

VICTORIAN BAR COUNCIL



ANNUAL REPORT

1966 / 1967

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1966-7

To be presented to the Annual General Meeting to be held on Wednesday, 27th September, 1967 at 5 p.m. in the Common Room, Owen Dixon Chambers, 205 William Street, Melbourne.

MEMBERSHIP OF THE COUNCIL

Election

In September, 1966 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., K.V. Anderson Q.C., W. Kaye Q.C., J.G. Gorman Q.C., P. Murphy Q.C., X. Connor Q.C., P.A. Coldham DFC, Q.C., W.O. Harris Q.C., L.S. Lazarus and P.U. Rendit.

Counsel of not more than 10 years standing

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

The then Attorney-General for the Commonwealth of Australia, the Honourable B.M. Snedden, Q.C., M.P., as a member of the Victorian Bar, continued as an ex officio member of the Council until the reconstitution of the Cabinet in December, 1966. Thereupon the Honourable N.H. Bowen Q.C., M.P. as a member of the Victorian Bar became an ex officio member of the Council by virtue of his appointment as Attorney-General for the Commonwealth.

Officers

The following appointments were made by Council:-

Chairman:	Mr. K.V. Anderson Q.C.
Vice-Chairman:	Mr. X. Connor Q.C.
Honorary Treasurer:	Sir James Tait Q.C.
Honorary Secretary:	Mr. P.U. Rendit, and later Mr. S.P. Charles.
Registrar:	Mr. D.E. Edwards.
Assistant Honorary Secretary:	Mr. S.P. Charles, and later Mr. D. Graham.

STANDING COMMITTEES

The following Standing Committees were appointed:

<u>Ethics</u>	Messrs. P.A. Coldham Q.C. (Chairman), L. Voumard Q.C., W. Kaye Q.C., L.S. Lazarus and A.A. Smithers.
<u>Law Reform</u>	Messrs. W.O. Harris Q.C. (Chairman), W. Kaye Q.C., P.A. Liddell and R.K. Todd.
<u>Lectures</u>	Messrs. J.G. Gorman Q.C. (Chairman), P. Murphy Q.C., W.M.R. Kelly and A.A. Smithers.
<u>Library</u>	Messrs. P. Murphy Q.C. (Chairman), R.G. DeB. Griffith, W.F. Ormiston and J.V. Kaufman.
<u>Legal Education</u>	Messrs. W.O. Harris Q.C. (Chairman), W. Kaye Q.C., R.E. McGarvie Q.C., H. Storey and D. Dawson.
<u>Overdue Fees</u>	Messrs. P.A. Coldham Q.C. (Chairman), J.G. Gorman Q.C. and R.K. Todd.
<u>Bar Clerking Committee</u>	Messrs. L. Voumard Q.C., X. Connor Q.C., W.O. Harris Q.C., L.S. Lazarus and R.K. Todd.
<u>Bar History</u>	Sir Arthur Dean (Chairman), Judge Read, Sir James Tait Q.C., Dr. E.G. Coppel Q.C., Mr. F.M. Bradshaw, Professor Z. Cowen, Messrs. R.G. DeB. Griffith, K.J.A. Asche, J.E.R. Bland and R.K. Todd.
<u>Social and Common Room</u>	Messrs. J.G. Gorman Q.C. (Chairman), A.E. Dixon, W.M.R. Kelly and A.A. Smithers.
<u>Practice Committees</u>	Co-ordinator of Practice Sub-Committees:- Mr. X. Connor Q.C.
	<u>Sub-Committees of the Practice Committee:-</u>
	<u>Matrimonial Causes</u>
	Mrs. J. Rosanove Q.C., Messrs. C.F.C. Morrell, H.C. Emery and Miss M. Kingston.
	<u>Juries</u>
	Messrs. V.H. Belson Q.C., E.A.H. Laurie Q.C., H. Ball, C.H. Francis and A.J. Southwell.

Crime

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

Causes

Messrs. N.S. Stabey Q.C., S. Strauss Q.C.,
R.G. DeB. Griffith and D. Dawson.

Miscellaneous Causes

Messrs. H.R. Newton Q.C., R.K. Fullagar 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, V.F. Ellis, 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. J. Roberts, B. Kayser, J.R. Perry,
A.B. Nicholson, P. Martin and D.R. Meagher.

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.

To investigate
Congestion in
Supreme Court
Lists

Messrs. V.H. Belson Q.C., K.V. Anderson Q.C.,
W. Kaye Q.C., X. Connor Q.C., N.M. Stephen Q.C.,
J.W.J. Mornane, A.J. Southwell, E.D. Lloyd,
J.H. Greenwell, J.E. Barnard, R.K. Todd and
N.R. McPhee.

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 (and later Mr. R. Brookings vice
Mr. L.S. Lazarus).

Attorney-
General's
Committee on
Sale of Land

Mr. R.K. Fullagar Q.C.

Chief Justice's
Rules Committee

Mr. X. Connor Q.C. (Alternate Mr. W.O. Harris
Q.C.)

Chief Justice's
Law Reform
Committee

Messrs. W. Kaye Q.C., W.O. Harris Q.C. and R.K. Todd.

Chief Justice's
Supreme Court
Library Committee

Messrs. P. Murphy Q.C., R.G. DeB. Griffith and
R.K. Todd.

Standing Committee
with Law Institute

Messrs. K.V. Anderson Q.C. and X. Connor Q.C.

Australian Bar
Association

Messrs. K.V. Anderson Q.C. and X. Connor Q.C.

Law Council of
Australia Executive

Mr. K.V. Anderson 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.

Faculty of Law
(University of
Melbourne)

Messrs. K.V. Anderson Q.C., X. Connor Q.C. and
R.E. McGarvie 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. N.M. Stephen Q.C., - and Hon. Secretary:
Mr. S.G. Hogg.

