Submission from Raymond S Hislop for the Legal Profession and Legal Aid (Scotland) Bill

I recently received a circular letter from the President of the law Society of Scotland suggesting that members such as myself should write to the Justice 2 Committee setting out our concerns.

While that might seem like a good idea, I am not sure that from your elevated position in luxury in your new Parliament building, you wish to hear any news, let alone bad news from the coal face.

The President of the Law Society of Scotland recently received a letter from me on the subject of Draconian Legislation.

Mine is a small firm and I have a number if “injustices” to deal with because I work on my own. I am aware that the Law Society of Scotland has tried to help out but has found itself unable to assist.

As a small firm I am aware that when I have a problem, most of the remainder of the profession usually has a large and very serious problem. In certain respects, I view my firm as the “bird in the cage” down a mine. And the coal face is neither safe nor pleasant. While your legislation can make it safer, it can also make it more dangerous. And recently the legislation has been designed to make it more dangerous. That is not good. That is not enlightened.

I enclose a copy of my letter to the President of the Law Society. While the last paragraph may seem like an irrelevance, it is not. The dislodgement of The Oak Beam tells me what I already knew.

Annex to submission from Raymond S Hislop for the Legal Profession and Legal Aid (Scotland) Bill

(Letter from Mr Hislop to the Law Society of Scotland 07/04/06)

I have your circular letter of 4 April 2006 setting out the Society’s concerns with regard to the Bill. Your letter indicates that a letter should be sent to the Justice 2 Committee. In the circumstances I am copying them into this letter.

You will note from your files that I recently wrote to you 3 march 2006 in connection with what I regard as “draconian” legislation. I note also from my records that on 7 July 2005 I wrote to you with a copy of my letter of 7 July 2005 to Cathy Jamieson as the Justice Minister in connection with the proposed reforms.

I am well aware that the genuine representations made by the Law Society of Scotland are being ignored by the Parliament and the alleged “consultation process”, misleading and inaccurate. I said that in my letter to Cathy Jamieson on 7 July 2005.

I am aware also that retrospective legislation has been introduced by the United Kingdom Parliament. That is NOT good. Equally the Legislative and Regulatory reform Bill, if I understand it correctly, is likewise, NOT good, and in my terms lacks both enlightenment and fairness.

I am entirely satisfied that the so called Scottish Legal Complaints Commission, will be UNFAIR. The lack of proper consultation with bodies such as yourselves, means that that is the inevitable result. The £20,000 limit, may be fine to those on salaries of £90,000.00 + per annum, but as I am sure you would be able to tell the Justice 2 Committee if they would care to listen, there are a number of your members who are doing an excellent job for their clients, but on an income at a fraction of that sum. Clearly the proposed reforms are intended as a clear out of those who according to a “Darwinian Model” are expendable and with whom the Legal Profession can manage without.
I would therefore regard yourselves as being entirely correct when you say that the number of solicitors will decline, although I would not agree that it would be in areas of legal aid work which are probably among the more remunerative if operated on a “factory basis”. My firm has withdrawn from the Legal Aid, simply because the regulatory framework as such made it uneconomic to do so in small numbers.

The proposed costs as lumped on the profession should not be countenanced. I have been through your IPS system and it has left considerable distaste. However it has made me aware of how the system can be worked a manipulated; particularly with regard to negligence matters. The new system with it £20,000 initial ceiling will be a magnet for all kinds of spurious claims you could probably demonstrate to the Justice 2 Committee, that is if they wanted to hear about that.

After I had paid under an IPS sums due, I was made aware of a Professional Negligence Case on the same matter. While that was also settled it was done with the “benefit” of the Professional Indemnity Policy. In my small business the professional Indemnity is a MAJOR COST, and I would imagine it is a major cost to larger firms. But it is not “honest” for as the claims are met, we are then “loaded” so that the costs effectively are “paid back” in the increased premiums. For small firms such as mine, it is increasingly a question as to whether it is worth the “candle”.

The Human Rights aspect covered in your letter I regard as nonsense. The ECHR is a recipe for injustice. So, likewise political correctness is a recipe for injustice. If the politicians fail to appreciate that “Fairness” is material to a justice system, you have NO justice system.

Of course the justice system does not need to be fair. The state, with its fully funded and indemnified Prosecution service can “select” and “manipulate” evidence which will “assist” to obtain convictions so as to “improve” the “conviction” rate. The state can indulge in “politically correct trials” and the populace require, including in certain system to indulge in judicial murder with death sentences. The politicians can, by passing the appropriate laws made it utterly Draconian.

Perhaps there is a desire for a “Dark Age” to return, to throw out all “enlightenment”. As far as I am concerned it is TRUE that Gravity is “variable” and that the “big bang” theory of creation is not correct. E = mc squared is merely a convenient understanding. Darwin was only “partly” correct with evolution, and if you throw out fairness in a justice system, it is more than an oak beam that will be dislodged.

Raymond S Hislop

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