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BAR COUNCIL
IN CHAMBERS
AM STREET,
URNE 3000
Reference

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VICTORIAN BAR COUNCIL

ANNUAL REPORT

1969/70

16 pages

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VICTORIAN BAR COUNCIL

ANNUAL REPORT

1969-70

To be presented to the Annual General Meeting to be held on 28th September, 1970 at 5 p.m. in the Common Room, Owen Dixon Chambers, 205 William Street, Melbourne.

MEMBERSHIP OF THE COUNCIL

Election

In September 1969, the following persons were elected to the Council:—

Counsel of not less than 12 years' standing

Sir James Tait Q.C., Messrs. J. Mcl. Young Q.C., W. Kaye Q.C., J. G. Gorman Q.C., P. Murphy Q.C., P. A. Coldham D.F.C., Q.C., W. O. Harris Q.C., A. E. Woodward O.B.E., Q.C., N. M. Stephen Q.C., L. S. Lazarus and P. U. Rendit.

Counsel of not less than 6 nor more than 15 years' standing

Messrs. F. X. Costigan, F. P. Walsh, J. L. Sher and S. P. Charles.

Counsel of not more than 6 years' standing

Messrs. M. E. J. Black and D. Graham.

The then Attorney-General for the Commonwealth of Australia, the Hon. N. H. Bowen Q.C., M.P., as a member of the Victorian Bar remained an ex officio member of the Council until the reconstitution of the Cabinet in December 1969. Thereupon the Hon. T. E. F. Hughes, 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.

In July 1970, Mr. N. M. Stephen Q.C. resigned from the Council upon his appointment as a Judge of the Supreme Court of Victoria. Following this appointment, the Council recorded on behalf of the Bar its thanks for his services to the Council from February 1958 to February 1965 and from September 1968 until his appointment. Messrs. X. Connor Q.C. and A. A. Smithers who had been members of the Bar Council did not stand for re-election this year. Mr. Connor was a member of the Bar Council from 1953 to 1956. He then spent a year as Honorary Secretary of the Council. He was re-elected as a senior member in 1958 and remained until September 1969 when he decided not to stand for re-election. During his membership of the Council his contribution to its work has been unsurpassed. He served as Chairman of the Council from September 1967 until August 1969. During the period of his Chairmanship many internal and external problems confronted the Bar and it was largely due to his guidance and great experience in the customs and proper practices of the Bar that these problems were faced and solved with success.

In September 1969 at a meeting of the Council, Mr. Connor was asked to attend when a resolution of thanks to him was passed with acclamation.

Mr. Smithers served for several years upon the Council and was a member of a number of committees. His work, especially in the expression of views of younger members of the Bar when he was a member of the Ethics Committee, was of great assistance.

Officers

The following appointments were made by the Council:—

Chairman:	Mr. P. A. Coldham, D.F.C., Q.C.
Vice-Chairman:	Mr. W. Kaye, Q.C.
Honorary Treasurer:	Sir James Tait, Q.C.
Honorary Secretary:	Mr. D. Graham
Registrar:	Mr. D. E. Edwards
Administrative Officer:	Miss D. M. Brennan
Assistant Honorary Secretary:	Mr. P. C. Heerey

STANDING COMMITTEES

The following Standing Committees were appointed:—

Ethics

Messrs. Murphy Q.C., (Chairman), Young Q.C., Kaye Q.C., Stephen Q.C., Lazarus and Charles.

Law Reform

Messrs. Harris Q.C., (Chairman), Stephen Q.C., Woodward Q.C., Rendit, Walsh and Black.

Lectures

Messrs. J. G. Gorman Q.C., (Chairman), Woodward Q.C. and Sher.

Library

Messrs. J. G. Gorman Q.C., (Chairman), Griffith Q.C., Greenwell, Ormiston, N. A. Brown, Black, D. Byrne and Hansen, and later Messrs. Ahearne, Hall, J. V. Kaufman and T. H. Smith.

Librarian

Mr. Griffith Q.C.

Overdue Fees

Messrs. Woodward Q.C. (Chairman), Lazarus, Costigan, Sher and Black.

Bar Clerking
Committee

Messrs. Harris Q.C., (Chairman), Woodward Q.C., Lazarus, Costigan and Walsh.

Social and
Common Room

Messrs. J. G. Gorman Q.C., (Chairman), Rendit, Dixon, Tolhurst, Costigan and Sher.

Accommodation

Sir James Tait Q.C., (Chairman) and Mr. Murphy Q.C. with a supporting committee comprising Messrs. Stabey Q.C., Lazarus, Barnard, Black and Chernov.

Practice Committee

Co-ordinator of Practice Committees: Mr. Harris Q.C.

SUB-COMMITTEES OF THE PRACTICE COMMITTEE:Matrimonial Causes:

Messrs. Asche, McDonald, Emery and Miss Kingston.

Juries:

Messrs. Belson Q.C., Laurie Q.C., Francis Q.C., Ball and Mighell.

Crime:

Messrs. Crockett Q.C., J. Lazarus, Flanagan, Kelly and J. H. Phillips.