Legal Aid

Messrs. N.S. Stabey Q.C., R.K. Fullagar Q.C.,
N.M. O'Bryan and J.E. Barnard (and later Mr. V.H.
Belson Q.C. vice Mr. N.S. Stabey Q.C. and Mr. J.J.
Hedigan vice Mr. N.M. O'Bryan).

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

Mr. E.A.R. 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.
(and later Mr. H.G. Ogden vice Mr. R.E. McGarvie Q.C.
and Mr. D.P. Whelan Q.C. vice Mr. W.O. Harris Q.C.)

Appeal Costs
Board

Mr. W.O. Harris Q.C.

Legal Education
Committee

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

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.)

Bar - Solicitors
Relations
Committee

Messrs. K.V. Anderson Q.C., X. Connor Q.C.,
P. Murphy Q.C. and R.K. Todd.

MEETINGS

Council
Meetings

There were 26 evening meetings of the Council during the period from 27th September, 1966 to 1st September, 1967. 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 September, 1966 to September, 1967.

Counsel called under 12 months	\$4.00
Over 1 but under 3 years	\$10.00
Over 3 but under 7 years	\$16.00
Over 7 but under 10 years	\$20.00
Over 10 years	\$30.00
Queen's Counsel	\$50.00
Solicitor-General	\$20.00
Crown Prosecutors and Parliamentary Draftsmen	\$16.00
Interstate Silks	\$20.00
Interstate Juniors	\$14.00
Non-Practising List	\$11.00

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

Deaths

The Council records with regret the deaths of Mr. Justice Hudson on 15th December 1966, Mr. Justice Clyne on 12th April 1967, Judge Stretton on 16th May 1967, Mr. E.H. Coghill on 28th April 1967, Mr. J.S. Mornane on 29th October 1966 and Mr. C.F.C. Morrell on 27th January 1967.

Appointments

In October 1966 Mr. Acting-Justice Menhennitt was appointed a Judge of the Supreme Court of Victoria.

In February 1967 Mr. H.R. Newton Q.C. was appointed a Judge of the Supreme Court of Victoria.

In February 1967 Messrs. I.F.C. Franich and T.B. Shillito were appointed Judges of the County Court of Victoria.

In September 1966 Messrs. J.D. Holmes Q.C. and J.A. Lee Q.C. were appointed Judges of the Supreme Court of New South Wales.

In February 1967 Mr. G.S. Brett was appointed a Master of the Supreme Court of Victoria.

In February 1967 Messrs. F.G. Fitzgerald and J.H. Morrissey were appointed Prosecutors for the Queen.

Retirements

Mr. Justice O'Bryan retired on 14th October 1966 as a Judge of the Supreme Court of Victoria.

Judge Flannagan retired on 30th January 1967 as a Chairman of General Sessions.

Judge Bourke retired on 30th May 1967 as a Chairman of General Sessions.

Honours

The following honours have been conferred by Her Majesty the Queen upon members of the Victorian Bar since September 1966.

Mr. Justice Monahan was created a Knight Bachelor.

Mr. P.D. Phillips C.M.G., M.M., Q.C. was created a Knight Bachelor.

The Honourable J.S. Bloomfield Q.C. was created a Knight Bachelor.

Mr. Justice Joske was created a Companion of the Order of St. Michael and St. George.

The Roll of
Counsel

Between 1st September 1966 and 31st August 1967 the following persons signed the Roll of Counsel:-

R.J. Stanley, S.G. Langslow, D.G. Henshall, A. Bonnici, H.A. Finlay, A.J. Kirkham, A.E. Radford, H.R. Hansen, J.D. Little, P.A. Willee, B.J. Maddern, D.J. Ross, L. Ostrowski, D. Hore-Lacy, K.A.M. Pitt, P.C. Heerey, M.R. Shatin, E.F. Milverton, R.K.R. Alston, T.A.M. Boulter, B.H. Stott, C.L. Pannam, H. Smith and J.D. Loewenstein.

Transfers

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

P. Furness (who was later transferred back to the Practising List), Sir Philip Phillips Q.C. and A.H. Croxford.

Removals

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

Messrs. F.B. Sands, E. Sikk, G.E. Glos and C.D. Hollis-Bee.

Numbers on
the Roll

(As at 31st August 1967)

Number signed the Roll in 1966-67

24

Judges List Total

64 (compared with 65 in 1966). Of this number 13 are retired.

Practising List Total

346 (compared with 334 in 1966).

Non-Practising List Total

42 (compared with 40 in 1966).

Total on the Rolls (all lists)

452 (compared with 439 in 1966).

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

(Excluding Prosecutors for the Queen) 282
- an increase of 11 from last year.

FUNCTIONS

The Opening of
The Legal Year

The traditional Church Services marking the opening of the Legal Year 1967 were held on Wednesday, 1st February 1967 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 Sir James Tait Q.C., and Mr. J.W. Ball, the President of the Law Institute of Victoria. The sermon was preached by the Reverend G.D. Jacobs LL.B., Minister of the Beaumaris Presbyterian Church.

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. P. Farrell O.P.

The service at the East Melbourne Synagogue was conducted by Rabbi Lubofski. Readings were given by Judge Rapke. Mr. M. Ashkanasy Q.C. and Mr. Heymanson, Secretary of the Law Institute of Victoria.

Bar Dinner

A Bar Dinner was held on 13th May 1967 in the Common Room, Owen Dixon Chambers. The guests of honour were Mr. Justice Menhennitt, Mr. Justice Newton, Judge Franich and Judge Shillito.

Portrait of
Sir James
Tait Q.C.

