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*THE JUSTICE AND ELECTORAL COMMITTEE
Lawyers and Conveyancers Amendment Bill*

Submission of Tony Ellis

1. I thank the Committee for the opportunity to make some remarks on the Lawyers and Conveyancers Amendment Bill.
2. I would like to make an oral presentation in support of my submission.

Queen's Counsel

3. I have read the Hansard of the first reading debate on this bill. From my perspective, the interesting debate over whether the name of the office should be Queen's Counsel or Senior Counsel is better left for another day.
4. It is a question inextricably linked with important matters such as the constitutional future of New Zealand, and our broader Honours system.
5. As long as we still consider it appropriate to recognise The Queen as the New Zealand Sovereign, and continue to award Knighthoods and Damehoods in our Honours system, this rank should be known as Queen's Counsel. The future of the rank should be determined along with any potential change to our broader constitutional arrangements questions at the appropriate time, until then, the office should be known as Queen's Counsel.
6. I am also thoroughly in agreement with the move to restrict eligibility for the rank of Queen's Counsel to barristers sole. Allowing solicitor practitioners to attain the rank devalues the traditional role and importance of the Queen's Counsel rank. Its independence is compromised if the rank is able to be held by practitioners in partnerships.

Other Matters – Legal Complaints Process

7. I note that the bill makes some amendments to the legal complaints process in clause 10. I submit that further amendments to the legal complaints process should be made, as the system as it currently stands is inherently flawed, which I learnt to my own detriment only recently.
8. I acted pro bono on relayed instructions from an intellectually disabled man, who complained that he had been kidnapped. For acting quickly in seeking to protect

this man's interests, I found myself convicted of "unsatisfactory conduct", fined \$500, and ordered to pay \$500 costs, despite his having no concerns with the service I provided him. The matter is currently before the Legal Complaints Review Officer.

9. The situation has impressed upon me the urgent need for changes to the standards process. Having matters determined in the first instance by a Standards Committee of 10 members, who are likely to be local competitors is highly unsatisfactory. What is required is a system in which both lawyers and the public can have faith. A system which reflects that statutory objective of the Legal Services Commission of Victoria is needed:¹

Statutory Objectives

The statutory objectives of the Legal Services Commissioner are to:

- ensure that complaints against legal practitioners and disputes between law practices or legal practitioners and clients are dealt with in a timely and effective manner
 - educate the legal profession about issues of concern to the profession and to consumers of legal services
 - educate the community about legal issues and the rights and obligations that flow from the client-practitioner relationship.
10. The current process is unfair to the public, as there is a presumption against the holding of a hearing at the initial stage, but a presumption in favour of one by the Legal Complaints Review Officer.
 11. If a standards committee is required, then a three-person committee – a legally-trained chair, a lay person, and an specialist in the area of law which is the subject of the complaint – should be the most that is required.
 12. I recognise that although this bill is amending the Legal Complaints process, changes of this nature may be seen as outside the Bill's scope. If this is so, I recommend that the Committee consider launching a Select Committee inquiry into the legal complaints process, as the operation of the present system is problematic at best.



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¹ <http://www.lsc.vic.gov.au/OurApproach.htm>