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VICTORIAN BAR COUNCIL  
OWEN DIXON CHAMBERS  
205 WILLIAM STREET,  
MELBOURNE 3000

VICTORIAN BAR COUNCIL

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*ANNUAL REPORT*

1964 - 1965

VICTORIAN BAR COUNCIL

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To be presented to the Annual General Meeting of the  
Victorian Bar to be held on Monday 22nd February 1965.

MEMBERSHIP OF THE COUNCIL

Election

In February 1964 the following persons were elected to the  
Council :-

Counsel of not less  
than 7 years  
standing

Sir James Tait Q.C., Messrs. L. Voumard Q.C.,  
M.V. McInerney Q.C., G.H. Lush Q.C., B.L. Murray Q.C.,  
K.V. Anderson Q.C., X. Connor Q.C., P.A. Coldham D.F.C.,  
Q.C., R.E. McGarvie Q.C., L.S. Lazarus and N.M. Stephen.

In August 1964 Mr. B.L. Murray Q.C. resigned from the  
Council upon his appointment as Solicitor General for the State of  
Victoria. Mr. W.O. Harris Q.C. was elected in September 1964  
to fill the casual vacancy.

Counsel of not  
more than 10 years  
standing

Messrs. P.U. Rendit, J.E.R. Bland, D.G. Williamson and  
R.K. Todd.

The Attorney-General for the Commonwealth of Australia, The  
Honourable Billie Sneddon Q.C., M.P., as a member of the  
Victorian Bar, was an ex officio member of the Council.

Officers

The following appointments were made by the Council :-

Chairman : Mr. G.H. Lush Q.C.

Vice Chairman : Mr. B.L. Murray Q.C.

Upon the resignation of Mr. Murray from the  
Council, Mr. K.V. Anderson Q.C. was  
appointed Vice Chairman.

Honorary Treasurer : Sir James Tait Q.C.

Honorary Secretary : Mr. P.U. Rendit

Registrar : Mr. D.E. Edwards

Standing  
Committees

The following Standing Committees were appointed.

Ethics

Messrs. K.V. Anderson Q.C. ( Chairman ) L. Voumard Q.C.,  
P.A. Coldham Q.C., N.M. Stephen, L.S. Lazarus, and  
D.G. Williamson.

Law Reform

Messrs. X. Connor Q.C. ( Chairman ) R.E. McGarvie Q.C.,  
and R.K. Todd.

Social and  
Common Rooms

Messrs. B.L. Murray Q.C. ( Chairman ) K.V. Anderson Q.C.,  
R.G. DeB Griffith, P.U. Rendit and J.E.R. Bland ( and later  
Mr. W.O. Harris Q.C. vice Mr. B.L. Murray Q.C. )

Education

Messrs. L.S. Lazarus, N.M. Stephen and R.K. Todd.

Library

Messrs. M.V. McInerney Q.C. ( Chairman ) R.G. DeB Griffith,  
J.D. Merralls, J.D. Phillips, J.W. Wolters and N.H. Forsyth.

Overdue Fees Committee

Messrs. P.A. Coldham Q.C., R.E. McGarvie Q.C. and  
R.K. Todd.

Practice Committee

Co-ordinator of Practice Sub-Committees :-  
Mr. P.A. Coldham Q.C.

Sub-Committees of the Practice Committee :

Matrimonial Causes :

Mrs. J. Rosanove, Messrs. R. Barton, C. Morrell and Miss  
M. Kingston.

Juries :

Messrs. V.H. Belson Q.C., W. Kaye Q.C., W.C. Crockett Q.C.  
and E.A. Laurie.

Crime :

Messrs. G.M. Byrne, J. Lazarus, E.D. Lloyd, W. Lennon and  
J.H. Phillips.

Causes :

Messrs. C.I. Menhennitt Q.C., N. Stabey Q.C., W.O. Harris  
Q.C. and R.G. DeB. Griffith.

Miscellaneous Causes :

Messrs. H.R. Newton Q.C., R.K. Fullagar Q.C., W.E. Paterson  
and R.G. DeB. Griffith.

Licensing :

Messrs. K. Coleman, J.R. Campton and P.J. O'Callaghan.

Workers' Compensation :

Messrs. E. Hill, J. Kelly, P.U. Rendit, D.G. Williamson,  
F.X. Costigan and W.D. Magennis.

County Court :

Messrs. J. Barnard, J. Gobbo, J.J. Hedigan and F. Dyett.

Petty Sessions :

Messrs. A. Smithers, A. McDonald and F. Dunphy.

AD HOC COMMITTEES

A number of committees for particular purposes was  
appointed. They included the following :-

Liability without Fault.

Messrs. L. Voumard Q.C., B.L. Murray Q.C.,  
V.H. Belson Q.C. and E.A. Laurie.

Appeals from Administrative Tribunals :

Dr. E.G. Coppel Q.C. and Messrs. K.H. Gifford Q.C.,  
N.M. Stephen, E.D. Lloyd and R.K. Todd.

New Courts - Plans and Facilities :

Messrs. P.A. Coldham Q.C., E.A. Laurie, J.H. Morrissey and L.R. Hart.

Payment of Fees by Solicitors :

Messrs. P.A. Coldham Q.C., ( Chairman ) R.E. McGarvie Q.C. ( Convenor ), G.R.D. Waldron, A. Monester, F. Walsh and J.H. Phillips.

County Court Fees :

Messrs. L. Voumard Q.C., N.M. O'Bryan and D.G. Williamson.

Tertiary Education :

Messrs. M.V. McInerney Q.C., C.I. Menhennitt Q.C., R.E. McGarvie Q.C., H. Storey and D. Dawson.

Commonwealth Silks :

Messrs. M.V. McInerney Q.C., J. McI. Young Q.C., and S.T. Frost Q.C.

Decimal Currency :

Messrs. M. Ashkanasy Q.C., C.H. Francis and M. Dowling.

Practice Court Delays Committee :

Messrs. X. Connor Q.C. ( Chairman ) I.J. Greenwood, R. Brooking and R.K. Todd.

Bar History ( Liaison Committee ) :

Dr. E.G. Coppel Q.C. ( Chairman ) and Messrs. F.M. Bradshaw, E.C. McHugh and J.E.R. Bland.

In addition Messrs. J.W.J. Mornane and W. Martin were appointed the Bar's representatives upon a joint committee with the Law Institute of Victoria to consider the revision of transcript by Judges.

APPOINTMENTS

The following representative appointments of Council members and other members of the Bar were also made.

Attorney-General's Procedure Committee :

Mr. K.V. Anderson Q.C. with assisting committee of Messrs. X. Connor Q.C., P.A. Coldham Q.C., and D.G. Williamson.

Board of Examiners :

Messrs. W.C. Crockett Q.C., A.E. Woodward and L.S. Lazarus.

Chief Justice's Rules Committee :

Mr. P.A. Coldham Q.C.

Attorney-General's Committee on Sale of Land :

Mr. R.K. Fullagar Q.C.

Chief Justice's Law Reform Committee :

Messrs. X. Connor Q.C., R.E. McGarvie Q.C. and R.K. Todd.

Standing Committee with Law Institute :

Messrs. M.V. McInerney Q.C. and G.H. Lush Q.C.

Australian Bar Association :

Messrs. M.V. McInerney Q.C. and G.H. Lush Q.C. ( and later Mr. B.L. Murray Q.C., vice Mr. M.V. McInerney Q.C. and later still Mr. K.V. Anderson Q.C. vice Mr. B.L. Murray Q.C. )

Law Council of Australia Executive :

Mr. M.V. McInerney Q.C. with a supporting Committee consisting of - Sir James Tait Q.C., Messrs. B.L. Murray Q.C. and N.M. Stephen.

Council of Legal Education :

Messrs. M.V. McInerney Q.C., G.H. Lush Q.C. and R.E. McGarvie Q.C.

Faculty of Law ( University of Melbourne ) :

Messrs. M.V. McInerney Q.C., G.H. Lush Q.C., and R.E. McGarvie Q.C.