On 31st October 1966 a Dining-in-Night was held attended by members of the Bar and their wives. In the course of the evening the portrait of Sir James Tait Q.C. was unveiled by the artist, Mr. Paul Fitzgerald.

Common Room

On 6th March 1967 the Council entertained at dinner all members of the Bar who had signed the Roll since September 1966. The Council invited the Right Honourable Sir Garfield Barwick, Mr. Justice Minogue, Mr. Justice Starke, Mr. Justice McInerney, Mr. Justice Allen 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 Chief Justice and Judges of the Supreme Court, Judges of the County Court, Masters of the Supreme Court and Crown Prosecutors.

On 11th August 1967 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 dinner and drinks various guests including His Excellency the Governor of Victoria, the Premier of Victoria, Mr. Justice Tom C. Clark, formerly of the United States Supreme Court and Mrs. Clark, Mr. W. Wieland, the American Consul-General, Parliamentarians, members of the faculties of law, and others including some of the delegates from Asian countries who were in Australia to attend the Fourteenth Legal Convention in Adelaide.

On 8th May 1967 a second Dining-in-Night for members of the Bar and their wives was held. The guests of honour on this occasion were the Chief Justice, Sir Henry Winneke, and Sir Norman O'Bryan on his retirement as a Judge of the Supreme Court of Victoria and Mr. Justice Monahan, Sir Eugene Gorman Q.C., and Sir Philip Phillips Q.C. in recognition of the Knighthoods bestowed upon them.

In May 1967 the Chairman attended the Inaugural Dinner of the Australian Capital Territory Bar Association.

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, Hamilton and Geelong and in the Goulburn Valley.

Members of the Bar attended the Queen's Birthday Levee at Parliament House on Friday, 9th June 1967.

The Victorian Bar combined with the Law Institute of Victoria in holding a Dinner Dance at the Palais de Dance on 14th April 1967.

The annual golf match between the Bench and Bar and the Combined Services was played at Royal Melbourne on 30th June 1967. The Bruche Cup was won by the Bench and Bar and the Macfarlan Cup by the Combined Services. The annual golf match between the Bench and Bar and the Law Institute was played at Metropolitan on 23rd March 1967. The Sir Edmund Herring Shield was won by the Bench and Bar. Mr. J.H. Nankivell acted as organiser of these matches on behalf of the Bench and Bar.

The annual cricket match between the Bar and the Solicitors was held on 31st January 1967. The Sir Henry Winneke Cup was won by the Bar. Mr. B.R. Dove organised this function on behalf of the Bar.

The annual tennis match between the Bar and the Solicitors was held on 31st January 1967. Mr. A.A. Hooper organised this function on behalf of the Bar.

AUSTRALIAN BAR ASSOCIATION

During the past year the Officers of the Australian Bar Association have been as follows:-

President: W.B. Campbell Q.C. (Queensland)

Vice-Presidents: M.H. Byers Q.C. (New South Wales)
K.V. Anderson Q.C. (Victoria)

Council Members: X. Connor Q.C. (Victoria)
P.M. Woodward Q.C. (New South Wales)
A.K. McCracken (Queensland)

Hon. Secretary: E.G. Broad (Queensland)

Hon. Treasurer: J.W.B. Helman (Queensland)

On 1st August 1967 the President Mr. W.B. Campbell Q.C. was sworn in as a Justice of the Supreme Court of Queensland. The Victorian Bar offers its congratulations to His Honour while very much regretting his departure as President.

Since the last report three meetings of the Association have been held. At the meeting on 13th November 1966 the following resolutions were passed :-

1. "That, whilst recognising that there may be local variations between the States, this meeting supports the maintenance of what may broadly be described as a 'two-thirds' rule."
2. "That a conference of barristers be held, conducted by the Australian Bar Association, during the July vacation 1968."

It should be noted that the conference referred to in the second resolution is now under review because it would clash with a Lawasia Conference to be held in Kuala Lumpur at the same time.

The A.B.A. is presently doing all in its power to encourage the growth of the separate Bars which have emerged in South Australia and Western Australia and at future meetings they will be represented. The A.B.A. is similarly supporting the newly established separate Bar in the Australian Capital Territory.

It is expected that a further meeting will be held shortly in Sydney to be convened by Mr. Maurice Byers Q.C. the President of the New South Wales Bar Association, and the Senior Vice-President of the A.B.A. The primary purpose of this meeting will be to elect a new President in place of Mr. Justice Campbell.

LAW COUNCIL OF AUSTRALIA

The office bearers of the Law Council of Australia for 1966-67 were:-

President: Mr. H.E. Zelling Q.C.
Law Society of South Australia.

Vice Presidents: Mr. K. Smithers
Law Society of New South Wales.

Mr. T. Molomby
Law Institute of Victoria.

Treasurer: Mr. K.V. Anderson Q.C.
The Victorian Bar.

During 1966-67 the delegate of the Victorian Bar on the Law Council has been Mr. K.V. Anderson Q.C., who has also been the Treasurer of the Law Council. The Honorary Secretary was Mr. I.J. Greenwood.

On 27th April 1967, the Law Society of the Australian Capital Territory was admitted as a constituent body of the Law Council of Australia. There are now ten constituent bodies of the Law Council.

The main function of the Law Council during this period was the 14th Australian Legal Convention which was held in Adelaide from 12th to 18th July 1967. The Convention was organised by a special organising committee of South Australian lawyers, under the general supervision of the Law Council. The organising committee is to be warmly congratulated on the outstanding success of the function. Approximately 500 practitioners, accompanied by their wives, attended the Convention and a very full programme, including papers and seminars on legal topics and extensive social activities kept delegates very occupied. The papers and seminars dealt with the Australian Constitution, Trade Practices, Contracts, Federal Courts and Companies.