Causes:

Messrs. Stabey Q.C., Strauss Q.C., Dawson and Liddell.

Miscellaneous Causes:

Messrs. Wright Q.C., Fullagar Q.C., Paterson Q.C. and Todd.

Licensing:

Messrs. Campton, K. Coleman, O'Callaghan and Bourke.

Workers Compensation:

Messrs. Hill, Williamson, Rendit, Ellis and Magennis.

<u>Floor Committees</u>	<u>County Court:</u> Messrs. Nixon, Hart, Winneke, Hanlon and Fagan.
	<u>Petty Sessions:</u> Messrs. Kayser, Martin, D. R. Meagher, E. W. Gillard, D. Byrne, Stanley and Keon-Cohen.
	<u>Co-ordinator of Floor Committees:</u> Mr. L. S. Lazarus.

AD HOC COMMITTEES

Several Committees for particular purposes were appointed. They included the following:—

The 1958 Rules
Relating to Broad-
casting & Lecturing
Bar Rules relating
to Discipline
Sir Arthur Dean's
Memoranda concern-
ing Ethics &
Professional Conduct
Clarification of the
position concerning
Ethics & Professional
Conduct
Lands Tribunal
Committee

Messrs. Stephen Q.C., Walsh and Charles and later Mr. Coldham Q.C.

Messrs. Woodward Q.C., Lazarus and Black.

Messrs. Young Q.C., J. G. Gorman Q.C., Stephen Q.C. and Rendit.

Messrs. Harris Q.C., Costigan and Sher.

Messrs. Stephen Q.C., Gobbo and Fagan and later Mr. Connor Q.C.

APPOINTMENTS

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

Board of
Examiners
Chief Justice's
Rules Committee
Chief Justice's
Law Reform
Committee
Chief Justice's
Supreme Court
Library Committee
Standing Committee
with Law Institute
Joint Consultative
Committee with Law
Institute and
Australian Medical
Association
Australian Bar
Association
Law Council of
Australia Executive
Council of Legal
Education

Messrs. Young Q.C., Rendit and Shaw and later Mr. Jenkinson.

Mr. Young Q.C. (Alternate Mr. Harris Q.C.)

Messrs. Harris Q.C., Stephen Q.C. and Walsh.

Messrs. Murphy Q.C., Griffith Q.C. and D. Graham.

Messrs. Coldham Q.C. and Kaye Q.C.

Messrs. Coldham Q.C. and Kaye Q.C.

Messrs. Coldham Q.C. and Kaye Q.C.

Mr. Coldham Q.C.

Messrs. McGarvie Q.C., Woodward Q.C. and Todd.

<u>Council of Law Reporting</u>	Sir James Tait Q.C. and Mr. Bradshaw.
<u>Directors of Barristers' Chambers Ltd.</u>	Sir James Tait Q.C. (Chairman), Messrs. Ashkanasy Q.C., Kaye Q.C., Connor Q.C., Stabey Q.C. and Coldham Q.C.
<u>Barristers Superannuation Fund Trustees</u>	Mr. Coldham Q.C. (Chairman), Sir James Tait Q.C., Mr. Stephen Q.C. and later Mr. Dawson. Hon. Secretary – Mr. S. G. Hogg and later Mr. A. Chernov.
<u>Legal Aid Committee</u>	Messrs. Kearney Q.C., Marks Q.C., Hulme Q.C., Joske, Nixon and Tadgell.
<u>Appeal Costs Fund Board</u>	Mr. J. G. Gorman Q.C.
<u>Legal Education Committee</u>	Mr. McGarvie Q.C. (Alternate Mr. J. D. Phillips).
<u>Royal Victorian Asscn. of Hon. Justices (Victorian Bar Liaison)</u>	Mr. Charles.
<u>Faculty of Law Melbourne Bar Council Appointment</u>	Mr. Woodward Q.C.
<u>Bar Council Nominees</u>	Messrs. Ogden Q.C. and McGarvie Q.C.
<u>Monash</u>	Mr. J. G. Gorman Q.C.
<u>Standing Committee Workers Compensation Board</u>	Messrs. Connor Q.C., Hill and Rendit
<u>Law Council of Australia Companies Committee</u>	Mr. Paterson Q.C.
<u>Chief Justice's Law Reform Committee Sub-Committee re Liability of Occupiers to Trespassers</u>	Mr. Connor Q.C.
<u>Joint Victoria - N.S.W. Committee to consider proposed Amendments to the Judiciary Act</u>	Messrs. Young Q.C., Harris Q.C. and Merralls
<u>1971 Legal Convention Executive Officer</u>	Mr. Stephen Q.C. and later Mr. Connor Q.C.

The Council records its gratitude to the many members of the Bar who have given it assistance on sub-committees and in other capacities.

MEETINGS

Council Meetings

During the period from 1st September 1969 to 31st August 1970 the Council met on 28 occasions.