Legal Education Committee :

Mr. G.H. Lush Q.C. ( Alternate Mr. R.E. McGarvie Q.C. )

Council of Law Reporting :

Sir James Tait Q.C., and Mr. S.T. Frost Q.C.

Directors of Barristers' Chambers Limited.

Sir James Tait Q.C., Messrs. M.V. McInerney Q.C., G.H. Lush Q.C., B.L. Murray Q.C., K.V. Anderson Q.C., W. Kaye Q.C. and N.S. Stabey Q.C. ( and later Mr. M. Ashkanasy Q.C. vice Mr. B.L. Murray Q.C. )

Nominees upon Board of Counsel's Chambers Limited :

Messrs. B.L. Murray Q.C., L. Voumard Q.C., and N.M. Stephen. ( and later Mr. W.O. Harris Q.C. vice Mr. B.L. Murray Q.C. )

Superannuation Fund for Supreme Court Librarians :

Bar Nominee upon Board of Trustees - Mr. S.G. Hogg.

Barristers' Superannuation Fund - Trustees' :

Mr. G.H. Lush Q.C. ( Chairman ) Sir James Tait Q.C., Mr. M.V. McInerney Q.C., Messrs. C.I. Menhennitt Q.C., ( and later Mr. S.E.K. Hulme vice Mr. C.I. Menhennitt Q.C. ) and Hon. Secretary - Mr. S.G. Hogg.

Legal Aid :

Messrs. P. Murphy Q.C. and L.S. Lazarus ( and later Mr. R.M. Northrop vice Mr. L.S. Lazarus ).

Attorney-General's Committee on Facilities in Court Court Buildings :

Mr. E.A. Laurie.

Appeal Costs Board :

Mr. W.O. Harris Q.C.

### COUNCIL MEETINGS

There were 21 meetings of the Council during the period to December 1964, comprising 18 evening and 2 lunch time meetings and 1 morning meeting.

### SPECIAL GENERAL MEETING OF THE BAR.

A special General meeting of the Bar was called on 20th August 1964 in order to discuss the following proposals :

- (a) Collection of overdue fees from Solicitors.
  - (b) A liquor licence in Owen Dixon Chambers.
- Both these matters are referred to below.

### FINANCE.

The Council fixed the following subscriptions for membership of the Victorian Bar for 1964.

Queens Counsel	£15. 15. 0.
Juniors of more than 3 years standing	£12. 12. 0.
Juniors of not more than 3 years standing	£ 2. 2. 0.
Non-Practising List	£ 3. 3. 0.

The Honorary Treasurer's Report and annual Financial Statement will be presented separately to the Annual General Meeting.

### PERSONALIA

#### Judicial Appointments :

The Hon. Sir Garfield Barwick Q.C., M.P., was appointed early in 1964 as Chief Justice of the High Court as successor to Sir. Owen Dixon O.M., G.C.M.G., and was sworn in on 1st. May, 1964. The profession in Victoria welcomed the new Chief Justice in Melbourne on 5th May, 1964. Sir Garfield, as a member of this Bar and as Attorney-General for the Commonwealth had been for some time an ex officio member of the Bar Council. During 1964, Sir Garfield was also appointed to the Privy Council.

In August 1964 Sir Henry Winneke O.B.E. Q.C., was appointed to succeed Sir Edmund Herring as Chief Justice of the Supreme Court of Victoria. At the time of his appointment he was the Solicitor-General for the State of Victoria which office he had held since the revival of that office in December 1951.

In August 1964, the Honourable Reginald Allfree Smithers was appointed a Judge of the Supreme Court of the Australian Capital Territory and an additional Judge of the Supreme Court of the Northern Territory. He then resigned from the Supreme Court of Papua and New Guinea of which he had been a Judge since 1962. In January, 1965 he was appointed a Judge of the Commonwealth Industrial Court.

On the 7th April 1964 His Honour Judge Barber was appointed an acting Judge of the Supreme Court.

In August 1964, Mr. B.L. Murray Q.C. was appointed Solicitor-General for the State of Victoria.

On the 3rd March 1964, Mr. C.W. Harris was appointed a Judge of the County Court and a Chairman of General Sessions.

On the 16th July 1964, Mr. S.T. Frost Q.C., was appointed a Judge of the County Court and a Chairman of General Sessions. On the 18th November 1964, he was appointed a Judge of the Supreme Court of Papua and New Guinea, and thereupon resigned from the County Court and as a Chairman of General Sessions.

On the 4th August 1964, Mr. Eric E. Hewitt Q.C. was appointed a Judge of the County Court and a Chairman of General Sessions.

His Honour Judge Rapke was appointed Judge Advocate General of the Royal Australian Navy.

#### Deaths

The Council records with deep regret the following deaths during 1964 :

On the 25th July 1964 the Rt. Hon. Sir John Greig Latham G.C.M.G. died. He was Chief Justice of the High Court of Australia during the years 1935 - 1952. Right up to the time of his death he took an active interest in the Bar and its activities. He will be missed at Bar functions. He has left a profound mark not only upon the profession in Victoria but upon the law and its practitioners throughout Australia.

On the 7th July 1964, His Honour Judge Mulvany died. Members of the Bar attended a ceremony at which the Judges of the County Court and other members of the profession paid tribute. His Honour will be missed by members of the Bar who have always held him in high esteem and affection.

The Honourable Ian Macfarlan, Q.C. died on the 19th March, 1964. He had been the member for Brighton in the Legislative Assembly from 1928 to 1945. During his political career he had held the posts of Attorney-General and Chief Secretary at various times and was Premier of Victoria for a short time in 1945.

Mr. Stanley Radcliffe Lewis, C.M.G., Q.C., had at the time of his death, the distinction that his name was the earliest on the Bar Roll of all living members of the Bar. It was mainly through his efforts and foresight that Selborne Chambers was purchased for the Bar in 1923. It remained the principal home of the Bar until Owen Dixon Chambers was completed in July, 1961.

#### Retirements :

On the 13th April, 1964 the Right Honourable Sir Owen Dixon, O.M. G.C.M.G., retired from the High Court. He had been a judge of the High Court since 1929 and Chief Justice since 1952. Much has been written and said of his impact upon and

contribution to the law not only in Australia but in all English speaking countries. He has been universally acclaimed as the greatest living Judge in the common law world. Suffice it is to say that the esteem in which he is held by members of this Bar is such that Chambers built for the Bar in Victoria bears his illustrious name.

On the 31st. August, 1964 the Honourable Sir Edmund Herring K.C.M.G., K.B.E., D.S.O., M.C., E.D., retired from the office of Chief Justice of Victoria. He brought to his office outstanding qualities of leadership and overcame the endless problems created by the changing times which confronted him during his tenure of office. Sir Edmund introduced many innovations to assist in the due administration of Justice and has also added dignity and ceremonial in the administration of the law. His graciousness and patience, especially to young counsel, were greatly appreciated and will be long remembered by those who had the pleasure of appearing in his court. His grasp of legal principle and his strong sense of right and wrong were always evident. He was farewelled on 31st. August. 1964 by the Judges of the Supreme and County Courts, representatives of the Government, the Bar, the Law Institute and men from many walks of life.

His Honour Judge Stretton retired as a Judge of the County Court in August, 1964. On the 7th August, His Honour was farewelled by the Judges of the County Court and both branches of the profession. His Honour was noted for his depth of human understanding, for his wit and for his unrivalled gift in the use of the English language. The affection with which he was held by those who appeared before the Workers Compensation Board over which he presided, was shown when those members of counsel gave a dinner in his honour on the occasion of his retirement.

On the 26th February, 1964 His Honour Judge Moodie-Heddle retired as a Judge of the County Court because of ill health.

Sir Kenneth Bailey, C.B.E., Q.C., retired on the 15th July, 1964 as the Solicitor-General for the Commonwealth. Sir Kenneth has been appointed Australian High Commissioner for Canada.

Honours :

The following honours were conferred by Her Majesty the Queen upon members of the Victorian Bar on the 1st January, 1965 :

The Right Honourable Sir Garfield Barwick was elevated to Knight Grand Cross of the Order of St. Michael and St. George.

The Honourable Sir Edward Herbert Hudson was created a Knight Bachelor.

