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VICTORIAN BAR COUNCIL

ANNUAL REPORT

1975-76

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OF THE
VICTORIAN BAR COUNCIL
1975 – 76

To be presented to the Annual General Meeting of the Victorian Bar to be held on 21st September, 1976 at 5 p.m. in the Common Room, Owen Dixon Chambers, 205 William Street, Melbourne.

THE BAR COUNCIL

Elections In the Annual Election in September 1975 the following persons were elected:- Counsel of not less than 12 years' standing: Messrs. K.H. Marks Q.C., J.A. Gobbo Q.C., L.S. Lazarus Q.C., J.D. Davies Q.C., H.C. Berkeley Q.C., F.X. Costigan Q.C., J.J. Hedigan Q.C., F. Walsh, J.H. Phillips, J.L. Sher and S.P. Charles.

Counsel of not less than 6 nor more than 15 years' standing: Messrs. M.J.L. Dowling, E.W. Gillard, A.R. Castan and A. Chernov.

Counsel of not more than 6 years' standing: Messrs. J.T. Hassett, B.G. Walmsley and R. Richter.

(Note: Mr. L.S. Lazarus Q.C. resigned in August 1976 following his appointment to the County Court Bench. No By-election was held).

Officers of the Bar Council

Chairman

October 1975 to August 1976 Mr. L.S. Lazarus Q.C.

From August 1976 Mr. K.H. Marks Q.C.

Vice Chairman

October 1975 to August 1976 Mr. K.H. Marks Q.C.

From August 1976 Mr. F.X. Costigan Q.C.

Honorary Treasurer Mr. F. Walsh

Assistant Honorary Treasurer Mr. A. Chernov

Honorary Secretary Mr. M.B. Phipps

Assistant Honorary Secretary Mr. Rex Wild

Executive Officer Miss D.M. Brennan

DIRECTORS OF BARRISTERS' CHAMBERS LTD.

Sir James Tait Q.C. (Chairman), Messrs. Marks Q.C., Hulme Q.C., Berkeley Q.C., Walsh, Batt, N.H.M. Forsyth and Sundberg (from May 1976).

Secretary of Barristers' Chambers Ltd.

Mr. D.E. Edwards

YOUNG BARRISTERS' COMMITTEE

Messrs. Hedigan Q.C. (Chairman), Walmsley, Zichy-Woinarski, Levine, Maguire, Webster, Horgan, Belson, Wodak, Philbrick, and J.A. O'Brien (Secretary).

ADMINISTRATIVE COMMITTEES

Executive Committee Messrs. Lazarus Q.C. (Chairman to August 1976) Marks Q.C. (Chairman from August 1976 and Vice-Chairman to August 1976), Costigan Q.C. (Vice-Chairman from August 1976), Gobbo Q.C., Sher Q.C., Walsh, Dowling, Phipps and Wild (Secretary).

General Committee Messrs. Hedigan Q.C. (Chairman), J.H. Phillips Q.C. (Vice-Chairman), Hassett, Walmsley (Secretary) (Messrs. Lazarus Q.C. and Marks Q.C. are ex officio).

From February 1976 the Executive Committee and the General Committee were amalgamated, with the members of the Executive Committee taking over the duties of both Committees for a trial period. The trial period is still in force.

Area of responsibility

(a) Joint Standing Committees

Joint Standing Committee of Bar and Law Institute

Messrs. Lazarus Q.C. (to August 1976), Marks Q.C. and Costigan Q.C. (from August 1976).

Joint Standing Committee on Public Relations

Messrs. Lloyd Q.C., Hansen and Redlich.

Joint Standing Committee on Fees and Costs

Hedigan Q.C., Sher Q.C. and Dowling.

(b) Standing Committees

Bar Staff Committee

Messrs. Walsh (Chairman), Kimm, Meldrum, Moorhead and Lopes.

Bar Rules Committee

Messrs. Lazarus Q.C. (to August 1976), Storey Q.C. (to April 1976), D. Graham and Hassett (Convenor).

Victorian Bar News – Editorial Board

Messrs. Castan (Chairman), D.M. Byrne, D.J. Ross and North (from August 1976) (Joint Editors), Coldrey, Miss Opas and Kirkham.

Bar Clerking Committee

Messrs. J.H. Phillips Q.C. (Chairman), Charles Q.C., Walsh, Castan, Hassett (Secretary and Convenor). One representative of the Committee of each clerking list.

Clerk Installation Committee

Messrs. Marks Q.C. (Chairman), Lazarus Q.C., Gobbo Q.C., J.H. Phillips Q.C. and Hassett (Convenor).

Bar Fees Committee

Messrs. Hedigan Q.C. (Chairman), Sher Q.C. (Vice-Chairman), Dowling, K.D. Marks, Beaumont (Secretary), O'Keefe and Richter.

A.L.A.O. Legal Costs Committee

Messrs. Hedigan Q.C., Dowling and Dane.

Overdue Fees Committee

Messrs. Sher Q.C. (Chairman), Barnard Q.C. (Vice-Chairman), Davey, R.J. Johnston, Hassett, Walmsley, G.A. Lewis, Rozenes, Habersberger, and H.McM. Wright. Co-opted Webb Q.C., Monester Q.C., N.H.M. Forsyth.

Legal Education Advisory Committee

Messrs. Storey Q.C. (Chairman to April 1976), Charles Q.C. (from April 1976), Dwyer, Goldberg, Castan, Coldrey, Bongiorno and Golvan.

Accommodation Committee

Messrs. Berkeley Q.C. (Chairman), Liddell Q.C. (Vice-Chairman), N.H.M. Forsyth, Griffith, J.G. Larkins, Hansen, Gurvich, Shwartz (Secretary) and N. Webb.

Bar Library Committee

Messrs. Ormiston Q.C. (Chairman and Bar Librarian), Tadgell Q.C., Black, Ahearne, Bongiorno, Sundberg, Byard, McArdle, Harper, G.A. Lewis and Golvan.

Social and Common Room Committee

Messrs. Dowling (Chairman), Tolhurst, Kirkham, Moorhead, Lovitt, Harper and Walmsley.

Wine Cupboard Committee

Messrs. Tolhurst (Chairman), Dixon and Crossley.

Catering Committee

Messrs. Walsh (Chairman), Batt and Dowling.

First Aid Committee

Mr. Willee (Chairman) and Miss Opas

Furniture and Equipment Committee

Messrs. Walsh (Chairman), Hassett and Kiernan.

(c) Special Committees

Joint Commercial and Legal Studies Text Book Committee

Messrs. Lloyd Q.C., Archibald and Wajcman.

Joint Committee on Circuit Fees

Messrs. Hedigan Q.C., Sher Q.C. and Frederico.