FINANCE

The Council determined that, under Rule 39, the annual subscriptions for members of the Bar for the period 1st September, 1969 to 31st August 1970 shall be the same as for last year, namely:—

Counsel called under 12 months	\$ 5.00
Over 1 but under 3 years	\$10.00
Over 3 but under 10 years	\$20.00
Over 10 years	\$30.00
Queen's Counsel	\$50.00
Crown Prosecutors and Parliamentary Draftsmen	\$16.00
Interstate Silks	\$20.00
Interstate Juniors	\$14.00
Non-Practising List	\$10.00

The Honorary Treasurer's Report and Annual Financial Statements 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 The Honourable Sir John Barry on the 8th November 1969, Sir Alan Mann, Chief Justice of the Supreme Court of Papua and New Guinea on the 20th June 1970, Senator S. H. Cohen Q.C. on the 7th October 1969 and Judge Read on 23rd August, 1970.

Appointments

In November 1969 Mr. W. C. Crockett Q.C. was appointed a Judge of the Supreme Court of Victoria. Mr. N. M. Stephen Q.C. was also appointed a Judge of that Court in July 1970.

In July 1970 The Honourable Mr. Justice Minogue of the Supreme Court of Papua and New Guinea was appointed Chief Justice of that Court.

In April 1970 His Honour Judge Dethridge was appointed Chairman of the County Court Judges. Messrs. A. P. Aird Q.C. and J. Robinson were appointed Deputy Presidents of the Commonwealth Conciliation and Arbitration Commission in the months of May and August 1970 respectively. Mr. P. A. Coldham Q.C., formerly Deputy President of the Courts Martial Appeals Tribunal was appointed to the Presidency of that Tribunal in June 1970.

Messrs. R. A. Bidstrup, W. E. Paterson, C. H. Francis, I. J. Greenwood, J. A. Keely, R. Brooking, A. Larkins (N.S.W.), J. W. Smyth (N.S.W.) and Sir Jack Cassidy (N.S.W.) were appointed Queen's Counsel.

Honours

Her Majesty the Queen created The Honourable Mr. Justice Adam a Knight Bachelor in the New Year Honours List. The Honourable Mr. Justice Nimmo was created a Commander of the Order of the British Empire.

Welcomes and Farewells

During the course of the year the Chairman welcomed on behalf of the Bar The Honourable Sir Cyril Walsh to the High Court of Australia, The Honourable Mr. Justice Crockett and The Honourable Mr. Justice Stephen to the Supreme Court of Victoria and The Honourable Mr. Justice Aird and The Honourable Mr. Justice Robinson to the Commonwealth Conciliation and Arbitration Commission. The Chairman also spoke in farewell to The Honourable Sir Robert Monahan upon his retirement from the Supreme Court of Victoria. A Bar function was held for His Honour Judge Mitchell on the occasion of his retirement as Chairman of Judges of the County Court.

Roll of Counsel

Between 1st September 1969 and 31st August 1970, the following persons signed the Roll of Counsel:—

Messrs. R. A. Sundberg, R. Baxt, C. D. Hollis-Bee, D. J. Walls, B. O'Keefe, R. Redlich, R. E. Byard, R. J. Kemelfield, R. M. Read, K. A. M. Pitt, P. R. Jordan, A. J. Lopes, N. J. Ackman, I. W. Heath, A. Blumsztein, M. O'Loughlen, M. D. Croke, J. W. Smyth Q.C. (N.S.W.), P. Y. Rattray, G. R. Anderson, M. C. I. Salvaris, W. D. Forrest, G. Schofield, L. R. Boyes, B. S. Lewin, R. M. L. Price, P. Buchanan, W. B. Zichy-Woinarski, Sir Jack Cassidy Q.C. (N.S.W.), Messrs. J. J. Cantwell, W. F. Lally, R. G. Lopez, W. J. G. O'Day, A. X. Lyons, Miss R. M. Armstrong, Messrs. M. F. Chilwell Q.C. (N.Z.) and M. Hayman.

Retirements

In April 1970 The Honourable Sir Robert Monahan retired from the Supreme Court. In September 1969 His Honour Judge Woinarski retired from the County Court and in April 1970 His Honour Judge Mitchell, Chairman of the County Court Judges, also retired from that Court.

Transfers

The names of Messrs. W. M. Irvine Q.C., A. J. St. J. Hannigan, J. H. Greenwell and Mrs. P. D. Bisley were transferred from the Practising List to the Non-Practising List, and the name of Mr. J. P. Bourke Q.C. was transferred from the Retired Judges' List to the Practising List.

The name of Mr. W. T. Charles was transferred from the Non-Practising List to the Retired Judges' List.

Removals

The names of Messrs. H. Smith, D. J. Walls, L. J. King and D. G. Williamson were removed from the Roll of Counsel at their own request.

Honorary Life Member

Sir James Tait Q.C. became an Honorary Life Member of the Victorian Bar.

Numbers on the Roll

(As at 31st August 1970)

Number signed the Roll in 1969-70

37 (30 in 1968/69).

Judges' List Total

71 (69 in 1969). Of this number 15 are retired.

Practising List Total

419 (396 in 1969).

Non-Practising List Total

43 (39 in 1969).

Total on Roll (All Lists)

533 (504 in 1969)

Number of Members in actual Practice as Counsel keeping chambers in Victoria (excluding Prosecutors for the Queen) 343.

