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Ross N.

VICTORIAN BAR COUNCIL
OWEN DIXON CHAMBER.
205 WILLIAM STREET.
MELBOURNE 3000

VICTORIAN BAR COUNCIL

ANNUAL REPORT

1970-71

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To be presented to the Annual General Meeting to be held on 27th September, 1971 at 5 p.m. in the Common Room, Owen Dixon Chambers, 205 William Street, Melbourne

MEMBERSHIP OF THE COUNCIL

Election

In September 1970, 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., R. E. McGarvie Q.C., W. O. Harris Q.C., A. E. Woodward O.B.E., 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. D. Graham and P. C. Heerey.

Ex Officio Members

The Attorney-General for the Commonwealth of Australia the Hon. T. E. F. Hughes Q.C., M.P., from September 1970 to March 1971; the Attorney-General for the Commonwealth of Australia the Hon. N. H. Bowen Q.C., M.P., from March 1971 to August 1971; the Attorney-General for the Commonwealth of Australia Senator the Hon. I. J. Greenwood Q.C., M.P., from August 1971 to September 1971.

Upon signing the Bar Roll in February 1971 the Hon. G. O. Reid Q.C., M.P., Attorney-General for the State of Victoria, became an ex officio member of the Council by virtue of his office.

At the commencement of the 1971 legal year, Mr. J. G. Gorman Q.C. resigned from the Council when he was appointed a judge of the County Court. Some weeks later Mr. P. A. Coldham D.F.C., Q.C., the then Chairman was appointed a Deputy President of the Commonwealth Conciliation and Arbitration Commission, and resigned from the Council. On accepting his resignation, the Bar Council, by resolution, placed on record its appreciation of Mr. Coldham's outstanding services to it during the fourteen years of his membership.

Subsequently, the vacancies caused by the resignations of Messrs. Coldham and Gorman were filled by the Hon. H. Storey M.L.C. and Mr. D. M. Dawson, who were elected to the Council.

In July 1971, after completing four years' outstanding service as Assistant Honorary Secretary and Honorary Secretary, Mr. D. Graham resigned from the latter office. He was succeeded by Mr. P. C. Heerey, and the Council appointed Mr. A. Chernov Assistant Honorary Secretary.

Officers

The following appointments were made by the Council:—

Chairman:	Mr. P. A. Coldham D.F.C., Q.C. Following Mr. Coldham's resignation, Mr. W. Kaye Q.C. was appointed Chairman.
Vice-Chairman:	Mr. W. Kaye Q.C. and later Mr. P. Murphy Q.C.
Honorary Treasurer:	Sir James Tait Q.C.
Honorary Secretary:	Mr. D. Graham and later Mr. P. C. Heerey.
Registrar:	Mr. D. E. Edwards.
Administrative Officer:	Miss D. M. Brennan.
Assistant Honorary Secretary:	Mr. P. C. Heerey and later Mr. A. Chernov.

STANDING COMMITTEES

The following Standing Committees were appointed:—

Ethics

Messrs. Murphy Q.C. (Chairman), Young Q.C., Kaye Q.C., Woodward Q.C., L. S. Lazarus and Walsh; later Messrs. Young Q.C. (Chairman), Harris Q.C. and Dawson.

Law Reform

Messrs. Harris Q.C. (Chairman), McGarvie Q.C., Woodward Q.C., Rendit, Charles and Heerey; later Messrs. McGarvie Q.C. (Chairman) and Dawson.

Lectures

Messrs. McGarvie Q.C. (Chairman), Costigan, Sher and Heerey.

Library

Messrs. J. G. Gorman Q.C. (Chairman), Griffith Q.C., Tadgell, Ormiston, Black, D. M. Byrne, Hansen and Brear; later Mr. Griffith Q.C. (Chairman) and the Hon. H. Storey, M.L.C. and Messrs. T. H. Smith, Hall, J. V. Kaufman and Ahearne.

Librarian

Mr. Griffith Q.C.

Overdue Fees

Messrs. McGarvie Q.C., Costigan, Walsh and Sher.

Bar Clerking
Committee

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

Social and
Common Room

Messrs. J. G. Gorman Q.C. (Chairman), Rendit, Dixon, Costigan and Heerey; later Mr. Rendit (Chairman).

Accommodation

Sir James Tait Q.C. (Chairman), Messrs. Murphy Q.C. and Stabey Q.C.

Practice
Committee

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

SUB-COMMITTEES OF THE PRACTICE COMMITTEE

<u>Matrimonial Causes:</u>	Messrs. Asche, McDonald, Emery and Miss Kingston.
<u>Juries:</u>	Messrs. Laurie Q.C., Beach Q.C., Francis Q.C., Ball and Mighell.
<u>Crime:</u>	Messrs. Lennon, J. M. Lazarus, Flanagan, Kelly and J. H. Phillips.
<u>Causes:</u>	Messrs. Stabey Q.C., Brusey Q.C., Dawson and Liddell.
<u>Licensing.</u>	Messrs. Campton, K. Coleman, O'Callaghan and Bourke.
<u>Workers Compensation:</u>	Messrs. Hill, Rendit, Ellis, Magenpis and Vincent.

County Court: Messrs. Nixon, Hart, Winneke, Hanlon and Fagan.

Magistrates' Court: Messrs. E. W. Gillard, D. M. Byrne, Stanley, Keon-Cohen, Meldrum and Duggan.