It was unfortunate that the period of the Convention did not coincide with, but partly overlapped, the Victorian short vacation. Notwithstanding special arrangements, which the Chief Justice, Sir Henry Winneke, made in relation to the Supreme Court lists, and similar arrangements for the County Court made by the Chairman of Judges of the County Court, Judge Mitchell, a few members of the Victorian Bar attended the convention

The next Australian Legal Convention is to be held in Brisbane in July 1969. It is hoped that the dates of the convention will coincide with the short vacation in 1969.

The Law Council continued its interest in legal education in Papua and New Guinea. In July 1967 it continued its practice of inviting six New Guinea students interested in undertaking a law course to visit Australia.

In June 1967, Mr. Joseph Aoa, of the Territory of Papua and New Guinea, a graduate of the University of Queensland, was admitted to practice as a Barrister by the Supreme Court of Queensland. He is the first student from the Territory to be admitted to practice. To mark the occasion a dinner was tendered to him by the Committee of the Queensland Bar Association. The President of the Law Council presented to him a set of volumes of the Australian Law Journal to mark his achievement. The Victorian Bar was represented at this function by Mr. D.M. Campbell Q.C.

The Law Council has been actively concerned with law reform during the past twelve months. Subjects considered have included companies, trade practices, criminal code, administrative appellate tribunals, the Australian National Airlines Act, third party insurance, air funnels, bankruptcy, offshore drilling and legal aid.

The Law Council has maintained its interest in promoting legal aid in federal matters. In October 1966 it arranged a seminar attended by representatives of constituent bodies in all States, when general information as to the operation of legal aid schemes in each of the States was exchanged and suggestions discussed as to ways and means whereby a federal scheme of legal assistance could be implemented.

Subsequently, representations were made to the Federal Attorney-General, who has indicated that he will in due course discuss the matter further with the Law Council.

At the beginning of 1968 the Secretariat of the Law Council, which has been located in Melbourne for the past five years, is due to be transferred to Sydney. While the Secretariat has been in Melbourne the Honorary Secretary of the Law Council has been Mr. Ivor J. Greenwood of this Bar. His services to the Law Council have been monumental, and the development of the Council and the consistent success of its undertakings are largely due to his unremitting efforts.

THE LAW ASSOCIATION FOR ASIA AND THE PACIFIC

The Victorian Bar, through its membership of the Law Council of Australia, is closely associated with the Law Association for Asia and the Pacific. This Association was formed in August 1966 in Canberra, as a result of efforts by the Law Council of Australia to establish an association of lawyers in Asia and the Pacific, which would advance the interests of the legal profession in such countries and assist developing countries in various ways. The Secretariat is at present in Sydney. The President is Mr. Justice Kerr, a Judge of the Supreme Court of the A.C.T. Membership of the Association is open to law associations in the several countries and also to individual lawyers in such countries. It is highly desirable that individual lawyers join the Association. There has been a good response from the Australian legal profession, about 500 individual lawyers having joined, about 100 of whom are Victorians. The Victorian Bar is well represented. Members of the Bar who have not yet joined are exhorted to do so.

During the last long vacation a number of members of the Bar were considerably assisted in their travels through South East Asian countries by letters of introduction from the President of the Association for Asia and the Pacific, to the law associations in countries which were visited.

The Association is organising the first legal convention under its auspices in Kuala Lumpur, Malaysia, from 1st to 3rd July 1968. Further details will be available in literature to be distributed by the Association.

CONGESTION OF SUPREME COURT LISTS

The question of congestion in the Supreme Court Lists occupied much of the attention in the Council during the past twelve months. In June 1967 the Attorney-General (Mr. George O. Reid) in a press statement intimated that he was considering measures, which included an increase in the jurisdiction of the County Court, the appointment of temporary Commissioners and the restriction of the class of cases to be heard by a civil jury. In the opinion of the Bar Council the solution to the problem of congestion in the Court Lists does not lie in drastic or novel expedients, but in certain procedural reforms and in a moderate increase in the numerical strength of the Supreme Court to enable it to meet the needs of a rapidly developing country.

Accordingly, the Bar Council prepared and distributed a statement, expressing its views on the three possible measures mentioned by the Attorney-General, indicating certain procedural reforms which it recommends and pointing out the need for more judges on the Supreme Court Bench.

ETHICS

Lectures upon ethics, conduct and privileges were given by the Chairman of the Ethics Committee to members of the Bar called within the previous twelve months.

Many applications were made by Counsel for permission to give lectures to non-legal organisations. In most cases permission was granted. Difficult problems arose however from applications by Counsel to be members of outside committees, membership of which might involve discussion on legal matters which might in turn benefit the applicant's practice as a Barrister. In every case, except those where this eventuality was remote, the applications were refused.

A member of the Bar appeared before the Bar Council on charges of professional misconduct. Counsel appeared to assist the Council and to represent the member charged. The charges were dismissed.

Matters of particular interest which have arisen since the last Report concerning ethics, privileges and conduct are detailed hereunder:-

Two-thirds Rule

The ruling of 5/12/56 and 3/12/58 pertaining to the two-thirds rule has been amended by the Bar Council by substituting in paragraph 2 thereof the figure '\$225' for '150 guineas' and '\$150' for '100 guineas'. The full ruling therefore is:-

- (1) Subject to the provision of paragraph (2) below a junior counsel is entitled to two-thirds of the fee payable to his leader. A junior counsel should refuse to accept less than the recognised proportion of his leader's fee and should be supported by his leader in such action.
- (2) In cases where the leader's fee exceeds \$225 and is exceptional, the amount by which the junior's fee exceeds \$150 may be a matter of arrangement.
- (3) These rules apply to criminal cases as well as to civil cases and to refresher fees.