General

In the past twelve months the Bar Council has continued to have a close and friendly relationship with the Judges and with the Attorney-General and Solicitor-General. The Victorian Bar can be thankful and proud that this relationship has remained for many years and is likely to continue for many years to come. The Victorian Chief Justice and the Chairman of County Court Judges have, at all times, been most helpful and interested in the affairs of the Victorian Bar which will continue to assist them in return.

In the course of the year an endeavour was made by the Bar Council to initiate steps which might lead to the appointment of another Clerk to the Bar. This endeavour failed. However, it is felt that a significant number from the Bar would like to see another Clerk operating. This is not to say that the present Clerks are inefficient but with the rapid increase in numbers at the Bar and the consequent swelling of the present Clerks' lists a view prevails that the only way the clerking concept can be maintained for the future is by the appointment of an additional clerk.

FUNCTIONS

Opening of the Legal Year

The Church Services on the occasion of the commencement of the Legal Year 1970 were held at the Cathedral Church of St. Paul, St. Patrick's Cathedral and the East Melbourne Synagogue.

The lessons were read by The Honourable Sir Edmund Herring, K.C.M.G., K.B.E., D.S.O., M.C., E.D. and The Honourable Sir Henry Winneke, K.C.M.G., O.B.E., at St. Paul's and the sermon was given by the Reverend T. W. Thomas, Dean of Melbourne.

The Red Mass was celebrated at St. Patrick's Cathedral by His Grace Archbishop Knox and the occasional sermon was preached by Reverend Father Hilton Deakin.

At the East Melbourne Synagogue the principal reading was made by Mr. Maurice Ashkanasy Q.C. and the sermon was given by Rabbi M. Honnig.

Bar Dinner

A Bar Dinner was held in Owen Dixon Chambers on 9th May 1970, when approximately 180 attended. The Honourable Sir Alistair Adam and The Honourable Mr. Justice Crockett were honoured guests. Mr. C. H. Francis Q.C. and The Honourable Mr. Justice McInerney were invited to compose verses for the occasion. The following is from those composed by Francis Q.C.:

"For plaintiffs who were obdurate
Insurers asked for Crockett,
For though the case was full of weight
His last address would knock it".

And from The Honourable Mr. Justice McInerney, with a mild apology to "The British Grenadiers":

"But of a' the Scotch Collegians,
There's na' that ca' compare
As lawyer, judge and punster
With our ain Sir Alistair".

Mr. Woinarski performed most creditably as Mr. Junior on this occasion, and thanks are due to Mr. Haselwood Ball for his drawing of the Law Courts which was featured on the front of the Menu.

Common Room

All members of the Bar who had been called in the past year were entertained by the Council to dinner with The Right Honourable Sir Garfield Barwick. At coffee time Sir Garfield spoke to the new members upon matters of great value to them upon the outset of their careers at the Bar.

The Council and other members of the Bar joined to entertain a considerable number of guests during the year. These included judges of all the Courts, associates, and members of the press. Overseas visitors included Dr. L. M. Singhvi, a senior practising lawyer from India, and Mr. Kenneth Rosengren, a trial lawyer from Phoenix, Arizona.

Other Functions

The Bar Council joined with the Law Institute of Victoria to entertain at a Buffet Dinner at the Law Institute, twenty Chief Justices of Asian countries, including Fiji, Western Samoa and New Zealand, who visited Australia on the occasion of the Fourth Asian Judicial Conference.

On all of these occasions Mr. and Mrs. Unger attended most successfully to the catering.

Sporting Functions

The Bar had a most unsuccessful, but enjoyable, year in the field of sport. The cricket team was defeated in its annual match against the solicitors who retained the Sir Henry Winneke Cup. The tennis team were unable to win the O'Driscoll Cup from the solicitors, and the Combined Services won both the Bruche and Macfarlan Cups at Golf.

However, the Bench and Bar defeated the Law Institute in their annual golf match at Metropolitan and so won the Sir Edmund Herring Shield.

The organisers of the cricket, tennis and golf matches were respectively Messrs. B. R. Dove, A. Hooper and J. H. Nankivell.

ETHICS

As in the past the Ethics Committee was asked in a number of cases to give permission to members of the Bar to address various bodies. In a majority of cases permission was granted, but in a few, where the Committee formed the opinion that counsel would inevitably have become involved in tendering advice on specific matters, permission was refused.

A sub-committee was established for the purpose of revising the rules of the Bar concerning participation in broadcasting, television and like forms of public address. Mr. Stephen Q.C. (as he then was) was the Chairman of this sub-committee. New rulings, to be substituted for the 1958 rulings, have been approved in principle and it is intended that the new rulings should be published to all Counsel, as soon as they have been drafted.

Another sub-committee was set up to revise the existing Bar Rules dealing with charges and discipline generally. The Chairman of this sub-committee, Mr. Woodward Q.C. was instructed as Counsel to assist the Board of Inquiry investigating the Great Barrier Reef, and accordingly this revision which is regarded by the Bar Council as important, **must** await the coming year.

