

Commentary

History a Guide Post not a Hitching Post

History a Guide Post not a Hitching Post With the Australian law company Slater Gordon having gone public in April 2007, those true protectors of conservatism must be feeling some pressure to explain to their loyal following why it is that innovation is evil!



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According to one leading writer in the legal industry the reasoning takes the lines of the following "defense" for not embracing this innovation:

Allowing non-lawyer investment in partnerships or corporations practising law would create significant problems for law firms in meeting obligations to protect confidentiality and independence;

The legal profession is not actively seeking new methods of financing; and

Existing methods of financing are sufficient.

As Professor Paul Grout, a professor of Political Economy at the University of Bristol so appropriately points out, in his paper on the potential risks of outside ownership in a situation where a law firm moves from one of the currently allowed organizational structures (sole trader, partnership, incorporated partnership) to an organizational structure where there is at least some element of outside ownership:

"In contrast, the assumption is implicitly, and frequently explicitly, made in the debate that lawyers working alone or alongside other lawyers will not distort their procedures and behavior to clients in response to economic incentives providing there is appropriate self-regulation within the profession. Such a stark distinction between the incentives of lawyers working together and their incentives when they are owned or majority managed by non-lawyers is difficult to understand. Clearly, under the current regime there are many successful claims of inadequate professional conduct, professional misconduct and negligence brought each year."

Who did they ask about seeking other forms of financing? When was the last time someone said "don't suppose you would like to lower your cost of capital" and they were immediately shunted away! Do these bar societies have any real idea what the costs of running, and the ongoing investment required to operate a law firm, are today? And it is likely to only get more expensive but "heck no I don't want anything to do with cheaper money"!

Following the logic that there are sufficient financing methods in place, then we should stop trying to develop new models of the automobile because there are sufficient choices already available for transportation.

Does this carry over to producing new lawyers each year, because there would be a strong case made both within and outside the profession that there are more than enough lawyers to go around!

Or perhaps they are concerned that they would have to change regulations and their business model to deal with new concepts (to the legal profession only) and new approaches. Or finally, perhaps it would only be of possible interest to a small portion of their members e.g. larger firms and perhaps that is a wheel that goes un-oiled!

Like wisdom, innovation should be celebrated regardless of where and when it is found!

So perhaps the legal profession might be well served if it made its "governing bodies" adopted a simple philosophy, put forth a number of years ago by the Chair of United Technology in one of his common sense columns - Innovate or Abdicate!

Comments or Questions?



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