Note: The Bar Council draws attention to the words "and is exceptional" in paragraph (2) of this ruling. That paragraph would not modify paragraph (1) for example where the standard fee for senior counsel at a circuit court exceeded \$225 because that fee would not in such circumstances be exceptional.

Counsel appearing
in Instructional
Film

A sub-committee of the Law Faculty of Monash University made enquiries into the feasibility of producing an instructional film for law students dealing particularly with problems relating to the law of evidence. The sub-committee sought the permission of the Bar Council for members of the Bar without fee to take the part of counsel in court attire in the film. After discussion with the Chairman of the sub-committee and upon being assured that the film would not be screened for commercial purposes but only for instruction at law schools, the Bar Council resolved that it had no objection to members of the Bar taking the part of counsel as proposed, upon the understanding that the film was to be used only for educational purposes within a university or law school.

Tax Savings
Scheme

Counsel proposed a tax savings scheme whereby his debts were to be transferred to a family company at a discount and the company was to collect his fees through his clerk. The Bar Council resolved that this scheme was inappropriate for a member of the Bar since it was contrary to the traditional independence of the Bar and to the established relationship between individual counsel and his clerk.

Public
Pronouncement
by Counsel

Counsel requested a ruling as to whether it would be proper for him to make public pronouncements as a private person on behalf of a former client, the date of whose execution had been fixed. Counsel indicated that although the statements would be made by him as a private citizen, nevertheless the public would necessarily become aware that he had appeared for the former client as counsel. The Bar Council resolved that in its view it would be unprofessional and unethical and inimical to the due administration of justice for counsel to make the public statements in respect of which permission was sought.

Alleged Negligence
of a Fellow
Counsel

Counsel sought a ruling as to whether he was obliged to advise a disappointed litigant who wished to take action in negligence against a member of the Bar. The Bar Council ruled that counsel was not entitled to decline the brief solely for the reason that his advice might adversely affect another member of the Bar.

Conflict between
Interests of Lay
Client and his
Insurer

Counsel sought a ruling in an action in which he appeared for the defendant instructed by solicitors for the defendant's insurers. The action arose out of a fatal accident. At the inquest it appeared that shortly prior to the accident the defendant and the deceased had been racing on a country road, each in his own motor car. Both cars stopped and the deceased and his passengers threatened the defendant and his passenger. The defendant drove off, seeking to escape, and the deceased gave chase. During the chase the accident occurred and in the particulars of negligence it was alleged that the deceased's motor car was forced off the road.

The insurers wished to plead a defence based upon an allegation that both drivers were engaged upon a common illegal purpose, namely racing upon a highway contrary to Section 83 of the Motor Car Act 1958. The insurers sought the defendant's permission to raise this defence, but were informed by him that any race was over at the time of the accident, and that the defendant was only seeking to escape from the deceased at the time when it occurred. Counsel queried whether, in the circumstances, he could raise this defence.

The Bar Council resolved that the lay client had a legitimate interest in the allegation that he and the deceased were engaged in an illegal activity at the time of the accident so that counsel should accept the instructions of the lay client as proper in the circumstances.

Negotiations with
Insurance
Adjuster.

Upon an enquiry being made by Counsel the Bar Council resolved (1) that it is improper for Counsel acting for any party to negotiate a settlement or otherwise to have direct dealings on matters pertaining to the action with an insurance adjuster or other lay agent claiming to represent another party to the action, and (2) that the Council's rulings of 2/8/56 and 18/8/58 be circulated to the Bar.

Briefs from
Legal Officer
of University

The legal officer of a university, who held an employee solicitor's practising certificate, enquired whether he could properly brief counsel direct upon matters involving the university in which the opinion of counsel was sought. Another matter involving the university was a building dispute which pursuant to the relevant contract had to be referred to arbitration. The Bar Council resolved that no objection should be raised to the legal officer briefing counsel direct in the matters referred to in his enquiry.

Retainer
Agreement

An applicant, formerly a solicitor, sought permission to sign the Roll of Counsel. The Bar Council determined that the applicant was not eligible to sign because of a retainer agreement he had made with a corporation which had been a client during his practice as solicitor.

Complaint
concerning
Chairman of
General Sessions

A complaint was made to the Bar Council by counsel with reference to remarks concerning his conduct by a Chairman of General Sessions during a trial. After a detailed consideration by the Bar Council and pursuant to its resolution, the Chairman and the Honorary Secretary of the Bar Council appeared in open court before the particular Chairman of General Sessions who, upon receiving an assurance that counsel intended no disrespect to the court on the occasion in question, withdrew the remarks the subject of the complaint.

Chairman of
Statutory
Corporation

A question arose as to whether counsel who had been appointed Chairman of a statutory corporation should remain on the Roll of Counsel. After reconsideration of its previous conclusion in this matter the Bar Council resolved that his name be placed on the Non-Practising List.

Negotiations of
Change of Clerk

Counsel sought permission to notify in writing certain solicitors, who had briefed him substantially in the past, that he had changed his clerk. The Bar Council resolved that permission should be given on condition that the form of notice was settled by the Chairman of the Ethics Committee.

LAW REFORM

The Law Reform Committee considered the Companies (Investigations) Bill and noted that the draft bill did not place limits on the publication of reports as recommended in an earlier report of the Bar Council, i.e. that inspectors be given terms of reference and that they should prepare for publication a summary of their conclusions under each term of reference and that such summary should be published except to the extent that such summary conclusions bore upon any contemplated criminal proceedings. The draft bill contained other matters of fundamental importance on which the Law Reform Committee expressed critical views. The Bar Council approved the views of the Committee which were then sent to the Law Council of Australia for transmission to the Standing Committee of Attorneys-General.

