

Changing the title of “Chairman” of the Victorian Bar Council to “President”

The change proposed

1. It is proposed to amend the Constitution of the Bar by replacing the word “Chairman”, and any grammatical form of that word, with the word “President”. Thus the Chairman and Vice-Chairman of the Bar Council would become the President and Vice-Presidents of the Bar Council.
2. In the Constitution, the word “Chairman” is also used in relation to the Chairman of the Counsel Committee, the Chairman of the Ethics Committee and to refer to the Chairman of a general meeting of the Bar. It is proposed to make corresponding changes to those references so that:
 - (a) the Chairman of the Counsel Committee and the Chairman of the Ethics Committee would become the “Chair” instead of “Chairman” of their respective committees; and
 - (b) references to “the Chairman” in the clauses dealing with proceedings at General Meetings would be to “the Chair of the Meeting”.

The case for change

3. The Australian Bar Association and every other Australian Independent Bar – also the Law Council of Australia and every Australian Law Society – now has a President.
4. The description of “Chairman” is an anachronism.
5. The description of “President” is gender neutral. The description of “Chairman” implies a male is in that role.
6. “Madam Chairman” involves an obvious internal contradiction.
7. The role of the Chairman of our Bar involves far more than chairing meetings and is consequently inapt. The Chairman of our Bar:
 - is spokesperson for the Bar;
 - is a leader in public debate on matters pertaining to the role of law and the administration of justice;

- interacts with a wide range of stakeholders on behalf of the Bar, for example, the Courts, the Commonwealth and State governments and the media;
 - ensures constitutional objectives of the Bar are fulfilled;
 - promotes the Bar; and
 - is the “face” of the Bar.
8. The term “President” permits of different meanings in English including:
- (a) the chief executive of a republic;
 - (b) appointed or elected to preside over an organised body of people, such as an assembly or meeting;
 - (c) an executive officer of a firm or corporation;
- Accordingly, the term is an apt description of the person who presides at meetings of the Victorian Bar Council.

The case against change

9. The proposed resolution would alter more than 100 years of established terminology.
10. The office is that of Chairman of the Bar Council, not of the Bar. Many clubs and associations have Presidents, but they are Presidents of the bodies concerned, not of their committees etc.
11. The presiding officer of a company board is still commonly a Chairman. The Corporations Act 2001, in certain of the provisions which set out “replaceable rules” for companies (e.g. ss 248E, 248G), refers to the presiding officer as the “chair”, and uses the verb “chair” with reference to the functions carried out by such a person.
12. The following points are made about the propositions in the Case for Change – by reference to the numbered paragraphs above:
- (3) The appropriateness of the description “President” in the constitutions of other bodies depends upon the precise terms of those constitutions. Even so, one must be aware of *communis error*.

- (4) The description of “Chairman” is not an anachronism. It is alive and well and ready to do its duty.
- (5) The description of “Chairman” is gender neutral too. Any implication to the contrary is discerned only by those who do not understand the etymology of the word.
- (6) “Madam Chairman” does not involve an internal contradiction. It simply uses the feminine of the prefix “Mr”. It is equally applicable to “President”.
- (7) The Chairman of the Bar Council performs the enumerated functions as the Chairman of the governing body of the Bar not the head of the Bar. This is recognised by cll 31 and 34 of the new Constitution. The purpose of cl 34 is to ensure that “public statements on behalf of the association” are not randomly made. The Chairman is appointed by the Bar Council, not by the Bar.

The matters in which the Bar Council may engage are carefully confined by the Constitution. The Bar Council may engage in them as the governing body of the Bar only within those confines.

The Chairman is not required to “ensure constitutional objectives of the Bar are fulfilled” any more than any member of the Bar may do.

Other matters in (7) are merely tendentious assertions which have no bearing upon the aptness of the description “Chairman”.

- (8) This statement does not advance the argument. In conventional English usage a distinction is drawn between the principal officer of an organisation and of its governing body. American usage is different. The chairmen of directors of Australian public companies do not appear to be inhibited by their title.