Professional Training Prerequisites Committee

Messrs. Storey Q.C. (Chairman to April 1976), Charles Q.C. (Chairman from April 1976), Porter, Hassett and Sweeney.

Bar Advisory Committee on Legal Aid

Messrs. Costigan Q.C., Dowling and Faris.

(d) Bar Appointees

Executive of Law Council of Australia

Mr. Lazarus Q.C. (to August 1976), Mr. Marks Q.C. (from August 1976).

Council of Australian Bar Association

Messrs. Lazarus Q.C. (to August 1976) and Marks Q.C. and Costigan Q.C. (from August 1976).

Victorian Council of Professions

Messrs. O'Sullivan and Castan.

Chief Justice's Committee for Religious Observances

Mr. Rendit.

Legal Aid Committee

Messrs. Dyett (to 31/12/75), Waldron Q.C. (to 30/6/76), Dalton (to 30/6/76), Emery Q.C. (to 5/2/76), Barnard Q.C. (from 5/2/76) Liddell Q.C. (from 1/7/76), Nicholson (from 1/1/76) and Kimm (from 1/7/76).

Appeal Costs Board

Mr Scurry Q.C.

Law Faculty – Melbourne University

Bar Council Appointees: Messrs. McGarvie Q.C. (from April 1976) and Tadgell Q.C. Mr. Justice McGarvie has remained an appointee since his appointment.

Law Faculty – Monash University

Messrs. Paterson Q.C. and Willee (alternate).

Council of Legal Education

Messrs. Storey Q.C. (to April 1976). Charles Q.C. (from April 1976), Goldberg and Kay.

Legal Education Committee

Messrs. Goldberg and Richter (alternate).

Leo Cussen Institute for Continuing Legal Education

His Honour Judge Ogden and Mr. Lloyd Q.C.

Board of Examiners

Messrs. Storey Q.C. (to 31/12/75), Emery Q.C. (to 5/2/76), Davies Q.C. (from 1/1/76), Frederico and D.M. Byrne (from 1/1/76).

Chief Justice's Supreme Court Library Committee

Messrs. Ormiston Q.C., Rendit and D. Graham.

Council of Law Reporting

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

Superannuation Fund for Supreme Court Librarian

Mr King Q.C.

(e) Other

Victorian Bar Superannuation Fund Trustees

Messrs. Lazarus Q.C. (Chairman to August 1976), Marks Q.C. (Chairman from August 1976), Sir James Tait Q.C., Tadgell Q.C. and P.R. Jordan. Mr. J.S. Stevenson (Honorary Secretary).

Directors of Barristers' Nominee Pty. Ltd.

Messrs. Lazarus Q.C. (Chairman to August 1976), Sir James Tait Q.C., Tadgell Q.C. and P.R. Jordan.

Barristers' Benevolent Fund Administration Committee

Messrs. Lazarus Q.C. (to August 1976), Marks Q.C. (from August 1976) and Walsh.

Bar Secretariat

Messrs. Lazarus Q.C. (to August 1976), Marks Q.C., Costigan Q.C. (from August 1976), Phipps, Wild and the Executive Officer.

Bar Employees:

The Company Secretary (Mr. Edwards)

The Executive Officer (Miss Brennan)

The Caretaker (Mr. Brown)

The Stenographer (Mrs. Lambert)

The Clerical Assistant (Miss Hale)

The Junior (Miss Simpson)

Bar Librarian

Mr. Ormiston Q.C.

Co-Ordinator of Floor Committees

Mr. Dowling.

Ethics
Committee

Messrs. Costigan Q.C. (Chairman to August 1976), Berkeley Q.C. (Vice-Chairman to August 1976, Chairman from August 1976), Davies Q.C. (to August 1976), Sher Q.C., Charles Q.C., Chernov (Secretary) and Walmsley (from August 1976).

Area of Responsibility

(a) Standing Committees

Reading & Lectures Committee:

Messrs. Davies Q.C. (Chairman), Charles Q.C. (Vice-Chairman), Cullity Q.C., Ormiston Q.C., D.R. Meagher, Loewenstein, W.R. White and Hobson (Secretary).

Applications Review Committee (established May 1976)

Messrs. Davies Q.C. (Chairman), Berkeley Q.C., Hassett and Phipps.

Bar Lists Committee

Messrs. Sher Q.C. (Chairman), Charles Q.C. and Chernov.

(b) Special Committee

Joint Committee on Solicitors' Firms' Use of Barristers' Name

Messrs. Gobbo Q.C. and Hansen.

Law Reform
Committee

Messrs. Gobbo Q.C. (Chairman), Castan (Vice-Chairman), E.W. Gillard (Secretary) and Richter.

Area of Responsibility

(a) Joint Standing Committee on Supreme Court Practice and Procedure

Messrs. Davies Q.C., Ormiston Q.C. and H.W. Fox.

Joint Standing Committee on County Court Practice & Procedure

Messrs. Fagan, Porter and Heerey.

Joint Standing Committee on Magistrates' Courts Practice & Procedure

Messrs. Crossley, Brear (to March 1976), Lincoln and Finkelstein (from March 1976).

(b) Standing Committees

Advisory Committee on Civil Law Reform

Messrs. Searby Q.C. (Chairman), O'Callaghan Q.C. (Vice-Chairman), O'Sullivan, Kimm, Dwyer, R.M. Johnstone, Jolson (Secretary) and Jessup. Gobbo Q.C. and E.W. Gillard are ex officio members.

Advisory Committee on Criminal Law Reform

Messrs. Thomson Q.C. (Chairman), Mullaly, Bourke, Willee, Heliotis, Dunn (Convenor), Redlich, Lovitt, Hinchliffe, and Strong (Secretary). Gobbo Q.C. and E.W. Gillard are ex officio members.

Committee on Court Procedures Reform

Messrs. Ormiston Q.C. (Chairman), Davey, Loewenstein, Heerey, Gurvich, McTaggart and E.K. Evans. Gobbo Q.C. and E.W. Gillard are ex officio members.

Crime Practice Committee

Messrs. Hampel (Chairman), Walker (Vice-Chairman), Dixon, W.M.R. Kelly, Barritt, Coldrey, Kirkham, Lopez, Moorfoot, Faris, Bey and Danos with Phillips Q.C. to liaise with the Bar Council.

Juries Practice Committee

Messrs. Thomson Q.C. (Chairman), Francis Q.C. (Vice-Chairman) Colman, Frederico, Joske (to June 1976), Nicholson and Meldrum.

Causes Practice Committee

Messrs. Hulme Q.C. (Chairman), Ormiston Q.C. (Vice-Chairman), Davies Q.C., Monester Q.C., Dyett, Lyons, J.G. Larkins and E.K. Evans.