Floor Committees:

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

AD HOC COMMITTEES

A number of Committees for particular purposes were appointed. They included the following:—

The 1958 Rules relating to Broadcasting & Lecturing

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

Bar Rules relating to Discipline

Messrs. Kaye Q.C., Woodward Q.C., L. S. Lazarus and Heerey.

Sir Arthur Dean's Memoranda concerning Ethics & Professional Conduct

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

Taxation Committee

Messrs. Webb Q.C., Brusey Q.C. Dawson, Davies and Castan.

Third Party Insurance Claims

Messrs. Connor Q.C. (Chairman), Marks Q.C., O'Bryan, Tinney and Waldron.

Procedural Reforms to Expedite Trial of Actions — Personal Injury Claims

Messrs. Whelan Q.C. (Chairman), Galbally Q.C., Beach Q.C., Cullity and Barnard.

Extra-judicial Tribunals

Arnold Report

Messrs. Murphy Q.C. (Chairman), L. S. Lazarus and Dawson.

Continuing Legal Education Committee

Messrs. Ogden Q.C. and Woodward Q.C. (Alternates Messrs. Northrop Q.C. and Tolhurst).

County Court Fees Committee

Messrs. McGarvie Q.C. (Chairman), Rendit, Sher, Nixon, Hanlon, Fagan, Winneke, Hart, Ellis and Heerey.

Licence Committee

Messrs. Paterson Q.C. (Chairman), K. Coleman, McNab and Heerey.

Counsel's Fees Committee

Messrs. Fullagar Q.C., L. S. Lazarus, McPhee and Black

Australian Model Domicile

Messrs. McGarvie Q.C., Asche and Goldberg.

Master & Reader Committee

Mr. Young Q.C., the Hon. H. Storey M.L.C., Messrs. Gobbo, Berkeley and J. D. Phillips.

Wine Cupboard Committee

Messrs. Tolhurst, Dawson, O'Sullivan and Crossley.

Newsletter

Messrs. McGarvie Q.C. and Heerey.

APPOINTMENTS

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

Board of
Examiners

Messrs. Young Q.C., Jenkinson Q.C. and Rendit.

Chief Justice's
Rules Committee

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

Chief Justice's
Law Reform
Committee

Messrs. Harris Q.C., Woodward Q.C., Walsh and then Charles.

Chief Justice's
Supreme Court
Library Committee

Messrs. Murphy Q.C., then J. G. Gorman Q.C., Griffith Q.C., Graham and later Rendit.

Standing Committee
with Law Institute
of Victoria

Messrs. Coldham Q.C. and Kaye Q.C. and later Mr. Murphy Q.C.

Joint Consultative
Committee with Law
Institute and Aus-
tralian Medical
Association

Messrs. Coldham Q.C. and Kaye Q.C. and later Mr. Murphy Q.C.

Australian Bar
Association

Messrs. Coldham Q.C. and Kaye Q.C. and later Mr. Murphy Q.C.

Law Council of
Australia
Executive

Mr. Coldham Q.C. and later Mr. Kaye Q.C.

Council of Legal
Education

Messrs. McGarvie Q.C., Woodward Q.C. and Todd and later Mr. Goldberg.

Council of Law
Reporting

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

Directors of
Barristers'
Chambers Ltd.

Sir James Tait Q.C. (Chairman), Messrs. Ashkanasy Q.C., Kaye Q.C., Connor Q.C., Stabey Q.C., Coldham Q.C. and later Messrs. Murphy Q.C. and Batt.

Barristers'
Superannuation
Fund Trustees

Mr. Coldham Q.C. (Chairman), Sir James Tait Q.C. and Mr. Dawson and later Messrs. Kaye Q.C. (Chairman) and Griffith Q.C. Hon Secretary — Mr. Chernov and later Mr. Jordan.

Legal Aid
Committee

Messrs. Hulme Q.C., Beach Q.C., Nixon and Hase; later Messrs. Keely Q.C., Brooking Q.C. and Murdoch.

Appeal Costs Board

Mr. L. S. Lazarus.

Legal Education
Committee

Mr. McGarvie Q.C. (Alternate Mr. J. D. Phillips and later Mr. Goldberg).

Faculty of Law
Melbourne University

Mr. Woodward Q.C.

Faculty of Law
Monash University

Mr. J. G. Gorman Q.C. and later Mr. Murphy Q.C.

Bar Council
Nominees

Messrs. Ogden Q.C. and McGarvie Q.C.

Standing Committee
Workers' Compensation Board

Messrs. Connor Q.C., Hill and Rendit.

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

HONORARY LIFE MEMBERS

The following gentlemen are Honorary Life Members of the Victorian Bar:—

Sir Eugene Gorman K.B.E., M.C., Q.C.
The Rt. Hon. Sir Robert Menzies K.T., C.H., Q.C.
Sir James Tait Q.C.
Mr. Louis Voumard Q.C.

MEETINGS

Council Meetings

During the period from 1st September 1970 to 2nd September 1971 the Council met on 30 occasions.

