

The Passionate Shepherd

Come live with me ...

The Legal Profession

I. Fill in the gaps with ONE word.

Apocryphally not the oldest profession in the world (whatever its critics _____ (1) say) law—along with the religious ministry and the military—is one of the three ancient professions or vocations. Functionally, lawyers have since time _____ (2) been involved in the performance of (or in assisting others in the performance of) three core law jobs: the making of the law, the determination and application of the law in the event of disputes, and the interpretation and application of the law in everyday life. _____ (3) the legal profession in many modern countries is formally divided into different sectors, curiously it is rare for the divisions to map exactly onto the three core tasks. Assisting in the making of the law is a function shared between a relatively small number of legislative drafters and a rather larger _____ (4) of judges (who in English speaking jurisdictions and some continental countries are former lawyers). Determining and applying the law (and sometimes ascertaining the facts) in disputes _____ (5) reach an adjudicative forum is left to judges, arbiters, and tribunal members, usually advised or assisted by, lawyers. However, most disputes (civil and criminal) which are recognized by the legal system will be resolved by negotiations between lawyers for the opposing parties or by an unopposed application from a lawyer for one of the parties. In the UK and some of the Commonwealth countries, court lawyers fall into two or three categories—barristers (known as advocates in Scotland), solicitors, and solicitor advocates (solicitors with rights of audience in the higher courts). In many _____ (6) jurisdictions, court lawyers form a distinct and specialized sector of the profession. Finally, the application and interpretation of the law to smooth the handling of a myriad of ordinary commercial and private transactions—including the drafting of binding _____ (7), contracts, leases, property transfers, powers of attorney, wills, and trusts—has long _____ (8) a major function of solicitors in the UK and of notaries and chamber lawyers in other jurisdictions.

The imperfect fit between the core law jobs and the division of labour within the legal profession reflects the messiness of history. Barristers and advocates in the UK attained a monopoly of rights of audience in the higher courts several centuries ago, as _____ (9) their court lawyer counterparts in Europe. Around the same time, notaries in Europe also gained control of the authentication of deeds, but gradually lost ground to and merged with the solicitors' branch of the profession in the UK. Solicitors in the UK, for long the less prestigious branch of the profession, did not attain their limited monopolies on conveyancing and probate work for gain, _____ (10) the nineteenth century. Yet in other countries, such as the US, where the profession is formally undivided but actually specialized into corporate □ client and private □ client sectors, the legal profession's monopoly extends much further, to the giving of any legal advice. Armed with these monopolies and other constraints on competition, such as bans on advertising and on price competition, the UK legal profession entered what has come to be seen as the traditional era of professionalism reaching unbroken for fifty years from the 1930s. During this period, what it meant to _____ (11) a lawyer— adherence to the core values of independence, integrity, diligence, competence, loyalty, disclosure, confidentiality, and a commitment to the rule of law—was perceived to justify high social status, reasonable financial rewards, professional autonomy, and widespread anti □

The Passionate Shepherd

Come live with me ...

competitive practices. By the 1980s, however, the forces of change could no longer be resisted. The tacit bargain with the state began to unravel with the growth of a new consumerism, which demanded that the balance between the public interest and the profession's interest should be re-negotiated—and not just by the lawyers. The reduction of entry barriers stimulated by the baby-boom generation led to a doubling in size of the profession and the start of a gender revolution. Deregulation produced a dismantling of the monopolies, the removal of the ban on advertising, price competition, and the replacement of self-regulation by co-regulation. All this _____ (12) have emanated from the English-speaking world but today the movement is global.

How different is the professional world of today from that of only a century ago! Even the 15,500 barristers and advocates practising in the UK (_____ (13) have been least affected by the changes) are increasingly working as employees (15 per cent), taking instructions direct from public institutions and bodies, and facing the threat of partnership with solicitors and other barristers. Even the status of senior counsel ('silk') is under scrutiny _____ (14) the competition authorities. For solicitors the pace of change has been dramatic. There are still sole practitioners (8 per cent), but they are no longer a homogenous grouping, since like the rest of the profession many of them have succumbed to the need to specialize. Over 20 per cent of the 115,000 or so solicitors in the UK now work in the employed sector and over 40 per cent of those in private practice work in the top 1 per cent of firms by size. These firms (and their American counterparts) _____ (15) begun to dominate global legal markets. _____ (16) wonder that observers question whether the core values and common training, which once were thought to unite the profession, now mask a deeply fractured profession. Yet those who suggest that we now have not one profession but many (based on specialism) are only re-discovering history. In former times solicitors co-existed with proctors, attorneys, procurators, notaries, law agents, and scriveners. Turf wars for legal business waged against non-lawyers and quasi-lawyers were _____ (17) common in earlier centuries as skirmishes with accountants, banks, licensed conveyancers, claims companies, legal executives, and paralegals are now.

Today's lawyers live in challenging times. However, the tide of reform has _____ (18) from run its course. The UK competition authorities, like their Australian counterparts, have begun to press for reforms which some fear may destroy the profession _____ (19). Noting that the professional rules frequently ban lawyers from sharing their fees or entering into partnerships with non-lawyers, they have begun to push for the introduction of multi-disciplinary partnerships, for non-lawyers to be able to invest in law firms, and for institutions such as banks, insurance companies, or supermarket chains to deliver legal services to their clients _____ (20) the use of lawyers employed by the institutions. Whilst many within the consumer movement regard this as a natural and timely development, some lawyers who hold true to the core values of the profession see it _____ (21) the tipping point that may ultimately consign lawyers to the role of specialized businesses with few remaining pretensions _____ (22) professionalism.