



President's Report to Members

Date: June, 2015

Conference Update

Registration for the ABA Conferences in Washington DC and Boston will close on **12 June, 2015**. A great line up of speakers and social events has been arranged – I encourage you to register now. A copy of the conference program and registration information is available here: <http://www.austbar.asn.au/archives/1999>

Appointments and Farewells

On 13 May the Vice President Patrick O'Sullivan QC represented the ABA at the High Court farewell for Justice Ken Hayne to mark His Honour's retirement and extraordinary service to the judiciary. Victorian Bar President Jim Peters QC represented the Victorian Bar.

On 9 June a number of ABA Council members attended a welcome to the High Court for Justice Michelle Gordon. I spoke on behalf of the ABA and Jim Peters QC spoke on behalf of the Victorian Bar.

On 16 June I will speak at the welcome for Justice Robert McLelland to the Family Court, Sydney Registry.

Indigenous Incarceration

On 30 April, 2015 I attended the Launch of the "Change the Record" Campaign to end the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system. Immediate Past President of the New South Wales Bar Association, Phillip Boulten SC also attended. The campaign was launched at the Redfern Community Centre where leading Aboriginal and Torres Strait Islander community and human rights organisations, including the ABA and the Law Council of Australia, came together to outline a new approach to address the shocking rates of indigenous people's imprisonment and experience of violence.

The coalition of organisations has worked over the last 18 months to promote 'justice targets' as part of the Federal Government Close the Gap targets with some success. The "Change the Record Campaign" aims to work with local communities to develop and

implement evidenced-based cost effective solutions to increase safety, address the root causes of violence against women and children, reduce reoffending and imprisonment rates and build stronger communities.

Phil Boulten SC will continue to assist the ABA in this work to continue to find new ways to approach this issue and liaise with the work of the campaign and other coalition organisations. Details about the campaign can be found at:

<http://www.changetherecord.org.au>.

Equality and Diversity

On 8 May a number of Bar Presidents and CEOs participated in the Law Council of Australia's session to design and implement action in response to the National Attrition and Re-engagement Survey.

At the ABA Council meeting on 9 May, 2015 the ABA Council committed to developing a package of measure designed to promote equality and diversity within the Bars. This package will include:

- (1) An equality charter noting the commitment of the independent Bars to the promotion of equality of and diversity;
- (2) Leadership initiatives to promote changes and behaviour by senior barristers;
- (3) Development of the Equal Opportunity Briefing Policy and promotion to silks, firms of solicitors and clients;
- (4) Materials to assist with responses to bullying and harassment.

The ABA will post materials on the website linking to specific equality and diversity programs undertaken by individual Bars as a resource for information sharing and education.

Reproduced here is my opinion piece in *The Australian* following these landmark developments is available here: <http://www.austbar.asn.au/wp-content/uploads/2015/06/Diversity-equality-are-critical-to-our-wellbeing.pdf>

On 2 June I, with Raelene Webb QC, President of the Native Title Tribunal and Jane Needham SC, President of the NSW Bar, attended a lively seminar organised by Bruce McTaggart SC and Chris Gunson of the Tasmanian Bar for women considering coming to the Bar.

Legal Aid

The ABA welcomed the halt to legal aid funding cuts earlier this year and the 2015 Federal Budget commitment for legal aid, community legal centres and Aboriginal and Torres Strait Islander legal services of \$1.23billion over 4 years, but remains deeply concerned about how

that money will be distributed. Demand is increasing while funding is not - in fact it is going backwards.

Negotiations are underway for a new National Partnership Agreement for all jointly funded access to justice essentials – such as legal aid, CLCs and ATSILSs. The ABA is particularly concerned over the proposed introduction of key performance indicators which carry with them severe penalties, including cutting off funding for up to six months across all legal assistance services. See: <http://www.austbar.asn.au/wp-content/uploads/2015/05/Media-release-ABA-supports-State-and-Territories-calls-to-address-inadquate-legal-aid-20-May-20151.pdf>

Uniform Profession

The Uniform Law Application Acts for Victoria and NSW will come into effect on 1 July 2015 and will cover all members of each of those Bars and all barristers seeking to practice in those States.

The Rules (General Rules, Admission Rules, Conduct Rules and CPD Rules) are available here: <http://www.austbar.asn.au/archives/2102>

In response to a number of submissions received just prior to the introduction of the Rules concerning the definition of ‘barrister’s work’, I prepared a memo addressing the concerns raised by some members about the status of ADR work: <http://www.austbar.asn.au/wp-content/uploads/2015/05/Legal-Profesion-Conduct-Rules21-5-157.pdf>

The ABA will continue to liaise with the Legal Services Board in relation to the rules and regulations and with those States and Territories who have not yet joined the uniform scheme.

The Legal Services Council has approved all PII policies allowing lawyers from outside Victoria and NSW to practise in Victoria or NSW from 1 July 2015. My thanks to the CEO Philip Selth for working to ensure this happened in a timely manner.

Support for Independent Bars

The ABA Council supports the independent regulation of each of the independent Bars. The professional requirements of barristers, our independence, our duties and obligations to clients and Courts and the way in which we practice law are indispensable in the administration of justice. As each of the Bars grow it is important to review the merit appropriate system of regulation and oversight of members in those State’s operating within a fused profession.

Policy Work

At the ABA Council meeting on 9 May 2015 the Council resolved to progress policy work on the following matters

- Abolition of the death penalty
- Mandatory Sentencing
- Equality and Diversity

Materials will be posted on to the ABA website from time to time as these policy areas are developed.

Advocacy Training Council

I urge all barristers to continue to hone their advocacy skills through the excellent programs offered by the ATC. An Appellate Advocacy Training Course will be held 18-20 September, 2015 in Sydney. The next Advanced Advocacy Training will be held 18-23 January, 2016 in Melbourne. Details available here: <http://www.advocacytraining.com.au/>.

Incorporation

The Australian Bar Association has recently incorporated a new entity, ABA Australian Bar Association Limited (ABA Limited). ABA Limited is an Australian public company limited by guarantee and will assume the role and function of the ABA going forward. The ABA Council also proposes to assign all rights and interests of the ABA to ABA Limited. It has been a long-held plan of the ABA to incorporate and this is a positive development for the future activities and governance of the ABA.

I am very grateful for the extraordinary assistance of Tony Lang of the Victorian Bar and the work undertaken by Chris D'Aeth to bring this about. The new constitution is available on the website.

Fiona McLeod SC @AustBarAssoc

Past Reports from the President are available on the ABA website: <http://www.austbar.asn.au/about-the-aba/presidents-message>



Attorney General George Brandis QC and David O'Callaghan QC with the President and Vice President, Victorian Bar Dinner, 29 May 2015