

If the judges feel victimised, they have only themselves to blame

I will admit that when I first heard the news that our High Court judges had ruled that Article 50 had to go to Parliament, my instinct was to reach for a copy of Shakespeare's *Henry VI* to check that the correct quote really is *Jack Cade: "Let's kill all the lawyers".**

On reflection, however, I thought that this might be a tad harsh.

Then I began reading some of the comments being rushed out by the usual suspects. "A strong independent judiciary is essential to a functioning democracy and to upholding the rule of law," said the Bar Council. Anna Soubry MP said that criticising the judges "is inciting hatred". Nick Baines, Bishop of Leeds, said "The last time we saw things like this was in places like Nazi Germany, in Zimbabwe."

Strong words.

Wrong words.

In fact, the judges have only themselves to blame for the attacks that they have been suffering over this ruling.

There was a time when judges were Olympian figures who sat in robes of red, bedecked with wigs and handed down magisterial judgments on what the law meant. They did not get mixed up in current affairs and eschewed politics with commendable impartiality. In return for this self-restraint their views and opinions on the law were treated with deference and respect.

But these days judges seem to think that they should get

involved with politics. Most of us now know that Baron Thomas of Cwmgiedd, one of the judges who ruled on the Article 50 case, is a founding member of European Law Institute, which works towards the “enhancement of European legal integration”.

Some lefties would say that what Baron Thomas does in his own time is not our business. But what judges do when they are on the bench most certainly is our business. For decades now judges have been using their positions and powers not to interpret the law, but to make it. They have interpreted old laws to mean what they think they should mean, not what they actually do.

Take the obscure 1975 Inheritance Act. That had a provision allowing a will to be overturned if it failed to “make reasonable provision” for a child. Last year the Appeal Court ruled that this meant a will could be overturned even if the “child” was 47 years old and the parent had made it very clear that she wanted no money at all to go to the estranged daughter.

And “judicial review” no longer turns on whether a decision was made properly and legally. It now hinges on whether the judges think it was a good decision – not the same thing at all. Of course the judges don’t have to live with the consequences.

As for the Human Rights Act, don’t even get me started.

The judges have chosen to enter the political fray, but now squeal that they should be treated as above politics.

“Too late, chum,” as Great Uncle George used to say.

Rupert Matthews is a freelance writer and historian. This is the first of a series of articles he will be writing for this website. During the recent EU Referendum campaign he served as Campaign Manager for Better Off Out and spoke at meetings from Penzance to Aberdeen, Belfast to Dover. Rupert has written over 100 books on history, cryptozoology and related subjects.

He has served as a councillor for 8 years and has stood for both the Westminster and European Parliaments. You can follow Rupert on Twitter at @HistoryRupert or on Facebook as rupert.matthews1.

** The quote is, in fact, "The first thing we do, let's kill all the lawyers" and is said by Dick the Butcher, not by Jack Cade himself.*