



6 June 2012

APPOINTMENT OF QUEEN'S COUNSEL

Dear Member

I attach a resolution passed by the Bar Council at a meeting held yesterday. Subject to a number of important qualifications, it gives in principle support to the recommencement of the appointment of Queen's Counsel.

The Association's attitude to such a proposal had been sought by the Attorney-General.

I considered the matter carefully with the Vice-President before moving the motion. I am conscious that not everyone will agree with the resolution but, having considered the arguments, I formed the firm view that it was in the best interests of the Bar that we adopt such a course.

There were arguments for and against the resolution discussed at the Council meeting. Arguments for included the desirability of one rather than two categories of senior counsel; greater public recognition of the position of Queen's Counsel, as opposed to Senior Counsel; the desirability of distinguishing Queen's Counsel from Special Counsel and Senior Counsel in solicitor's firms and large corporations with in-house lawyers; and the existence of some public confusion about the difference between Queen's Counsel and Senior Counsel. In broad terms, there remained advantages in distinguishing, in a public way, Senior Counsel at the Bar from other like named lawyers and with a designation and status that the public already well recognised. It was thought there were advantages in the Bar being involved in the process if the government elected to move in that direction.

The arguments against included that the stance was pro-monarchy and that some would not wish to adopt that position. In particular, some counsel who wished to be appointed Senior Counsel may not wish to be appointed "Queen's Counsel"; that he or she ought to have the opportunity to be appointed to a position with a more neutral designation. It was also put that the Bar should not take a position on what was a political issue: hence, and with reference to the attached resolution, that paragraph 2 but not paragraph 1 be supported.

You will note the qualifications to the in principle support given. In particular, and consistent with the practice as previously existed, appointments (which will be by letters patent) will only be on the recommendation of the Chief Justice, that is, all those and only those recommended by the Chief Justice will be appointed. Further, the role of the Bar in putting forward names to the Chief Justice under the Protocol, as it is now or as it may be from time-to-time, is to be maintained. Existing Senior Counsel are to be given the opportunity to be appointed Queen's Counsel and existing seniority is to be maintained. In essence, everything will remain the same except that the appointment will be given effect by the issue of letters patent.

The Bar Association is to be given a reasonable opportunity to consider any further and more detailed proposal.

I discussed qualifications of that nature with the Attorney before the meeting was called. The Attorney has assured me that the qualifications I have outlined will be honoured if the proposal proceeds.

Yours sincerely

Roger N Traves S.C.
President

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