

Speech for the CBA Dinner: 10<sup>th</sup> May 2013.

My Lords, Ladies and Gentlemen.

Someone asked me this week, whether I would include any politics in my speech tonight? What do you think?

This is not a speech to depress and demoralise but one that I hope will make us all realise that with unity and effort we can save the professions and the independent judiciary from oblivion.

I invited Marylyn and Dan to speak tonight because I knew you would have no stomach for platitudes from a judiciary who appear to have been effectively muzzled ( with too few notable exceptions ) from voicing dissent to proposals which will ultimately destroy their independence and so affect the public interest.

Marylyn and Dan I hope remind us all of careers just starting and beginning to blossom that we are fighting for, and fight we will.

When I started ranting about the likes of Eddie Stobart's taking over our legal profession a lot of people thought I was exaggerating for effect. You

now know I was not. Eddie Stobart's has now declared their hand and it tells you everything you need to know about the future. He has disdainfully likened the solicitor profession to wounded animals waiting to die. They tell us they have 1000 barristers at their disposal, the publish no list. Curiously it is the exact number who are registered on the Bar Council direct access register. Like a corporate blood sucker all they have done have is fool the public by placing themselves as a middleman between the Bar and the public collecting a fee for what the public could directly access for themselves. What has the Bar Standards Board done about it. Precisely nothing. They really are good value for the £6 million pounds we pay them.

Some were even more incredulous when we suggested QASA was a 'sham' designed to con the public into thinking that when choice of representation is removed from them a Quality badge provided by the BSB guaranteed them anything. It does not.

An actual exchange that took place between a lawyer and the MOJ civil servant at the road show in Leeds on Wednesday night:  
TheBarrister

Q: do you accept PCT will lead to lower quality?

TheCivilServant

A: I'd accept it will be a different level of quality

You only have to look at the grading system deployed to rank to the in house CPS to realise that the only route to excellence is through client choice and a competitive market.

It was Max Hill who started a trend that I hope I have followed. A philosophy of drawing lines in the sand never to be crossed, of communicating with those we represent and most importantly seeking to put your wishes into effect.

I hardly need to reiterate what effect these proposals will have on the legal profession. But I do want to highlight just two.

PCT is not proposed for the Crown Court in this round, but the effect of the proposals are as catastrophic on the publically funded criminal bar as they are on the solicitors profession. The cuts proposed are a stated 30%

from VHCC cases ( 40% in reality ) and minimum of 17 ½ % from Graduated fee cases ( likely 25% ). The impact of these cuts will make it uneconomic for criminal barristers to remain in chambers. Many will work from home or give up altogether. That will have a devastating effect on the number of pupillages available, already at an all time low. Currently 1700 students pass through Bar school, competing for 340 pupilages. With no training for the Bar available, the Bar will wither on the vine and die . The vast reduction in pupillages has a commensurate impact on E & D within the profession, effectively paving the way for white male, self-financing entrants. Once the Bar has been dispersed, and the corporates move in as suppliers, those remaining at the Bar will be forced in-house. The Bar will then be trained within a corporate setting. The ethics and integrity of the profession will disappear to be replaced by an interest only in a corporate philosophy. As with solicitors the new fee structure incentivises the guilty plea providing a source of conflict between the barrister and the best interests of their client.

Our judges are largely drawn from the Bar. They are hugely regarded world wide for their intellect and independence. Indeed, the Government rely on tax revenues produced by those seeking to litigate their disputes in the English Legal system. As a result of that reputation. The disappearance of the Bar will lead in a short time to

the disappearance of an intellectually rigorous and independent judiciary. More importantly still, it is the independence of the judiciary which underpins our democracy.

There are many reasons for not liking QASA and one of them is the Plea Only Advocate, it is a bone that has the potential to split apart the professions which are at present united in a manner that I hope remains for evermore. This Government are past masters at chucking a bone in a corner and watching two dogs fight over it, whilst they pick the carcass bare. One must understand why solicitors have been forced into the Crown Court, it is because they were forced to sign up to a Grad Fee scheme that simply did not properly remunerate them. The way to get rid of Plea Only Advocates is by ensuring all sections of the professions are properly remunerated for the work that they do.