Matrimonial Causes Practice Committee

Mr. Fogarty (Chairman to February 1976), Mr. Joske (Chairman from February to June 1976), Miss Kingston (Chairman from June 1976), Mr. Pitcher, Miss Opas, Messrs. Kay, P.M. Guest, Frederico and Abraham (the last two from February 1976).

Industrial Law Practice Committee

Messrs. Keely Q.C. (Chairman), Northrop Q.C. (Vice-Chairman to March 1976), Dalton, N.A. Brown, K.D. Marks, D.M. Ryan, Riordan and Jessup.

Military Law Sub-Committee

Messrs. Francis Q.C. (Chairman), Blackburn, Nicholson, Rowlands and McLennan.

Town Planning and Local Government Practice Committee

Messrs. Gifford Q.C. (Chairman), Campton Q.C. (to December 1975), Kimm, Porter (Convenor), Heerey, Canavan, Anderson, H. McM. Wright and Jolson.

Liquor Control Practice Committee

Messrs. Campton Q.C. (Chairman to December 1975), O'Callaghan Q.C. (Chairman from March 1976), Walsh (from March 1976) and Bourke.

Workers' Compensation Practice Committee

Messrs. Rendit (Chairman), Ellis, Magennis, Bingeman, Ashley, Munro and N.G. Ross.

Trade Practices Committee

Messrs. Searby Q.C. (Chairman), Shaw Q.C., P.A. Wilson, Chernov, Lawrence, Kennon and Jolson.

Taxation Committee

Messrs. Hulme Q.C. (Chairman), Davies Q.C., Spry, Ahearne and Castan.

Companies Committee

Messrs. Paterson Q.C. (Chairman), Liddell Q.C., Tadgell Q.C., Merralls Q.C., T.H. Smith, Cummins, Dr. Buchanan, Mr. P.R. Hayes and Dr. Jessup.

(c) Special CommitteesJoint Committee and Bar Committee on National Compensation

Messrs. Sher Q.C. (Chairman), Barnard Q.C. (Vice-Chairman), Cullity Q.C., Bingeman and R.C. Gillard.

Joint Committee on Family Law

Mr. Fogarty (to February 1976), Mr. Joske (from February to June 1976), Mr. Pitcher, Miss Kingston and Mr. Frederico (from June 1976), with the Honourable Mr. Justice Asche as an observer.

Joint Committee on Sanctions and Road Safety

Messrs. N.S.T. Murdoch, Smithers and Willee.

Magistrates' Courts Rules Committee

Messrs. R.M. Read, Nash and McTaggart.

Improvement of Personal Injuries Jurisdiction Committee

Messrs. Sher Q.C. (Chairman), Cullity Q.C., Colman, Dyett, Hase and Ashley.

Road Safety Committee

Messrs. O'Bryan Q.C. (Chairman), N.S.T. Murdoch, Smithers and Willee.

Committee on Supreme Court Delays

Messrs. Davies Q.C. (Chairman), Hedigan Q.C. (Vice-Chairman), Sher Q.C., Dowling, Chernov, and E.W. Gillard (Secretary) with power to co-opt.

Committee re Australia Police

Messrs. W.M.R. Kelly (Chairman), Flanagan, Bourke, Walker, Kirkham and Hender.

(d) Bar AppointeesChief Justice's Law Reform Committee

Messrs. Gobbo Q.C., Fagan and T.H. Smith.

Law Reform Advisory Council

Mr. Gobbo Q.C.

Chief Justice's Rules Committee

Mr. Davies Q.C. and Mr. E.K. Evans (Observer).

County Court Rules Committee

Mr. Heerey.

Attorney-General's Working Party on Magistrates' Courts Act Rules

Mr. R.M. Read.

Workers' Compensation Board Standing Committee

Messrs. Keely Q.C., Rendit, Magennis and Ashley.

In addition to the Committees set out above there have been numerous ad hoc committees set up, the most active of which has been the Supreme Court Delays Committee, as well as many Joint Committees with the Law Council of Australia.

HONORARY LIFE MEMBERS

In May 1976 the Bar Council resolved to offer life membership to His Excellency the Governor, Sir Henry Winneke and The Honourable Sir Edmund Herring. It was a great pleasure and honour to the Bar that both graciously accepted.

This brings the list of Honorary Life Members to four, who are:—

The Right Honourable Sir Robert Menzies, K.T., A.K., C.H., Q.C.

Sir James Tait, Q.C.

His Excellency the Governor, Sir Henry Winneke, K.C.M.G., O.B.E.

The Honourable Sir Edmund Herring, K.C.M.G., K.B.E., D.S.O., M.C., E.D.

MEETINGS

During the Period 1st September 1975 to 31st August 1976 the following meetings were held:—

Bar Council	—	27	
Executive Committee	—	3	} Executive — 14
General Committee	—	4	
Ethics Committee	—	15	
Law Reform Committee	—	9	

SUBSCRIPTIONS

Under Rule 39, the Council fixed the following annual subscriptions for members of the Bar for the period 1st September 1975 to 31st August 1976:—

	<u>Subscriptions</u>	<u>Bar Clerking Fund</u>
Queen's Counsel	\$150.00	\$150.00
Over 10 years' standing	90.00	105.00
Over 3 but under 10 years' standing	60.00	75.00
Over 1 but under 3 years' standing	30.00	45.00
Under 1 year	10.00	15.00
Interstate Queen's Counsel	30.00	—
Interstate Juniors	21.00	—
Solicitor- General	30.00	—
Crown Prosecutors and Parliamentary Counsel	30.00	—
Non-Practising List	30.00	—

PERSONALIA

Deaths Sir Jack Cassidy Q.C. (N.S.W.) on the 11th June 1975 (unknown to the Bar Council until after publication of the 1974/75 Annual Report); Mr. C.K. Lucas on the 19th January 1976; Mr. W.A. Fazio on the 25th March 1976; Mr. J.F. Moloney, Q.C. on the 6th April 1976 and Miss K.P. Hurst on the 26th May 1976.

Appointments In September 1975 The Honourable Sir Sydney Frost was appointed the first Chief Justice of the Supreme Court of independent Papua New Guinea. Also in September His Honour Judge S.G. Hogg was appointed to the County Court of Victoria and in October His Honour Judge M.C. Ravech was appointed to the same Court. In December His Honour Judge J.R. Campton was appointed Chairman of the Liquor Control Commission. In February 1976 The Honourable Mr. Justice H.C. Emery and The Honourable Mr. Justice J.F. Fogarty were appointed to the Family Court of Australia and later the same month The Honourable Mrs. Justice Peg Lusink became the fourth member of that Court and the first lady from Victoria to receive a judicial appointment. In March 1976 The Honourable Mr. Justice R.M. Northrop was appointed to the Commonwealth Industrial Court and President of the Trade Practices Tribunal. In June 1976 The Honourable Mr. Justice R.E. McGarvie was appointed to the Supreme Court of Victoria and The Honourable Mr. Justice T.R. Joske was appointed to the Family Court of Australia. In the same month His Honour Judge J.F. Howse was appointed to the County Court of Victoria having been an Acting Judge of that Court since January last. In July 1976 The Honourable Mr. Justice S. Strauss was appointed to the Family Court of Australia. In August 1976 His Honour Judge L.S. Lazarus was appointed to the County Court of Victoria.

