarmee is dit uit en gedaan.

Aan diegene wat beswaard voel oor die besluit, die volgende trooswoorde. Skrapping van genoemde vereiste sal bloot daarop neerkom dat die *status quo* soos dit was voor die verordening van artikel 3(2) van Wet 74 van 1964 herstel word. Laasgenoemde wetsbepaling het die Latynvereiste vir die eerste maal op die wetboek geplaas, wat moontlik 'n fout was aangesien dit neergekom het op aantasting van universiteite se otonomie vir sover dit tradisioneel en andersins hulle reg is om self oor die inhoud van graad-leergange te besluit. Al wat dus sal gebeur indien die vereiste geskrap word, is dat die *status quo ante* herstel sal word en dat universiteite, soos dit eintlik hoort, self sal besluit of Latyn deel moet uitmaak van die LLB-leergang, al dan nie. Hier is dus geen sprake van afskaffing van Latyn nie - wel afskaffing van 'n vereiste wat (so word gemeen) verkeerdlik by 'n Wet ingelyf is. Ons inligting is dan ook dat sekere universiteite steeds Latyn sal behou as vereiste ter verwerwing van die LLB-graad. Ander universiteite sal Latyn na verwagting steeds as keuse-vak in die LLB-leergang behou. Sodoende, so vertrou ons, sal Latyn minstens wat die regswese betref steeds lewenskragtig gehou word. En mag ons hierdie wenk aan regstudente deurgee: Indien hulle deurdruk en Latyn onder die knie kry sal hulle 'n wyse besluit neem - 'n besluit wat hulle nooit sal betreur nie. Ons sê dus:

Utinam studium latinae linguae semper permaneat. ■