



I have come to the office of president with a degree of trepidation. This is in no small part due to the outstanding work done by my predecessor. I do not know if I will be able to emulate her but I certainly will try.

First and foremost I would like to express my thanks both personally and on behalf of the bar to Anna. Anna worked tirelessly during her term as president for all members of the bar. She will be particularly remembered for the work she did in bringing forward the physical and mental stresses inherent in this profession and to encourage members to deal with them rather than to pretend they did not exist. This has led to a number of barristers receiving prompt assistance for problems which may otherwise have overcome them and helped them to live their lives and carry out their profession in a happy and productive manner. She had one failure – despite her best endeavours she was unable to get me to attend a yoga class.

As you are all aware Anna, along with John Nicholas and David Yates, has been appointed to the Federal Court. The appointments are all truly deserved and will relieve the pressure on an overburdened court.

The other reason that I have some trepidation in assuming the role of president is that I believe the bar as an institution and all of us as individual barristers face significant challenges over the next couple of years. In particular, the

proposed national legal profession reforms have the potential to significantly affect the structure of the bar and the way we practise. An example of this is the proposal to appoint a national legal ombudsman who would have effective oversight over disciplinary matters concerning all practitioners, barristers or solicitors. This proposal is being considered along with the establishment of a national standards body which would have the power to set admission requirements and to impose standards of practice, compliance with which, presumably, would be mandatory. The problems which would arise for the bar if these bodies were staffed with people ignorant of or unsympathetic to the bar and to its traditions are self-evident.

We certainly should not oppose reforms, particularly reforms which increase the efficiency with which we deliver our services or improve the efficiency of the courts and hence access to justice. That being said, I remain of the view that an independent referral bar operating in accordance with the cab rank rule provides substantial benefits in providing quality legal advice and representation to persons who would otherwise not have access to it; and provides a vital role in the administration of a fair and efficient system of justice. The willingness of members to do personal injury cases on a speculative basis, to appear pro bono and provide advice in immigration and other matters and to carry out extensive legal aid work are just examples which demonstrate the commitment of the bar to ensuring as best it can that quality representation is available to all members of the community. It is not in the interests of the community that any reforms compromise the independence of the bar or its ability

to provide these services.

Further, although it is apparent that it is desirable to have national standards of practice, there does not seem to be any reason that the bar does not continue to be responsible for the regulatory functions, which it currently performs. So far as I am aware, it is generally accepted that the bar's control over admission to practice has been in the interest of members, the courts and the community. The bar, through volunteers, conducts a bar practice course which ensures that new barristers have quality advocacy training and are familiar with the requirements and traditions of the bar. Further, the bar's handling of professional conduct matters through committees of barristers

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and lay members, all of whom have given up their time to conduct a thankless task, has proved successful as evidenced by the absence of any successful request over the past five years for the review of a decision by the Bar Council to dismiss a complaint. Centralisation of such work in a national bureaucracy would be more expensive, less efficient and would lose the benefit of matters being considered by persons familiar with the professional and personal standards required of practitioners.

The Bar Council and the executive director of the Bar Association will continue to press these views on the Commonwealth attorney and do all it can to ensure that any legislation that emerges as a result of the reform process takes account of the desirability of maintaining the bar as an independent institution and ensuring that it continues to play a significant role, both in the issue and control over practising certificates and in matters concerning professional conduct.



Laura Wells SC and Dina Yehia SC, soon after their appointment as senior counsel. Photo: Jane Dempster / Newspix

There are two other matters I would like to mention. First, the question of the silk protocol, which has generated some heat recently. The Bar Council is presently carrying out an extensive review of the protocol and its administration and is seeking information not only from members of the association but from other bars which use different methods to select silk. The object of the review is to

seek to improve our processes to ensure the selection committee has sufficient information to judge any candidate and one which is as fair and transparent as possible. Any suggestion from members as to how improvements might be effected are most welcome.

Second, there may be a perception in some members that the Bar Council is

either remote from or not interested in their particular concerns. Nothing could be further from the truth. In that regard the council welcomes the views of members on matters which they believe are important or are of particular concern to them. For my part, whilst I am president any member should feel free to contact me to discuss any issue they wish. I can assure you I am thick skinned, so don't hold back. Further, can I remind members that if they wish to request the Bar Council to bring forward any special business at a general meeting, they should make a request to the council about six weeks prior to the date of the meeting to have the matter included in the notice of meeting. Although it is a matter for the council as to whether it includes it or not, I can assure you that any proposal with significant support will be put forward even if the council does not agree with it, unless the proposal is quite outlandish or vexatious.

It remains to me to wish you all the best for the holiday season. Try and get a break and forget about work for a while.

Tom Bathurst QC

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