

Speech for South Eastern Circuit Meeting: 20th May.

This is not a address 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.

Can I start but reminding you how we arrived at this point. Successive leaders persuaded the profession that it was worth taking a cut, because that would be the last. That they had been assured it would over a glass of wine. But we were not allowed to know the finer details as Chatham house rules applied.

That attitude has resulted in the Bar suffering cuts year on year for the last 15 years. More recently we were reassured there would be a solution. They came in the form of Direct Access and Procureco. Direct Access has simply allowed the likes of Eddie Stobart's like the corporate blood sucker they are, to 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? You are not going to believe it when I tell you:-

E-mail I received from Vanessa Davis yesterday.

I hope I can clarify a number of things. It is a matter of public record that Stobarts has permission from the BSB for their legal department to instruct barristers without the intermediary of a solicitor under our **licensed access** provisions. We understand that “Stobarts Barristers” in contrast provides a service, for a fee, to put prospective clients in touch with barristers who work under **public access** rules of the Code of Conduct. The BSB does not comment publicly about matters concerning the conduct of individual companies or barristers unless and until formal disciplinary proceedings have been instigated.

It is important to understand the extent of the Bar Standards Board’s regulatory reach. As a regulator it is our duty to ensure that barristers working for any business are compliant with the Code of Conduct. We do not (yet) regulate the businesses that have barristers working for them.

Wow, our own regulator licenses a referral fee arrangement, and stupid me I thought they were illegal. Sadly though it is only our

professions that are prevented from paying referral fees. In this crazy world the likes of Eddie Stobbart's can take as much money as they like from the public for opening the Bar Council Direct Access directory and charging the public for a service they can access for free.

Does not sound to me that the BSB are fulfilling the duty imposed on under:

Section 1 of the Legal Services Act

protecting and promoting the public interest;
protecting and promoting the interests of consumers;

They are fantastic value for the £ 6 million ponds we pay them.

If you have recovered from that shock I will continue.

Procureco we all bought into for a time, a number of us went away and tried to make it work. All we discovered was that it

was a recipe for bankruptcy. Why, because 500 police station visits equal 5 crown court trials. The base of my pyramid would have to be vast to service the 60 or so criminal briefs I have in Chambers. Some of you may have come across Ian Dodd, who runs a company called Legal Futures. He is one of those who is another pimp on our profession. He has a share in a factoring co, if you know what that is. They lend you money at 8 % over base, on fees you should receive in 30 days because the late payment regulations now require it. I got so fed up with him telling me Procureco could work I invited him along to explain. How can it work for my chambers I asked. Oh it can't he said. How many barristers would it work with I asked. Oh a maximum of 6 he said. Truck off Mr Dodd.

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.

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.

This is 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.

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 revered 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. Strangely UKIP are in support too. More diverse political groups will follow. After a hard fought campaign the Press are beginning to show real concern and interest.

Mr Grayling refuses to see me. He and Trevor Howarth (Legal director of Eddie Stobbart's were due to appear on radio Five live last sat, as soon as they discovered I was to be on the programme they with drew. That kind of behaviour in a democracy tells you all you need to know.

We are no longer powerless to act. Over and above responding forcefully to the consultation via a committee headed up by Max Hill and able assisted by Nigel and others, 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. Almost everyone has said no to QASA it is a stance that 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.

It is essential we act as one. The other Circuits have not forgotten the act of treachery which came from this Circuit in

2004. When self interest and self interest alone caused 7 london
briefs to break ranks and poach work in Liverpool that the
Northern Circuit had turned down for the good of all. The Bar
did better when in Northern Ireland the Bar and the solicitors
profession were united and 158 unrepresented cases were about
to hit the Courts. The Government asked those of us who had
worked in Ireland to come over and poach their work, we
refused. The trike was broken because the Government then
turned to the solicitors profession and asked Tuckers and TV
Edwards if they would set up firms in NI, they agreed.
Interestingly, now even those firms can not bid under these
contracts because they loose so much of their market share.

Rumour can be a destructive force. Whe there was the day of
action in the North, a rumour went round that St Phillips
chambers, were sending people up to take the work. They were
not. How that came about is that some who wanted to go to the
day had action had asked their mates in St Phillips whether they
would cover the work so that they could go.

We have to be very careful

We will publish a list of those chambers who have taken the pledge and we will publish a list of those who have refused to do so. Purely so that Eddie Stobart's can know on whose door he can go a knocking.

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

We will Do Right ,

Fear No One

and Win.

Michael Turner QC