There are still those within our profession that inform me we are in a recession and that we must give way just a little bit. What I say is why? Our fight is not a selfish one it is for the preservation of our democracy itself. The Government fails to understand why the legal aid system leaks money like a sieve. We know, because we see the delays in our court rooms on a daily basis caused by interpreters who

do not speak the language of the defendant or the jury. Of privatised prison escort services who can not get their charges to court on time or at all. And when by some miracle they do, they bundle up their confidential documents and jury bundles with out a by you leave from the Court as happened recently at the Old Bailey in a 9 handed murder to catastrophic effect. Requiring the intervention of independent counsel and consequent delay.

We are told that the CPS in its current form represents a saving to the tax payer of £27 m a year. An internal Inspectorate report exposed that figure as nonsense because it only represents savings in counsel fees without taking into account the cost of the in house advocate. When you do that £27 m disappears into the minus. Then you have to take into account the cost to the public of the disasters many and various as they are, often caused by a disclosure system that is broken. The sad reality is that that CPS is costing the Tax payer at least £100 million more than ever before.

Quite apart the vast savings the Government would achieve if they choose to run the system without utilising corporate entities and cheap inexperienced labour, it has the ability to produce the two

billion pounds at a stroke. In 2005, the Magistrates Courts were dragged away from the Magistrates Courts Association and was taken into the MOJ and an annual cost of over £1.5 billion pounds. The Magistrates Association was probably the best example of David Cameron's big society in action. No longer.

We are told that the fraud cases utilise the vast majority of the criminal legal aid spend. Frauds on banks who care little for creating fraud proof systems because, they never have to pick up the bill. They are allowed to right of the money stolen against tax, the ensuing criminal case is then investigated and prosecuted at the tax payers expense and in the event of conviction the civil action is delivered to the banks on a plate at minimal cost.

Return the Magistrates Court to its pre 2005 position and levy the banks will give you £ 2 billion and more, to preserve a system reversed the world over.

Mr Grayling is keen to trumpet the income produced by the Commercial Bar but again he fails to understand what they readily

accept that it is the reputation of the Criminal Bar world wide that attacks that work in the first place.

We are no longer in this fight on our own, quite apart from the solicitors profession, whose numbers are to be cut by  $\frac{3}{4}$ , to be put on unworkable tiny contracts. The Unions are fully in support and why, because their funds will be devastated by supporting their members who fall above the threshold for legal aid. Equally, the solicitor base which is so essential to supporting their membership will disappear, the small offices all around the country rely for their survival on legal aid. None of them will be in a position to bid for a contract. This is not about politics with a big P this is about understanding and supporting what is going to befall the man in the street aswell as ourselves.

You will all know by know that the Labour Party has finally backed our campaign. More diverse political groups will follow. After a hard fought campaign the Press are beginning to show real concern and interest. You can wake up with me.....[pause]

on the Five Live breakfast show tomorrow.....

if you survive tonight.....

and of course my speech.

We are no longer powerless to act. Over and above responding forcefully to the consultation via a committee headed up by Max we have briefs out on all aspects of the consultation.-Both timing and competition.

We have to be as one on a national basis not in little pockets. Not on a Circuit basis.

This is a fight across the country and can only be one with a unity of purpose in harness with the solicitor profession. We have already said NO to QASA and that stance will be supported by solicitor profession who, even if forced to sign up will not attend accreditation centres or complete their forms.

We can terminate our VHCC contracts on a unilateral variation of 30% and more, without recoupment and the solicitors profession will (can) do likewise.

We can refuse to accept work under the new graduated fee rates and the solicitors profession will follow suit by not sending in house advocates as replacements into the Crown Court.

We welcome our friends in the Judiciary by our side but regardless we will take on this battle together, in unity with our sister profession and others.

We are acting not out of self interest but public interest,

We will Do Right ,

Fear No One

and Win.

Michael Turner QC