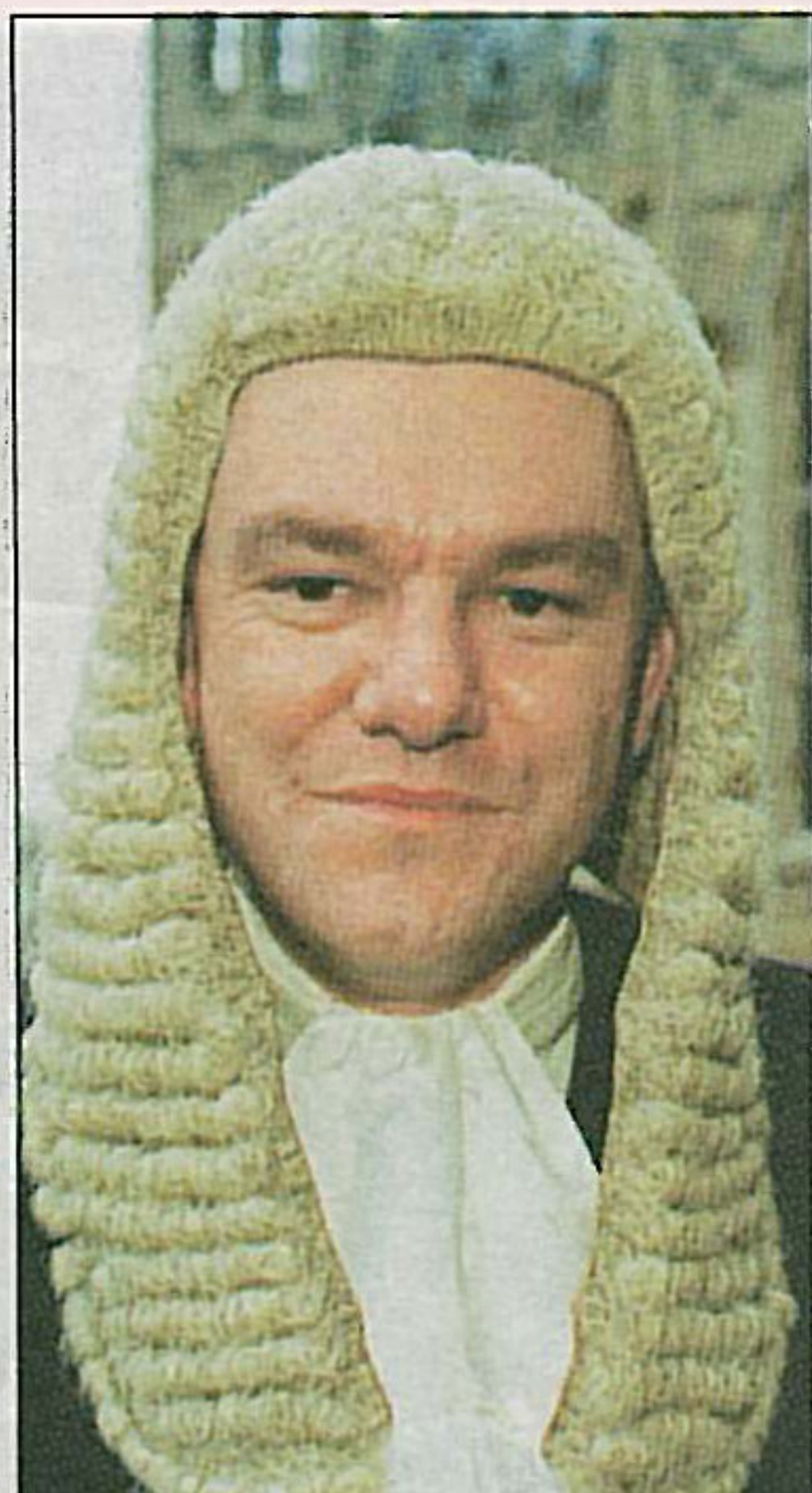




Legal wars: Lord Hunt of Wirral, who is investigating the role of solicitors for the Law Society, and Timothy Dutton of the Bar Council, which is fighting for barristers



Ready for a fight in the Law's 'Big Bang'

AS LAWYERS gear up for their version of the Big Bang, tensions are growing within a profession that has always prided itself on keeping calm in a crisis. The catalyst was an announcement by the Law Society last month that it was to commission a wide-ranging review of how solicitors in England and Wales should be regulated under recent legislation.

This came as a surprise to the Solicitors Regulation Authority, which thought that this was precisely the responsibility that had been delegated to it by the solicitors' representative body. In springing an unex-

pected review on its own in-house regulator, the Law Society exposed the tenuous nature of the authority's independence. That matters, because the new, statutory, Legal Services Board must ensure that the Law Society's regulatory functions are independent of its representative actions. The board is already talking of giving the Law Society less control over its regulator's membership and budget.

Lord Hunt of Wirral, a solicitor and former MP who served in the Cabinets of Margaret Thatcher and John Major, has been commissioned to conduct the Law Society's review. "Should the system of regulation be the same for a High Street solicitor as for a medium-size law firm?" he asks. Should it be the same for a one-person practice as for a global law firm?"

Put like this, the answer must surely be "no". And the Solicitors Regulation Authority is well aware of this. The problem is that although it has staff who can look through the files of a small firm and find out whether the partners have been "borrowing" money from their client account, the authority would not know where to start with a large commercial firm suspected of malpractice.

Its preferred solution is to monitor the firm's own quality assurance systems. But that's not good enough for David McIntosh, who chairs the City of London Law Society. Writing in the Law Society Gazette last week, he argued that a lighter touch was sufficient when legal services were being purchased by sophisticated corporate counsel—even from smaller firms.

"Rather than special rules for special firms," McIntosh wrote, "there is a need for sensitivity in the application of the rules towards different categories of client." Otherwise, he predicted, City and international firms would need their own regulator.

Lord Hunt told me he had an "open mind" on whether there should be different regulators for different solicitors. But the changes will not stop there.

Some time next year, solicitors will be allowed to form so-called legal disciplinary partnerships—including barristers,

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other lawyers and up to 25% non-lawyers who offer ancillary services. The Bar Council has no problem with these firms being regulated by the Solicitors Regulation Authority.

But, aware that the Law Society may have its eye on regulating practising barristers, Tim Dutton QC, the Bar chairman, made it very clear at the weekend that he thought that this responsibility should remain with the Bar's own Standards Board. "We have no proposals to set up any review," he stressed.

The real Big Bang in the legal profession will come when "alternative business structures" are allowed, perhaps in three years' time. Non-lawyers will be allowed to invest in law firms and we may see public flotations.

Meanwhile, now that they have hived off regulation, the Bar Council and the Law Society have become trade unions. Addressing the Bar Conference on Saturday, Dutton complained that solicitor-advocates were

being allowed to cut corners.

Last week, his Law Society counterpart, Paul Marsh, said solicitors were "disappointed" that a redistribution of legal aid funding for high-cost criminal defence work had "given such high priority to the concerns of senior barristers at a time when solicitors' firms working at the coal-face are worried about their very survival".

Not so much Big Bang, then; more Bar Wars.

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