Queen's Counsel :

Letters Patent were granted to the following Counsel during 1964 : Messrs. W.O. Harris Q.C., K.H. Gifford Q.C., R.K. Fullagar Q.C., J.F. Kearney Q.C., D.P. Whelan Q.C., and B.M. Snedden Q.C., M.P.

Sir Kenneth Bailey Q.C., was granted Letters Patent by the Commonwealth,

The Roll of Counsel :

Between 23rd. December, 1963 and 31st December, 1964, the following persons signed the Roll of Counsel :

Messrs. J. T. Hiatt ( N.S.W. ) D.G. Henshall, S.B. Granat, B.R. Dove, A.G. Uren, R.J. Hicks, N.A. Brown, K.D. Marks, M.E.J. Black, C.W. Porter, P.I.B. Pender, I.C.F. Spry, C.W.G. Wheeler, D.R. Meagher, D.M. Bennett, H.T. Nathan, C.B. Malpas, A.P. Webb, C.D. Hollis-Bee, G.F. Griffith, D.W. McLennan, K.R. Murray ( N.S.W. ), D. Graham, D.R. Tucker, J.C. Walker, J.G. Larkins, J.G. Saywell (N.S.W.) and J.D. Evans.

Transfers :

The names of the following persons were transferred from the Practising List to the non- Practising List at their request :-

Master E.N. Bergere, and Sir Clifden Eager K.B.E. Q.C.

Removals :

The following persons, whose names were upon the Roll of Counsel, requested that their names be removed from the Roll of Counsel :-

Messrs. R.J. Hicks, C.L. Lipshut and Sir William Leggatt , D.S.O., M.C.

Numbers on  
the Roll :

( As at 31st. December 1964 ) .

Number Signed the Roll in 1964 :-

27. ( Compared with 29 in 1963. )

Judges List Total :-

59 ( Compared with 54 in 1963 ).

Practising List Total :-

312 ( Compared with 297 in 1963 ).

Non - Practising List Total :-

37 ( Compared with 38 in 1963 ).

Total on the Roll ( all Lists ) :-

408 ( Compared with 389 in 1963 ).

Numbers of members in actual practice as counsel :-

( excluding Prosecutors for the Queen )

approximately 269 ( compared with approximately 260 at the end of 1963 and 230 at the end of 1962 ) .

FUNCTIONS

The Opening  
of the Legal  
Year

The Opening of the Legal Year in 1964 was again marked by Church Services in St. Paul's Cathedral, St. Patrick's Cathedral and at the East Melbourne Synagogue on Monday the 3rd. February, 1964.

The service at St. Paul's Cathedral was the last at which the Hon. Sir Edmund Herring attended as Chief Justice of the Supreme Court. His Honour originated the practice of holding religious services marking the Opening of the Legal Year. This service was attended by His Excellency Major General Sir Rohan Delacombe K.C.M.G. , K.B.E., C.B., D.S.O., Governor of Victoria.

The lessons were read by Sir Rohan and Sir Edmund. The Reverend Professor Norman Lade, Principal of Queen's College, preached the occasional sermon.

The Red Mass was celebrated at St. Patrick's Cathedral to mark the occasion. The celebrant was His Lordship Bishop Fox, and the sermon was preached by Rev. Fr. Eric D'Arcy.

His Honour Judge Rapke delivered the address at the service conducted at the East Melbourne Synagogue.

#### Bar Dinner

A Bar Dinner was held on Saturday the 16th May, 1964 at Union House, University of Melbourne. The guests of Honour were The Honourable Sir Garfield Barwick, The Honourable Mr. Justice Starke and Their Honours Judge Forrest and Judge Harris.

#### Common Room

The usefulness of the Common Room in Owen Dixon Chambers was once again apparent as a place for entertainment by the Bar, for meetings and for morning and afternoon teas and luncheons. Indeed it is hard now to visualise life at the Bar without the Common Room as it is rapidly developing into the focal point for all the Bar activities.

During the year two dining in nights for members of the Bar and their wives were held on the 29th June 1964 and 2nd. November 1964. Each proved most enjoyable and was well attended.

Members of the Bar Council entertained at dinner Judge Luther W. Youngdahl, a Judge of the U.S. District Court for the District of Columbia, who was visiting Melbourne.

The Directors of Barristers Chambers Ltd. and members of the Bar Council entertained at dinner Sir Richard Costain and Colonel Curtis of Costains Ltd., builders of Owen Dixon Chambers.

The Bar Council invited the Rt. Hon. Sir Owen Dixon O.M. G.C.M.G., to attend a gathering in the Common Room on the day of his retirement, 13th April 1964. This gathering enabled members of the Bar to say goodbye to him without formality.

The Rt. Hon. Sir Garfield Barwick entertained a group of about fifty members of the Bar of under ten years standing in the Common Room, on Wednesday the 21st October 1964.

The Christmas Cocktail Party of the Bar was held earlier than usual because of the need to give possession of the Common Room on the 9th floor of Owen Dixon Chambers to the builders for conversion into chambers. On this occasion members of the Executive of the Law Council of Australia who were meeting in Melbourne were invited. Invitations as guests of the Bar were also extended to all Barristers' Clerks and their respective staffs and secretaries employed by Counsel in chambers.

On the 19th. February, 1964 the Council entertained at dinner, members who had signed the Roll of Counsel since March, 1963. The Council is truly appreciative and grateful to Mr. & Mrs. Unger for their unfailing co-operation in making functions in the Common Room a success.

Other Functions :

Representatives of the Bar Council attended the Annual Dinner of the Law Institute of Victoria and regional dinners at Geelong, Warrnambool, Ballarat and Echuca.

The Victorian Bar combined with the Law Institute of Victoria in holding a Dinner Dance at the Palais de Danse on the 10th April 1964.

The Annual Golf match between the Bench and Bar and the Law Institute of Victoria was played at the Royal Melbourne Golf Club on the 31st. January 1964. The Bench and Bar have yet to win the Sir Edmund Herring Shield. The golfers presented to Sir Edmund Herring a Silver Coffee pot in appreciation of all that Sir Edmund had done in making the match a traditional annual event.

The traditional Annual Golf match between the Bench and Bar and the Combined Services was played at the Commonwealth Golf Club in July 1964. The Bruche Cup and the Macfarlan Cup were both retained by the Combined Services. A golf bag was presented to Sir Edmund Herring to mark the last occasion on which he played as a member of the Bench.

Mr. G.S. Brett again acted as organizer on the part of the Bar for these golf matches.

The Annual Cricket match between the Bar and the Solicitors was played at the Albert Ground on 21st December, 1964. The Solicitors won an enjoyable and at times an exciting match. Mr. I. Gray captained the Bar team.

AUSTRALIAN BAR ASSOCIATION

During the course of the year Mr. G.H. Lush, Q.C. became President of the Council of the Australian Bar Association in succession to Mr. C.L.D. Meares, Q.C. of the New South Wales Bar.

This appointment rendered necessary a rearrangement of the administrative organisation of the Association in the course of which Mr. J.D. Phillips was elected Secretary and Mr. R.C. Tadgell, Treasurer.

The annual meeting of the Council was held in Brisbane in August. The Victorian Bar was represented by Mr. G.H. Lush and Mr. M.V. McInerney, the latter substituting for Mr. B.L. Murray.

The existence of the Association has greatly facilitated contact between the governing bodies of the New South Wales, Victorian and Queensland Bars. It has been found that the same problems

tend to arise in the various States at about the same time. While uniformity of rule or action is perhaps not an important goal in itself, assistance in dealing with a problem can be gained from a knowledge of how the same problem was handled in another State and why it was so handled. In addition to the discussion of particular problems the Association has continued its comparative study of the rules of conduct of the three Eastern Bars.

The Association's Gazette was published three times during the year. Mr. J.D. Merralls continued to act as Victorian correspondent.

During the year a group of practitioners in Adelaide began the establishment there of an independent Bar organised on the general lines of the Victorian and the relatively recently established Western Australian Bars. These men have become members of the Association.

The Association has informed its members that on appropriate occasions, such as when appearing before the Privy Council, they may properly describe themselves as "member of the Australian Bar".