Sir Arthur Dean's collection of the general rulings of the Bar on matters of professional conduct and etiquette was mentioned last year. It is important that these rulings be presented to the Bar in a form which is both convenient and accurate. The Ethics Committee anticipates that this will be completed in the coming year.

The passage of the Judges Pensions Act 1970 (Act No. 7973) rendered it unnecessary for the Bar to determine for the time being whether any amendment to its Rules is required to provide for the situation where a Judge retires and indicates his intention to resume practice at the Bar.

During the year the Ethics Committee was called upon to consider a number of complaints concerning the conduct of Counsel. The complaints came from Judges, Solicitors and clients and some cases revealed that Counsel were unfamiliar with accepted principles of professional conduct. The Committee feels that many of the complaints which it was called upon to investigate might have been avoided if Counsel had received, whilst reading as a pupil in chambers, the instruction which he ought to have received in the proper conduct of his professional activities.

The Chairman of the Ethics Committee delivered two lectures to Counsel who signed the Bar Roll since May 1969. Attendance at these lectures which are

delivered every year is now an obligation undertaken by all Counsel who sign the Bar Roll.

The following rulings were made by the Bar Council during the year:—

Practising
List

A member of the Victorian Bar, on leaving the State and going to live in Bougainville for three years was allowed to remain upon the Practising List and to carry on practice in Bougainville as a solicitor provided that the following undertaking was given:—

"I undertake that in Victoria I shall practise exclusively as Counsel and then not in respect of any matter in which I or any firm of which I am a member or by which I am employed is acting as solicitor whether in Victoria or elsewhere and whether as principal or agent and whether for remuneration or not".

Fees

It is not proper for Counsel to refund fees which have been paid, and which subsequently are disallowed on taxation of costs.

Interstate
Amalgam

The ruling of the Bar Council of 28th February 1968 that:—

"A member of the Victorian Bar appearing in any Court in Victoria may not do so either as a leader or as a junior with a practitioner of another State in which there is a separate Bar recognized as such by the Victorian Bar unless that practitioner is a member of such separate Bar in that State or is a member of the Victorian Bar".

shall not apply to an appearance with a practitioner admitted to practise as a barrister and solicitor of the Supreme Courts of South Australia, Western Australia or the Australian Capital Territory.

Counsel as Witness

Generally speaking, it is unwise for Counsel retained in an action to attend municipal offices for the purpose of inspecting documents relating to street construction schemes.

If Counsel does so attend, and as a result some evidentiary material is forthcoming, it is Counsel's duty to determine whether he may be required as a witness, and if he is, Counsel should return his brief.

Counsel signing
Statement of Claim

A client cannot insist that Counsel should draw or sign a Statement of Claim which Counsel is not prepared to sign.

LAW REFORM

County Court —
Record of Civil
Proceedings

No verbatim record is at present made of proceedings in civil actions in the County Court and the Bar Council made representations to the Attorney-General that a record (on tape or in shorthand) be taken of the proceedings at the hearing of all County Court actions in Melbourne and if possible on circuit, and that this record be preserved until a reasonable time after the expiration of the time for appeal to the Full Court so that an appellant can obtain an accurate record of the proceedings for the appeal book. However the Attorney-General has replied that it is not possible at present to provide the finance necessary to give the effect to the representations. The matter will remain under review.

Justices Act
Amendments

A bill to amend the Justices Act is being considered by the Statute Law Revision Committee. This bill had been referred to the Bar Council for comment by the Law Department at an earlier stage, but at the request of the Committee, further comments on the bill have now been sent to that body.

Wrongs (Industrial
Accidents) Bill

The Wrongs (Industrial Accidents) Bill was a private member's bill to amend the Wrongs Act 1958 by inserting a provision that where any person suffered death or bodily injury in circumstances arising out of or in the course of that person's employment by some other person the happening of the occurrence out of which the death or bodily injury arose should, in any action to recover damages in respect of such death or bodily injury, be prima facie evidence that such death or bodily injury occurred through some negligence on the part of the employer.

The Bar Council, after giving the matter careful consideration, resolved that it was opposed to the Bill. The matter had been the subject of a report by a sub-committee of the Chief Justice's Law Reform Committee, which supported the Bill in principle. The Bar's representatives on the Committee put the views of the Bar Council when the report was debated and the report was not adopted.

Bail Practice

Representations have been made to the Statute Law Revision Committee that Magistrates and Justices be empowered to impose conditions when granting bail, and that persons refused bail be entitled to appeal to a Stipendiary Magistrate and that steps be taken to obviate the need for an accused person to attend court when a further remand is to be granted.

Appeal Costs
Fund Act

The Attorney General has been requested to amend the Appeal Costs Fund Act to enable defendants in criminal cases to recover from the Fund the costs of an adjournment where the adjournment is not due to the fault of the defendant.

Commorientes

The Bar Council supported a proposal before the Chief Justice's Law Reform Committee to amend the provisions of Section 184 of the Property Law Act relating to simultaneous and consecutive deaths.

Judiciary Act

At the suggestion of the Solicitor General for the Commonwealth, the Bar Council has appointed three representatives to act as a committee to which any proposals for the amendment of the Judiciary Act may be referred for consideration.

