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Reference use

Ross N.

VICTORIAN BAR COUNCIL
OWEN DIXON CHAMBER
205 WILLIAM STREET
MELBOURNE 3000

Sept 1966

VICTORIAN BAR COUNCIL

ANNUAL REPORT

1966

VICTORIAN BAR COUNCIL

ANNUAL REPORT

1966

To be presented to the Annual General Meeting to be held on Tuesday, 27th September 1966 at 5 p.m. in The Common Room, Owen Dixon Chambers, 205 William Street, Melbourne.

MEMBERSHIP OF THE COUNCIL

Election

In February 1966 the following persons were elected to the Council:-

Counsel of not less than 7 years standing

Sir James Tait O.C., Messrs. L. Voumard O.C., C.I. Menhennitt O.C., K.V. Anderson O.C., J.G. Gorman O.C., P. Murphy O.C., X. Connor O.C., P.A. Coldham, D.F.C., O.C., W.O. Harris, O.C., L.S. Lazarus and P.U. Rendit.

In May, 1966 Mr. C.I. Menhennitt O.C. resigned from the Council upon his appointment as an Acting Judge of the Supreme Court of Victoria. Mr. D.P. Whelan O.C. was elected in May 1966 to fill the casual vacancy.

Counsel of not more than 10 years standing.

Messrs. W.M.R. Kelly, P.A. Liddell, R.K. Todd and A.A. Smithers.

The Attorney-General for the Commonwealth of Australia, the Honourable B.M. Snedden, O.C., M.P., as a member of the Victorian Bar, continued as an ex officio member of the Council.

Officers

The following appointments were made by the Council:-

Chairman:	Mr. K.V. Anderson O.C.
Vice-Chairman:	Mr. C.I. Menhennitt O.C.
	Following Mr. Menhennitt's resignation, Mr. X. Connor O.C. was appointed Vice-Chairman.
Honorary Treasurer:	Sir James Tait O.C.
Honorary Secretary:	Mr. P.U. Rendit.
Registrar:	Mr. D.E. Edwards.

STANDING COMMITTEES

The following Standing Committees were appointed:

Ethics

Messrs. P.A. Coldham Q.C. (Chairman), L. Voumard Q.C., W.O. Harris Q.C., L.S. Lazarus and A.A. Smithers.

Law Reform

Messrs. X. Connor Q.C. (Chairman), W.O. Harris Q.C., P.A. Liddell and R.K. Todd.

Lectures

Messrs. J.G. Gorman Q.C. (Chairman), P. Murphy Q.C., L.S. Lazarus, W.M.R. Kelly and R.K. Todd.

Library

Messrs. P. Murphy (Chairman), R.G. DeB. Griffith, W.F. Ormiston, J.W. Wolters and J.V. Kaufman.

Legal

Education

Messrs. C.I. Menhennitt Q.C. (Chairman), W.O. Harris Q.C., R.E. McGarvie Q.C., H. Storey and D. Dawson.

Overdue Fees

Messrs. P.A. Coldham Q.C. (Chairman), J.G. Gorman Q.C., and R.K. Todd.

Bar History

Sir Arthur Dean (Chairman), Judge Read, Dr. E.G. Coppel Q.C., Mr. F.M. Bradshaw, Professor Cowen, Messrs. R.G. DeB. Griffith, K.J.A. Asche, J.E.R. Bland. Later Sir James Tait Q.C. and Mr. R.K. Todd were added to the Committee.

Social and

Common Room

Messrs. J.G. Gorman Q.C. (Chairman), W.M.R. Kelly and A.A. Smithers.

Practice

Committees

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

Sub-Committees of the Practice Committee:-

Matrimonial Causes

Mrs. J. Rosanove Q.C., Messrs. C.F.C. Morrell and H.C. Emery and Miss M. Kingston.

Juries

Messrs. V.H. Belson Q.C., E.A.H. Laurie Q.C., H. Ball and A.J. Southwell.

Crime

Messrs. W.C. Crockett Q.C., G.M. Byrne, J. Lazarus, J.H. Phillips and D.W. McLeod.

Causes

Messrs. N.S. Stabey Q.C., S. Strauss Q.C., and D. Dawson.

Miscellaneous Causes

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

Licensing

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

Workers' Compensation

Messrs. E.F. Hill, D.G. Williamson, F.X. Costigan, W.D. Magennis and H.W. Fox.

County Court

Messrs. J.J. Hedigan, F. Dyett, J.K. Nixon, A.W. McDonald and L.R. Hart.

Petty Sessions

Messrs. B. Kayser, J.R. Perry, A.B. Nicholson and P. Martin.

Floor
Committees

Co-ordinator of Floor Committees:-
Mr. L.S. Lazarus.

AD HOC COMMITTEES

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

Club
Registration

Messrs. V.H. Belson Q.C., J.G. Gorman Q.C., J.R. Campton, A.J. Southwell, N.M. O'Bryan and G.V. Tolhurst.

Pentridge
Interviewing
Facilities

Messrs. X. Connor Q.C., J. Lazarus and
W.M.R. Kelly.

APPOINTMENTS

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

Attorney-
General's
Procedure
Committee

Mr. P. Murphy Q.C., with assisting Committee of
Messrs. P.A. Coldham Q.C., (Alternate) X. Connor Q.C.,
and D.G. Williamson.

Board of
Examiners

Messrs. X. Connor Q.C., A.E. Woodward Q.C., and
L.S. Lazarus.

Attorney-
General's
Committee on
Sale of Land

Mr. R.K. Fullagar Q.C.