FINANCE

The Council determined that, under Rule 39, the annual subscriptions for members of the Bar for the period 1st September, 1970 to 31st August, 1971 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 Sir Philip Phillips, C.M.G., M.M., Q.C. on the 14th September 1970, Dr. J. B. Best on the 18th September 1970, The Honourable Sir Arthur Dean on the 25th September 1970, Mr. J. P. Bourke Q.C. on the 19th October 1970, Mr. R. T. Unkles O.B.E. on the 26th October 1970, Mr. N. E. Burbank Q.C. on the 24th January 1971, Mr. M. Ashkanasy C.M.G., Q.C. on the 2nd April 1971, Mr. E. R. Reynolds Q.C. on the 12th July 1971, Mr. D. B. Lazarus on the 16th July 1971 and Mr. D. M. Campbell Q.C. on the 3rd September 1971.

Appointments

In February 1971 Mr. P. A. Coldham D.F.C., Q.C., was appointed a Deputy President of the Commonwealth Conciliation and Arbitration Commission.

In February 1971 Mr. J. G. Gorman Q.C., was appointed a Judge of the County Court. In July 1971 Mr. R. J. D. Wright Q.C. was also appointed a Judge of that Court.

The Honourable G. O. Reid, M.P. and Messrs. A. C. King B.K.C. Thomson, S. G. Hogg, J. C. Finemore, R. M. Northrop, K. J. Jenkinson, E. D. Lloyd, P. J. Brusey, R. S. Watson (N.S.W.) and M. F. C. Chilwell (N.Z.) were appointed Queen's Counsel.

Honours

Her Majesty the Queen created the Honourable Mr. Justice Eggleston a Knight Bachelor in the Queen's Birthday Honours' List.

Addresses

During the course of the year the Chairman welcomed, on behalf of the Bar, The Honourable Sir Harry Gibbs to the High Court of Australia, The Honourable Mr. Justice Coldham to the Commonwealth Conciliation and Arbitration Commission, and His Honour Judge Gorman and His Honour Judge Wright to the County Court Bench.

At a memorial service the Chairman, on behalf of the Bar, paid a tribute to the memory of the late Maurice Ashkanasy C.M.G., Q.C.

Roll of Counsel

Between 1st September 1970 and 2nd September 1971, the following 51 persons signed the Roll of Counsel:—

Messrs. J. D. McArdle, C. L. Lovitt, D. L. Harper, J. R. Moore, A. C. Archibald, J. R. Bowman, B. F. Moorfoot, J. W. Ramsden, Mrs. F. M. Daly, Messrs. P. Faris, G. J. Z. Levine, P. J. Moran, J. T. Hassett, D. J. Walls, B. G. Walmsley, C. A. Connor, W. M. Pinner, C. W. Rosen, The Honourable G. O. Reid, M. P., Messrs. Z. R. Bey, F. W. Hender, M. Raiskums, B. A. Murphy, R. R. Pritchard, P. E. Bennett, B. D. Lawrence, R. A. Wilson, C. D. Griffin, P. Hobson, P. L. McCurdy, P. Golombek, M. J. Alexander, P. F. McPhee, G. A. Lewis, R. W. Davis, M. Fagenblat, R. Merkel, R. Patkin, M. J. Ruddle, R. Schilling, J. Zahara, R. Richter, R. McD. Collins, M. A. Lincoln, G. McP. Gibson, P. Wing, K. M. Hayne, R. J. Evans, K. L. Milte, R. A. R. Lewis and J. H. Kennan.

Transfers

The names of Messrs. J. M. Cullity, B. J. Shaw, R. K. Todd, B. J. Doyle, J. N. Bryson, C. K. Lucas, N. J. Williams and Mrs. P. D. Bisley were transferred to the Non-Practising List. The name of Mr. J. D. Davies was transferred from the Non-Practising List to the Practising List.

Removals

The names of Prof. D. C. Jackson, Messrs. P. J. Galbally, G. Schofield and B. C. M. Knappett were removed from the Roll of Counsel at their own request.

Honorary Life Member

The Bar Council, by resolution, appointed Mr. Louis Voumard Q.C. an Honorary Life Member of the Victorian Bar.

Numbers on the Roll

(as at 2nd September 1971)

Number signed the Roll in 1970-71	—	51
Judges' List Total	—	72
Practising List Total	—	453
Non-Practising List Total	—	44
Total on Roll (All Lists)	—	569

FUNCTIONS

The Opening of the Legal Year

The traditional religious services immediately preceding the opening of the Legal Year were conducted on 2nd February 1971 in St. Paul's Cathedral, St. Patrick's Cathedral and the East Melbourne Synagogue.

At the service at St. Paul's Cathedral, the lessons were read by Messrs. P. A. Coldham D.F.C., Q.C., (Chairman of the Bar Council) and Mr. R. A. Gaylard (President of the Law Institute of Victoria). The Reverend David Hodges of the Toorak Presbyterian Church preached the sermon.

The Red Mass was celebrated at St. Patrick's Cathedral to mark the occasion by Bishop Cullinane. The occasional sermon was preached by Reverend Father Knowles O.P.

The Service in the Synagogue was conducted by Rabbi M. Honig in conjunction with members of the profession. Rabbi J. Schreiber delivered the sermon.

Bar Dinner

The Bar Dinner was held on Saturday evening the 8th May 1971 in the Common Room of Owen Dixon Chambers. The guests of honour were Mr. Justice Stephen, Mr. Justice Aird, Mr. Justice Coldham and Judge Gorman.

Other guests included Mr. T. Molomby, President of the Law Council of Australia, Mr. P. M. Woodward Q.C., President of the New South Wales Bar Association, and Mr. L. Masel, President of the Law Institute of Victoria.