Commonwealth
Superior Court

The Bar Council had been requested to comment on the grounds and proceedings for the review of administrative decisions by the proposed Commonwealth Superior Court. The Council has decided that no comments be offered at this stage as it appears that no steps are being taken towards the creation of a Commonwealth Superior Court.

Commonwealth
Maintenance Act

The Bar Council has approved in principle of a Commonwealth Maintenance Act.

COLLECTION OF OVERDUE FEES

The Scheme for collection of overdue fees owing to Counsel of less than seven years call was originally intended to be put into force twice a year. For several years it has been found impractical, because of the size of the task, to put the Scheme into operation more than once yearly.

The enforcement of the Scheme in 1969, which is dealt with in the last Annual Report, in fact occupied a period of some six months. It was successfully completed in October 1969 in the sense that the Bar Council list ultimately contained the names of only eight firms of solicitors. It is clear that the earlier correspondence produced a significant response by way of payment.

The extent and weight of the work involved in that operation however led the then Committee to suggest that some different method of carrying out the Scheme would need to be considered in future years.

The Committee in 1970 commenced to put the Scheme into operation once again in June and has attempted to modify the burden of the exercise without impairing its effectiveness. The Committee has sought to include from the start those solicitors who may properly be said to be unduly dilatory in payment of fees to junior Counsel, but to avoid as far as possible the inclusion of those solicitors who might have overlooked payment of a few fees but could not be said to make a practice of delay or to have failed to pay fees after receiving appropriate reminders.

The number of solicitors to whom a preliminary letter was in fact sent was only thirty-four, a fraction of the number so dealt with in previous years. A considerable number of these firms has paid the amounts owing.

As a result of the revised procedure, the time taken to operate the Scheme appears to have been reduced and also the effort involved on the part of clerks, and some needless embarrassment to a number of solicitors has also been avoided. It is however too early to assess its overall effectiveness.

Appreciation is expressed of the work done in the implementation of the Scheme by the Registrar, upon whose shoulders much of the burden has again fallen.

ACCOMMODATION

There has not been any material alteration since the last Annual Report. However, the margin of available accommodation for barristers has narrowed. The Bar Council sub-committee and the Directors of Barristers' Chambers Ltd. have given constant consideration to the acquisition of further accommodation.

The barristers' rooms in Owen Dixon Chambers have been fully occupied since June 1968. There are two-hundred and sixty-five tenants.

The four rooms remaining vacant in Tait Chambers at the time of the last Annual Report have been occupied and all thirty-five rooms are now occupied. However, a substantial movement from Tait Chambers to Owen Dixon Chambers has taken place in the course of the year. Fourteen of the original tenants of Tait Chambers are now tenants in Owen Dixon Chambers. The sectional Profit and Loss Account for Tait Chambers shows a loss of \$4,113 at 30th June 1970. This loss is partly due to the fact that the chambers were not fully occupied for the whole of the twelve months to that date and because the outgoings, particularly rates have been larger than the estimate which Barristers' Chambers Limited included in its budget.

Towards the end of last year the Crown Law Department vacated an area at the rear of the ground floor of Owen Dixon Chambers and it was decided to convert this area into rooms suitable for barristers. For this purpose alterations were carried out and completed in February, 1970 at a cost of approximately \$6,000. It has been decided that these new rooms will be occupied by barristers only after they have completed reading and until accommodation becomes available to them in Tait Chambers. Occupancy of these new rooms is on a licence basis. Owing to the number leaving the practising Bar during the course of the year, the first of these rooms did not become occupied until July 1970. There are now three barristers in this area of Owen Dixon Chambers and it is proposed that the area will accommodate up to eighteen barristers at a time.

One of the new rooms in the ground floor area of Owen Dixon Chambers is available for the conduct of arbitrations in which members of the Bar are engaged. It will be let for this purpose until the space is required for occupation by barristers.

It is interesting to record the increase in accommodation provided for the practising Bar since the days of Selborne Chambers.

In 1960 the rooms for barristers in Selborne Chambers, Equity Chambers, Saxon House and Eagle Star building which were fully tenanted provided accommodation for 168

In 1961, after Owen Dixon Chambers was built the number of barrister tenants occupying the seven available floors was 182

In 1965, when four additional floors had been added, the ten available floors had 252 occupants, there being available rooms for 264

In 1969 Tait Chambers provided for a further 35, making a total of 299

This year the ground floor area will accommodate another 18, making in all 317

In addition, there are approximately 12 barristers with rooms in Equity Chambers — a total of ... 329

This is almost double the number of ten years ago.

LEGAL AID COMMITTEE

In the last Annual Report it was recorded that the Legal Aid Committee was examining possible means whereby the Distribution Rate could be substantially increased, and that a proposal had been formulated and approved. The proposal was substantially accepted by the State Government and has been put into effect by the Legal Aid Act 1969.

One of the most important features of that Act is the provision therein made for the guaranteed payment of eighty per cent of counsels' fees certified by the Committee.

The activities of the Legal Aid Committee continue to grow and the Bar Council expresses its gratitude to those who have undertaken the demanding duties involved in membership of the Committee. The growth referred to appears from the statistics set out below.