Chief Justice's
Rules Committee

Mr. P.A. Coldham Q.C. (Alternate Mr. W.O. Harris
Q.C.)

Chief Justice's
Law Reform
Committees

Messrs. C.I. Menhennitt Q.C., X. Connor Q.C., and
R.K. Todd, (and later Mr. W.O. Harris Q.C. vice Mr.
C.I. Menhennitt Q.C.)

Standing
Committee with
Law Institute

Messrs. K.V. Anderson Q.C., and C.I. Menhennitt Q.C.,
(and later Mr. X. Connor Q.C., vice Mr. C.I. Menhennitt
Q.C.)

Australian Bar
Association

Messrs. K.V. Anderson Q.C., and C.I. Menhennitt Q.C.,
(and later Mr. X. Connor Q.C. vice Mr. C.I. Menhennitt
Q.C.)

Law Council
of Australia
Executive

Mr. C.I. Menhennitt Q.C., (and later Mr. K.V. Anderson
Q.C., vice Mr. C.I. Menhennitt Q.C.)

Council of Legal
Education

Messrs. K.V. Anderson Q.C., L. Voumard Q.C., and
R.E. McGarvie Q.C.

Faculty of Law
(Monash
University)

Mr. P. Murphy Q.C.

Council of Law
Reporting

Sir James Tait Q.C. and Mr. F.M. Bradshaw.

Directors of
Barristers
Chambers
Limited

Sir James Tait Q.C., Messrs. M. Ashkanasy Q.C.,
K.V. Anderson Q.C., W. Kaye Q.C. and N.S. Stabey
Q.C.

Superannuation
Fund for
Supreme Court
Librarian

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

Barristers'
Superannuation
Fund - Trustees

Mr. K.V. Anderson Q.C. (Chairman), Sir James Tait
Q.C., Mr. C.I. Menhennitt Q.C., - and Hon. Secretary;
Mr. S.G. Hogg. (Later Mr. R.K. Fullagar Q.C. was
appointed, vice Mr. C.I. Menhennitt Q.C.)

Legal Aid

Messrs. H.G. Ogden Q.C., and N.M. O'Bryan (and
later Mr. N.S. Stabey Q.C., vice Mr. H.G. Ogden
Q.C.)

Attorney-
General's
Committee on
Facilities in
County Court
Building

Mr. E.A.H. Laurie Q.C. (Alternate Mr. J. Lazarus)

Joint Committee
on Management
of Courses for
Articled Clerks

Messrs. W.O. Harris Q.C., and R.E. McGarvie Q.C.

Appeal Costs
Board

Mr. W.O. Harris Q.C.

Legal Education
Committee

Mr. R.E. McGarvie (Alternate Mr. L. Voumard)

Royal Victorian
Association of
Honorary Justices
(Victorian Bar
Liaison)

Mr. S.P. Charles.

Attorney-
General's
Committee on
Justices Act

Mr. W. Martin. (Supporting Committee Messrs.
J.R. O'Shea and E.C. McHugh.)

MEETINGS

Council
Meetings

There were 14 evening meetings of the Council during the period from the 1st March 1966 to 1st September 1966. In addition there were numerous committee meetings and attendances by representatives at meetings of the various outside bodies.

FINANCE

The Council fixed the following subscriptions for membership of the Victorian Bar for the period of March 1966 to September 1966:

Counsel called under 12 months	\$2.00
Over 1 but under 3 years	\$5.00
Over 3 but under 7 years	\$8.00
Over 7 but under 10 years	\$10.00
Over 10 years	\$15.00
Queen's Counsel	\$25.00
Solicitor-General	\$10.00
Crown Prosecutors and Parliamentary Draftsmen	\$8.00
Interstate Silks	\$10.00
Interstate Juniors	\$7.00
Non-Practising List	\$5.00

The Honorary Treasurer's Report and Annual Financial Statement will be presented to the Annual General Meeting. The statements, subject to audit, are printed as an annexure to this report.

PERSONALIA

Judicial
Appointments

In May 1966 Mr. C.I. Menhennitt Q.C. was appointed an Acting Judge of the Supreme Court of Victoria.

In March 1966 Mr. R.J.M. Newton Q.C. was appointed a Judge of the District Court of New South Wales.

Death

The Council records with regret the death of Mr. A.W. Tuckett on the 4th September, 1966.

Honours

The following honours were conferred by Her Majesty the Queen upon members of the Victorian Bar in 1966.

The Honourable Sir Henry Winneke O.B.E. - Knight Commander of the Order of St. Michael and St. George.

Sir Eugene Gorman M.C., Q.C., who was a Commander of the Order of the British Empire was created a Knight Commander of that Order.

The Roll of
Counsel

Between the 1st February and the 31st August 1966 the following persons signed the Roll of Counsel:-

Messrs. K.J. Mahoney, R.L. Langton, E.L. Bryant, D.G. Sullivan, A.R. Castan, Professor D.C. Jackson, Messrs. M. Wajsenberg, J.N. Bryson, J.A. Coldrey, D.I. Findlay, J.A. Strahan, J.R. Guy, W.K. Nicholl (Canberra), A. St.J. J. Hannigan, P.W. Murley, and C.I. New.

Transfers

The names of the following persons were transferred from the Practising list to the Non-practising list at their request:-

Professor F.B. Donovan, Mr. A.C.C. Farran and Mrs. Allayne Kiddle.