Common Room

Following tradition, the Bar Council dined Mr. Justice Coldham and Mrs. Coldham on the occasion of his appointment to the Commonwealth Conciliation and Arbitration Commission. Similarly, Judge Gorman and Mrs. Gorman were the guests of the Bar Council on his appointment to the County Court.

On the 1st June 1971, Mr. Louis Voumard Q.C. completed 50 years of practise and outstanding service to the Bar, the legal profession and the State of Victoria. To celebrate the occasion, the Bar Council gave a dinner in his honour which was attended by members of the Judiciary and of the Bar. During the course of the dinner, the announcement of Mr. Voumard's appointment as an Honorary Life Member was made.

The Presidents of the Ballarat, Geelong, Goulburn Valley, Western District, Wimmera, North Western and North Eastern Law Associations, together with the President, Chairman and officers of the Law Institute, were the guests of the Bar Council at a dinner in their honour.

During the year, members of the Bar joined with the Chairman when various guests were entertained at late afternoon receptions. These guests included the Chief Justice and Judges of the Supreme Court, the Chief Justices and Judges of the High Court, Judges of the County Court, Justice J. McCarthy of the Superior Court of California, Parliamentarians, Vice-Chancellors of the Universities, members of the Press and members of kindred associations.

Dining-In Nights were held on Melbourne Cup Eve 1970 and on 25th June 1971. On the latter occasion, a cast comprising members of the Bar led by David Ross presented "The First Bar Review". They provided a most humorous and entertaining performance confirming the connection between theatrical and forensic talents.

On the 16th October 1970, the Council and members of the Bar honoured Sir James Tait Q.C., the Honorary Treasurer, on the occasion of his 80th birthday. This was a very happy evening when Mr. Rendit recited his tribute to Sir James which included the following lines:—

"So versatile, this valiant Knight,
Can chair a meeting, fly a "kite",
For he was well known as an airman,
And made the Bar a splendid Chairman.

... ..

His heart is young, his walk is sprightly,
 The years sit on his shoulders lightly,
 Indeed they leave, each passing year,
 The thoughts as quick, the eyes as clear,
 So we can say it to a man,
 God bless our Bar's own Peter Pan".

At the time of preparing this report, His Excellency the Governor of Victoria, Major-General Sir Rohan Delacombe K.C.M.G., K.B.E., C.B., D.S.O., K. St. J. has accepted the Bar Council's invitation to dine with it and members of the Bar on 10th September 1971.

Once again, the Bar Council is pleased to record its appreciation of the assistance and co-operation which it has at all times received from Mr. and Mrs. H. Unger in the conduct of many Common Room functions.

Other Functions

The Chairman was the guest of the Law Institute at its Annual Dinner. He also attended the Annual Dinner of Country Law Associations at Lorne, Shepparton, Ballarat, Mildura, Bendigo and Geelong.

Mr. P. U. Rendit represented the Bar Council at the North Eastern Law Association dinner at Wodonga.

The Chairman attended the Centenary Dinner of the Alfred Hospital Clinical Society.

Sporting Functions

The annual golf match between Bench and Bar against the Law Institute was contested at Royal Melbourne Golf Club when the Bench and Bar won thereby retaining the Sir Edmund Herring Trophy. Their victory was followed by a dinner in the Club House.

Teams representing the Bench and Bar fought against the Combined Services teams for the Bruche and Macfarlan Cups at Metropolitan Golf Club. The Services retained both cups winning each by one match.

The annual cricket match against the Law Institute was played at the Albert Ground where the solicitors by a decisive win retained the Sir Henry Winneke Trophy. The Gentlemen of Ballarat defeated the Bar in the annual match.

The Law Institute tennis team defeated the Bar in a close contest for the O'Driscoll Cup.

General

During the past twelve months, notwithstanding the loss by judicial appointment of two valuable members, namely Messrs. Coldham Q.C. and Gorman Q.C., the Council has both initiated and pursued several measures which are designed for the advancement and benefit of the Bar.

To establish whether the Bar is fulfilling its true function in society, a committee has been appointed to consider whether any, and if so what, changes should be made in the present organisation and practices of the Bar and to report to the Council as soon as practicable.

Important submissions relating to the determination of personal injury claims were contained in reports presented to both the Chief Secretary and the Attorney General for the State of Victoria.

For some years past, concern has been felt that the levels of fees of counsel have not kept pace with increases in the cost of living. Two committees appointed by the Council are presently investigating this matter and their reports are anticipated in the near future.

A meeting was held by the Council with Masters for the purposes of discussing general problems of Ethics and the system of reading. Following this meeting, the Council appointed a committee to examine the existing system of reading and to recommend to it any necessary alterations and improvements.

Other matters which are under consideration by the Council and its committees include problems relating to taxation of barristers, the feasibility of conducting a licensed club in the Common Room, enclosure of the verandah on the 13th floor, and incorporation of legal practitioners.

To enable members of the Bar to be better informed of its activities, the Council introduced a newsletter which it is intended should be published quarterly during the next twelve months. Its continuance will depend upon whether the newsletter has satisfied this requirement.

