

CBA Rally 16.11.13 – Jaime Hamilton

“There cannot be a member of the cabinet whose job title so mismatches their ideology. One imagines that the Health Secretary would wish to promote good health, the Business secretary wishes to promote business but in our Justice Secretary we have a politician seemingly bent on denying access to justice, unless you are a wealthy oligarch seeking to sue another wealthy oligarch.

He pretends that lawyers are the cause of judicial review when in fact he knows that judicial review is often the only means that an individual citizen can stand up to the state. He seeks to limit the recourse to justice in borderline cases because he knows that it is often only by issuing proceedings will public bodies listen to the complaints of the man in the street.

He demonises those who most often need the assistance of the courts against the abuse of power by the state, prisoners, new entrants to this nation, people who are often completely at the mercy of decisions made by public bodies because their status means that the state are inextricably woven into the fabric of their lives. Do his proposals in respect of prisoners and immigrants promote justice or are they simply the device of a politician who knows that such things play out well in certain sections of the press?

The only surprise amongst all of this is that one of his proposals, the financial eligibility threshold for legal aid will impact upon his electorate. Middle class, middle income homes where both partners work are denied legal aid. But because he starts from the politicians viewpoint that everyone in the criminal justice system is an offender then he believes that no injustice will be done to his nice voters. He does not consider the devastating impact his proposals will have upon the head teacher against whom a false allegation is made by a troubled pupil or the prospect of the sales manager who has his life hanging in the balance in a case of death by careless driving. These are not wicked recidivists. These are ordinary people that the state choose to prosecute but whom the state now choose to abandon in their time of need.

It comes as no surprise to anyone that this administration’s contempt for the rule of law most manifests itself in its contempt for publicly funded

lawyers. I confess here that we are part of the problem. As advocates we are conditioned for things not to be about us but to be about our case, our arguments. We are shy to proclaim our value, our unique blend of skills, our pivotal role in a democratic society. We should be shy no more.

The minister for justice takes an oath upon his appointment as Lord Chancellor, an oath that states he will discharge his duty to ensure the provision of resources for the efficient and effective support of the courts for which he is responsible. It is not an oath that he will deliver savings for the Chancellor of the Exchequer. And I would say the principal resource that provides effective support for the courts are us, the advocates. When there is a terrible crime that requires prosecution the state expects time and time again that skilled advocates will be there to ensure the bad people are put away. But that essential tool in ensuring we live in a reasonably safe and democratic country is only effective when that trial is an equal contest between advocates of ability. Both the prosecution and defence advocates play their role in protecting society. And when we are not there to do that any more society suffers. We should not be afraid of saying it. We should not be afraid of showing them what will happen if we are not there any more. He has to understand he is driving people out of the profession. He has to see what will happen when there is a full dock but counsel's row is empty.

The Bar cannot survive, let alone flourish, if these proposals come in to effect. We have told them time and time again that this is the case. They will not listen. We owe it to ourselves and society as a whole to make them listen, to make them see what their future brings. The Lord Chancellor often says that he expects the Bar to behave professionally. I believe that doing whatever it takes to make him see the damage he is doing is entirely consistent with my duties as a fearless advocate.

I propose the resolution as drafted. We deplore the contemptuous way in which justice and the publicly funded bar are treated. The Lord Chancellor should value and cherish us. The fact that he does not is plain. In the coming months he must come to fear us.”