

A **JUDGE MORGAN:** Who was it who told you that it was appropriate to wear these things in here?

LORD HARLEY: Well, I was speaking with Lord Thompson, your Honour.

B **JUDGE MORGAN:** Who?

LORD HARLEY: Lord Thompson.

JUDGE MORGAN: And who is he, please?

LORD HARLEY: The Lord Chief Justice, your Honour.

C **JUDGE MORGAN:** Lord who?

LORD HARLEY: Thompson.

JUDGE MORGAN: The Lord Chief Justice of?

D **LORD HARLEY:** I am sorry, your Honour. The Lord Chief ... I have no further information other than he was the Lord Chief Justice.

JUDGE MORGAN: Of ...

LORD HARLEY: I was attending a (inaudible) conference.

E **JUDGE MORGAN:** Of where? Lord Chief Justice of where?

LORD HARLEY: Of the United Kingdom, your Honour.

JUDGE MORGAN: Lord Thompson?

F **LORD HARLEY:** Yes, your Honour. I do not believe he is still the Lord Chief Justice. I believe he has now retired.

JUDGE MORGAN: Well, to my certain knowledge, since I started practise in 1978, there has been no Lord Chief Justice in England, Wales or Northern Ireland called Thompson.

G **LORD HARLEY:** Well, I cannot ...

JUDGE MORGAN: You sent, the other day, an email to the court. I just want to check the details if I may. This email is headed 'From the Chambers of the Right Honourable Lord Harley of Counsel'.

H **LORD HARLEY:** Yes, your Honour.

A **JUDGE MORGAN:** And who is that?

LORD HARLEY: That is myself, your Honour. May I assist the court in saying that my bona fides are well known to my regulator and have been verified by both of my primary regulators.

B **JUDGE MORGAN:** What chambers are these, please?

LORD HARLEY: They are my chambers. They are located within a law firm which is regulated by the SRA, which is known to the court ...

JUDGE MORGAN: Yes.

C **LORD HARLEY:** ... and has been for at least seven years.

JUDGE MORGAN: So you are The Right Honourable, The Lord Harley, yes?

LORD HARLEY: I am, your Honour.

JUDGE MORGAN: Are you a member of the Privy Council?

D **LORD HARLEY:** I am not, your Honour.

JUDGE MORGAN: Upon what basis do you describe yourself as ‘The Right Honourable’, please?

E **LORD HARLEY:** It is a recognised hereditary peerage, your Honour, and, therefore, I am entitled to the term ‘The Right Honourable’ as a prefix to my title.

JUDGE MORGAN: Forgive me if I am ...

LORD HARLEY: Not at all, your Honour.

F **JUDGE MORGAN:** ... being impertinent but may I enquire from whom you inherited this peerage?

LORD HARLEY: Yes, my father, your Honour.

G **JUDGE MORGAN:** I see.

LORD HARLEY: Vivian (?) Harley Clough Blacker.

JUDGE MORGAN: And this peerage, it is an hereditary peerage?

LORD HARLEY: It is, your Honour.

H **JUDGE MORGAN:** In England and Wales or in Northern Ireland?

A **LORD HARLEY:** In Ireland, your Honour. It is an Irish Earldom, your Honour.

JUDGE MORGAN: You also describe yourself as ‘Lord Harley of Counsel’.

LORD HARLEY: Yes, your Honour.

JUDGE MORGAN: My understanding is that you are an admitted solicitor.

B

LORD HARLEY: I am a solicitor advocate, your Honour ...

JUDGE MORGAN: Yes.

LORD HARLEY: ... and subsequent to the order that allowed solicitor advocates, in I believe
C 1990, to practise with higher rights of audience, the regulator that has represented my branch of
the profession has obtained for us the existing rights that we practise today, including the use of
the word of ‘counsel’. And that is ...

JUDGE MORGAN: Well, I repeat what I have just said. I may be wrong but ever since 1978,
D someone describing himself of ‘counsel’ is somebody who is a barrister, not a solicitor. So why
do you describe yourself as ‘counsel’ if, in fact, you are a solicitor? And before you answer, I
stress I am not suggesting that a barrister is better than a solicitor; I simply want to know what
E you mean by describing yourself as ‘counsel’.

LORD HARLEY: You will understand that the solicitor advocate branch are solicitors who
have obtained the same rights of audience as my learned friend, and your Honour has constantly
referred to me as ‘learned friend’, as distinguished from solicitors who are referred to as ‘friends’
F of the court Our regulator, the solicitor advocate representative body, of higher courts advocates,
has campaigned tirelessly for recognition for solicitor advocates in such as the court order for
dress, number 4, which entitles me to dress in the attire that I appear before this court. The type
G of counsel ...

JUDGE MORGAN: What is this regulator that permits you to do this?

LORD HARLEY: I am sorry, your Honour?

JUDGE MORGAN: What is the name of the regulator that permits you ...?

H

LORD HARLEY: SAHCA your Honour.

A **JUDGE MORGAN:** Sorry?

LORD HARLEY: SAHCA. It is the Solicitor Advocate Association of Higher Court Advocates.

B **JUDGE MORGAN:** Solicitor Advocates what, sorry?