Implications of the crime of Misprision of Felony as it affected information given to solicitors or counsel by clients or witnesses were examined by the Law Reform Committee, this matter having been referred to the Bar Council by the President of the Law Institute. This matter was subsequently the subject of a report by the Chief Justice's Law Reform Committee.

Other matters considered were the Strata Titles Bill, Uniform Evidence Bill, and Uniform Companies (Accounts and Audit) Bill.

The Petty Sessions Practice Committee raised a number of matters of importance. These matters are now under consideration by the Law Reform Committee.

COLLECTION OF OVERDUE FEES

The sub-committee investigated accounts of counsel called within the last seven years who were owed by solicitors fees for which accounts were rendered prior to 1st May 1966.

As a result of the committee's investigation, fourteen firms of solicitors were placed on the Preliminary List within the meaning of the relevant Scheme and letters were sent to them on 31st May 1967.

All but five of the firms on the Preliminary List paid the relevant accounts in full, and these five firms had reduced their indebtedness so substantially that the committee decided that their names, in addition to the nine firms who had paid in full, should be removed from the Preliminary List.

No further action on the part of the Bar Council became necessary upon this occasion.

LEGAL AID

During the year ended 30th June 1967 the Bar nominees on the Legal Aid Committee were Mr. N.S. Stabey Q.C. and Mr. N.M. O'Bryan who was replaced by Mr. J.J. Hedigan on 1st March 1967. The Legal Aid (Amendment) Act 1967 increased the size of the Legal Aid Committee from four to eight and when that Act came into force on 17th March 1967 Mr. R.K. Fullagar Q.C. and Mr. J.E. Barnard were nominated to represent the Bar on the enlarged Committee. In July 1967 Mr. V.H. Belson Q.C. succeeded Mr. N.S. Stabey Q.C. as one of the Bar nominees.

By far the largest class of applications for legal aid were in respect of claims for maintenance. Many of these applicants were penniless and although limited amounts for costs have been recovered from defaulting husbands, this class of applicant is the cause of the present low dividend rate. This class of work is very much of the nature of social work and often involves the obtaining of a court order merely to satisfy the requirements for a deserted wife to receive social service payments.

Matrimonial Causes applications totalled 403 and formed the next largest class. The Committee has maintained the view that the Commonwealth Government should contribute towards the Committee's and the profession's costs in matrimonial causes as it has become the legislative authority in this field.

In 1965 the number of applications dealt with was 1,371, in 1966 it was 2,168 and in 1967 the number rose to 2,631. With the passage of time and the greater awareness of the facilities available the number of applications is expected to increase again.

The following are details of the business handled by the Legal Aid Committee during the period from 1st July 1966 to 30th June 1967:-

Total Applications	2,631
Dealt with by Secretary	1,116
	<hr/>
Referred to Committee	1,515
Applications not dealt with or deferred as at 30/6/66 but subsequently dealt with by Committee	127
	<hr/>
	1,642
	<hr/>
Assistance approved	1,173
Rejected or withdrawn	297
Not dealt with or deferred	172
	<hr/>
	1,642
	<hr/>

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

	<u>Total</u>	<u>Dealt with by Secretary</u>	<u>Referred to Committee</u>	<u>Approved</u>
Divorce	403	168	235	154
Maintenance	853	277	576	491
Custody and Affiliation	110	38	72	61
Motor Accident	150	50	100	87
Criminal	293	84	209	155
Civil Cause	620	394	228	166
Workers Compensation	68	24	44	28
Probate and T.F.M.	33	23	10	10
Other	101	58	41	21
	<hr/>	<hr/>	<hr/>	<hr/>
	2,631	1,116	1,515	1,173
	<hr/>	<hr/>	<hr/>	<hr/>

The Legal Aid (Amendment) Act 1967 authorised a half-yearly distribution of funds collected on account of costs in place of the annual distribution, which was, understandably, not popular with the profession. However, a major problem confronting the Legal Aid Committee is the rate of financial dividend to participants in the scheme. The Committee's reports have all emphasised that the level of return has not been at an economic level and in the past the rate has fallen steadily until the present year when some improvement has been shown. During half-year ending the 30th June 1967 the Committee incurred counsel's fees of \$41,979.40 and solicitors' costs of \$47,662.38. The distribution of funds in satisfaction of those amounts will be .524378 dollars in the dollar.

An amount of \$6,184.20 was paid out by way of disbursements from Government funds but such payment was reimbursed to the extent of \$1,652.09 from matters where the costs recovered included such disbursements.

Another major problem which has arisen on several occasions is the type of application which may involve a long and difficult trial. The Committee feels it is not, at the present time, qualified to handle such cases on the present financial arrangements. The Committee feels it is an unfair burden on solicitors and counsel to carry a trial which might last for weeks and which results financially in a heavy loss.

From its inception until 13th February 1967 the Committee and its staff occupied 800 square feet in Owen Dixon Chambers. The space occupied proved inadequate. After moving to temporary quarters on the second floor of the Titles Office, the Committee moved to spacious and comfortable premises in the State Accident Insurance Office building at 480 Collins Street.

It can be seen that the past year has been one of expansion and development, not only in staff and accommodation, but also in the size of the Committee and the quantity of the work handled. Throughout the year the scheme has depended on the co-operation of both sides of the profession and such co-operation has been freely given.

LEGAL EDUCATION COMMITTEE

The Committee on Post Graduate Legal Education which comprises representatives of the Judiciary, the Law Institute, the Law Faculties and the Bar, has recommended that a post-graduate law school be established to conduct a course of practical training as a substitute for articles.

The Legal Education Committee has considered this report and the Bar Council has now agreed with the Law Institute to refer the matter to the Joint Standing Committee of the Law Institute and the Bar with a view to seeking an acceptable agreement so that a subsequent joint recommendation may be made to the Council of Legal Education.