<u>Statistics</u>	<u>1968/69</u>		<u>1969/70</u>
	4108	Total applications	5490
	<u>2177</u>	Dealt with by Secretary	<u>2618</u>
	1931	Referred to Committee	2872
		Applications not dealt with or deferred as at 30/6/69 but subsequently dealt with by Committee	172
	107		<u>2700</u>
	<u>2038</u>	Assistance approved	2498
	1583	Rejected or withdrawn	172
	326	Not dealt with or deferred	30
	129		<u>2700</u>
	<u>2038</u>		

Comparative Table of Statistics

	TOTAL		DEALT WITH BY THE SECRETARY		REFERRED TO COMMITTEE		APPROVED	
	68/69	69/70	68/69	69/70	68/69	69/70	68/69	69/70
DIVORCE	531	933	247	298	284	635	261	646
MAINTENANCE	1175	1464	462	479	713	985	578	799
CUSTODY AND AFFILIATION	227	280	117	107	110	173	93	132
MOTOR ACCIDENT	229	391	137	201	92	190	92	152
CRIMINAL	544	538	178	168	366	370	306	332
CIVIL CAUSE	529	562	314	301	215	261	164	285
WORKER'S COMPENSATION	72	100	32	44	40	56	39	50
PROBATE AND T.F.M.	49	73	38	54	11	19	5	13
OTHER	752	1149	652	966	100	183	45	89
	4108	5490	2177	2618	1931	2872	1583	2498

BAR LIBRARY REPORT

Since the last annual report gifts of books or manuscripts have been received from The Honourable Mr. Justice Anderson, Butterworth & Co. (Australia) Ltd., Dr. E. Cunningham Dax, His Honour Judge Harris, The Law Book Company Limited, Mr. L. S. Lazarus, Mr. D. G. Williamson, Mr. John Greenwell and the New South Wales Bar Association. Suitable book plates, recording the names of the donors, have been printed and are being placed in all presentation volumes.

Runs of volumes to complete sets of interstate reports have been ordered, namely New South Wales Law Reports (1862—1900) and South Australian Law Reports (1865—1920), and are to be supplied when available. The new reprint of twelve early volumes to complement the V.L.R. series has also been ordered.

The general programme of ensuring that all books are in sound condition has proceeded to a stage where damage to bindings and consequential absence of books is kept to a minimum. The Committee has been fortunate in having the services of Mr. E. Voigt for the hand re-binding. The book collection is now in an extremely good state of repair.

There has been a noticeable improvement in the habits of users of the library. Volumes are mostly replaced after use. However, several volumes have been removed from the library. Some have been replaced at considerable expense; but, unfortunately, a number cannot be replaced. It is desired to emphasise, once again, that no books may be removed from the library. The unauthorised removal of a book by a member of Counsel is a breach of etiquette which is punishable by the Bar Council.

The Committee has recommended to Barristers Chambers Limited that a set of Cox's Criminal Cases should be purchased as soon as funds are available and it is hoped that early approval will be forthcoming. Expenditure during the financial year last past amounted to \$1,331.00

The retirement of Mr. R. Tran as Melbourne Manager of The Law Book Company Limited is noted and this opportunity is taken to record the thanks of the Library Committee for his friendly interest and co-operation when the book collection was being established.

The maintenance and servicing of the library has been carried out voluntarily by members of the Committee; and the Committee is obliged to Miss L. Scott Carmody for her secretarial and other assistance in connexion with the Library.

Mr. J. H. Greenwell, who is removing to Canberra, retires from the Committee, which offers him its compliments.

BAR HISTORY

Members, particularly those recently called to the Bar, are reminded that copies of the Bar History entitled "A Multitude of Counsellors" by Sir Arthur Dean are available for purchase at the office of the Registrar, Owen Dixon Chambers. The prices are:—

For the Ordinary Edition	\$7.50
For the Special (De Luxe) Edition	\$11.60

LECTURE PROGRAMME

The series of Lectures that has been presented by the Bar Council for the last few years was continued during the current year. All these lectures were well attended, and it is believed that junior Counsel in particular derived a great deal of information and assistance from the excellent material presented by each of the speakers. The following lectures were delivered:—

The Solicitor-General (Mr. B. L. Murray Q.C.)	—	The Crown Office and the Administration of the Criminal Law.
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Mr. X. Connor Q.C.	—	Relations between Barristers and Solicitors.
Mr. J. A. Keely Q.C.	—	Advocacy in the Field of Arbitration and Industrial Law.

The Bar Council is greatly indebted to the lecturers, and expresses its thanks to them for their co-operation.

LAW COUNCIL OF AUSTRALIA

The proceedings of Executive meetings of the Law Council and other activities of the Council have been set out in editions of the Newsletter during the year.

Preparations are well under way for the Legal Convention to be held in Melbourne in July 1971.