LORD HARLEY: Association of Higher Court Advocates. And its chairman is a Deputy District Judge.

JUDGE MORGAN: My understanding is that solicitor advocates are regulated by The Law Society.

C **LORD HARLEY:** That is not correct, your Honour.

JUDGE MORGAN: I am sorry.

LORD HARLEY: That is not correct.

D **JUDGE MORGAN:** I want this clear. You are asserting that solicitor advocates are not regulated by The Law Society?

LORD HARLEY: That is quite correct, sir. Solicitors have not been regulated by The Law Society for the last twelve years. They have, instead, been represented and regulated by the Solicitor Regulation Authority.

E **JUDGE MORGAN:** And you say that that authority permits you to dress in the way that you are appear before this court?

F **LORD HARLEY:** Indeed, your Honour.

JUDGE MORGAN: Thank you. I have got your letterhead ...

LORD HARLEY: I can assist the court further ...

G **JUDGE MORGAN:** Just a minute, please, I am asking you some question.

LORD HARLEY: Yes, your Honour.

JUDGE MORGAN: I have your letter heading here. It is ...

LORD HARLEY: I am sorry?

H **JUDGE MORGAN:** I have your letter heading here.

A **LORD HARLEY:** Yes, your Honour.

JUDGE MORGAN: It says that you are Dr Alan Blacker & Co?

LORD HARLEY: Yes, your Honour. That is the firm (sic) by which my firm practises as a
firm of solicitors.

B **JUDGE MORGAN:** It says ‘In-house lawyers, The Joint Armed Forces Legal Advocacy
Service’, which is a charity, as I understand it.

LORD HARLEY: It is a registered charity regulated both by the SRA and the Charity
C Commission.

JUDGE MORGAN: Underneath that, it says ‘Chambers of The Right Honourable The Lord
Harley, Senior Counsel’.

LORD HARLEY: Yes, your Honour.

D **JUDGE MORGAN:** What does that mean?

LORD HARLEY: That means that I have recognised more than 15 years qualifying experience
before or post admission as a solicitor advocate.

E **JUDGE MORGAN:** And that entitles you to style yourself ‘senior counsel’?

LORD HARLEY: Yes, your Honour.

JUDGE MORGAN: Well, again, in my experience, the only area where I have ever heard
anybody described as ‘senior counsel’ is the rank of leading counsel in South Africa. But you
F are telling me that notwithstanding that I have never heard of any of this since 1978, you are
entitled to style yourself ‘senior counsel’?

LORD HARLEY: I believe so. I have verified it before I used it. My letterhead has been
G presented before – by voluntary submission, I hasten to add – on at least two occasions as my
qualifications have enlarged, for verification.

JUDGE MORGAN: Submitted to whom?

LORD HARLEY: To my regulator, the SRA.

H **JUDGE MORGAN:** Has it been seen by The Law Society?

A **LORD HARLEY:** The Law Society, your Honour, is a trade union; it is no longer a regulator. It has not been a regulator for 12 years. The Solicitor Regulation Authority is the body that regulates solicitors and entitles them to practise under the Courts and Legal Services Act.

B **JUDGE MORGAN:** I have not been able to see them but I also understand that you have some badges attached to your gown, is that right?

LORD HARLEY: I have the badge of my regimental association, your Honour, who paid for a substantial part of my education in the law and as an advocate ...

C **JUDGE MORGAN:** All credit to them, I am sure.

LORD HARLEY: Thank you, your Honour. Can I assist the court in any other way?

D **JUDGE MORGAN:** Yes. You can give me this undertaking. As I say, I have been practising in these courts since 1978, I am not going to embarrass him but your opponent has been here even longer than I, have you not? (pause) Mr Nicholas Gareth Jones, have you ever seen a barrister or a solicitor appear before these courts wearing medal ribbons?

MR JONES: No.

E **JUDGE MORGAN:** Have you ever seen a barrister or a solicitor appearing before these courts with badges sewn onto his gown?

MR JONES: No.

F **JUDGE MORGAN:** Do you recall, as I certainly do, that here in South Wales we had a barrister who later became a distinguished judge who had won, during the Battle of Normandy, the highest honour for gallantry, the Victoria Cross?

MR JONES: Yes.

G **JUDGE MORGAN:** Did you ever see that particular individual coming into court wearing a medal ribbon?

MR JONES: No.

H **JUDGE MORGAN:** Would you not agree with me that that particular individual would have regarded it as the height of vulgarity for such a thing to be done? (pause) If you ever appear

A before this court again dressed as you are at the moment, I shall exercise my right to decline to
hear you. I did not raise any of these matters before this case started, although I wanted to,
because I am mindful of the fact that a young man has died and I did not want to interfere with
B the dignity of the proceedings, but if you want to come into court looking like something out of
Harry Potter, you can forget coming into this court ever again. Do I make myself clear?

LORD HARLEY: Your Honour ...

JUDGE MORGAN: I am going to rise.

C **CLERK to the COURT:** Court rise.

(2.44pm)

D

E

F

G

H

A We hereby certify that the above is an accurate and complete record of the proceedings, or
part thereof.

B

Signed: Mendip-Wordwave Partnership

C

D

E

F

G

H