The work of the Council has been facilitated by the readiness of many members who have willingly undertaken tasks assigned to them. The Council is most fortunate in the close and friendly relations with both the Attorney General and the Solicitor General. The Chief Justice of the Supreme Court has given generously of his time and wisdom when consulted about problems affecting the Bar. The Chairman of the County Court Judges has continued his interest and co-operation. To all of these gentlemen the Council is indebted.

Relations between both the Law Institute of Victoria and the several Country Law Associations have been strengthened by a better appreciation of each others functions and mutual respect thereby engendered. The close co-operation between the two branches of the profession throughout the year, and in particular during the 16th Legal Convention, evidenced more than words the strong and healthy bonds uniting them.

Finally, the Council expresses its thanks to Mr. D. E. Edwards, the Registrar, and Miss D. M. Brennan, the Administrative Officer, for their continued loyal services which have facilitated the smooth conduct of the affairs of the Bar.

ETHICS

During the course of the year the Ethics Committee gave advice and guidance to a large number of counsel. It also investigated certain complaints against counsel. In a majority of cases the Committee was able to dispose of the matter itself, but in certain cases it was necessary to refer the matter to the Council.

A number of members of the Bar was given permission to address various bodies on legal and semi-legal topics. Such permission is normally granted by the Ethics Committee but it would be refused if there were any suggestion that the counsel applying had sought the opportunity to give the address.

In one case the Council gave permission for counsel to appear on television.

The Chairman of the Ethics Committee delivered two lectures to counsel who had signed the Roll since May 1970. Attendance at these lectures which are delivered every year is an obligation undertaken by all counsel who sign the Bar Roll. The Council subsequently decided that the lectures should be published and distributed to all members of the Bar and it is hoped that this will take place in the near future.

Of the complaints against counsel investigated during the year only one resulted in formal charges being laid against counsel. The counsel concerned was found guilty of conduct which would tend to bring into disrepute the general body of counsel on the Roll and he was reprimanded.

In addition to the advice and guidance given by the Ethics Committee during the year, the following rulings and advice were given by the Bar Council:—

Interstate
Royal
Commissions

It was decided that it was proper for a member of the Victorian Bar to appear as counsel before a Royal Commission set up in another State in which the counsel was not admitted to practise.

Third
Party
Insurance

In a case where a lay client had been denied cover by his comprehensive insurer on the ground of intoxication and issued proceedings against that company, counsel sought guidance as to his duty when requested by the authorized insurer to plead a defence in an action by the third party that the insured was driving while under the influence of alcohol. It was resolved that counsel be advised that he should follow the bona fide instructions of his client, the authorized insurer.

Senior
Counsel
Appearing
in Foreign
Commission
on Evidence

Senior counsel sought a ruling upon the question whether it was necessary for him to have a junior when appearing on the taking of evidence on commission before the British Consul in a foreign country. It was decided that in the circumstances of the particular case, which the Council considered exceptional, senior counsel be permitted to undertake the examination without a junior.

Counsel in
Taxation
of Costs

A solicitor enquired whether there was a rule of etiquette preventing counsel appearing on a taxation of costs where the quantum of his own fee is involved, and he was advised that the rule is that counsel ought not to appear before the Taxing Master on a taxation of costs which involves the appropriateness of his own fee.

Solicitor
and
Counsel

Members of the Bar were advised that as a general rule it was only when a brief on behalf of an identified party was tendered to him by a solicitor that counsel should indicate his availability to act in any matter.

Counsel
Assisting
Royal
Commissions
and Boards
of Inquiry

The Council resolved that counsel appointed to assist a Royal Commission or Board of Inquiry should be briefed in the usual way by a solicitor and properly instructed by him during the hearing.

LAW REFORM

Appeal by
Crown
against Sentence

The Council considered the Bill to give the Crown the right to appeal against sentences. A report was sent to the Attorney-General and the parliamentary leaders of other political parties. The report supported the right of the Crown to appeal against sentence but recommended that no such appeal should be brought without the written consent of the Attorney-General. The Bill was amended so that the Act now provides that no appeal be taken without the consent of the Attorney-General or a Minister acting on his behalf.

Appeal Costs
Fund Act

The Council sent a letter to the Attorney-General requesting him to give consideration to amending the Appeal Costs Fund Act by providing that where an appeal in a "matrimonial cause" as defined in s. 5 of the Commonwealth Matrimonial Causes Act, is brought by a wife against her husband and such appeal fails and the Appeal Court in the exercise of its discretion orders the

respondent husband to pay the costs of the appellant wife, that the Supreme Court may, upon application made on behalf of the respondent husband to the appeal, grant an indemnity certificate in respect of the appeal. The Attorney-General replied that it was not considered that such an amendment would be consistent with the principles of the Appeal Costs Fund Act.

Personal
Injuries
Cases

Three committees were set up to consider improvements in the compensation of injured persons. One of these committees initiated, investigated and formulated the reform of setting up a fund from insurance premiums to pay hospital expenses without the necessity of ascertaining liability in motor accident cases. This will enable hospital accounts to be settled promptly. The Attorney-General announced that the scheme was to be implemented.

County
Court
Jurisdiction

The Council adopted the recommendation of one of these committees that the County Court jurisdiction be increased to \$12,000 in motor collision cases and \$8,000 in other personal injuries cases. It also supported a procedure for the immediate transfer from the Supreme Court of cases within the extent of County Court jurisdiction.

