

YES, A BAR WILL SURVIVE.

The question was asked in your June issue, "Will the Bar Survive?" in the light of the loss of the Bar's monopoly on advocacy and the advance of ADR. Reference might also have been made to the downgrading of the role of the advocate under the new Rules, the large scale withdrawal of public funding, the draconian taxation of costs as well as the public image of the Bar as an unnecessary and unjustifiable expense. This public image is sadly, on occasions, encouraged by the government, the Law Society and the media.

Why then, do I believe that such a potentially vulnerable occupation will survive? The answer is simple. I have been particularly impressed and heartened by the calibre of those continuing to apply for pupillage. These are highly talented young people who do not want to be part of a Solicitor's partnership, but who want to concentrate on specialist advocacy and advisory skills in areas of law in which they take a particular interest, and to do so as independent spirits. This is more important to them than the significantly higher and eminently more secure earnings of their city contemporaries. They are confident, I believe justifiably, that there will always be a demand for those skilled in advancing, orally or in writing, a cause in the most compelling way, and their message will be that it is a true skill with many facets, such as the art of cross-examination, which can only be acquired by closely observing experienced practitioners and by sustained practice at the sharp end.

They appreciate that these skills have to be adapted to embrace ADR and direct access and will seek work outwith the controls of our government or even the courts. Indeed some see our traditional court system as marginalising the use of advocacy to pursue a just result and as user

unfriendly. For them an appointment will hold little attraction at the end of a successful career. Consequently the Bar that survives will be far less apologetic and much tougher in fighting its corner. It will be looking increasingly to Europe, Human Rights and to bodies such as the International Bar Association, through the vehicle of Barristers and Advocates Forum and its Millennium Conference in Amsterdam in September, to seek globalisation of advocacy rights. In my own Chambers junior tenants have recently spent three months in Singapore and California under Pegasus Scholarships. I see no reason why London should not be a world advocacy centre, with its practitioners working in any country, assisted by local lawyers to brief them as to the relevant procedure and law. In other words I see exciting times ahead for a Bar able to market advocacy as a valuable entity in itself.

Yet the Bar must be seen by aspiring Barristers as a stable and supportive profession. Recently a pupil told me that, having just completed her pupillage, her chambers were about to disband, several senior members having left to join part of a mega-set. The last twelve months has seen musical chairs within the Temple on a scale suggestive of paranoia. Apparently in one week no fewer than 19 Silks moved chambers. This does not bode well when observed by those considering entering the profession. In my view it illustrates that the greatest threat to the Bar is from within.

Some chambers have sought to enforce stability by introducing rules making it extremely expensive for a tenant to move, but this can inhibit recruitment. Others have sought to form mega-sets so that when departures occur the ripple is not so great. However such sets tend to be impersonal and difficult to manage with the risk of cliques and splinter groups developing.

Chambers of a size that enables members to know each other reasonably well and with a format that engenders a collective responsibility to support/help each other has considerable advantages over a

collection of individuals who, although physically under one roof and combining to meet the costs of clerking and administration, feel that they have no responsibility towards or for each other. If members, often within a specialist group, help to educate and promote each other, this reduces the feelings of isolation and jealousy found in protectionist based practices, and promotes an appreciation of the benefits to be gained from, as well as responsibilities owed to, fellow members of chambers, and creates a cohesiveness and stability within which junior members can be nurtured. In such an atmosphere they are more likely to appreciate the efforts that chambers makes in building up their practices, in particular by introducing them to traditional chambers solicitors, and that in order to do this existing members have to share their sources of work. Of course they do not mind doing this if it helps to create loyal members of chambers but if, having become successful, a member leaves for pastures new perceived to be greener or more fashionable, the feelings of resentment can be far reaching. Any departure is unsettling and can have a snowball effect and some sets have become so weakened as to be no longer financially viable.

Of course there are sound reasons for moving chambers. Some Barristers become isolated when they develop a specialty different from the normal work of their set and have no backup. Sometimes there are personality clashes. However I hope that the wave of moves recently seen within the Temple will, on reflection, be seen as a poor example to the young members of the Bar and as a potentially extremely damaging and unnecessary reaction to changing times.

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