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.G.L. Baillie, J.D. Feltham, K.J. Southwick, N.J. Williams, D.R. Tucker, Dr. E.G. Coppel Q.C., Messrs. O.B. Green, R.R.N. King Q.C., B. Selleto, S.B. Granat, G.L. Gray and Miss Anne Curtis.

Numbers on
the Roll

(As at 31st August 1966)

Number signed the Roll in 1966

16

Judges List Total

65 (compared with 62 in 1965)

Practising List Total

334 (compared with 335 in 1965)

Non-Practising List Total

40 (compared with 39 in 1965)

Total on the Rolls (all lists)

439 (compared with 436 in 1965)

Number of members in actual practice as counsel
keeping Chambers in Victoria.

(Excluding Prosecutors for the Queen) 271

FUNCTIONS

The Opening of
The Legal Year

The traditional Church Services marking the Opening of the Legal Year 1966 were held on Tuesday the 1st February 1966 in St. Paul's Cathedral, St. Patrick's Cathedral and at the East Melbourne Synagogue.

At the service at St. Paul's Cathedral, the lessons were read by Mr. B.L. Murray Q.C., Solicitor-General for Victoria and the Honourable Sir Henry Winneke O.B.E., Chief Justice of Victoria.

The sermon was preached by the Reverend D.M. Himbury B.A., B.D., B. Litt., Principal of Whitley Baptist College.

The Red Mass was celebrated at St. Patrick's Cathedral to mark the occasion. The celebrant was His Lordship Bishop Moran and the sermon was preached by Rev. Fr. Theophane Rush O.F.M.

The service at the East Melbourne Synagogue was conducted by Rabbi Lubofski.

Bar Dinner

A Bar Dinner was held on Saturday, the 14th May 1966 in the Common Room, Owen Dixon Chambers. The guests of honour were the Honourable Mr. Justice Barber, the Honourable Mr. Justice McInerney, the Honourable Mr. Justice Lush, His Honour Judge Just, and His Honour Judge Leckie.

Sir Robert
Menzies Portrait

On Saturday the 24th September, 1966, the Bar gave a dinner in honour of the Right Honourable Sir Robert Menzies K.T., C.H., Q.C., at which a portrait by Mr. Ivor Hele O.B.E., which had been commissioned by the Bar, was unveiled.

Common Room

On the 10th March 1966, the Council entertained at dinner all members of the Bar who had signed the Roll since April 1965. The Council invited the Right Honourable Sir Garfield Barwick, the Honourable Sir Henry Winneke and Mr. B. L. Murray Q.C., to dine with and meet the new members of the Bar.

During the year, when the Bar Council held its meetings, it entertained at dinner a number of guests. These included the Federal Attorney-General Mr. B.M. Sneddon Q.C., Victorian Attorney-General, Mr. A.G. Rylah, The Chief Justice and Justices of the High Court, the Chief Justice and Judges of the Supreme Court, Judges of the Federal Courts, Judges of the County Court, Victorian Parliamentarians, University Professors and lecturers, members of the Executive Council of the Law Institute of Victoria, the Ambassador for the United States of America, The American Consul-General, members of the Executive Council of the International Commission of Jurists (Victorian Branch) and the Rt. Hon. Sir Robert Menzies.

On the 12th May, 1966 the Council entertained at dinner the Presidents of the various country law associations.

From time to time the Chairman has invited members of the Bar to join with him entertaining at drinks various guests including the Judges, the Lord Mayor, Magistrates, lay members of various tribunals, Parliamentarians, University personnel, Senior Police Officers, and others including some of the delegates from Asian Countries who were in Australia to attend the inaugural Conference of the Regional Law Association for Asia and the Far East.

On the 9th May 1966 the Council entertained Mr. Acting Justice Menhennitt at dinner to mark his appointment as an Acting Judge of the Supreme Court and also in recognition of his fine service to the Bar Council and the Bar.

On the 30th June 1966 a dining-in night for members of the Bar and their wives was held. Dr. E.G. Coppel C.M.G., Q.C., and Mrs. Coppel were invited as guests of honour on the occasion of Dr. Coppel's retirement from the Bar.

The Council is pleased to report that the facilities now available in the Common Room and lounge now enable the Bar to enjoy an increasing degree of community life and to return hospitality which it receives from various quarters.

The Council wishes to record its appreciation and gratitude to Mr. & Mrs. Unger for their co-operation in making the numerous Common Room functions a success.

Other functions

Representatives of the Bar Council attended the annual dinners of country law Associations at Bendigo and Hamilton.

Members of the Bar attended the Queens' Birthday Levee at Parliament House on Saturday the 11th June 1966.

The Victorian Bar combined with the Law Institute of Victoria in holding a Dinner Dance at the Palais de Dance on the 9th April 1966.

The Annual Golf Match between the Bench and Bar and the Combined Services was played at Yarra Yarra on the 1st July, 1966. The match for the Bruche Cup was drawn and accordingly the Combined Services retained the Cup being the current holders. They also retained the Macfarlan Cup. Mr. G.S. Brett acted as organizer of this match on behalf of the Bar.

AUSTRALIAN BAR ASSOCIATION

A meeting of the Council of the Australian Bar Association was held in Brisbane on 8th May, 1966, which was attended by two delegates from each of the three Eastern Bars (Queensland, New South Wales and Victoria, the constituent bodies).

Included in the matters dealt with at this meeting was the question of the maintaining the rank and practices of Queen's Counsel. After deliberation the Council resolved that

"in its view it is in the public interest that there should be counsel, normally Queen's Counsel, who are prepared to confine their practices to the type of cases which calls for the employment of two counsel and that it is proper for professional bodies to make and maintain rules of professional conduct that such counsel should not appear without a junior".