Immediately following his retirement on the 30th September 1974 the Honourable Mr. Justice R. Else-Mitchell accepted appointment as Chairman of the Grants Commission in Canberra. This appointment was inadvertently omitted from the 1974-75 Annual Report.

In October 1975 the Honourable Mr. Justice A.E. Woodward, O.B.E. was appointed Director—General of the Australian Security Intelligence Organisation as from late November 1975 for a term of seven years. Also in October 1975 the Honourable Mr. Justice J.G. Norris was appointed Royal Commissioner to enquire into Prostitution in Western Australia.

In February 1976 the Honourable B.M. Snedden Q.C. was elected Speaker of the House of Representatives.

In March 1976 Messrs. G. Taylor and R.L. Langton were appointed Prosecutors of the Queen and in April 1976 Mr. F.G. Tinney was also appointed a Prosecutor of the Queen.

In May 1976 the Honourable Haddon Storey Q.C., M.L.C. was appointed Attorney-General for the State of Victoria.

In June 1976 The Honourable Sir John Minogue was appointed to head an Inquiry into Third Party Insurance in Victoria.

In July 1976 Dr. A.E. Endrey Q.C. was appointed a Master of the Supreme Court to fill the vacancy caused by the retirement of Master S.H. Collie. In April 1976 Mr. A.E. Hooper was appointed a Chairman of the Town Planning Appeals Tribunal and in August 1976 Mr. P.H.N. Opas Q.C. was also appointed a Chairman of that Tribunal to replace Mr. J.F. Kearney Q.C. who has retired from that position. Also in August Mr. Justice Robinson was appointed President of the Industrial Relations Society of Victoria for a term of twelve months.

Honours In the New Year's Honours List Sir Esler Barber and Emeritus Professor Sir Zelman Cowen were created Knight Bachelors.

In the Queen's Birthday Honours List Sir Robert Menzies, already a Knight of the Thistle became a Knight of the Order of Australia. Sir Nigel Bowen was made a Knight Commander of the order of the British Empire and Sir John Starke and Sir John Minogue became Knight Bachelors.

Queen's Counsel The following members of the Bar were appointed Queen's Counsel in 1975:—

Messrs. J.R. Campton (now His Honour Judge Campton), A. Monester, E.J. Cullity, D.G. Williamson, Dr. A. Endrey (now Master A. Endrey), Messrs. J.H. Phillips, J.L. Sher, W.F. Ormiston, C.W. Villeneuve-Smith and S.P. Charles.

Welcomes During 1975 His Honour Judge Hogg and His Honour Judge Ravech were welcomed to the County Court and His Honour Judge Campton as Chairman of the Liquor Control Commission.

During 1976 The Honourable Mr. Justice Asche, The Honourable Mr. Justice Emery, The Honourable Mr. Justice Fogarty, The Honourable Mrs. Justice Lusink, The Honourable Mr. Justice T.R. Joske and the Honourable Mr. Justice S. Strauss were welcomed to the Family Court of Australia.

The Honourable Mr. Justice McGarvie was welcomed to the Supreme Court and His Honour Judge Howse and His Honour Judge Lazarus were welcomed to the County Court. On each occasion the Chairman made an address of welcome on behalf of the Bar, save that Mr. Justice McGarvie was welcomed by the then Vice-Chairman Mr. Marks Q.C., as Acting Chairman.

Farewells The Chairman and members of the Bar attended farewells on the 4th September 1975 to His Honour Judge O'Driscoll, O.B.E. and on the 28th June 1976 to His Honour Judge Frederico. On both occasions the Chairman spoke on behalf of the Bar.

ROLL OF COUNSEL

Between 1st September 1975 and the 31st August 1976 the following 103 persons signed the Roll of Counsel:—

Messrs. M.D.G. Heaton, C.G. Gee, (N.S.W.), G. Graeme (U.K.), L. Kaufman, A.J. Myers, P.A. Barker, Z. Friedman, J.F.E. Turner, R.N. Franich, R.P. Meagher (N.S.W.), R.G. Weil, J. Lenczner, A.J. Howard, R.J. Gorey, J.L. Bannister, P.W. McCabe, P.H. Mealy, N.S. Fowler, C.C. Sharkey, A. Ginnane, I.F. Turley, D.J. Martin, C.P. Bayliss (re-signed), M.J. Finnane (N.S.W.), P.A. Jewell, P.C. Young, I.D. Hill, L.J. Hill, J.M. Murphy, T.J.C. Lusink, M.R. Titshall, M.S. Weinberg, P.J. McGuinness, V.A. Morfuni, Miss P.M. O'Hara, Messrs. W.R. Ray, S.P. Pallaras, B.R.S. Kendall, P.A. Casey, J.F. Fitz-Gerald, A.J. Nolan, J.W. Lee, Miss P.M. Power, Messrs. K.S. Pose, P. Kozicki, M.E. Mulvany, P.J. Berman, C.G. Nikakis (re-signed), S.B. Granat (re-signed), A.W.L. Hopper, A.J. Kelly, A.M. North, J.W.K. Burnside, I.R. Miller, K.G. Hogan, I.G. Crisp, I.R. Henry, J.A. O'Kelly, C.J. Larkins, Miss M.R. Hickey, Messrs. S.W. Kaye, J.B. Nunns, D.G. Garnet-Thomas, P.J. Galbally (re-signed), T.S. Monti, Miss M.F. Wimpole, Messrs. J. McL. Emerson, J. Udorovic, C.G. Gidley, C. Darvall (N.S.W. Q.C.), P.H. Cash, M.A. Scarfo, A. Loftus, P. Couzens, J.K. Higham, A.G. Hammet, Mrs. B.J. Hocking, Messrs. D. O'Doherty, M.A. Tovey, P.P. Wray-McCann, S.K. Wilson, J.A. Gyles, Mrs. J.M. McIntosh, Messrs. G.R. Schneider, J.R.P. Lewisohn, R.A. Elston, D.R. Myers, S.R. Morris, A.G. Southall, D.E. Curtain, L.J. Priestley (N.S.W. Q.C.), R.M. Dessau, A.I.N. Deoki, A.McH. Ramsey, E.N. Magee, M. Boral, C.F. Wall, B.J. Halpin, D.J. Cremean, J.D. Montgomery, R.I. Rosenberg, M.G. Perry and B. Paul.