AUSTRALIAN BAR ASSOCIATION

President: Mr. P. M. Woodward Q.C., (N.S.W.)
 Vice-Presidents: Messrs. P. D. Connolly Q.C. (Queensland) and P. A. Coldham Q.C. (Victoria).
 Members: Messrs. W. Kaye Q.C. (Victoria), G. J. Samuels Q.C. (N.S.W.), A. K. Sangster Q.C. (S.A.), J. L. Toohey Q.C. (W.A.), D. C. Draydon (Queensland), W. K. Nicholl (A.C.T.).

Only one meeting having taken place in 1969 it was apparent that the Association might cease to operate. However a meeting was held on 14th February 1970 at the time of the Executive meeting in Perth of the Law Council of Australia. The Presidency of the Association was due to pass to Victoria for the next two years but it was resolved that P. M. Woodward Q.C. of the New South Wales Bar should hold that office for a period of one year. This decision was taken because Woodward expressed a desire to take the responsibilities of reviving the Association after its inactive period of two years under New South Wales Presidency.

Meetings have been held in Sydney on the 11th April 1970 and the 27th June 1970 and have been attended by representatives of the Victorian, New South Wales and Queensland Bars and also by representatives of the separate Bars of Western Australia, South Australia, and the Australian Capital Territory. At the first of these meetings it was urged by the A.C.T. representative that the Association should become active in initiating rulings upon problems brought before it by constituent bodies. This representative expressed the view that the Association itself should endeavour to persuade constituent bodies to decide upon matters which, although not directly affecting them, were of immediate concern to a particular constituent body. The Victorian representatives submitted that the Association ought not to function in this way but that it should be used for a general exchange of views and for discussion on policies and rulings adopted by, or under the review of, constituent bodies. This discussion and exchange could be of value to each body in considering whether new policies or rulings could be introduced within its own State.

The other representatives agreed with the Victorian expressions.

Matters discussed at these meetings have included reciprocity of admission, an advocate's right to confer with his client whilst the client is under cross-examination, the right of counsel, not having been admitted in another State, to appear in that State otherwise than in the capacity of counsel, and collection of overdue fees. Several of these matters are being considered or reconsidered by the Victorian Bar Council in the light of this discussion.

The next Australian Bar Gazette is likely to be published in October 1970. Mr. J. D. Merralls has compiled the Victorian contribution to this edition.

THE VICTORIAN BARFINANCIAL STATEMENT FOR THE YEAR ENDED 31st AUGUST 1970.

	\$	\$	\$
<u>BALANCE</u> in the General Fund at 31/8/69	126.56		.
<u>Add</u> sale of Commonwealth Bonds	<u>1,766.00</u>		1,892.56
<u>RECEIPTS</u>			
Annual subscriptions	8,084.00		
Arrears "	<u>414.00</u>	8,498.00	
Arrears from past functions		443.45	
Sales of "A Multitude of Counsellors"		326.55	+
Commonwealth Loan Interest		135.00	-
Barristers Benevolent Fund:-			
Balance 1/9/69	4.00		
Contributions	<u>1,394.00</u>		
	<u>1,398.00</u>		
<u>Less</u> paid to Trustees	<u>1,398.00</u>	—	9,403.00
			11,295.56

about 40
9403
326.55
9176.45

EXPENDITURE

(a) Administrative Expenses

Accountants' fee for reporting on
auditing of Clerks' accounts (1965)
Auditors' remuneration
Bank Fees
General Expenses
Insurance
Postages and Petty Expenses
Printing and Stationery
Salaries

300.00 ** non recurring.*
 80.00
 41.50
 4.95
 21.44
 152.83
 1,040.81
5,183.21

6,824.74

(b) Affiliation Fees — Law Council of Australia

892.50 *exp 40*

(c) Brass Plates for portraits

76.00

(d) Fares and accommodation for representatives at inter State Executive meetings and country Law Association assemblies

458.75 *exp 285.*

(e) Functions and Entertainments (against which \$458.00 is owing) For Catering, Hiring etc. To Chairman's Fund

4,908.41
1,300.00
 6,208.41

Less members' payments4,244.00 1,964.41

(f) Income Tax

same 67.50 10,283.90

BALANCE IN BANK AT 31st AUGUST 1970

\$1,011.66

exp 285
10283.90
300
9.983.90

*Subject to audit.**Audited 28 Oct 1970*

1970

NOTES

(1) Cash payments exceeded cash receipts by \$880.90

(2) Stocks on hand of "A Multitude of Counsellors" at cost
\$1,257.60

(3) The amount owed by members is:-

(a) For Subscriptions:-

(i) Prior to 31/8/69

(ii) For past year

(b) For Functions:-

(i) Prior to 31/8/69

(ii) For past year

(4) Investments:-

(a) 6,250 Ordinary Shares in Barristers'
Chambers Limited at par (\$2)

(b) Commonwealth Bonds

AN 10 283.90
 Cr 9403.
880.90

1614.30
~~1257.60~~ 356.70
 (Receipt 326 ?)

\$

\$

98.00

1,129.00

1,227.00

30.00

458.00488.001,715.00

12,500.00

3,000.00\$15,500.00

last year
 \$1608.95
 (purchased \$668.95)

(at cost)
 face value)

(J. B. Tait)

Honorary Treasurer.