Consideration was also given to the eligibility to join the Australian Bar Association of barrister practitioners in States other than the three Eastern States.

Upon his appointment to the Supreme Court Bench, Mr. G.H. Lush Q.C., resigned as President of the Council of the Australian Bar Association and Mr. W.B. Campbell Q.C. of the Queensland Bar was elected as his successor. Mr. M. Byers Q.C. (N.S.W.) and Mr. K.V. Anderson Q.C. were elected Vice-Presidents. Mr. E.G. Broad of the Queensland Bar was appointed Honorary Secretary. Mr. J.D. Helman of the Queensland Bar was appointed Honorary Treasurer. Mr. T. Simos of the New South Wales Bar has been appointed editor of the Association's publication, "The Australian Bar Gazette", in succession to Mr. R.G. Henderson. Mr. J.D. Merralls of the Victorian Bar continues to act as Victorian correspondent. The most recent issue of the Gazette was May 1966.

LAW COUNCIL OF AUSTRALIA

During the year the Law Council sought the views of the Bar Council, as a constituent body of the Law Council, on a number of matters. These were mainly in the field of law reform. They included the following: Uniform Evidence Act; Companies Act - liabilities of officers; Companies Act - Prospectuses; Disciplinary Codes of the Australian Forces; Legal Aid; Admissions to Practise in the A.C.T. and legal education.

In relation to a Uniform Evidence Act, the Law Council's Sub-Committee which was appointed in 1965, prepared a draft Act incorporating many provisions of the Victorian Act. This was considered by the standing Law Reform Committee of the Bar Council which co-opted Mr. J. Gobbo. A memorandum was forwarded to the Law Council indicating dissatisfaction with certain aspects of the draft. The draft Act together with the Bar Council's memorandum has been forwarded to the Standing Committee of the Attorneys-General.

The Standing Committee of Attorneys-General asked the Law Council for its views on draft proposals concerning liability of officers of companies. The proposals put forward by the Standing Committee of Attorneys-General were threefold:

- (a) The Court is to be empowered in certain circumstances (and whether or not the company is in the course of being wound up) to direct an officer or former officer to attend for public examination (Section 374A).
- (b) In certain circumstances the Court can make a declaration that an officer or former officer shall be personally responsible without any limitation of liability for payment of the whole or any part of the company's debts whether or not the company is in course of liquidation (Section 374B).
- (c) In certain circumstances the Court may order an officer or former officer to pay money or restore property whether or not the company is in the course of being wound up (Section 374C).

After seeking the views of its constituent members, the Law Council forwarded copies of the reports it received from its constituent members including that of the Victorian Bar Council, to the Standing Committee of Attorneys-General with a recommendation that the matters involved in the proposals be considered by a public enquiry, through or by which the views of business men, accountants, stockbrokers, lawyers and others could be obtained.

Mr. C.I. Menhennitt Q.C. who had been the Bar Council's representative on the Law Council since June, 1965 and its Honorary Treasurer since November, 1965, retired upon his appointment as an acting Judge of the Supreme Court of Victoria. In May, 1966, Mr. K.V. Anderson Q.C. was appointed as the Bar's representative in place of Mr. Menhennitt and in July, 1966, he was also elected Honorary Treasurer of the Law Council. Mr. Ivor Greenwood continued as Honorary Secretary.

In August, 1966, the Law Council was host to a gathering of Asian lawyers who assembled at Canberra to consider the establishment of a regional law association for Asia and the Far East. The conference was a notable success and reflected great credit on the organizing committee in Sydney under the chairmanship of Mr. P.B. Toose, C.B.E., Q.C. The gathering resolved to establish such an association under the name of the Law Association for Asia and Western Pacific, membership of which was to be open to Asian countries and countries of the Pacific, including Australia and New Zealand. Mr. Justice Kerr of the Supreme Court of the Australian Capital Territory was elected the Association's first President, and the headquarters of the Association in its initial years is to be in Australia.

The Law Council's "Newsletter" was published in April and in July, 1966. It has proved a useful vehicle for informing members of constituent bodies of the Law Council's activities. Mr. Hadden Storey continued as one of the Editors of this publication.

The Fourteenth Legal Convention will be held at Adelaide commencing on 12th July, 1967. Included amongst the topics on the tentative programme are:-

1. "Do we need a new Constitution for the Commonwealth"?
2. "The future of limited liability companies and their administration".
3. "The Trade Practices Act, 1965".
4. "Contracts of Adhesion and Exception clauses".
5. "The role of the Australian Lawyer in South East Asia".

MATTERS RELATING TO CONDUCT
ETHICS AND PRIVILEGES.

Television and Lectures

A number of Counsel requested and obtained permission to give lectures to non-legal organisations. In two instances permission was given for television appearances.

Lectures on Ethics

Lectures on conduct and ethics were given by the Chairman of the Ethics Committee on the 11th and 18th May, 1966 to counsel called since the last series of lectures.

Queries

Members of the Committee have discussed queries made by counsel which were matters of immediate concern to those counsel in their practices and in cases in which they were then participating.

Complaints

A complaint was made by a solicitor concerning the conduct of counsel. After examining the matter and hearing from the counsel concerned it was decided that no action be taken.

