

" Advocacy - what is the future?"

Trevor Jones is enjoying the 21st century and he has every right to feel this way. He is a lawyer in the year 2030, but not just any lawyer. He was one of the first GIVS (Genetic In Vitro Selection) babies, the so called "designer" babies, in which couples, mainly professional colleagues with neither the time for bedroom activity nor the belief in the Institute of Marriage, could choose the characteristics of their child. Trevor's parents requested the qualities of a lawyer, mainly pomposity and arrogance. Their greatest desire in 2000 was an advocate for a son. So Trevor was born, but due to negligent mishandling of the test tube during the genetic manipulation process he turned out normal. Although his parents were totally devastated by the outcome and wished to sue, they now realise that the scientist's negligence was a blessing in disguise. During Trevor's development, he showed no keenness participating in public speaking but was a genius when it came to the fields of English Language and Information Technology. They wanted an oral advocate, just like the traditional barrister of the 'old school'.

Trevor has been qualified five years and works from home. He often works in his pyjamas and rarely leaves home and only meets his working colleagues through the medium of video conferencing. Trevor has everything he needs - computer and modem. These are the tools of his trade, not wig and gown. There is no longer the need for oral argument. Instead there are electronic computer briefs and the only reminder of the traditional court system is the "Clashfern" statue, erected in honour of a previous Lord Chancellor. It still stands today on the old site of the Royal Courts of Justice in the Strand.

This maybe a fictional scenario but could soon be a reality. The message is clear - with the natural progression of time, there is always continuing change and evolution and any system must be flexible enough to cope with such external pressures. If the legal profession is to survive, it must adapt accordingly. If it fails to take heed, then we stand to 'shoot ourselves in the foot'.

The senior members of the profession must realise and accept the weight of responsibility they owe to themselves and to others. They owe a duty to ensure the continuing success of the legal profession. This means investing in people. The young lawyers of tomorrow should be treated like 'seeds of the vine'. Seeds need to be nurtured and given the right environmental conditions if they are to grow. It is these factors which determine whether the grape is sweet or sour and ultimately whether the wine is good or bad. The problem is that lawyers have drunk too much of the same wine for too long. They have been too drunk to realise that the wine is bad. It is only now in their awakening state of sobriety that they are feeling the effects of a bad hang-over! It is time for change.

There is a lingering air of uncertainty surrounding the future of advocacy. This is due to the recent changes that have occurred within the profession as a whole. There is now in effect three legal 'professions' - solicitors, solicitor-advocates and barristers. In short solicitor-advocates are a threat to the future survival of the Bar as many barristers are freeing themselves of the rigidities of the Bar's restrictive practices to join solicitors' firms as Higher Court advocates. They can then deal with the public directly, be a partner or can practise as referral-only freelance advocates. This is far more of an attractive option for barristers than the Bar itself. The profession is too willing to discuss the effects of this change and there is not enough focus on the causative agents. By understanding the cause we are better equipped for adapting our system to change.

The two main reasons for change are time and money. There is a never ending increase in the amount of legislation being passed and the number of cases coming to trial. This leads to constraints on time and a consequential rise in costs. The

emergence of the solicitor-advocate is a product of our evolutionary development. The benefits of this emergence are obvious; a better and more cost effective service, greater speeds of response and more effective lines of communication with the advocate.

Advocacy has also changed. There has been a shift from oral argument to written argument. There is no longer a need for verbose, lengthy argument. A good advocate must be brief, concise and to the point. To think otherwise is an extremely narrow-minded approach. The art of an advocate involves pleading the cause of another whether it be oral, written or by 'computer' and the eventual introduction of US style written briefs should be welcomed. British advocacy is too expansive in nature at present.

The future of advocacy depends on what we do now. Only we have the capability of shaping our future. There will always be a demand for good barristers especially in our world of 'specialism' and the Bar should be tailoring its 'products' and relaxing its restrictions to meet the requirements of a changing environment. The Bar will not survive if it enters the 21st century with 19th century restrictive practices and skilled advocacy may become a lost art. The Bar must accept that one profession does not have to mean "fusion". Instead barristers and solicitors must work together as one profession and co-operate with each other to provide a system which combats these external pressures. The solicitor-advocate should not be regarded as an established legal body that is here to stay but instead that of a transient body, born as a result of the reluctance of the bar to accept change. The legal profession lies in turmoil. It can no longer sit and await direction. It must find the strength of character to take control and only then will the future of advocacy become more certain.