#### LAW COUNCIL OF AUSTRALIA.

The Law Council of Australia has been increasingly active in recent years and is assuming an important role on the national level. It speaks on behalf of the whole profession in Australia and its views are sought by the Commonwealth and State Attorney-Generals on questions of law reforms and allied matters. This in turn has resulted in the Law Council seeking the views of its constituent bodies in such matters. Subjects so referred to and considered by the Bar Council have included proposals for amendments to the Matrimonial Causes Acts and Rules, Commonwealth Evidence Act, a Criminal Code for Commonwealth Territories, a Uniform Evidence Act, Reseal of Grants of Probate, Restrictive Trade practices, Uniform Maintenance Bill, proposals for amendment of the Uniform Companies Act with reference to publications of reports made by inspectors appointed under the Act, Tertiary Education, Legal Education in Papua and New Guinea and Reciprocity of admission between the States of Australia. Many members of this Bar have given generously of their time and learning in dealing with these matters.

The importance of the role now being played by the Law Council of Australia cannot be over estimated. Through the Law Council the profession in Australia is increasing its international contacts and takes its place in world legal Councils. During 1964 members of the Executive of the Law Council and also a number of other members of the profession throughout Australia, including members of this Bar, have attended several Legal Conferences in various parts of the world, including the 10th Conference of the International Bar Association in Mexico City, the 51st Conference of the International Law Association in Tokyo, and the Annual Conference of the Law Society of England at Folkestone.

The Law Council has published the first issue of its journal - Newsletter. Through this medium the Law Council intends to keep the members of the profession informed of the activities of the Law Council and matters of interest to practitioners.

Proposals for the formation of Regional Law Association in the E.C.A.F.E. area are being actively pursued by the Law Council and it is expected that an inaugural conference will be held to constitute the Association in Australia within the next twelve months.

The Law Council has continued to press for the establishment of an indigenous legal profession in Papua and New Guinea and for the establishment of a Law School in Papua and New Guinea. It made submissions to the Commission on Higher Education in Papua and New Guinea pertaining to the question of legal education there. The Commission's report endorsed those submissions as "representing essentially the Commission's point of view".

In January, 1964 the Law Council had as guests, five Papuan secondary School students who were interested in becoming lawyers. They were entertained in Sydney by members of the New South Wales Bar and it was hoped that thereby friendship and contacts were created and interest in the legal profession engendered in the students. Members of this Bar will probably be asked in January, 1966 similarly to entertain students from Papua and New Guinea for a few weeks.

Mr. M.V. McInerney Q.C., who had been the Bar's representative on the Executive of the Law Council is Vice-Chairman of the Council. Mr. Ivor J. Greenwood has continued as the Hon. Secretary of the Law Council of Australia.

### THIRD COMMONWEALTH AND EMPIRE LAW

#### CONFERENCE

This important Conference will be held in Sydney from the 25th. August 1965 to 1st. September 1965. Arrangements have already been made for the short vacation to coincide with the Conference.

### MATTERS RELATING TO ETHICS, DISCIPLINE AND PRIVILEGES.

#### Complaints and Charges

Four complaints concerning counsel were received from lay clients or solicitors. Three of these complaints were investigated by the Council and revealed no breach of professional standards. The fourth complaint is still under investigation.

In addition a report concerning conduct on the part of counsel was received from the Secretary of the Law Department to whom it had been forwarded by the Chief Commissioner of Police with a request that the Bar Council consider the propriety of the conduct in question and take disciplinary action if it

thought fit. The report was investigated by the Council which took the view that no impropriety was revealed and so informed the Secretary.

A member of counsel made a complaint against another member of counsel concerning the latter's conduct. This complaint was investigated and an explanation was received from the latter counsel which absolved him from any allegation of improper conduct. The Council accordingly did not take any further action.

In another matter charges were preferred against a member of the Bar that he had been guilty of professional misconduct and/or of conduct which would tend to bring into disrepute the general body of Counsel on the Roll in relation to the entertainment of certain persons in Owen Dixon Chambers. After the Council heard evidence, the charges were dismissed.

Complaint by  
Counsel re  
Police at  
Geelong

In September, 1964 the Council received a complaint from a member of the Bar concerning an incident involving members of the Police force which had occurred in the court room at Geelong on the conclusion of the hearing of a General Sessions Appeal and after the presiding judge had left the Bench.

The Council considered the conduct on the part of the police as constituting a grave and unwarranted interference with the administration of justice and with the performance by a member of the Bar of his duties and wrote accordingly to the Chief Secretary and the Chief Commissioner of Police complaining of the police conduct. The Chief Secretary replied in due course stating that the action of one police officer was impetuous and high-handed and had undoubtedly provoked the incident and requested that the Council convey to the member of the Bar his apology for the embarrassment and distress which he had suffered.

Broadcast  
Television  
and Lecture  
Appearances

During the year requests were made by several members for permission to make broadcasts, television appearances or to address meetings on legal topics. The applications were granted after the Council had considered the circumstances of each individual case.

The Rules relating to broadcasting, television and lecture appearances as they affect members of the Bar who are full-time University lecturers, and generally, are at present under review. A Committee has been appointed to consider and make a report to the Bar Council on this matter.

The members of the Committee are Messrs. G.H. Lush Q.C., R.E. McGarvie, Q.C., and D.G. Williamson, Professor P. Brett and Mr. J.D. Feltham.

RULINGS

Description of  
Candidate for  
Parliament -  
Television  
Appearances &  
Comment on  
Legal bodies

The following rulings were made during the year :

The Council ruled that a member of the Bar who was a candidate in elections for a seat in Parliament was entitled to describe himself as a Barrister - at - Law on a television appearance in the course of campaigning in such elections and was also entitled to discuss legal topics in issue at such election.

Collection of  
fees from lay  
clients direct

The Council has ruled as follows with regard to collection of fees from lay clients direct :-

- (a) That save for the exceptional cases of non-contentious or patent work in which counsel is not briefed by a solicitor, it is improper for counsel to collect fees from a client. Likewise it is improper for counsel to collect from a client his instructing solicitor's fees. The proper procedure is for the solicitor to collect all costs and to pay the counsel ;
- (b) That whether counsel's fees are paid by a solicitor or, in exceptional cases as noted above, by a client they should be paid to counsel's clerk.

The above ruling of the Council is not intended to affect the right of counsel to recover fees from a client pursuant to Section 10(1) of the Legal Profession Act 1958. Nor is it intended to affect the right of counsel to advise a client in non-contentious business without the intervention of a solicitor or upon the instructions of a patent attorney, and in such a case to collect the fee from the client or patent attorney.

Counsel's  
duty qua  
insured and  
insurance company  
in running down  
cases

A ruling was sought as to whether in the following circumstances it was ethical for A's counsel to endeavour to have all the blame for accident attached to A.

1. A motor car accident occurs between a car driven by A. and a car driven by X.
2. At the time of the accident Mrs. A. is a passenger in her husband's car.
3. Mrs. A. sues X for personal injuries.
4. X. whose solicitors are appointed by his third party insurers joins A. as a third party to Mrs. A's. claim.
5. A. takes the documents to his insurers who appoint solicitors to defend the third party claim.
6. The facts of the accident point to a considerable degree of negligence by A. but A. gives instructions as to facts which point to at least some negligence by X.
7. At the hearing Mrs. A. is represented by counsel. X. is represented by counsel appointed by his third party insurers. A. is represented by solicitors acting for A's. third party insurers.
8. Solicitors instructing A's. counsel give following instructions to Counsel :- An attempt is to be made to obtain a verdict that A. is 100% to blame, thus defeating the claim against X.
9. A. gives no precise instructions as to how his counsel is to conduct his case but gives instructions as to facts which if true point to at least some negligence by X.
10. It is assumed that A. desires his wife to succeed in her claim although this is not expressly stated.
11. There is then clearly a conflict of interest between A. as the husband of the plaintiff and A. a party

against whom X. is seeking an order for indemnity. Also A's. solicitors ( appointed by his insurers ) have only one interest, to save money either by having the accident blamed entirely on X. or A.