CLERKING SYSTEM

At the Annual General Meeting of the Bar held on 27th September 1966 a resolution in the following terms was carried:-

- (a) A Clerking Committee of five shall be set up from amongst the members of the incoming Bar Council consisting of one member from each of the five groups at present employing clerks. In the event of there not being anyone elected to the incoming Council from any one or more of such groups the Bar Council shall appoint a barrister from such group to the Clerking Committee but, in any event, the Clerking Committee shall consist of five persons only;
- (b) During the period from 1st October 1966 until the next Annual General Meeting each applicant for leave to sign the Roll of Counsel shall be interviewed by the Clerking Committee, which shall endeavour by discussion with the applicant to secure that the selection of a clerk by the applicant shall be consistent with the implementation of the policy of the Bar in maintaining the existing number of clerks and reducing inequalities between the groups employing clerks;
- (c) During such period, the Committee may, if it considers it necessary so to do, restrict the number of clerks from whom an applicant may select his clerk, and may require an applicant to select a clerk from a number of clerks, being not less than two, designated in his case by the Committee;

- (d) The Clerking Committee shall in discharging the above functions take into consideration -
 - (i) the preference of the applicant and the reasons therefor;
 - (ii) the policy of the Bar to maintain the existing number of clerks;
 - (iii) the policy of the Bar to reduce inequalities between the groups employing clerks;
 - (iv) the relative size and composition of the clerking groups at the time of the application;
 - (v) any representations made to it by a clerking committee of any of the groups;
 - (vi) the disadvantage to any clerk or clerking group irrespective of its size in having too few counsel recently called to the Bar;
- (e) The Committee shall elect its own office bearers and determine its own procedure provided that an applicant shall be entitled to make oral and written representations to it;
- (f) The Clerking Committee shall report fully on its activities to the next Annual General Meeting of the Bar;
- (g) The Clerking Committee shall cease to exist as from the next Annual General Meeting of the Bar unless such Meeting authorises its continuance.

Pursuant to the above resolution the Bar Council appointed the following members of the Bar Clerking Committee: Voumard Q.C., Connor Q.C., Harris Q.C., Lazarus and Todd.

The Clerking Committee is making a separate report to the Annual General Meeting of the Bar pursuant to Resolution (f).

ACCOMMODATION

During the year there has been a net increase of practising members of the Bar and rooms which were vacant have become progressively tenanted until there are now one 'B' size room and two 'C' size rooms vacant. These 'C' size rooms are reserved for the temporary accommodation of three barristers in each as licensees until other rooms become vacant. A similar situation obtained immediately prior to the adding of four floors to Owen Dixon Chambers in 1964-1965.

Presently there are nine readers who are prospective tenants and whose period of reading end at various dates between early September 1967 and late February 1968.

The tenant of the 12th floor has intimated its intention to exercise its option of renewal for five years under its lease, at the end of this year.

The Directors of Barristers' Chambers Limited (three of whom are members of the Bar Council) are alert to the position which is reviewed at every Board meeting.

BAR LIBRARY

The marked improvement in the book replacement habits of library users has greatly assisted the administration of the library during the last year. Except for rare instances, the books are being handled with care. Nevertheless, Counsel are urged to report any instances of misuse or neglect of books which, after all, are part of the communal property of the Bar.

Mr. Justice Menhennitt has donated sets of Commonwealth Taxation Board of Review Decisions and Australian and New Zealand Income Tax Reports and Mr. R.L. Gilbert donated a missing run for one of the sets of Weekly Law Reports. Their generosity is gratefully acknowledged.

Sets of Queensland State Reports and Australian Law Journal have been ordered but not yet delivered. Consideration is still being given to the purchase of Dominion Law Reports, New South Wales Statutes, and New South Wales Weekly Notes. A set of the blue-band English and Empire Digest has been purchased and placed in the library. The Library Committee has acknowledged the co-operation of the two principal law booksellers in Australia.

A catalogue and shelf plan for circulation to Counsel has been under preparation for some time but has been deferred in view of planned re-arrangement of books in the shelves.

Through the courtesy of the Chief Justice of the High Court, copies of unreported judgments of the High Court are now supplied to the Bar without charge; these are filed in the library. Unfortunately, a request that one free copy of unreported judgments of the Supreme Court of Victoria be supplied for filing in the Bar Library has been refused. The Registrar of the Council of Law Reporting, Mr. Arthur Wilson, very kindly supplies summary information of these decisions which is circulated to Counsel.

The Bar Council records its appreciation of the work done by the Bar Librarian, Mr. R.G. DeB. Griffith and the Library Committee.

BAR HISTORY PROJECT

Almost all the material considered to be of value has now been collected by Sir Arthur Dean and has been incorporated by him into the first draft of the history. Sir Philip Phillips Q.C., Mr. F.M. Bradshaw, Mr. R.G.DeB. Griffith and Mr. J.D. Merralls have each written a chapter on a special topic.

A committee has been appointed by the Council for the purpose of making enquiries and undertaking negotiations relating to publication.

Sir Arthur Dean initially undertook the formidable task of collecting and arranging the available material for a history of the Bar. He has not only accomplished the work of research, but has gone on to compile the history itself, thus enabling publication to be undertaken several years earlier than was considered possible. The Bar is greatly indebted to Sir Arthur, and the Council places on record its gratitude for his devotion to the task he undertook and for the value of his work.

The Council also expresses its appreciation for the work done in connection with the preparation of the history by the contributors referred to above, by the members of the Bar History Committee, and, in particular, by Judge A.L. Read.