Transfer from Non-Practising List to Practising List: Mr. H. Nathan.

Transfer to Non-Practising List: Messrs. H.G. Shore, J. LeP. Darvall, P.H.N. Opas Q.C. and A.E. Endrey Q.C.

Names removed at request of Counsel: Mr. C.T.H. Chessun, Miss M.J. McRae, Professor G. Sawyer (Non-Practising List), Messrs. F.F. Knight (Non-Practising List), B.J. Doyle (Non-Practising List), R.N. Foley, R.J. Galbally, B.V. Rolfe, P.J. Moran, M.A. Clarke (Non-Practising List) K.D. Le Plastrier, W.J. Wheelock, I.G. Sutherland, I.R. Henry, and G.J. Alford.

<u>The Roll</u>	<u>1975</u>	<u>1976</u>
Governor's List	1	1
Judges' List	87	100 + 13
Practising List	575	654 + 79
Non-Practising List	40	35 – 5
	<u>703</u>	<u>790</u> + 87
Counsel in active private practise*	497	558 + 61

*i.e. Counsel keeping Chambers in Victoria, but not including Crown Prosecutors or Parliamentary Counsel.

FUNCTIONS

Opening of the Legal Year

On the 2nd February 1976 to mark the opening of the Legal Year religious services were held in St. Paul's Cathedral, St. Patrick's Cathedral and the East Melbourne Synagogue. At St. Paul's, the lessons were read by Mr. L.S. Lazarus Q.C., the Chairman of the Victorian Bar Council and Mr. J.C. Richards, the President of the Law Institute of Victoria. The Right Reverend Donald M. Macrae, Moderator of the Presbyterian Church delivered the sermon.

At St. Patrick's Cathedral, the Red Mass was celebrated by His Grace the Archbishop of Melbourne, the Most Reverend Francis D. Little, D.D. The Occasional Sermon was preached by the Reverend Father K. Dillon.

At the East Melbourne Synagogue the Service was conducted by members of the profession in conjunction with the Reverend M. Sher. The address was delivered by Rabbi Dr. H. Freedman.

Bar Entertainment

On the 12th September 1975 the Bar Council held a Dinner in the lounge in Owen Dixon Chambers for the Past Chairmen of the Council. The Honourable Mr. Justice Connor had donated to the Bar an Honour Board naming all past Chairmen since 1900 and on this occasion it was formally presented to the then Chairman, Mr. McGarvie Q.C. It is of interest to note that, apart from Sir Robert Menzies who had another engagement that day, all the living Chairmen were present. The Honour Board now hangs in the Common Room for all to see.

On the 19th September 1975 the Law Institute and the Bar Council tendered a joint dinner in Owen Dixon Chambers to United Kingdom Royal Commissioners of the Pearson Committee considering "No Fault Liability". On the 7th November 1975 the Bar Council held a dinner in honour of the immediate past Chairman, Mr. R.E. McGarvie Q.C. and Mrs. McGarvie and the other retiring members of the Council and their wives: The Honourable H. Storey Q.C. and Mrs. Storey, Mr. and Mrs. C.W. Porter, Mr and Mrs. P. Mandie and Mr. R.M. Read.

Our Christmas Cocktail Party was held in the Common Room on the 18th December 1975 and was, as usual, well attended.

In April of this year some 45 members of the Advocates' Society of Ontario, in most cases with their wives, visited Sydney and Melbourne. The party included three judges and 25 silks. A reception was held at Government House for the Canadians which was attended by members of the Supreme Court and County Court Benches, other distinguished Victorian lawyers and a large number of the members of our Bar together with their wives. The Canadians were entertained privately and they, in turn, entertained their hosts at a dinner in the Great Hall of the National Gallery of Victoria. Joint discussions on matters of mutual interest were conducted during their visit in the Supreme Court Library and the Canadians lunched with members of the Bar in the Common Room. The personal and professional interchange between the Canadians and the Victorians proved to be of mutual benefit.

On the 22nd June 1976 the Bar held a late afternoon function to mark the retirement of Master Stuart Collie when his old friends from amongst the judiciary, fellow Masters and members of the Bar had the opportunity to wish him well.

On the 29th June 1976 the Bar Dining In Night was held in the Common Room when "Smacka" Fitzgibbon and his band entertained the diners. All who attended agreed it was an outstanding success.

As well as these dinners a couple of late afternoon functions were held in October and March when the Chief Justice and Justices of the High Court were entertained. Due to escalating costs the number of like functions was fewer than usual.

Sporting Functions

The annual Cricket Match between the Bar and Solicitors was played on the 22nd December 1975 when the Sir Henry Winneke Cup was retained by the Solicitors. On the same day the annual Tennis Match was held between the Bar and the Solicitors and the Bar now holds the Judge O'Driscoll Cup. Mr. Thomson Q.C. organised the Tennis Match and Mr. Dove the Cricket Match.

On the 28th May 1976 the annual Golf Match between the Bar and the Solicitors was played at Royal Melbourne Golf Club. The Sir Edmund Herring Shield was won by the Bench and Bar. A pleasant dinner at the club house followed the match.

The annual Golf Match between the Bench and Bar and the Combined Services will be played at Royal Melbourne Golf Club on the 30th September this year. The bar is indebted to Mr. Cashmore who organises the golf matches on behalf of the Bench and Bar.

EXECUTIVE

The Executive is responsible for action in respect of matters requiring urgent attention. With respect to routine matters it makes decisions and to others it makes recommendations or reference to the Bar Council.

1. Joint Standing Committee of Bar and Institute
This committee met on a number of occasions during the year to discuss questions concerning the whole legal profession in Victoria. The Chairman and Vice-Chairman of the Bar frequently conferred informally with the President and Chairman of the Institute and this has assisted in the maintenance of cordial relations between the two branches of the profession.
2. Public Relations
On a number of occasions during the year the Chairman made statements or gave interviews to the news media on subjects of relevance to the Bar.
3. Victorian Bar News
There have been four issues of the Victorian Bar News under the editorship of Mr. David Byrne and Mr. David Ross. Although the cost of producing the publication has increased markedly over the last 12 months it is felt that it is desirable that it continue to be published.
4. Law Council of Australia
 - (a) This year the activities of the Law Council in its representation of the Australian legal profession have increased to a more marked degree than in the previous year. Amongst other things, the Council operates as a clearing-house in respect of all manner of documentary material received by it, relating to the practice of the law. Copies of all such relevant material are then passed on to the constituent bodies for information and action where appropriate.
 - (b) The Chairman of the Bar has been a member of the Executive of the Law Council which meets on a regular monthly basis in Melbourne and has represented our Bar's views on matters of policy which have arisen.
 - (c) The Law Council has been referring copies of all material received from the United Kingdom relating to the Royal Commission into the Legal Profession presently being conducted there. An ad hoc committee consisting of Mr. W. Ormiston Q.C. and Mr. B. Walmsley has been appointed to consider all such material received.
 - (d) The Law Council has re-organised its system of Standing Committees concerned with various aspects of the law and law reform to the effect that committees of constituent bodies in particular States also become the Law Council's Committee. Subsequently, the Joint Committee of the Bar and the Institute on National Compensation also became the Committee of the Law Council of Australia on compensation matters generally. The present Bar members of the committee are Messrs. J. Sher Q.C. (Chairman), J. Barnard Q.C., E. Cullity Q.C., J. Bingeman and R.C. Gillard.
 - (e) The Law Council of Australia have also arranged to assist the N.S.W. Bar Association in relation to the recently undertaken Government enquiry into the Legal profession in New South Wales. There seems little doubt that matters which arise during the course of this enquiry will become relevant to our Bar.

