

T049**What's wrong with Bar's Chambers system**

Lord Hailsham's strictures on the three green papers (26 January 1989) would carry more weight if he were not so complacent about the way the Bar operates today. I speak as a barrister of 38 years' standing who practised at the Bar in the 1950s and again in the 1980s. In between I saw the operation of the Bar from many other viewpoints, including those of Oxford don, civil servant, parliamentary draftsman, constitutional adviser, and secretary of a professional institute. There is a great deal wrong with it, despite heroic efforts to rectify the defects by some leading barristers.

The Chambers system is disorganised and inefficient. The insistence that each barrister is an individual, and the inadequacy of Chambers administrative arrangements, hamper performance. Clerks' demands that successful barristers take all the work offered them lead to onerous workloads and detract from performance. Choice of barrister is often non-existent, because a solicitors' firm keeps briefing the same Chambers, takes the clerks' advice on counsel, and often finds it has got someone else on the day. Delays are extreme. A recent letter from a solicitor in the *Guardian Gazette* cites instances where counsel have failed to deal with papers for periods in excess of six months and telephone calls to Chambers, letters to the clerk, and letters to counsel personally were all ignored.

There are not enough Chambers to house all who wish to practise. The method of selecting tenants is capricious and often unfair. The policy of some Chambers is to select tenants solely from former pupils of the Chambers, a sure recipe for inbreeding and blinkered vision. Others veto applicants without giving them a chance to be heard. Sex or race discrimination in choice of tenants is not unknown. The result, as put in an article by a Queen's Counsel in a recent issue of *Counsel*, is that in choosing new members of Chambers the Bar 'is awarding a limited number of highly-prized licences to start a career as a barrister'. This is wrong in principle, and does not apply in any other profession. The true licence to practice is obtained by the grant of the professional qualification. No one who is thus qualified should be prevented by the Chambers system from carrying on his or her profession. In my view radical reform of the Bar is urgently required. Far from being, as Lord Hailsham says, 'ill-timed' I regard Lord Mackay's proposals as long overdue.

In the public interest barristers and solicitors should not continue to be forced to operate separately. The conduct of a court case on behalf of one of the parties is essentially a single operation. Usually there are several successive stages, sometimes amounting to a dozen or more. The present theory is that at each stage the barrister must wait to be instructed by the solicitor. Yet what efficiency requires is that counsel should be in charge of the case throughout. He or she should have day-to-day control over what the solicitor is doing, progress-chasing where necessary. Ideally all persons concerned with a particular client and his or her case should be located within a single law firm, which has within it a clear line of authority. The senior professional in the team should be in charge of operations throughout, and should have the unquestioned right at all stages to order subordinates to carry out their duty.¹

¹ *The Times*, 28 January 1989. (Final paragraph omitted from published letter.)