Counsel complained of the remarks made with reference to him, and in his absence, by a Stipendiary Magistrate. After consideration a letter was sent to the Magistrate reminding him of the incident and expressing the view that nothing could be found in counsel's conduct which transgressed the ordinary rules of propriety and that the magistrate's remarks were apparently unwarranted. He was invited to provide any information which might qualify the view expressed by the Bar Council. In reply the

Magistrate explained that his remarks were made in response to a submission of a Solicitor acting for one of the parties, and the Council decided not to pursue the matter further.

Mock
Arbitration

Permission was refused to counsel to appear as counsel in a mock proceeding designed to demonstrate to an Institute of Mechanical Engineers how an arbitration is conducted.

Publication
of Lectures

The School of Architecture, Melbourne University, sought permission to publish in a periodical the text of lectures, conducted by the School, on legal topics, which were given by three counsel. The Council decided that there was no objection to the publication subject to the prior consent of the particular counsel being first obtained; nor was there any objection to a reference being made to the professional status of the lecturers.

RULINGS

The following Rulings were made during the year:

Drawing
Documents in
Multiple Form

It is part of Counsel's function to draw or settle documents upon receiving a brief to do so. It is not Counsel's function to engross documents for the purpose of delivery or service on behalf of Counsel's instructing solicitor. Counsel should therefore not accept a brief to draw or settle any such document or documents upon the basis that he return with his brief more than one copy of such document or documents. Counsel may do so in cases of particular emergency but should not accept the brief upon that basis.

Practising
List of Roll
Parliamentary
Draftsman

Amendment to Ruling of 14/12/65:

17/2/66

An amendment was made regarding the persons eligible for the Practising and Non-practising lists by deleting Parliamentary Draftsman in the Non-practising list and restoring them to the Practising list.

Counsel's duty
where instruc-
tions of authorised
insurers
contrary to lay
client's interest

A and B are drivers injured in a collision between their vehicles on a straight road. Neither can re-collect the collision. Evidence is available to indicate that the collision occurred approximately in the centre of the roadway.

A sues B and B desires to counter-claim.
B's insurance company instructs Counsel at an interlocutory stage.

The insurer's interest would best be served by relying upon *Nesterczuk v. Mortimore* (1966) A.L.R. 163. But this course, if successful, would defeat any counter claim.

If B. took separate proceedings issue estoppel might defeat his claim.

Counsel for B asked, assuming that B takes independent legal advice and as a result instructs his insurer's solicitors to lodge a counter-claim, what course should Counsel follow in the presentation of B's case. The Council ruled it would be an arbitrary exercise of the insurer's right of control of the action to conduct the defence so as to put B's right of action in jeopardy. Counsel ought to advise the lay client of his rights including his right to counter-claim irrespective of his obtaining independent legal advice. Counsel should conduct the case in accordance with the instructions of the insurer provided they do not run counter to the legitimate interests of the lay client.

LAW REFORM

In 1966 the Bar Council has had before it a number of proposals for Law Reform, the most important of which are as follows:-

Corporate Bodies' Contracts Act: (See Annual Report 1965-1966).

A Bill has been prepared and is before the Statute Law Revision Committee. Mr. W.E. Paterson of Counsel has been authorised to attend before that Committee and is also the Bar representative on a Chief Justice's Law Reform sub-Committee considering the Bill.

Wrongs (Assessment of Damages) Bill:

This Bill was referred to the Bar Council by the Statute Law Revision Committee. The effect of the Bill would be to exclude from consideration, in assessing the compensation payable to dependants of deceased persons, the extent of any benefit received by the dependant by reason of death having occurred. It would, inter alia,

overcome the problems of assessing proper compensation payable to dependants where death results in the accrual of dependants' rights to Social Service benefits. The Council resolved that the Statute Law Revision Committee be advised that the Council is in favour of excluding widows' pensions in assessing damages under the Wrongs Act 1958 but otherwise expresses no view on the proposed Bill because it relates to policy.

Attorney-General's Committee on the Justices Act:

An interim report was received relating to the procedure for execution in Courts of Petty Sessions.

Joint Select Committee on Drainage:

This is a complex matter and it is the tentative view of the Bar Council that primarily it calls for attention by civil engineers and local government experts. However the legal aspects of the onus of proof provisions in s.274 of the Water Act 1958 are still under consideration.

Disciplinary Codes of the Australian Forces:

This matter arose from a report prepared by a sub-Committee of the Law Society of the Australian Capital Territory which in turn was forwarded to the Bar Council by the Law Council of Australia. The report contained a number of suggested amendments and the Law Reform Committee's comments thereon were forwarded to the Law Council. An intelligible statement of the issues involved in this, as in some of the other Law Reform matters would, in the opinion of the Bar Council, be too lengthy for inclusion in the Annual Report. It is stressed however that the full reports on any of these matters will be readily made available to any members of the Bar who desire to see them.

PRACTICE MATTERS

Proposed
Amendments
to Justices
Act

The Committee which the Attorney-General appointed last year to make recommendations as to draft legislation amending and re-enacting the Justices Act 1958, has prepared a preliminary report upon the first of its terms of reference, namely, the procedure for Execution in Petty Sessions and has submitted it to the Attorney-General.

Interviewing
Facilities at
Pentridge
Gaol

Last year, the Council received a complaint from a member of the Bar that the new interviewing facilities at Pentridge Gaol were unsatisfactory and lacked privacy. Representations were made to the Solicitor-General to look into the complaint and as a result thereof the matter was taken up with Mr. Dillon the Under Secretary. As a result of discussions with Mr. Dillon and Mr. Whatmore, the Director-General of Social Welfare, satisfactory results have been achieved concerning the privacy of the interviewing facilities. However representations are currently being made concerning the presence of grilles within the interviewing rooms.