- (f) The Law Council requested three nominations for Bar representation on the Council's Victorian Lawasia Committee. Messrs. D. Williamson Q.C., F. Gaffy and M. Kimm were appointed by the Bar Council, after written applications were received from members of the Bar.
5. Association of Young Lawyers
The President of this Association requested advice from the Bar Council as to its views with regard to the membership of that Association by members of the Bar. It was resolved that the Council would not at the request of the body concerned consider the general propriety or desirability of Counsel joining or continuing as members of such body.
6. Public Address System
During the year a request was made to the Directors of Barristers' Chambers Ltd. for the purchase of equipment from A.W.A. Ltd. suitable for use in the Common Room of Owen Dixon Chambers. The Company subsequently acceded to the request and the necessary equipment has been purchased and used for functions in the Common Room.
7. Victoria Law Foundation
(a) Following a request from the Foundation the Chairman (or his nominee) was nominated as the Bar's representative member of the Foundation.
(b) Mr. E.D. Lloyd Q.C. was appointed as the Bar's representative on the Advisory Committee of the Foundation's project on "Lawyers in the Community".
8. Bar Council Notice Board
It was resolved that Barristers' Chambers Ltd. be requested to purchase a large locked notice board to be placed on the Ground Floor of Owen Dixon Chambers. This notice board has since been purchased by the Company and installed and is used for Company notices and regular and urgent Bar Council notices.
9. Investigation of Plea Bargaining Complaint
A substantial investigation was carried out in the early part of the year by an ad hoc committee consisting of the Chairman and Mr. S. Charles Q.C. into the facts and circumstances surrounding the plea bargaining controversy publicised in the press. No formal action was undertaken by the Bar Council but the results of the investigations were made available to legal representatives involved.
10. Legal Aid
(a) The future of the A.L.A.O. has been a matter of some uncertainty since the beginning of 1976. Substantial representations have been made by the Bar in conjunction with the Institute as to the future of Legal Aid. Written and oral submissions have been put to both Federal and State Attorneys-General.
(b) A new fee system was introduced by A.L.A.O. in April 1976 which requires Barristers' fees to be charged direct to the Solicitors instructing Counsel rather than direct to A.L.A.O. The Bar Council agreed that the new system be given a trial period of six months before a final decision be made as to the acceptability of the change.
(c) The bar has continued to provide a number of representatives on the Legal Aid Committee.
11. Professional Legal Training
(a) In view of the lack of funds available from the Victoria Law Foundation it is still not certain whether the Leo Cussen Institute will be able to support the present course in practical training after this year. Representations have been made to the State and Federal Attorneys-General, the Federal Minister of Education and the Victorian Premier that funds be made available urgently to support the Leo Cussen Institute's course.
(b) The Reading Committee arranged at the end of 1975 for a series of lectures to be given to readers at the Bar covering various matters such as ethics, professional conduct and the practice of a Barrister. These Lectures are compulsory for all readers and are delivered by members of the Bar. The 1976 course of lectures is already under way.
12. Staff Salaries
Recommendations on the salaries and allowances to be paid to Bar staff were made during the year by the Bar Staff Committee which were adopted by the Bar Council and the Board of Barristers' Chambers Ltd.

13. Victorian Council of Professions

The Bar has continued to support the work of this Council and one of the Bar's representatives Mr. M. O'Sullivan, was elected President of it during the current year.

14. Dinners

The Chairman attended as a guest at the Annual Dinner of the Law Institute of Victoria and Mr Phillips Q.C. attended the Pre-Conference Dinner of the Stipendiary Magistrates of Victoria.

15. Bar Library

The Bar Library now contains a comprehensive collection of reports and journals from all parts of Australia, New Zealand, and England. Recent acquisitions include the Taxation Board of View Decisions (from Sir James Tait) and the Australian Tax Cases.

In addition to the unreported High Court cases, the Library is now supplied before reporting with unedited copies of judgments from the Family Law Court by courtesy of the Victorian members of that Court.

Mr. J. Kay has kindly supplied summaries of these cases to enable quick reference in box files in the library. The Bar is most grateful for this material, as it is to Mr. E.W. Lawn for supplying summaries of unreported Victorian Supreme Court Judgments.

Again there has been all too frequent misuse of the Library by a very small minority of the Bar. In particular members are reminded:—

- (1) Books may not be removed from the library for any purpose whatsoever including photocopying.
- (2) It is essential that books are replaced in their correct positions after use.

16. Accommodation Committee Report

- (i) About the middle of 1975 a proposal was put to the Bar (the Northrock proposal) that the Bar join in a joint venture with Northrock for the erection of a multi-storey building as a home for the Bar. The proposed site was in Lonsdale Street between William Street and King Street. At a General Meeting of the Bar held on the 13th August 1975 it was resolved:—
 - (a) That the Bar should be housed in one building.
 - (b) That the Bar approved in principle the Northrock proposal subject to the ascertainment and approval of financial arrangements.
- (ii) Those resolutions were passed upon the understanding that accommodation would be made available to barristers at an average rent per barrister of about \$65 per week.
- (iii) Shortly after the General Meeting of the Bar, negotiations started between representatives of the Bar and representatives of Northrock. If the joint venture had taken place, Northrock would have been the party to the joint venture in control of construction. In those circumstances, it appeared to the representatives of the Bar that Northrock should be prepared to give some undertaking as to the maximum rent payable by barristers in the building when it was complete and also that Northrock should take the risk of the extra expenditure arising if Northrock's estimate of costs was exceeded. Although the negotiations continued until early in November, the guarantee which the Bar sought was not forthcoming and the venture did not proceed thereafter.
- (iv) During November, 1975 it was ascertained that the site of the Law Institute building in Little Bourke Street might be available for sale and the Accommodation Committee was informed of other buildings available including the Flotta Lauro building at 486 Bourke Street and the Four Courts building at 180 William Street. During the course of the year other proposals were also put to the Accommodation Committee, not only in relation to completed buildings, but also in relation to the development of vacant sites and in one case in relation to a partly completed building which had already caused the bankruptcy of one builder.
- (v) All those proposals have been investigated by the Accommodation Committee. Most of them have been rejected either on the grounds of price, distance from the Courts or unsuitability for sub-division into barristers' chambers.