The Council ruled that in the above circumstances, Counsel should follow the instructions of the lay client who should be made aware of the implications of the position.

Waiving or  
reducing  
reader's fees

The propriety of waiving or reducing the prescribed fee of fifty guineas payable by pupils to their masters was raised. It was ruled that the fee for reading be fifty guineas and this be charged except in special circumstances where the Council has given approval.

Seminars  
Conducted by  
Law Institute  
of Victoria  
and University  
of Melbourne

There is no objection to Counsel attending seminars conducted by the Law Institute of Victoria in association with the University of Melbourne.

Inspection of  
documents in  
the office  
opposing party  
or Solicitor

In cases where counsel is called upon to inspect documents in an action at the office of the opposing party or solicitor, counsel should be specifically briefed for that purpose and should be accompanied at such inspection by an instructing solicitor or clerk and the prior permission of the Bar Council should be obtained.

Fees

Save for cases of established hardship -

- (1) It is improper for counsel to accept a brief to appear in a court or other tribunal which has prescribed a scale of fees to be allowed for counsel in orders for costs, when the brief is marked at a fee which is lower than the appropriate scale fee.
- (2) The appropriate scale fee is the fee applicable on the scale to an order for the amount claimed in the summons or other form of claim
- (3) This rule is subject to any rules made with respect to particular matters such as Public Solicitor's briefs, composite briefs in debt collection cases and other similar matters.

Counsel appearing  
with Salaried  
Officers of the  
Crown in Appeals

A member of the Bar should not appear with a salaried officer employed in the office of a Crown Solicitor in Appeals or in any other proceeding.

The Council ruled that the prohibition proceedings were new proceedings and that therefore, if Queen's Counsel were briefed, a stuff gownsman must also be briefed and the new silk could not fill the role of stuff gownsman.

### LECTURE PROGRAMME

Ethics lectures were again given at the beginning of 1964, and it was made obligatory for all new signatories to the Bar Roll since the last series of Ethics lectures to attend them.

In addition a series of lectures were arranged which proved stimulating and were enjoyed by all those attending. Dr. Coppel, Q.C. gave a lecture on " An Independent Bar ", Mr. L. Voumard, Q.C., on " The Role of the Advocate " and the Hon. Mr. Justice Starke, on " Jury Advocacy ".

### LAW REFORM

The Bar Council considered a number of Law Reform matters which were in the main referred to it by the Law Council of Australia or the Joint Parliamentary Statute Law Revision Committee. The matters considered were as follows :-

Matrimonial Causes Legislation and Rules, Commonwealth Evidence Act, a Criminal Code for Commonwealth Territories, Uniform Evidence Act, Reseal of Grants of Probates, and Letters of Administration, Restrictive Trade Practices, Uniform Maintenance Bill, Publication of Opinions by Inspectors appointed under the Companies Act, Evidence ( Photographic Copies ) Act 1964, Evidence Act ( S.28 ), Formal Validity of Wills Bill, The Estate Agents Act, Sale of Land Act ( Amendments ) Section 655 of the Local Government Act 1958, Misleading Advertising ( S.57 of Police Offences Bill ), Police Offences Act 1963, Part 1, Division 5, re Shotguns, Adoption of Children Bill, Administrative Appeals Tribunal, Third Party Insurance - actions between husband and wife, Recording of evidence in preliminary hearings.

On three occasions representatives of the Bar gave evidence before the Joint Parliamentary Statute Law Revision Committee.

During the course of the year, the following members of the Bar gave valuable assistance to the Law Reform Committee on various of the above matters, which was greatly appreciated by the Committee and the Council -

Messrs. H.R. Newton Q.C., K.H. Gifford Q.C., G.S. Brett, R.G. DeB. Griffith, K.J.A. Asche, N.B.C. Coles, and Miss M.C. Kingston.

### PRACTICE MATTERS

The last Annual Report indicated that a number of changes in Practice Court procedure had been implemented by the Chief Justice following a request from the Council. In April, 1964 the Council appointed a Committee to enquire as to the effect of the new procedure upon Practice Court business and the Bar was duly circularised. The circular elicited very few complaints. However, a Committee is at present investigating the effect of the new procedure upon the Causes and Miscellaneous Causes Lists.

Amendments to  
Justice Act  
Rules

The Attorney-General sought the views of the Bar Council as regards proposed amendments to the Justices Act Rules. The proposed amendments related to Defence of Tender, Payment into Court and Approval of Infants' Compromises. The Council made representations about each of the proposed amendments through the Secretary of the Law Department.

Delays in  
availability of  
Transcripts of  
Charges and  
Judgements

As was reported in last year's Annual Report, representations were made to the Chief Justice concerning delays in the availability of transcripts of Judges' charges to Juries and of reasons for judgement until after Notice of Appeal has been given. Because of the imminent retirement of Sir. Edmund Herring at that time, further representations are to be made to Sir Henry Wincke concerning this matter.

Alterations by  
Judge to  
Transcripts of  
Evidence

A complaint that a Judge presiding over a criminal trial in General Sessions had altered parts of the transcript of such trial was made by a firm of solicitors who sought the support of the Bar Council. At the same time, the Law Institute of Victoria approached the Bar Council with a view to a joint committee being appointed to examine this problem. The Bar representatives on this committee reported that whilst there were alterations some of which were substantial and one in particular relating to the production of certain documents, extensive, there had in their view been no miscarriage of justice. The Council proposes to make representations to the Chief Justice and to the Chairman of the Judges of the County Court on the general question, so that a clear understanding can be reached as to the circumstances in which and the extent to which a judge is entitled to amend the transcript without reference to the parties.

Recording of  
Evidence in  
Preliminary  
Hearings

The Council agreed in principle with the proposal before the Statute Law Revision Committee that in cases where Committal proceedings are recorded by an authorised mechanical recording unit or by licensed shorthand writers it should not be obligatory to read back the evidence of witnesses to them and obtain their signatures. However, Council considered that provision should be made for retention of the right of both witnesses and the accused of having the transcript checked and that the Crown also be given this right.

It also considered that the tape should be preserved until the end of the time provided for appeal against conviction or sentence or until the conclusion of all appeals, whichever was the later.

The Council was also of the view that the practice of recording the evidence at committal proceedings and Coronial enquiries by shorthand notes and more particularly by way of tape recording should be extended to as many of these proceedings as possible, inter alia, because -

- (a) the present system by which notes of the evidence are taken by a deposition clerk, in a great number of

cases, results in the deposition being a misleading and often inaccurate record of the testimony of the witness

- (b) that the nuances of cross-examination are often lost
- (c) that the effect of cross-examination is in many cases lost by reason of the fact that questions can only be asked and answered at a speed within the ability of the deposition clerk to record them
- (d) that the present system is slow and time wasting.

The above views were conveyed to the Statute Law Revision Committee.

Coronial  
Enquiries and  
Committal  
Proceedings

A Bar representative gave evidence before the Joint Statute Law Revision Committee as to possible serious prejudice to an accused by publicity given to Coronial Enquiries and Committal Proceedings.

Public Criticism of  
Judge by the Attorney-  
General

In February 1964, the Honourable Attorney-General publicly criticised a Judge sitting in General Session Appeals for reducing a sentence of imprisonment in a particular case. The then Council released a press statement in the matter expressing the concern of the Bar at the action of the Attorney-General in indulging in public criticism of the decision of the Judge in the exercise of his judicial duties.

Supreme Court  
( Qualification of  
Judges ) Bill

The Supreme Court ( Qualification of Judges ) Bill which had the effect of rendering Commonwealth Judges, who are otherwise qualified, eligible for appointment to the Supreme Court of Victoria, also contemplated that the field from which appointments to the Supreme Court could be made widened by the addition to it of County Court judges. On this latter aspect, the Council invited the attention of the Attorney-General to the traditional principle that promotion should not be in the expectation of a judge who has been appointed to the Bench.

Practice  
relating to  
Appointment  
of silk

In November, 1964 the Chief Justice informed the Chairman of the Bar Council that he proposed to vary the practice governing applications for appointment as one of Her Majesty's Counsel for the State of Victoria.