Summons
For
Directions

The Council has forwarded to the Attorney-General a report recommending a compulsory summons for directions in personal injury claims to be held by a judge at the expiration of six months after the issue of the writ if by that date the case has not been set down for trial. This proposal is designed to ensure that the parties will be obliged to look realistically at the case at that stage which should lead to earlier settlements and less congestion in the list.

COLLECTION OF OVERDUE FEES

During the year discussions were held between the Chairman of the Bar Council and the Public Solicitor with regard to fees overdue to counsel. In these discussions the Public Solicitor agreed to pay fees to counsel as they became due. In 1962 a joint statement was made by the Victorian Bar Council and the Law Institute upon a number of aspects of the relationship between barristers and solicitors. It stated that "in the absence of an agreement to the contrary between the solicitor and counsel or his clerk, counsels' fees in all matters should be paid within 90 days of the rendering of the voucher for the fees." During the year the joint statement was circulated to the members of the Bar and the request of the Bar Council was republished in the Law Institute Journal.

The procedures for the collection of overdue fees owing to counsel of less than 7 years call have not been completed for the current year at the date of this report.

ACCOMMODATION

The accommodation position is now acute and is becoming more so, particularly with the increased number who have been signing the Bar Roll up to date. With some difficulty and a few voluntary sharing of rooms, all newcomers who have actually finished reading have been found accommodation. Now Owen Dixon Chambers is full, Tait Chambers is full and there are 15 barristers in the converted area at the rear of the ground floor in Owen Dixon Chambers, occupying as licencees, two or three to a room. It is calculated that 22 men who have been or are reading will be potential applicants for rooms from the 1st September to the end of February 1971, eight of these from 1st September and another eight by the end of December.

The plans at present in hand for accommodation include:—

- (i) an area in Equity Chambers which Barristers' Chambers Ltd. has taken on a monthly basis and which is being refitted to accommodate up to six men as licencees, in most cases more than one man to a room, but at comparatively low cost for each in somewhat cramped conditions; and
- (ii) temporary accommodation at 555 Lonsdale Street (the building recently vacated by Messrs. Galbally & O'Bryan, Solicitors), the present owner holding it as part of a much

larger area on which it is proposed to build, but not within twelve months at least. The premises are air-conditioned and mostly carpeted. It is hoped to rent them temporarily at a rental which will enable the rooms to be offered to barristers at a rate commensurate (except for some superior rooms) with the rental now paid by other barristers. The premises will accommodate 12 to 14 barristers and can be rented from 1st October next.

The longer term plans include:—

- (a) Reconstruction of the interior of the first floor of Owen Dixon Chambers when the Crown Law Department vacate it, which they say will not be until March 1972 but it is thought may quite possibly be somewhat later. The reconstruction and partitioning of the floor will take some months, perhaps four, to complete and the floor will, it is expected, then have 40 to 44 rooms available, some of which may be allotted for Clerks.
- (b) Not renewing the lease of the twelfth floor to Humes Ltd. when that lease expires at the end of December, 1972 and refitting the floor for barristers with approximately 26 rooms.

There will probably be a gap between the full occupancy of all the present and immediately planned areas and the end of 1972 when the first and twelfth floors will be available. At present it is expected that some will be required to share rooms during this interval.

This year to date there have been 51 men (proposing to practise in Victoria) who have signed the Bar Roll, compared with the number to this date last year of 37. If the present intake continues it is anticipated that by the end of 1972, or soon thereafter, the whole of the first and twelfth floors will be occupied. Beyond 1972 there are no plans for further accommodation for the Bar, although certain possibilities have been considered. It may be that by then further accommodation will be continually required and will cost much more than at present. Serious financial problems will have to be faced if the Bar as a whole is to continue to make itself responsible for providing chambers for a greatly enlarged Bar in the future. It may be that students and others who contemplate coming to the Bar after 1972 should be informed that they cannot rely upon accommodation being provided for them.

LEGAL AID COMMITTEE

The continued growth of the work of the Legal Aid Committee was evident during the past year. The following figures are published for the information of members of the Bar.

<u>1969/70</u>		<u>1970/71</u>
5490	Total applications	9798
2618	Dealt with by Secretary	3864
2872	Referred to Committee	5934
	Applications not dealt with or deferred as at 30/6/70 but subsequently dealt with by Committee	374
<u>172</u>		<u>374</u>
3044		6308
2498	Assistance approved	5142
172	Rejected or withdrawn	833
374	Not dealt with or deferred	333
<u>3044</u>		<u>6308</u>

Comparative
Table of
Statistics

	TOTAL	DEALT WITH BY THE SECRETARY	REFERRED TO COMMITTEE	APPROVED
DIVORCE	2228 (933)	565 (298)	1663 (635)	1594 (646)
MAINTENANCE	2313 (1464)	502 (479)	1811 (985)	1407 (799)
CUSTODY AND AFFILIATION	468 (280)	121 (280)	347 (173)	322 (132)
MOTOR ACCIDENT	599 (391)	196 (201)	403 (190)	391 (152)
CRIMINAL	638 (538)	137 (168)	501 (370)	474 (332)
CIVIL CAUSE	1398 (562)	687 (301)	711 (261)	620 (285)
WORKER'S COMPENSATION	189 (100)	50 (44)	139 (56)	120 (50)
PROBATE AND T.F.M.	137 (73)	77 (54)	60 (19)	59 (13)
OTHER	1828 (1149)	1529 (966)	299 (183)	155 (89)
	9798 (5490)	3864 (2618)	5934 (2872)	5142 (2498)

NOTE: Figures for period 1/7/69 to 30/6/70 are shown in parenthesis.