Increase in
County Court
Jurisdiction

During the year the Bar Council placed before the Attorney-General its views on the question of increases in the jurisdiction of the County Court. The ultimate increases made to the jurisdiction of the County Court closely followed the suggestions made by the Council.

The Council also indicated that it was in favour of vesting additional jurisdiction in the County Court, in such matters as Company Act prosecutions, and Local Government matters such as appeals relating to street construction and the non-sealing of plans of subdivision.

In relation to the Certificate of Readiness procedure, the Council recommended (if the procedure was retained) an amendment to it by allowing a party who had delivered to the opposite party a signed Certificate of Readiness to set the action down for trial if within fourteen days the opposite party had not shown cause in Chambers why the action should not be set down.

The Council also recommended that with a substantial increase in jurisdiction, transcript facilities should be available and if the parties to the action agree beforehand, the costs of the transcript should be borne by the unsuccessful party in the action.

Suggested
Amendments
Rules and
Appeal Costs
Fund Act.

During the year various counsel raised with the Bar Council suggested amendments to Order XXXVI Rule 20 (2) and Order LIV(c) of the Supreme Court Rules and the Appeal Costs Fund Act 1964 (No. 7117). The Council considered these matters and referred them to the appropriate authorities.

High Court
List of Cases
proposed to
be cited.

A requirement of the Chief Justice of the High Court has been promulgated to the effect that Counsel are required to supply to the High Court Registry in the State where the Court is sitting, a list of the cases which it is contemplated will be cited in argument by Counsel. Counsel are asked to supply the list to the Registry not less than 48 hours (24 hours in the case of Sydney) before the time at which it is anticipated their case will be listed for hearing in the Full Court.

COUNSEL'S FEES

Payment of
Overdue
Fees

The Bar scheme for recovery of fees owing to Counsel of not more than seven years' seniority was again put into operation. The names of four firms of solicitors were placed on the Bar Council list as defined in the scheme.

County Court

Following the increase in the County Court jurisdiction the Council made representations to a Committee of Judges of the County Court at their request with regard to the new scale of costs. The scale ultimately adopted by the County Court Judges was in most respects identical with that proposed by the Bar Council.

Two Counsel

In May, 1966 the High Court of Australia delivered judgment in Stanley -v- Phillips 40 A.L.J.R. 34, dealing with the allowance of the fees of two counsel in a running down case. In some quarters it was felt that the implications of this judgment had materially altered the operation of Order 65 rule 27, reg.(29). The Bar Council considered these implications and submitted to the Judges of the Supreme Court a memorandum, which included matters referred to it by the Inner Bar. This matter is still current.

LEGAL AID

At the beginning of the year the Bar's nominees upon the Legal Aid Committee were Messrs. H.G. Ogden, Q.C., and N.M. O'Bryan. At the end of June, 1965 Mr. Ogden retired and was replaced by Mr. N.S. Stabey, Q.C. During the past twelve months, the number of applications for legal aid has increased. Applicants are referred to the Committee by the Aborigines Welfare Board, private Social Service Organizations, Commonwealth Legal Service Bureau and the Consumers Protection Council. An increasing number of applications are also being referred to the Committee by Solicitors.

The following are details of business handled by the Committee during the period of the 1st July, 1965 to the 30th June, 1966:-

<u>1964/65</u>		<u>1965/66</u>
1371	Total Applications	2168
568	Dealt with by Secretary	897
803	Referred to Committee	1271
	Applications not dealt with or deferred 30/6/65 and subsequently referred to Committee	37
<u>9</u> 812		<u>1308</u>
523	Assistance approved	902
252	Rejected or withdrawn	279
37	Not dealt with or deferred 30/6/66	127
<u>812</u>		<u>1308</u>

An analysis of the applications received and dealt with during this period is as follows :-

	Total	Dealt with by Secretary	Referred to Committee	<u>Approved</u> 1964/5 1965/6	
DIVORCE	268	128	140	33	91
MAINTENANCE	679	186	493	218	368
CUSTODY & AFFILIATION	98	33	65	37	61
MOTOR ACCIDENT	163	55	108	29	72
CRIMINAL	278	92	186	55	135
CIVIL CAUSE	541	319	222	113	129
WORKERS' COMPENSATION	50	23	27	17	22
PROBATE & T.F.M.	41	24	16	6	8
OTHER	51	37	14	15	16
TOTAL	2168	897	1271	523	902

The following are details of funds collected and fees certified as follows :

Contributions by assisted persons	\$15,724.12
Costs recovered	8,325.61
Bank Interest	<u>179.64</u>
	\$24,299.37
	<u><u> </u></u>
Solicitor's costs certified	\$30,474.94
Counsel's fees certified	<u>28,195.75</u>
	\$58,670.69
	<u><u> </u></u>

The Legal Aid Committee states that in accordance with s.9(4) of the Legal Aid Act 1961, the funds will be distributed at the rate of approximately 41 cents per dollar. This is less than the rate of distribution for the year ended the 30th June 1965 when it was 8/11d in the £1. (45 cents per dollar). As the greatest proportion of assisted cases is in the Petty Sessions jurisdiction, the burden of the Scheme falls most heavily on members of the Junior Bar particularly on members of 3 years' standing or less.