- (vi) At the time the Northrock proposal was put to the Bar, there was no building or site for sale within a reasonable distance of the Courts. A number of such buildings have come on to the market in the past year and it has become apparent to the Committee that at present it is much cheaper to buy a building which has been finished for some years than to try to put up a new building, either by the Bar on its own or in conjunction with a developer. In view of its experiences in relation to the Northrock proposal, the Committee thinks it probable that the future expansion of the Bar's own premises, will be by the Bar acquiring an existing building as and when it can afford it and adding to its capacity to accommodate counsel in that way. Enquiries are still on foot in relation to one building in the vicinity of the Courts and it is hoped that a recommendation can be made to the Bar Council before the end of this year.
- (vii) As far as leased accommodation goes, there are at present 531 barristers in chambers of whom 41 are reading and 327 are in Owen Dixon Chambers. The balance are accommodated in premises leased by the Bar in Lonsdale Street, William Street and Equity Chambers. The Bar is also in the process of acquiring further space in Equity Chambers at 472 Bourke Street. The present situation is that it is expected that 31 barristers will require accommodation before the end of 1976. 22 of them will be accommodated in the further space in Equity Chambers and leased accommodation will have to be found for the others.

17. Report of Trustees of Bar Clerking Fund

1. The Bar Clerking Fund (consisting of all moneys received in respect of the establishment of a seventh clerk) was established by a resolution of a General Meeting of the Bar held on the 23rd July 1975. By the resolution the Trustees of the Fund were authorised to apply money from the Fund wholly or partly by loan or wholly or partly by outright subsidy as they saw fit to keep the seventh clerk's bank account within the agreed overdraft limit of \$15,000, which account, if the Bar Council considered it necessary, was to be guaranteed in such manner as the Council might determine. The Trustees were empowered to invest on fixed deposit any funds not immediately required. The Bar Council resolved on 28th August 1975 that Mr. W. Duncan be appointed seventh clerk on terms (inter alia) that the Bar through the Trustees guarantee his overdraft accommodation to be arranged through the Commonwealth Trading Bank at its Owen Dixon Chambers branch. Walsh and Batt were appointed Trustees by the Bar Council on 11th September 1975, a third Trustee to be appointed by the Chairman and Vice-Chairman for the time being. The bar by resolution at its Annual General Meeting on 23rd September 1975 extended its overdraft limit to \$20,000 for Mr. Duncan. By a resolution of a General Meeting of the Bar held on the 6th November 1975 the provisions of the resolution of 23rd July 1975 relating to application of moneys from the Fund and to guaranteeing were, in substance, extended to the eighth clerk, and on the 13th November 1975 the Bar Council passed in relation to Mr. B.G. Stone (the eighth clerk) a resolution similar to its resolution of the 28th August 1975 in relation to Mr. Duncan. A third Trustee not having been appointed in the manner mentioned above, the Bar Council on 22nd April 1976 appointed Castan.
2. The Trustees have executed guarantees of the overdraft accommodation of each clerk to the extent of \$20,000, subject to the provision that the total amount payable by the Trustees in respect of the two guarantees shall not exceed \$40,000 or the sum available to the Trustees as trustees of the Fund from time to time, whichever is the lesser amount.
3. The Trustees have had regular discussions with the two clerks about the state of their accounts, their weekly expenses and their weekly clerking fee accruals, and their financial position and prospects generally, and have inspected their bank records regularly. Although each clerk incurred considerable initial capital expenditure and although the Trustees found it necessary to make to one clerk one payment of \$1,000 by way of subsidy and certain interest-free loans repayable on demand and may well find it necessary to make another or other such loan or loans, it does seem that the overdraft of each clerk is for the time being held at a level somewhat below the guaranteed limit. It may be that the point of balance between expenses and clerking fee accruals has been passed by each clerk, but, as receipts lag behind accruals, it is expected that it will be considerably more than a year before any substantial reduction in either clerk's overdraft occurs.

4. After allowing for the abovementioned subsidy and loans, the present state of the Fund is as follows:—
- | | |
|---|-------------|
| (a) On Deposit with Commonwealth Trading Bank: | |
| — for 3 years at 9.5% p.a. (due 15 Dec. 1978) | \$15,000.00 |
| — for 2 years at 9.25% p.a. (due 18 Dec. 1977) | 4,400.00 |
| (b) Invested in Australian Savings Bonds Series 2 at 9.5% (due 1st Nov. 1983) | 5,000.00 |
| (c) In Current Account with Commonwealth Trading Bank | 716.45 |
| (d) Held by Bar Council for the Trustees | 5,830.00 |

ETHICS COMMITTEE

Relevant decisions made between 1st September 1975 and 31st August 1976:—

1. Victorian Silks appearing with interstate juniors who are amalgams
On the basis of the ruling of the Bar Council of 21 February, 1968 and the report of the then Chairman of the Ethics Committee of 3 December, 1969, the Ethics Committee noted that it was its view that a Victorian silk should be entitled to appear in an interstate court with an interstate junior who is an amalgam from a State other than Victoria unless there is in existence in that junior's State a separate Bar which is established to the same extent as the Queensland, New South Wales, and Victorian Bars.
2. Counsel accepting more than one brief in one Court
The Ethics Committee ruled that it is not improper for Counsel to accept a number of briefs in the one Court provided he can do justice to each of them and provided it will not interfere with the Court's disposal of its business.
3. Summary hearing of complaint against Counsel for failing to return backsheet to his instructing Solicitor and failing to deliver to him notes of the Order of the Court, knowing that the instructing Solicitor required the same.
The Committee dealt summarily with a charge against a member of Counsel that he infringed Rule 32(a), (c) and (f) of Counsel Rules in that he, after completing a case, failed within a reasonable time to return his backsheet to his instructing solicitors and failed to deliver to them notes of the relevant Order, knowing that the backsheet and the Order were required.
At the conclusion of the hearing the Committee resolved that —
 - (a) Counsel infringed a Rule or recognised practice of professional conduct in that —
 - (i) he did not within a reasonable time return to his instructing solicitors a backsheet properly endorsed;
 - (ii) he neglected to advise his instructing solicitors of the terms of the relevant Order.
 - (b) In its opinion, it is a well recognized rule that Counsel, after completing a case, should make all reasonable endeavour to return his backsheet to his instructing solicitors within proper time and to convey to them the terms of any relevant order, particularly when the solicitors have requested Counsel to do this.
 - (c) In the circumstances of the Case, the Counsel so charged be directed to pay a fine of \$50.
4. Counsel attending Board Room at Solicitors offices for purpose of tendering advice
Counsel sought permission to attend the Board Room at the offices of a firm of Solicitors for the purpose of giving advice.
The Committee resolved that in view of the unusual nature of the advice that was sought from Counsel, the very large number of persons that will have to be present at the conference at which such advice will have to be given and the necessity to use the facilities provided by the Solicitor's at the Board Room including a Telex, the Counsel be at liberty to attend the Board Room, but at the beginning of each day they should exercise a discretion as to whether it is necessary for them to continue doing so and not to continue attending at the Board Room unless they are of the view that the reasons which compelled them to do so in the first place still operated.