The contributions made by several members of the Bar who have served as members of this committee is appreciated by the Council.

BAR LIBRARY

Since the last Annual Report, the Victoria Law Foundation has enabled the acquisition of sets of Cox's Criminal Cases and the Criminal Appeal Reports, the purchase of which was arranged through the Supreme Court Library. These sets are of great benefit, particularly to more junior members of the Bar. Gifts of books by the Hon. Mr. Justice Anderson and Mr. Leo S. Lazarus are also acknowledged with gratitude.

The Directors of Barristers Chambers Limited have recently authorised the purchase of sets of New South Wales Weekly Notes, Tasmanian Law Reports and Federal Law Reports.

The gradual expansion and improvement of the book collection has generated a need for rearrangement in sections. The library committee has this in hand. Members of the committee now take turns of a month in attending the library which, due to its size, requires a good deal of servicing. And the library is again obliged to Miss Lee Scott Carmody, who attends to the placing of current publications as they come in.

Generally the condition of binding is of a high standard; and the arrangements for repairs by Mr. E. Voigt ensure that books are absent for no longer than a fortnight when being rebound. Usually they are processed within a week.

1971 deserves notice in that the person who, three years ago, removed 26 N.Z.L.R. has now found it convenient to return the volume which could not have been replaced. The library is now worth about \$30,000.00 and provides valuable facilities to every member of the Bar.

LECTURE PROGRAMME

During this year, for a variety of circumstances, the practice of presenting to the Bar a series of lectures was not followed. A lecture was delivered by Mr. L. Voumard Q.C. on "Pleadings". This lecture was attended by a large number of Counsel. Because of its success and the quality of the material presented, the Council is giving consideration to its publication.

It is intended shortly to commence a series of lectures in accordance with the former practice.

LAW COUNCIL OF AUSTRALIA

In November 1970 the following office bearers of the Law Council of Australia for 1971-72 were elected:—

President:	Mr. T. Molomby, Law Institute of Victoria
Vice-Presidents:	Mr. R. A. Wallace, Law Society of Western Australia; and Mr. J. K. Bowen, Law Society of New South Wales.
Hon. Treasurer:	Mr. P. M. Woodward Q.C., New South Wales Bar Association.

Mr. P. A. Coldham Q.C. continued to represent the Victorian Bar as an Executive Member of the Law Council until his appointment to the Commonwealth Conciliation and Arbitration Commission in February 1971, when he was succeeded by Mr. W. Kaye Q.C.

On the 31st December 1970, after serving for several years as the Honorary Secretary, Mr. W. R. McComas retired. He was then succeeded by Mr. P. G. Traill, solicitor of New South Wales. The secretariat has continued to operate from Sydney.

The 16th Australian Legal Convention was presented by the Law Council in Melbourne from July 7th to 13th. The Rt. Hon. Lord Diplock, Lord of Appeal in Ordinary, and the Hon. John M. Wisdom, a Judge of the United States Court of Appeals, were the principal guests of the Convention. Other distinguished guests and representatives came from Ceylon, Indonesia, New Zealand, Singapore, Hong Kong and South Africa. Approximately 500 delegates and their wives attended.

Papers presented and discussed at the plenary and seminar sessions were titled "Law, Liberty and Morality", "Pollution and Conservation", "Consumer Credit", "The Work of the Standing Committee of Attorneys-General", "The Lawyer as an Investigator", "Superannuation and the Professional Man", "Modification of the Hearsay Rule" and "Censorship". Members of the bar who delivered papers and commentaries were Mr. W. O. Harris Q.C., Mr. R. E. McGarvie Q.C., Senator The Hon. I. Greenwood Q.C., Mr. A. E. Woodward O.B.E., Q.C. and Mr. P. R. Jordan. Other members of the Bar participated in discussion on these papers. At the conclusion of the final plenary session, the Chairman of the Bar Council and the President of the Law Institute delivered closing addresses.

As part of the social programme, the Bar Council entertained a number of the delegates and their wives at a late afternoon reception in the Common Room of Owen Dixon Chambers. Hospitality was also extended to many delegates by several members of the Bar in their private homes.

Both Lord Diplock and Judge Wisdom visited Owen Dixon Chambers and met several counsel both in chambers and in the Common Room.

The general organization and management of the Convention was directed by a committee under the chairmanship of Mr. P. C. Trumble of the Law Institute. Mr. X. Connor Q.C., the Victorian Bar's representative, was the Deputy Chairman. Several members of the Victorian Bar combined with members of the Law Institute of Victoria to form sub-committees which were responsible for the various activities and functions conducted by the Convention. It has been a feature of each Convention held during the past twenty years that its success has surpassed that of preceding ones. The occasion in Melbourne was not a departure from that trend. This was due, in no small measure, to the endeavours of those who served on the Organizing Committee and its sub-committees, as well as to a committee comprising wives of members of the Bar and Law Institute under the leadership of Mrs. T. Molomby.

Early in 1970, the Law Council appointed a committee to recommend the manner in which new legal concepts pertaining to credit transactions could be incorporated in legislation. Members of the Bar who served on this committee were Mr. McGarvie Q.C., The Hon. H. Storey M.L.C., Mr. J. Dwyer, Mr. R. A. Baxt and Miss R. M. Armstrong.

