You have as I understand it invited comments on the above Bill. I have certain observations. While these are not comprehensive, I realise that there is a time limit for submission. Thus:

1. At present the legal system in Scotland represents a complete package. The Law Society regulates admission, continuing membership, post qualified legal education, complaints, discipline and to back all this up Solicitors are obliged to have Indemnity Policies. Finally, Solicitors contribute towards a Guarantee Fund. This also they administer themselves. When part of the functions of the Law Society and the legal profession are taken away and assumed by a new body, it is necessary to be very clear about what is left. You will wish to avoid duplication. It is not clear that you have succeeded so far. Also if the whole package is to be unravelled you should be clear about the faults you wish to rectify. You should then work out in advance exactly what effect this will have on the legal profession. Finally you should be sure that the public will benefit from this and that the original faults will be successfully addressed.

Solicitors do not please all the public all of the time. However, any system is going to be open to criticism and is probably going to disappoint at some stages. The Law Society however has offered both the Government and the Scottish public a very reasonable package over a long period of time. Should you not therefore in the first instance define the faults you wish to rectify and then ask the Law Society for its own proposals?

2. It would appear that the intention is to set up a new organisation which will be funded from a levy taken from Solicitors. It would seem that the levy is going to be such sum as will in advance be considered sufficient. If this is so, I assume it will be, a rather large sum of money. While Solicitors in it not likely that members of the profession will consider other economies such as, for example, dispensing with the Guarantee Fund, possibly abolishing its own disciplinary procedures and redefining itself purely as Solicitors Defence Union?

3. There is nothing to stop qualified Lawyers working in the legal field while not calling themselves Solicitors. If many members of the profession are not satisfied with the new procedures they may
choose to exit from all the bureaucracy. They could simply drop the word "Solicitor" and leave the Law Society. For my part I might join with some colleagues to form an organisation of Legal Executives which prepares Wills, advises on Inheritance Tax, sets up Trusts, deals with conveyancing and acts as Estate Agents. May we retain the goodwill we have already. This is probably viable and it may be that this piece of legislation has the long term effect of breaking up the legal profession.

4. My understanding is that the new organisation will consider complaints from anyone with an interest. Each time the Solicitor complained against will have to produce £300. Irrespective of whether or not the complaint is justified. The fine might be up to £5,000 but could apparently be £20,000 or more. It is not at present a condition that only the client can complain. It is apparently not a complaint that the Solicitor has charged a fee. This might be because the work was for a charity or alternatively the client may have refused to pay the fee and see the complaint as being a means of delaying. Some clients are always disappointed with the services of a Solicitor unless they are successful. Thus if I lose a Court case will I automatically have to defend myself against a complaint and pay a £300 fee? If a client is disappointed at the price achieved when the house is sold will the same problem occur. Will some organisations go into business undertaking to represent clients in claims against Solicitors under the new legislation? This applies at present with the Financial Services Act and there is every reason to believe therefore that the same tactics will be adopted, i.e. outrageous assertions made in the hope that the advisor does not have enough information to contradict on his or her file.

5. Who is going to consider and report on cases? Either the intention is to appoint non Lawyers, in which case they will in many cases not be competent to evaluate the responses they get from the Solicitor concerned. Alternatively they will employ Lawyers. Bear in mind that at present the Law Society persuades Solicitors to sit on disciplinary tribunals at no cost other than train fares. If the idea is that members of the legal profession should not judge complaints, how would employed Solicitors acting for any organisation be any different from self-employed members of the legal profession under the present arrangements?

My concern is that a timetable has been laid out for this piece of legislation. The aim will be to address not the views of the general public as a whole but the prejudices of a vociferous minority who under all circumstances simply hate Lawyers. In my experience, and I have been a Solicitor since 1972, Solicitors do not have a primary sense of loyalty towards each other. The strongest relationships are with clients and other Lawyers are seen to be competitors. When I express honestly felt opinions in this letter I do so in good faith for the benefit of the Scottish public. However, I do expect that Civil Servants and Politicians will use the same approach.