

Supermarket sweep



Kerry Underwood says that the government's proposal to allow external ownership of law firms will destroy the profession

SO, SUPERMARKET LAW IS TO BECOME A

reality. The government's White Paper bearing the Orwellian title "The Future of Legal Services: Putting Consumers First" goes two steps beyond the reforms suggested by Sir David Clementi.

The Clementi Report proposed allowing multi-legal partnerships, that is between barrister and barrister, barristers and solicitors etc. Few of us had a problem with that. Clementi rejected the idea of multi-disciplinary partnerships, that is between lawyers and non-legal professionals such as accountants and chartered surveyors, something also rejected in the US following the fall-out from Enron.

External ownership

The government proposes allowing not only multi-disciplinary partnerships, but complete external ownership of law firms. In other words a supermarket could, and no doubt will, own 100 per cent of the equity in law firms. Thus all law firm partners will be salaried, in the same way as the person on the checkout. This is not an accidental by-product of the proposals. Rather it is the government's intention as per Lord Falconer's comments specifically in relation to supermarkets owning the whole of a law firm:

"I believe that if that is done, the consequences will be that certain types of legal services will be provided more competitively."

Lord Falconer has said that the government will encourage "supermarkets, motoring organisations, banks and other companies" to own law firms to "drive down costs".

He also made the laughable statement in relation to cheap conveyancing that "no-one believes it has driven down quality".

I do Charlie.

Sinister signs

A far more sinister remark was made by Department for Constitutional Affairs minister, Bridget Prentice:

"I don't see why people shouldn't be able to get legal services as easily as buying a tin of baked beans. That is one of the main thrusts of these proposals."

It is all too easy to dismiss Prentice as an idiot, the "Minister for Baked Beans", etc. That is what the government wants. Cheeky Chappie Charlie and his funny sidekick. The Laurel and Hardy of the government.

I will spell it out. Buying a tin of baked beans makes no difference to anyone's life. It does not affect your dignity, your family, your job, your possessions, your sense of freedom, or your personal liberty.

Family law, employment law, race, sex and disability discrimination, habeas corpus, judicial review, jury trial, welfare benefits – are these to be tossed in to the supermarket trolley with those infamous baked beans?

It is easy to be flippant about proposals that are almost beyond parody.

"Two loaves of bread, a tin of baked beans, a will and a judicial review please. Oh, and I will take one of those divorces while I am here please. Any special human rights offers this week?"

Destruction of the rule of law

Even in Nazi Germany and apartheid South Africa no such blatant attempt to destroy the rule of law was proposed. Nelson Mandela remained on the roll of solicitors throughout his period of imprisonment and the white Law Society of South Africa pointedly acquitted Mr Mandela of any wrongdoing even after his conviction for treason. As lawyers we should worship at the altars of the Madiba and the Mahatma not Morrisons and Marks & Spencer.

Endangered species

The first to go will be legal aid firms. Supermarkets will rip the throat out of them. With cheap and vulnerable suppliers – legal aid lawyers – and the clients being the same people as their core customers – poor – these are their obvious targets.

Banks and insurance companies will target commercial and private client work – tax, wills, probate etc.

Claims management companies will simply take over the personal injury firms that they control anyway. With no hint of irony, the DCA is presenting two bills to Parliament this session. One proposes to regulate claims management companies and the other proposes to allow them to own law firms outright. Will they never learn? Have Claims Direct and the Accident Group been erased from history as far as the government is concerned?

Protectionism?

Am I not just another protectionist lawyer? Does it matter?

Whatever else can be laid at my door, being protectionist cannot. I support complete external regulation of lawyers. I have fought to drive standards up, not down, as supermarket law will do. I believe in fixed costs, costs-capping, four-year articles and trebling compulsory annual training hours. My firm is obsessed by client-care standards.

On the road to dictatorship?

Does it matter? Yes.

The judiciary and the legal profession, from which the judiciary is drawn, have effectively been Her Majesty's Opposition for the last nine years.

Crush the legal profession and we are on the road to dictatorship.

Getting the White Paper thrown out by any lawful means should be the only concern of any judge or lawyer over the next three years.

It used to be said that socialism would come in riding a bicycle. Fascism will arrive in a trolley full of baked beans.

Do you agree?

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