

By email

I have no intention of completing the survey - like all such surveys it does not present appropriate options, is not a satisfactory way to gather truly accurate information, and is more likely than not designed to produce the result those promoting it would like it to produce. But ultimately, the greater problem is that it involves no sort of reasoned debate. In such a small Bar, and small profession overall, can we not do better than a survey conducted by a monkey?

I am in any event prepared to go on record with my views without requiring anonymity.

With some qualification, in my view, the letter from Kourakis CJ presents a very compelling case against change, as did the 'no' case in NSW in 2014.

To the extent that these matters might be of any particular relevance, however, I disagree with two propositions that are offered in support of both of those positions. Perhaps I circulate a little more widely in the community than some do, but based on my own experiences, I am in no doubt that *outside the profession*:

- There is a perception on the part of many in the community that there is a difference. There is a general understanding of what 'QC' means, and a lesser (soemtimes no) understanding of what 'SC' means; there is a lack of understanding of the absence of any difference in substance. There is undoubtedly to some degree a perception that 'SC' is a *different* thing, and sometimes but not always the perception is that 'SC' is of lesser status. However, for the most part my experience is that those misconceptions are readily dispelled.
- There is unquestionably confusion created by the adoption by solicitors of the title 'Special Counsel'.

Nevertheless, I am not persuaded that those are matters of sufficient importance or concern to justify change.

The former does not concern me. I am comfortable in the knowledge of what it means to be Senior Counsel and that those who matter from the point of view of why we have Senior Counsel are also aware of it, or easily made aware of it. The latter is an annoyance, because of the innately misleading character of it, but in the end it is of little importance except, I expect, to those who adopt that title.

I have not experienced any such misconceptions within the profession, where it really matters so far as an independent referral bar is concerned, and I would be highly sceptical of any suggestion that such misconceptions exist at all within the profession.

I am not persuaded by any of the other arguments for change that have been advanced. I have no particular need to adopt a different post-nominal.

Having said that, I readily concede that I have no idea what I would do if offered the choice - it might depend solely on the comparative numbers of those who did choose to change and those who did not. I am not actively opposed to change. Equally, I do not perceive any need to change, or perceive any benefit to be likely to come from it. Change merely for the sake of change should not be enough to drive change.

Whether or not any change were to involve a choice seems to me to be of no real consequence, but if the arguments for change are otherwise sufficiently sound to drive change, then it might be argued that to offer a choice carries the risk of merely perpetuating the very differences and disadvantages that are said to underpin those arguments.

My one strong reservation is that if there is to be a change, it must not involve a change to appointment on the advice of the Executive rather than on the advice of the Chief Justice. The present protocols must be retained, save only for any alteration that might be necessary to recognise that appointment would come with the issue of letters patent. I would strongly oppose change on any other basis. In this context, Kourakis CJ makes compelling points concerning the independence of the judiciary and the Bar.

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