LECTURE PROGRAMME

During the year a series of lectures was arranged by the Lecture Committee for members of the Bar and in some instances for members of the profession generally. It was considered by the Committee that the lectures should be of practical value to members of the Bar, and with this in mind lectures were arranged as far as possible to deal with practical subjects.

Lectures were delivered by Mr. Justice Barry in relation to aspects of Divorce Law and by Mr. Justice Minogue of the Supreme Court of Papua-New Guinea dealing with primitive people and the Law, referring in particular to his personal experiences as a Judge in the Territory. A lawyer from the United States, Mr. Samuel B. Horowitz, who is a specialist in Workers Compensation Law, gave a most interesting and entertaining talk on this important topic. Two members of the Bar, Messrs. E.A. Laurie Q.C. and J.W.J. Mornane addressed a large gathering of the Bar on the topic - "Pleading and Court Presentation in relation to Industrial Accident Claims". This discussion commenced at 5.00 p.m. and continued until 6.30 p.m. Further lectures were given on the Trade Practices Legislation by the Commissioner of Trade Practices, Mr. R.M. Bannerman, and "Problems of a Prison Psychiatrist" by Dr. A. Bartholomew, Government Psychiatrist at Pentridge.

All these lectures were well attended and provided great interest, and at times provocative discussion amongst those present.

Great interest was shown by members of the Bar in the lecture by Messrs. Laurie Q.C. and Mornane at 5.00 p.m., and it would seem that lectures on matters of practice delivered in the late afternoon have wide appeal to members of the Bar.

It is intended that in the future more lectures of this type will be conducted at this time.

RELATIONS BETWEEN BAR AND SOLICITORS

Early in 1966 the Law Institute of Victoria informed the Bar Council of the terms of a report of a committee appointed by the Council of the Law Institute to consider relations between the Bar and Solicitors, and it was indicated that the Council of the Institute had adopted the report. The report contained proposals for the virtual abolition of the "two Counsel" and the "two-thirds" rules, and for the promulgation, if necessary without the approval of the Taxing Master or the Bar, of a scale of counsel's fees in Supreme Court matters recommending fees which in several instances were lower than scale fees in the County Court, for a drastic revision of the circuit fee rules, and for further alterations in the practice of the Bar.

The Bar Council considered at length the report of the Institute's Committee and in September 1966 delivered to the Law Institute a memorandum dealing with the several matters raised in the report. A memorandum on this matter will be distributed separately to members of the Bar.

Subsequently, a joint Committee representing the Councils of the Law Institute and the Bar met on a number of occasions to discuss further the matters raised by the Institute's Committee's report and other matters. The Bar Council thereupon gave further consideration to these matters, but was of opinion there was no valid reason for departing from the views expressed in the September memorandum, except in relation to the two-thirds rule which it resolved to modify in the manner indicated elsewhere in this report.

THE VICTORIAN BAR

FINANCIAL STATEMENT FOR YEAR ENDED 31ST AUGUST, 1967

<u>BALANCE</u> in General Fund 31.8.66	2,081.79	
<u>Less</u> transferred as fixed deposit	<u>1,000.00</u>	1,081.79

RECEIPTS

Annual Subscriptions	6,834.90	
Arrears "	675.50	
Advance "	<u>26.00</u>	7,536.40

Arrears from past functions		513.70
Surplus from Bar/Law Institute		
Dinner Dance		51.00
Commonwealth Loan Interest		225.00
Redemption of 250 Shares in		
Counsel's Chambers Ltd.	500.00	
Surplus from Wind up in Counsel's		
Chambers Ltd.	<u>684.15</u>	1,184.15

Barristers' Benevolent Fund:-

Contributions	1,126.00	
<u>Less</u> Paid to trustees	<u>1,126.00</u>	- - -
		<u>9,510.25</u>
		10,592.04

EXPENDITURE

(a) Administrative Expenses :-

Audit Fees	50.00	
Bank Fees	27.40	
General Expenses	43.19	
Postages and Petty Cash	175.99	
Printing and Stationery	875.93	
Salaries	<u>2,734.40</u>	3,906.91

(b) Affiliation Fees :-

Australian Bar Association	306.00	
Law Council of Australia	<u>765.00</u>	1,071.00

(c) Air Fares and Accommodation for (2) representatives on (2) occasions to Australian Bar Association Meetings in Brisbane		460.60
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(d) Bar History-Secretarial Services		292.50
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(e) Income Tax		61.87
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THE VICTORIAN BAR

FINANCIAL STATEMENT FOR YEAR ENDED 31ST AUGUST, 1967

- (f) Portrait (by Ivor Hele) of
Sir Robert Menzies.

Portrait	1,400.00	
Hotel Expenses (Sitter)	58.13	
Freight	4.47	
Insurance	<u>22.58</u>	1,485.18

- (g) Functions and Entertainments:-
(against which \$402.30 is owing)

To Chairman's Fund	2,325.49		
For Catering etc.	<u>4,937.68</u>		
	7,263.17		
<u>Less - members' payments</u>	<u>5,429.20</u>	<u>1,833.97</u>	<u>9,112.03</u>

BALANCE IN BANK AT 31st AUGUST, 1967

\$1,480.01

NOTES :

- (1) Cash receipts exceeded
cash payments by 398.22

- (2) The amount owed by members is:

(a) For subscriptions :		
Prior to 31.8.66	62.50	
For past year	<u>616.00</u>	678.50
(b) For Functions :		
Prior to 31.8.66	30.60	
For past year	<u>402.30</u>	<u>432.90</u>
		<u>\$1,111.40</u>

- (3) Investments :

5,100 Ordinary Shares in Barristers' Chambers Ltd.	\$10,200.00
Commonwealth Bonds	5,000.00
On fixed deposit	<u>1,000.00</u>
	<u><u>\$16,200.00</u></u>