As before, applicants will be required to send out notices to seniors at the appropriate time. However, applications not received during the month of September will not ordinarily be considered in that year.

It is envisaged that the new procedure will enable final recommendations to be made at such time as will permit the resulting appointments to take effect towards the end of the then current year.

The full text of the Chief Justice's letter was set out in a circular distributed to members of the Bar.

Commonwealth  
Silk

The Council appointed a Committee to investigate the implications of appointment of Commonwealth Silks. After the committee had been set up, Sir Kenneth Bailey was appointed a Queen's Counsel on the recommendation of the Commonwealth Attorney-General. The problem with regard to Commonwealth Silks involves questions of, inter alia, whether Commonwealth Silks are to have precedence in State Courts and as to what the mode of appointment of Commonwealth Silks should be ( i.e. whether it should be upon nomination of the Chief Justice of the High Court or upon the recommendation of the Commonwealth Attorney-General ). The matter is also under consideration by the Australian Bar Association and the Law Council of Australia and the Bar representatives on both these bodies were instructed by the Council to press for recognition in the Federal sphere of the views that the office of Queen's Counsel be regarded as recognition of forensic professional pre-eminence and that those bodies be asked to make representations that the system of appointment of Queen's Counsel be on the application of the practitioner concerned and on the nomination of the Chief Justice of the High Court of Australia.

COUNSEL FEES

Payment by  
Solicitors

In 1962 an arrangement was entered into between the Bar Council and the Law Institute of Victoria which was devised, inter alia, to facilitate the reasonably prompt payment of fees by solicitors. In practice, it has been found that the procedure set out in this arrangement has been inadequate to achieve the result desired by the Bar. The Council accordingly investigated alternative proposals and, at a Special General Meeting of the Bar, put forward a proposed scheme which was designed mainly to benefit members of under 7 years' standing at the Bar, although the very existence of the scheme could indirectly benefit more senior counsel. It was felt that since young members at the Bar are reluctant to sue for overdue fees the whole weight of the Bar should be brought to bear in support of the scheme to ensure that young members received prompt payment for work done. The motion for the adoption of the scheme met with opposition but was carried by a large majority.

For convenience of reference the scheme is printed as an appendix at the end of this Report.

The Council appointed Messrs. P.A. Coldham Q.C., R.E. McGarvie Q.C., and R.K. Todd as the subcommittee contemplated by the scheme.

Fees in Courts  
of Petty Sessions

Messrs. K.V. Anderson Q.C., and G.R.D. Waldron on behalf of the Bar made submissions before an enquiry being conducted by Mr. Bateman for the Secretary of the Law Department, as to what would be an appropriate scale of costs in the increased jurisdiction of Petty Sessions. The Bar's submissions were

(a) that the top scale in the increased jurisdiction of the

Court of Petty Sessions should be the same as the corresponding County Court Scale and that the lower scales should be adjusted accordingly ;

(b) that the items in the Petty Sessions scale of costs should be the same as the items in the County Court scale ;

(c) that there should be some provision for a waiting fee payable to Counsel whose case is not reached on the day or days that it is listed for hearing.

The recommendations which the Secretary of the Law Department has made to the Attorney-General concerning the Petty Sessions scale of costs place Counsel's fees slightly below the corresponding County Court scale.

Workers' Compensation -  
Fees on Summons for  
Directions and in  
Redemption Cases

The scale of costs under the Workers' Compensation Rules made applicable to summonses for directions still referred to the old scales of County Court costs and had not been amended when the County Court scale of costs was amended in 1962. Representations were made to the Chairman of the Workers' Compensation Board that the fees on summonses for directions should be brought into line with the present County Court scale. At the same time, it was suggested that the costs awarded on Redemption applications should be increased.

Decimal Currency

With the imminent adoption of decimal currency, a committee was appointed to report on how the profession may be affected by the change to decimal currency. The Committee (Messrs. M. Ashkanasy Q.C., C.H. Francis and M. Dowling) made a very extensive and useful report raising a number of policy questions to be determined by the Bar Council. These matters are still under consideration by the Council.

LEGAL AID.

The Legal Aid Acts 1961-1963 came into operation on the 11th December, 1963. On the 1st. February 1964, a Secretary was appointed and the scheme began operating on the 14th April, 1964. This scheme of legal aid is intended to be complementary to legal aid given by the Public Solicitor and in some respects to supplement it. The administrative costs of the scheme are borne by the State Government. The scheme is administered by a Committee comprising two representatives from the Bar and two from the Law Institute of Victoria. The office of the Legal Aid Committee is situated on the ground floor of Owen Dixon Chambers. The profession charges in the ordinary way for work done, but payment and the proportion of the fee charged which is actually paid is dependent solely upon what legal costs the Legal Aid Committee receives from the other side in legal proceedings in which a person is assisted under the scheme, and the contributions ( if any ) which an assisted person may be required to make towards his own costs. It is quite apparent that members who do work will not be paid

in full and it is unknown at present what proportion of the fees can be reasonably expected to be paid to members. The reasonableness of the fee charged by a member is solely within the discretion of the Legal Aid Committee.

The Secretary and his senior clerk interview all applicants and refer all applications of any difficulty to the Legal Aid Committee who consider whether legal aid will be given or not. In considering applications for assistance, attention is first given to the legal merits of the matter in which aid is sought. When it appears that the case has legal merit, the applicant's means are then considered with regard being paid to the amount at issue or the importance of the case.

In the consideration of an applicant's means the matrimonial home is generally disregarded if well encumbered, but its value may be relevant if unencumbered. In litigation where costs could be great, the Committee considers that a family man should not have to sell up his home or risk his only realizable assets in order to enforce or protect his legal rights.

When an application is approved, a decision is also made as to whether or not some contribution should be made by the applicant. If the applicant is in work, then a contribution is stipulated.

Types of cases assisted vary. Up to the 30th June, 1964 assistance had been given in an appeal to the Full High Court, the Full Court of the Supreme Court and in a matter before a single Judge of the High Court. However most matters are in Courts of Petty Sessions, Courts of General Sessions, and the County Court. In the Divorce jurisdiction assistance is not normally given to institute proceedings, but assistance has been given in either defence or ancillary matters such as maintenance and custody. The present policy of the Committee is not to give assistance in criminal matters unless there are cogent reasons, and accordingly applications in this field are scrutinized very closely.

Cases are assigned to practitioners but if a case is referred to the Committee from a solicitor, the matter is usually assigned to such solicitor.

In the Report of Legal Aid Committee for the period ending the 30th June, 1964 it is stated that both branches of the profession have co-operated very well. The following are details of matters handled by the Committee from 14th April, 1964 to 30th June, 1964 -

Dealt with by Secretary and Senior Clerk	403
Rejected by Committee	57
Withdrawn	4
Assigned for action	114
Deferred or not dealt with	8
Total Applications	586

The matter assigned to practitioners can be divided as follows :-

Divorce and Matrimonial Causes	9
Maintenance	30
Separation Custody & Affiliation	10
Motor Accident Claims	13
Criminal	6
Civil Cause	35
Workers' Compensation	7
Probate and Testators' Family	
Maintenance	1
Other matters	3
	<hr/>
	114
	<hr/>

From the above it will be seen that Legal Aid is given in a wide variety of jurisdictions. The success of the scheme is dependent upon continuance of the goodwill and co-operation of both branches of the profession.

The Bar representatives on the original Committee were Messrs. P. Murphy, Q.C., and L.S. Lazarus. Having regard to the time demanded by serving on this Committee, each representative in future will serve only for twelve months. The Bar representatives will retire at the end of June and December of each year and the Chairmanship of the Committee will rotate between the Bar representatives and those of the Law Institute of Victoria. Mr. R.M. Northrop has replaced Mr. Lazarus who retired from the Committee at the end of 1964.

The Law Council of Australia is proposing to make recommendations to the Commonwealth Attorney-General for the introduction of a Legal Aid Scheme in co-operation with the Federal Government. This matter is still under consideration by the Bar Council.