The conclusions of the committee were formulated in proposals set out in the paper "Consumer Credit" prepared by Mr. McGarvie Q.C. and Mr. S. W. Begg and presented by them to the Convention. It is anticipated that this paper will be submitted to the Attorney-General of Victoria for the purpose of being incorporated in legislation by the Victorian Government. It will also be referred to the Standing Committee of Attorneys-General. The work of the committee constituted an outstanding contribution towards law reform applicable to all States of the Commonwealth.

Other areas of law reform which have occupied the attention of the Law Council during the past twelve months have included taxation of self-employed persons, commercial arbitration, long-term disability insurance of self-employed persons, reciprocity between States for admission to practise, proposed amendments to the Victorian Companies Act and Australia-wide company registration.

At present committees appointed by the Law Council are investigating the rights of witnesses appearing before Parliamentary Committees and a proposal for Australian domicile.

Representations were made to the Chief Justice to increase the scale of High Court Fees. This and other matters pertaining to High Court procedures are the subject of current discussions.

The Law Council has continued to give support to Lawasia and to education of Papuan and New Guinea law students.

AUSTRALIAN BAR ASSOCIATION

President: Mr. W. Kaye Q.C.

Hon. Treasurer)
Hon. Secretary) Mr. D. Graham.

Members: P. Woodward Q.C. (N.S.W.), G. J. Samuels Q.C. (N.S.W.), P. Murphy Q.C. (Vic.), F. G. Brennan Q.C. (Qld.), J. D. Dunn Q.C. (Qld.), J. Toohey Q.C. (W.A.), C. J. Legoe (S.A.) and W. Johnson (A.C.T.)

Three meetings of the Council of the Association were held since the last Annual Report and at the second of these held in March 1971 the present office bearers were appointed in succession to Messrs. Woodward Q.C. (President), Samuels Q.C. (Hon. Treasurer) and Nicholas (Hon. Secretary). The meetings have afforded members very useful opportunities of exchanging detailed information and views. Matters which have been examined included comparative levels of counsel's fees in the five States represented in the Association and in A.C.T., differing requirements relating to pupillage and the methods adopted in the appointment of Queen's Counsel.

It was decided to suspend publication of the Australian Bar Gazette. This decision was reached because much of the information contained in the Gazette is included in other periodicals which normally appear at more frequent intervals.

THE VICTORIAN BAR
FINANCIAL STATEMENT FOR THE YEAR ENDED 31ST AUGUST 1971

	\$	\$	\$
BALANCE in the General Fund at 31/8/70	1,011.66		
Add Sale of Commonwealth Bonds	<u>827.50</u>	1,839.16	
Less:			
Purchase of Ordinary Shares (400) in Barristers' Chambers Limited	800.00		
Purchase of Wine stocks for maturing — payment on account	<u>1,000.00</u>	<u>1,800.00</u>	39.16
RECEIPTS			
Annual subscriptions	8,534.00		
Arrears	<u>887.00</u>	9,421.00	
Dividend on Shares — Barristers' Chambers Ltd.		875.00	
Arrears from past functions		380.54	
Sales of "A Multitude of Counsellors"		45.70	
Interest		179.55	
Barristers' Benevolent Fund			
Contributions	1,411.00		
Less paid to Trustees	<u>1,316.00</u>	<u>95.00</u>	<u>10,996.79</u>
			<u>11,035.95</u>
EXPENDITURE			
(a) Administration Expenses:			
Auditors' remuneration	85.00		
Bank Charges	50.80		
Electricity	14.53		
Floral tributes	36.10		
Insurance	21.84		
Postage & Petty Expenses	155.80		
Printing & Stationery	1,575.01		
Repairs and Maintenance	85.25		
Salaries	<u>5,905.16</u>	7,929.49	
(b) Affiliation Fees:			
Australian Bar Association	190.00		
Law Council of Australia	<u>950.00</u>	1,140.00	
(c) Accommodation, Expenses and Fares for representatives at Conventions, Interstate Executive Meetings and Country Law Association Assemblies			178.20
(d) Functions and Entertainment (against which \$187.25 is owing) For Catering, Hiring etc. To Chairmans' Fund	5,456.05		
	<u>1,300.00</u>		
	6,756.05		
Less Members' payments	<u>5,527.02</u>	1,229.03	
(e) Income Tax		<u>43.87</u>	<u>10,520.59</u>
BALANCE IN BANK AT 31ST AUGUST 1971			<u>\$ 515.36</u>

NOTES

(1)	Cash receipts exceeded cash payments by \$381.20		
(2)	Amount owed by members is:	\$	\$
(a)	for subscriptions:		
(i)	Prior to 31/8/70	330.00	
(ii)	For past year	<u>932.00</u>	1,262.00
(b)	For Functions:		
(i)	Prior to 31/8/70	107.56	
(ii)	For past year	<u>187.25</u>	294.81
			<u>\$1,556.81</u>
(3)	Investments:		
(a)	6,650 Ordinary Shares of \$2 each in Barristers' Chambers Limited at cost		13,300.00
(b)	Commonwealth Bonds at cost		<u>2,000.00</u>
			<u>\$15,300.00</u>
(4)	Copies on hand of "A Multitude of Counsellors" at cost \$1,211.90		

(J. B. Tait)
Honorary Treasurer