During the year, the Bar's representatives on the Legal Aid Committee sought the views of the Council to a proposal that the Public Solicitor take over all criminal cases both in Courts of Petty Sessions and the higher Courts and that the Legal Aid Committee act in all civil jurisdictions. The Bar Council expressed the view that there was not sufficient evidence available at present to support the suggested rigid policy that the Public Solicitor act in all criminal matters and the Legal Aid Committee act in all civil matters, and that accordingly no legal change should be made in the present system unless and until such definite evidence was available. The Council also stated that it believed that the present system allowed a degree of flexibility which enabled particular situations and circumstances to be dealt with more satisfactorily than would be the case should there be an exclusive division between the two bodies dispensing legal aid. Another aspect which the Council took into account, was the undesirability of any formal change in Victoria when discussions were about to take place as to the participation of the Commonwealth in the system of legal aid which may require some modification of the scheme at present existing in Victoria.

However, by the Legal Aid Committee's report dated 23rd May, 1966 the Committee recommended to the Government that there should be a division of legal aid work between the Public Solicitor's Office and the Committee and proposed that by stages the Public Solicitor should take over all criminal matters, leaving the balance of legal aid work to the Committee.

The Law Council of Australia has currently arranged for a conference to discuss the question of legal aid in the federal sphere. It is expected that this conference will be held in Melbourne in October, 1966 and that the Federal Attorney-General or his representative will be invited to be present at one of the meetings.

LEGAL EDUCATION

University
Education

This year, as in 1965, the University of Melbourne Law School quota was fixed at 250; the quota for Monash Law School was reduced from 200 to 150. The Monash quota was exceeded by sixteen after account is taken of transferees from the Council of Legal Education Course and of students admitted ad eundem statum from other universities. The Monash figure included seven places taken up by students previously enrolled at Monash and permitted to repeat first year subjects. The combined number of new places at both universities therefore was reduced from 450 in 1965 to 409 in 1966.

Council of
Legal Education
Course

The Faculty of Law at Monash has decided that provisions which provided for transfers from the Council of Legal Education Course to the Monash degree courses in 1965 and 1966 shall apply in 1967. The students eligible for selection are those who have passed in either four subjects of the Council of Legal Education Course at the first examination or have passed six or more subjects of that course. Up to fifteen students who satisfy the conditions may be selected for admission to the Monash degree courses in 1967. The Faculty's Executive Committee has power to increase the number from 15 to 20 if it thinks it desirable to do so.

The nine students permitted to transfer to the Monash degree courses in 1965 achieved an overall pass rate of 84 per cent in that year. Twelve students who were enrolled in the Council of Legal Education Course in 1965 were admitted to Monash in 1966 with credit for subjects passed in that course.

The following members of the Bar have been Lecturers in the Council of Legal Education Course during 1966:

A.E. Woodward, Q.C., (Tort); H. Storey (Contract); G.B. Byrne (Criminal Law); N.H.M. Forsyth (Constitutional Law; Taxation); S. Charles (Mercantile Law); Molly Kingston (Domestic Relations); G.L. Fricke (Evidence); P.A. Liddell (Equity); G. Griffith (Company Law); A. Goldberg (Private International Law); I.F.C. Spry (Executors and Trustees); N.J. Williams (Procedure).

The following members of the Bar have been tutors during 1966:

F.G. Fitzgerald, K.J.A. Asche, J. Fogarty,
G.V. Tolhurst, H.C. Berkeley, J. Sher,
O.K. Strauss, W.F. Ormiston, M.C. Kimm,
C.E. McLeod, J.Le. P. Darvall, M.J.L. Dowling,
D.R. Meagher, D.H. McLennan, J.G. Larkins,
D.G. Wraith, D.J. Ashley, A.H. Goldberg,
D.M. Byrne and A.R. Castan.

Practitioners who have qualified by completing the Articled Clerks' Course either at the University of Melbourne or in the Council of Legal Education Course and who wish to obtain an LL.B. at Monash may be given credit for up to 12 of the subjects which they have passed in the Articled Clerks' Course.

Articled
Clerks

A report by the Committee which organized the conduct of pilot courses of practical training for articled clerks in 1964 and 1965 has been considered during 1966 by the various teaching and professional bodies.

The report recommends that courses of practical study be made compulsory under the Rules of the Council of Legal Education to be taken by articled clerks in order to qualify for admission to practise. The courses are Court Practice, Conveyancing Practice, Probate Practice, Company Practice and Law Office Practice. It recommends that a Law School be established to teach courses of practical studies and that it should be an independent corporate body with a director and staff of high qualification and standing.

It also recommends that the four post-graduate subjects at present taught by the Melbourne University Law School should be taught by and examined in the Law School of Practical Studies. Although the report does not recommend that the practical courses should at present be a substitute for articles it seems likely that that position will finally be reached.

It was decided during 1966 that the pilot courses be not conducted during that year but that the experience gained during 1964 and 1965 be utilized in planning for a permanent course and institution.

CLERKING SYSTEM

At the last Annual General Meeting the Council was again directed to report to the forthcoming Annual General Meeting of the Bar on the working of the clerking system in Owen Dixon Chambers and on its activities in relation to that system. A separate report will be circulated to Counsel for consideration at the forthcoming Annual General Meeting.

ACCOMMODATION

Following the completion of the extensions to Owen Dixon Chambers in 1965, it was believed that if the rate at which newcomers were coming to the Bar continued, then there would be an accommodation shortage existing by now. However this influx of newcomers to the Bar has not continued and the Bar for this year has suffered a nett loss as regards the numbers desiring accommodation which has relieved the pressure for accommodation. At present there are about thirteen rooms vacant in Owen Dixon Chambers.