#### LEGAL EDUCATION

Legal Education is and has at all times been a major concern to the profession. Changed economic and social conditions and changed techniques of law teaching have necessitated reconsideration of the form and content of legal education. Funds have not been available to enable Australian University law schools to cope with the number of students wishing to study law. Inadequate facilities have caused Universities to impose quotas upon the number of students taking the law course. The realization of this situation and its progressive worsening led the Law Council of Australia in 1963 to recommend to each of its constituent members that they should take up with the Prime Minister and their respective State Authorities the question of adequate funds being made available for Law Schools in their respective States. These recommendations were approved by last year's Bar Council and the then Chairman of the Bar Council, Mr. M. V. McInerney Q.C., wrote to the Prime Minister and the State Minister for Education, the Hon. Mr. Bloomfield, along the lines of the recommendations. Replies were received

in 1964, from Senator Gorton, on behalf of the Prime Minister indicating that the matter was being enquired into and also from the Hon. Mr. Bloomfield stating that he was unable in his several capacities to do anything further in the matter.

Following upon receipt of these replies, representatives of the Bar Council and the Law Institute of Victoria met to discuss what joint action could be taken. There were meetings between representatives of the Bar Council, the Council of the Law Institute of Victoria and of the Law Schools of the Melbourne and Monash Universities. The first year quota for law students at Melbourne University in 1965 is 250 and at Monash University is 200. The Bar Council in consultation with the two Universities and the Law Institute of Victoria is considering what further steps can be taken to alleviate the situation.

The law course at Melbourne University is being substantially recast following the recommendations of a Curriculum Revision Committee. The course at Monash University is a three year course for a Bachelor of Jurisprudence and a further two years for a degree of Bachelor of Laws which will be the degree upon which applications for admittance to practice will be based.

#### Council of Legal Education Course

It will be recalled that in 1962 the Council of Legal Education established an articulated Clerks course under the control of the Council of Legal Education and administered by the Royal Melbourne Institute of Technology. This course was brought into being as a consequence of the introduction by the Law School at Melbourne University of a student quota system. As was reported in the Annual Report for 1962-63, the Bar Council together with the Law Institute of Victoria were opposed to the scheme as a permanent course, but were prepared to give support until the Law School at Monash University commenced to take students. Since 1962 the Bar has provided the majority of lecturers and tutors for this course. In 1962, 51 students enrolled in this course and a total of 115 first and second year full time and part time students in 1963 and a total of 128 first, second and third year students in 1964.

The establishment of a Faculty of Law at Monash University did not have the effect of providing places for all matriculating students who wished to study law and in 1964 new students who had failed to obtain places at the Universities were again enrolled for the Council's course.

A proposal to limit the course at present being taught at the Royal Melbourne Institute of Technology to six subjects was discussed by the Council for Legal Education. This proposal envisaged that these students would be absorbed by either Melbourne or Monash Universities in their respective courses, after the

students had completed these subjects. Melbourne University has refused this because of its inadequate facilities, whilst Monash University at first indicated that it was willing to help, but due to the location of Monash University, it was doubtful whether this offer would alleviate the position having regard to the fact that most students doing the Council of Legal Education course were articled clerks working in the City. A further difficulty at Monash University is the fact that the course offered there is for a degree for Bachelor of Jurisprudence in the first three years, having a high Art subject content, followed by a two year course for a degree of Bachelor of Laws. The Council of Legal Education course, being a course of pure law subjects, presented difficulty for ready absorption into the course at Monash. Nevertheless, in principle Monash University is willing to take a number of Council of Legal Education students each year, probably in the order of six to ten, although some arrangement has still to be worked out. It was indicated also that if certain buildings scheduled for completion in 1967 at Monash University could not reasonably be expected to be completed by then, it also would have to reduce the intake of students as the facilities would not be large enough to take students later in their course.

The effect of the above position at the two universities means that the course of the Council of Legal Education will have to be continued, and the numbers enrolling for such course will increase. The intake at the Council of Legal Education for 1965 is expected to be in the order of 80 to 100 students. The only step that can be taken at the moment is to continue to make representations to the Commonwealth Universities Commission to make greater financial allocations for the Law Schools at Melbourne and Monash Universities.

#### Articled Clerks

In many cases the training of articled clerks has been unsatisfactory. It is clear that the time has almost approached when there will be insufficient places available for those who desire to obtain articles. Some members of the Bar, Judiciary, the Law Institute of Victoria and the University Law Schools formed an informal committee which conducted a pilot articled clerks course in two subjects namely, Civil Procedure and Company Law in September, 1964. Each course dealt with the practical application of the subject in every day practice. The preliminary planning of the course on behalf of the Bar was carried out by Messrs. M.V. McInerney, Q.C. and R.E. McGarvie, Q.C. The Civil Procedure course was conducted by the Bar under the leadership of Mr. H.G. Ogden, Q.C., assisted by Messrs. I.F.C. Franich, A.J. Scurry and G.L. Fricke of the Bar, and Messrs. R.W. Lloyd and G. Fuller, Solicitors. Each course was limited to ten articled clerks and was of one week duration and proved a great success. The course was of an experimental nature only because

of its success, arrangements are now in hand to conduct a similar course in 1965 for larger numbers. The Bar is indebted to those who gave their time and energies to this experiment.

It is intended that the committee now be formally constituted with representatives appointed by the Judges, the Bar, the Law Institute and the Law Schools. It is planned to repeat the pilot course this year for 100 students in the subjects of Civil Procedure, Conveyancing and Company Practice. It is likely that these courses will develop as a supplement to articles and even possibly as an alternative to, or substitute for, articles.

#### CLERKING SYSTEM

At the last Annual General Meeting of the Bar, the Council reported on the working of the clerking system in Owen Dixon Chambers and on the Council's activities in relation to that system. The report was adopted and approved by the meeting and the Council was again directed to report to the next Annual General Meeting of the Bar on the working of the clerking system in Owen Dixon Chambers and its activities in relation to that system. A separate report will be circulated to Counsel for consideration at the forthcoming Annual General Meeting.

Mr. Calnin, barristers' clerk in Equity Chambers, will move to Owen Dixon Chambers in 1965. Some of the Counsel engaging Mr. Calnin as their clerk are also moving to Owen Dixon Chambers and Mr. Calnin will act for these members and continue to act for those who remain in Equity Chambers.

During 1963, an appeal was made to members of the Bar requesting contributions to assist to help defray the loss suffered by those members employing Mr. L. E. Harvey as their clerk through the deficiencies in the trust account of Mr. Harvey. The sum of £1382 was received as a result of this appeal. The Harvey Group Committee resolved that this sum be distributed only amongst the men formerly employing Mr. Harvey who were of under ten years standing to help offset some of the loss suffered by them. The Council received a letter from Dr. Coppel, Q.C., as Chairman of this Committee, asking that all members who contributed to the appeal be thanked for their contribution. This was done.

### ACCOMMODATION

#### Owen Dixon Chambers

In 1963 it became apparent that an accommodation shortage was developing and at the beginning of 1964 more men were seeking accommodation than was available. Following upon the endorsement given by a General Meeting of the Bar on 25th October, 1963 to a proposal to proceed with the present extensions to Owen Dixon Chambers, a contract was let to Costain ( Aust.) Pty. Ltd. in March 1964 for the proposed additions for a sum which, with Architects' fees, amounted to £367,000. In addition, partitioning and expenditure for the new Common Room will cost approximately a further £20,000. To finance this new capital expenditure, a further sum of £250,000 on first mortgage will be borrowed from the M. L. C. Assurance Co. Limited and additional Bank accommodation has to be arranged. To date an additional amount of £90,000 has been subscribed in shares and debentures in Barristers' Chambers Limited. Work commenced in April, 1964 and is still continuing and it is hoped will be fully completed in March, 1965. It is anticipated that Counsel will be able to move into the new chambers in February, 1965.

The Common Room and Library have been placed on the new 13th floor and the 9th floor has been converted into chambers. The 9th, 10th and most of the 11th floors will be available for occupation by the Bar. Part of the 11th and the whole of the 12th floor has been leased. They provide a reserve of accommodation for the future and an immediate source of necessary revenue.

