

# Letters

## A very poor alternative

Should a judge be given the power to deny a person the right to have a dispute heard in open court?

The South Australian Chief Justice, John Doyle, thinks there needs to be a new system for dealing with legal disputes and has put forward an alternative that includes the prospect of giving judges power to decide whether a dispute should be heard by a court ("Time to change, says chief judge", July 1).

This alternative is not in the public interest. It fails to recognise the proper role of judges and courts in our community.

The role of a judge is not to decide who will be judged nor to decide whether a matter should be dealt with outside the court system. The judge's role is to judge in accordance with the law.

The dignity, solemnity, impartiality and openness of courts are important matters for the community and so is respect for the courts.

This is shown in a much smaller way by the present vogue of empowering judges to force, directly or indirectly, a matter to mediation.

It is not a judge's role to force mediation and is corrosive of the judge's position. For mediation to do justice it needs to be consensual.

If cost cutting is the objective, the Chief Justice may favour the King Solomon alternative. That is, rather than having the judge laboriously consider the evidence, listen to arguments and decide the matter in accordance with the law, the judge simply "divines" a solution, such as cutting the baby in half.

That approach would slash costs and waiting time by more than 90 per cent, but not every judge would have the wisdom of Solomon and not every party would consider that justice had been done.