

Law to Uphold Law

by Francis Bennion

Grave constitutional issues arise concerning the recently appointed Justice Secretary and Lord Chancellor, which are touched on in your report 'Grayling seeks 'to draw blood' in changes to judges' pensions' (26 September 2012).

The same person should not be appointed to both these important offices. They have different functions, some statutory. It is important to know which acts by Mr Chris Grayling are performed as Lord Chancellor and which as Secretary of State for Justice. Often this is not possible.

As your report says, a constitutional clash is looming over the proposal to reduce judges' pensions and make them contribute to their cost; and judges have endured a pay freeze for three years. The legislature and the executive are combining to hit judges in the pocket, whereas they should enjoy independence from both under the doctrine of separation of powers (though in fact they have not altogether done so since the days when judges ran their own courts and took the fees).

The judges have submitted too easily to their recent buffeting by New Labour and the Coalition. Your report says that the Lord Chief Justice Lord Judge has persuaded other judges not to bring a legal challenge to this. They should resist such persuasion. If driven to it, they should use the law to uphold the law. The legal profession, and others who fight for the rule of law, depend upon it.

Francis Bennion¹

© 2011 F A R Bennion
Doc. No. 2012.019

Website: www.francisbennion.com
The Times 28 Sep 2012

Any footnotes are shown at the bottom of each page
For full version of abbreviations click 'Abbreviations' on FB's website

References:

None

¹ Published in *The Times* 28 September 2012.