#### Leases held by Counsel's Chambers in Equity Chambers

Certain parts of the fourth floor of Equity Chambers were held under lease by Counsel's Chambers Ltd. These came up for renewal during 1964, but the Council decided not to renew them.

### BAR LIBRARY.

#### Gift to the Bar

Sir James Tait Q.C., has made a generous gift to the Bar Library of a set of Australian Bankruptcy Cases. This is the second gift which Sir James has made.

Counsel are reminded that books are not to be removed from the Bar Library. Last year the Council ruled that it was a breach of etiquette ( and consequently of Rule 32 of Counsel Rules ) to remove or cause to be removed Library books from the Library in Owen Dixon Chambers or to retain any books which have been removed.

Counsel are also reminded that the Bar Library is for the exclusive use of members of the Bar and members should ensure that instructing solicitors and lay clients do not use the library.

The Library Committee has continued to add to the library which is becoming a very useful and convenient collection. The most recent major acquisition has been a set of English Reports.

### BAR HISTORY

The Hon. Sir Arthur Dean has kindly offered to assist in the compiling of material relative to the history of the Victorian Bar, upon his retirement from the Supreme Court Bench in 1965. Sir Arthur's offer was greatly appreciated and was accepted by the Council. There is a real need for material to be gathered and for older members of the Bar who are no longer practising, to be interviewed, if valuable material is not to be lost. In order to assist Sir Arthur in this task some space will be made available in Owen Dixon Chambers and secretarial assistance given. The Bar History Committee is still investigating various means whereby the Bar History can be written.

### LIQUOR LICENCE REFERENDUM

For some time the suggestion had been put to the Bar Council by some members of the Bar that steps be taken to provide facilities for the sale and supply of liquor on the new 13th floor. The suggestion was put to members of the Bar at a Special General Meeting on the 20th. August 1964. Prior to the Meeting a circular setting out the advantages and the disadvantages was distributed to all members. The General Meeting directed the Council to conduct a private referendum on the proposal, and to submit the results of the referendum to a general meeting. The referendum took the form of a circulated questionnaire to which 173 replies were received. The results have not at the time of writing this Report been placed before a general meeting. Members of the Bar will be informed of them by separate circular.

### VOTING SYSTEM AT ANNUAL ELECTIONS

In December, 1964 the Council received a report from the scrutineers appointed for the last Annual Election. This report stated that a number of ballot papers had all names crossed off but one. Such a vote is valid according to the present rules but in the view of the scrutineers constitutes a weakness in the present voting system which could lead to a grave abuse and an unbalanced representation. The matter will require consideration by the incoming Bar Council.

G.H. Lush

Chairman  
Victorian Bar Council.

## APPENDIX

The following are the rules for collection of overdue fees from solicitors which were adopted by the Bar at a Special General Meeting held on the 20th August, 1964 :

1. The Bar Council shall appoint a sub-committee of three to carry out the duties given to it under this plan.
2. Immediately after the long vacation and immediately after the short vacation in each year the sub-committee shall meet with the barristers' clerks.
3. Prior to each such meeting the sub-committee shall :-
  - (a) provide each clerk with
    - (i) a list of counsel who first signed the roll of counsel within 7 years of the preceding 31st December ( here called " junior counsel " )
    - (ii) a list of the solicitors in respect of whom a junior counsel has since the last meeting made a complaint to the sub-committee in respect of non payment of fees :
  - (b) request each clerk to provide at the meeting sufficient information to enable the sub-committee to decide whether there are any solicitors with sufficient fees to junior counsel outstanding for more than six months from the rendering of the first voucher for fees, to show that fees to junior counsel have not been paid with reasonable promptness, and whether it is desirable that action be taken with respect to any such solicitor.
4. The identity of a junior counsel who makes a complaint to the sub-committee in respect of non payment of fees by a solicitor shall not be disclosed beyond the members of the sub-committee.
5. After the meeting with the clerks the sub-committee, having taken into account the views of the clerks, shall place the name of a solicitor on a preliminary list, if satisfied by a majority :-
  - (a) that a solicitor has sufficient fees to junior counsel outstanding for more than six months from the rendering of the first voucher for fees to show that fees to junior counsel have not been paid with reasonable promptness ; and
  - (b) that in the circumstances it is desirable that action be taken in respect of the solicitor.
6. The sub-committee shall forward the preliminary list to the Registrar who shall :-
  - (a) obtain from the clerks in respect of each solicitor whose name is on the preliminary list details of the fees to junior counsel shown in their records as outstanding for more than six months from the rendering of the first voucher for fees :
  - (b) forward to each solicitor whose name is on the preliminary list :-
    - (i) a list of the fees to junior counsel shown in the clerks' records as outstanding for more than six months from the rendering of the first voucher for fees :
    - (ii) a letter stating that the registrar has been directed by the sub-committee of the Bar concerned with the payment of counsel's fees, to inform the solicitor that unless within 28 days the fees on the list are paid or a reasonable explanation for failure to pay is given, the sub-committee will recommend to the Bar Council that the solicitor's name

be placed on a list of solicitors who have failed to pay fees to junior counsel with reasonable promptness.

7. The name of a solicitor shall be removed from the preliminary list if the sub-committee by a majority, having regard to any payment made, any explanation given, or any other circumstances which it considers relevant, is satisfied that the name should be removed.
8. The sub-committee shall, after the expiration of the period referred to in the Registrar's letter, forward the preliminary list as finally settled by it to the Bar Council, together with a report recommending that the solicitors whose names appear on the preliminary list be placed on a Bar Council list of solicitors who have failed to pay fees to junior counsel with reasonable promptness.
9. The Bar Council may at its absolute discretion determine which ( if any ) of the names on the preliminary list should be placed on the Bar Council list of solicitors who have failed to pay fees to junior counsel with reasonable promptness.
10. Upon the Bar Council determining that a solicitor's name should be placed on the Bar Council's list the Registrar shall forthwith :-
  - (a) notify the solicitor in writing -
    - (i) that his name has been placed on the Bar Council list of solicitors who have failed to pay fees to junior counsel with reasonable promptness;
    - (ii) that all counsel on the practising list and their clerks have been advised that it is the opinion of the Bar Council that while his name remains on the list all counsel and their clerks should decline to accept briefs or instructions from or to confer with or work professionally for the solicitor except in matters in which counsel was retained prior to the name being placed on the list in which case counsel or his clerk should decline to accept further briefs or instructions from the solicitor in such matters unless the fee for the work is paid in advance.
    - (iii) that his name will be removed from the list if the fees referred to in the Registrar's earlier letter are paid, or if the Bar Council having regard to any payment made, any explanation given or any other circumstances which it considers relevant, is satisfied that his name should be removed from the list ;
    - (iv) that if his name is removed from the list that solicitor and all counsel on the practising list and their clerks will immediately be informed that the name has been removed;
  - (b) notify all counsel on the practising list in writing that the solicitor's name has been placed on the Bar Council list of solicitors who have failed to pay fees to junior counsel with reasonable promptness and that it is the opinion of the Bar Council that while his name remains on the list all counsel and their clerks should decline to accept briefs or instructions from or to confer with or work professionally for the solicitor except in matters in which counsel was retained prior to the name placed on the list in which case counsel or his clerk should decline to accept further briefs or instructions from the solicitor in such matters unless the fees for the work is paid in advance.

11. A solicitor's name shall forthwith be removed from the Bar Council list if :-
- (a)
    - (i) the Bar Council
    - (ii) the chairman or acting chairman of the Bar Council.
    - (iii) a majority of the sub-committee
    - (iv) the chairman of the sub-committee or the senior member of the sub-committee available in chambers at that time - is satisfied that the solicitor has paid the fees referred to in the Registrar's earlier letter, or has paid such part of those fees as is reasonable, having regard to the existence of any bona fide dispute as to whether part of these fees is owing ;
  - (b) The Bar Council having regard to any payment made, any explanation given, or any other circumstances which it considers relevant, is satisfied that his name should be removed.
12. If a solicitor's name is removed from the Bar Council list the Registrar shall forthwith in writing notify the solicitor and all counsel on the practising list and their clerks that the name has been removed.