BAR LIBRARY

Unfortunately some counsel still habitually leave books on the tables instead of returning them to their places in the shelves as numerous printed notices direct.

The purchasing policy of acquiring sets of books which, for reasons of economy or space, are not normally kept by counsel in their chambers, has been adhered to. Halsbury's Statutes and Reports of Tax Cases have both been purchased recently, and the Abridgement of New Zealand Case Law is being purchased as issued. The Library Committee will recommend to Barristers Chambers Limited (which provides the necessary finance) that efforts be made to obtain sets of Queensland State Reports and Dominion Law Reports subject to availability and price.

The spare set of The Law Reports has now been sold at a substantial price.

Gifts of books were made by Mr. Justice Lush, Messrs. W.F. Ormiston, G.V. Tolhurst, A.E. Woodward, Q.C., and by the Medico Legal Society of Victoria. The generosity of the donors is gratefully acknowledged.

The Library Committee proposes to submit to the Bar Council a draft General Catalogue and Layout Plan for circulation to counsel if thought fit.

BAR HISTORY PROJECT

Owing to the interest and industry of Sir Arthur Dean, a great deal of progress has been made on the Bar History Project during this year.

At the present time the history has been reduced to an initial typescript in eight chapters dealing with the period from before Separation of the Colony to 1920. A further chapter concluding in 1950 is almost complete and work on several special topics is presently being undertaken.

Much revision and rewriting will have to be done, but it is expected that most of the work will have been completed by the end of next year. An offer to publish the history has been made by the Law Book Company. Sir Douglas Menzies, Judge Read, Mr. P.D. Phillips Q.C., and several members of the Bar have agreed to prepare and write material on some of the special topics and it would be of great assistance if other members of Counsel were able to make a contribution in this field.

A number of the secretaries in Owen Dixon Chambers have performed a valuable and much appreciated service in typing and copying chapters in manuscript as they have become available.

CLUB REGISTRATION

Following the introduction of 10.00 o'clock closing the Sub-committee appointed by the Bar Council to investigate the feasibility of conducting a registered club in the Common Room requested that the matter be deferred for a period of six months in order to afford the Sub-committee the opportunity to study the impact which the extension of hotel liquor trading hours may have on the prospects of successfully establishing a club. The Council decided to accede to the request and is at present waiting on a report from the Sub-committee.

LECTURE PROGRAMME

The Chairman of the Ethics Committee again gave two lectures on Ethics to members of the Bar who had signed the roll since the last series of Ethics lectures in 1965.

Arrangements have also been made for two lectures of interest to the Bar generally to be given this year. The Honourable Sir John Barry has agreed to deliver a lecture on the 28th September, 1966 on the topic "Reflections on Divorce in Australia".

Mr. J.V. Dillon, the Under Secretary and a former Stipendiary Magistrate, has agreed to give a lecture to the Bar on a topic of general interest.

BAR AND SOLICITORS

During the year a copy of a report by a committee of the Law Institute of Victoria on relations with the Bar was received by the Chairman of the Bar Council from the President of the Law Institute. Preliminary discussions have taken place on the subject matter of the report, and are continuing.

Kevin Anderson

Chairman
Victorian Bar Council.

THE VICTORIAN BAR

FINANCIAL STATEMENT FOR THE PERIOD OF SIX MONTHS (PLUS)
(From 8th February to 31st August, 1966)

BALANCE in General Fund on 8/2/66 \$2,227.84

RECEIPTS :

Subscriptions - Current ($\frac{1}{2}$ year)	2,988.25		
- In Arrears	382.20		
- In Advance	<u>27.00</u>	3,397.45	
Arrears for 1965 Functions		83.25	
Surplus from Bar/Law Institute Dinner Dance		63.86	
Commonwealth Loan Interest		225.00	
Barristers' Benevolent Fund:-			
Balance 8/2/66	4.20		
Contributions	<u>203.05</u>		
	207.25		
Paid to Trustees	<u>207.25</u>	--	<u>3,769.56</u>
			5,997.40

EXPENDITURE :

(a) Administrative Expenses:-

Salaries	1,553.55	
Postages & Petty Cash	117.10	
Printing & Stationery	709.00	
Bank Fees	11.25	
Auditors' Fees	72.00	
General Expenses	<u>32.24</u>	2,495.14

(b) Air Fares of representatives (2)
to Australian Bar Association
Conference in Brisbane 216.00

(c) Engraving Cricket Trophy 5.62

(d) Functions & Entertainments:-
(against which \$535.10 is owing)

To Chairman's Fund	650.00		
For Catering etc.	<u>3,433.42</u>		
	4,083.42		
Less - members' payments	<u>2,884.57</u>	<u>1,198.85</u>	<u>3,915.61</u>

BALANCE IN BANK AT 31st AUGUST, 1966 \$2,081.79

THE VICTORIAN BAR

FINANCIAL STATEMENT FOR THE PERIOD OF SIX MONTHS (PLUS)
(From 8th February to 31st August, 1966) continued:

NOTES:

(1) Expenditure exceeded receipts by \$145.95

(2) The amount owing by members is:-

(a) For Subscriptions 756.00

(b) " Functions 554.30

\$1,310.30

At 8th February 1966 the amount
(of which \$63.70 remains
unpaid) was -

(a) for Subscriptions 367.50

(b) " Functions 107.85

\$475.35

(3) The Bar Council owns 5,100 fully paid ordinary shares in Barristers' Chambers Limited and also \$5,000 of Commonwealth Bonds.

Audited and found correct

Young & Outwater

15th March 1967

Chartered Accountants