5. Appearance by Counsel for Plaintiff against a Defendant who is insured by a company of which that Counsel is a Director
 A member of Counsel, who is a director of an insurance company, was offered a brief for a Plaintiff against a Defendant who was insured by that insurance company. The Committee resolved that a barrister should not appear for a Plaintiff against a defendant who is insured by a company of which that barrister is a director.
6. Counsel appearing for parties on both sides of the record.
 A member of Counsel held a brief for grandparents of an infant. They, together with the father of the infant were respondents to a Summons issued by the mother. The father issued a Cross-Summons, naming the grandparents and the mother as respondents. It was anticipated that the submissions that were to be put to the Court on behalf of the grandparents were to be almost identical to those that were to be put on behalf of the father. For this reason, it was proposed to brief that Counsel to appear for the father as well as for the grandparents. A ruling was sought as to whether or not in those circumstances Counsel could accept a brief to appear for the father, whilst retaining his brief to appear for the grandparents.
 The Committee resolved that the Counsel should not appear for the father as to do so would amount to acting for parties on both sides of the record.
7. Junior Counsel marking a brief fee less than two thirds of the fee marked by his senior counsel
 A member of Junior counsel sought a ruling as to whether he was entitled to mark a brief fee of less than two thirds of the fee marked by senior counsel with whom he was briefed, where his instructing solicitor requested him to do so after counsel concluded the work required of them by the brief. The Committee resolved that in the above circumstances and there being no special considerations, it would be improper for junior counsel to mark a brief fee of less than two thirds of that marked by senior counsel.
8. Counsel misrepresenting facts to prison officer whilst visiting client in prison
 Counsel was summarily charged with knowingly misrepresenting to a prison officer that a person who accompanied him to the prison was his instructor.
 The Committee heard the counsel, having refused leave for another counsel to appear for him, and resolved as follows:—
- (i) That counsel has been guilty of improper conduct in a professional capacity.
 - (ii) Counsel was directed to pay a fine of \$100.
 - (iii) That counsel be informed (and he was so informed) by the Chairman that it is important to the Bar and administration of justice that a barrister's word be accepted and that the Committee regarded his conduct seriously and were it not for the special circumstances surrounding the offence and his frankness, the Committee would have referred the matter to the Bar Council.
9. Counsel appearing in film in role of counsel
 The Committee denied permission for a member of the Bar to appear in a film to be made by a tertiary institution in circumstances where he would be filmed robed as for an appearance in Court.
10. Circuit fee charged by counsel keeping chambers in the country for appearance in Court in Melbourne
 The Committee resolved that in the case where counsel keeps chambers in a country town, it is proper for him to charge an appropriate circuit fee when he is briefed to appear at Melbourne.

11. Lectures

The following lectures were arranged by the Reading and Lectures Committee:—

<u>Lecture</u>	<u>Lecturer</u>
Ethics	H. Storey Q.C.
Ethics	F.X. Costigan Q.C.
Procedure – pleadings	S.P. Charles
Procedure – practical aspects of interrogatories and answers to interrogatories – advice on evidence	J.A. Gobbo Q.C.
Conduct of proceedings in different jurisdictions – being proceedings before the Practice Court, County Court Chambers, Masters and Magistrates Court	J.D. Loewenstein
Procedure – Practical aspects of originating and other process	W.F. Ormiston
Relations between Barristers and Solicitors	N.M. O'Bryan Q.C.
Criminal Trials	J.C. Walker
Trial examination and cross-examination	N.R. McPhee Q.C.
Trial opening, Final Address and making submissions	E.D. Lloyd Q.C.

12. Applications Review Committee

In May 1976 the Bar Council set up the Applications Review Committee which deals with all matters concerning applications to sign the Roll of Counsel. This Committee has the following powers:—

- (a) The power of dispensation from the requirement of notice under Paragraph 4 (c) of the Clerking Rules;
- (b) The power to allot clerks under rule 9 of the Clerking Rules;
- (c) The power to make recommendations for dispensation from some or all of the requirements of reading;
- (d) The power to determine matters pertaining to the name of an applicant remaining in a solicitor's firm name;
- (e) The power to determine matters pertaining to the payment of Counsel's fees by an applicant;
- (f) The power to supervise generally the consideration of applications to sign the Roll of Counsel; and
- (g) The power to refer any particular aspect of an application to the Bar Council or to the Ethics Committee, the Reading Committee or the Clerking Committee;

LAW REFORM COMMITTEE

The Law Reform Committee met throughout the year on a monthly basis. It supervised a number of practice and Standing Committees and the committee thanks all those members of the Bar who sat on the various committees and who have given generously of their time in considering the multitudinous matters that came through the Law Reform Committee.

The Australian Law Reform Commission has been extremely active in the field of law reform and in addition the Law Council of Australia has set up a number of committees in various States to consider various topics of law reform. Taken together with the work of the Law Reform Commissioner, the Victoria Law Foundation, the Statute Law Revision Committee and the Chief Justice's Law Reform Committee,

the amount of law reform activity throughout Australia is reaching epidemic proportions. All told in Australia there are some 13 Law Reform organisations and one must add to this the various committees of the Law Council of Australia and Committees of the various Bars throughout Australia. The Australian Law Reform Commission recognises the problems of the proliferation of reports emanating from these various organisations. It has produced an interim digest which sets out the various reports on law reform from many sources. This is a very important step in law reform in Australia and it is proposed that the digest ultimately will be tied into the second edition of the Australian Digest. There is no doubt that there is a considerable body of legal research which is presently overlooked by the profession simply because knowledge of its existence is confined to a few. Indeed there is no doubt that the work carried out by the various organisations in Australia and overseas overlap so that there is much wasted time and much repetition of work.

The question of the Bar's participation in law reform is a vexing one. The law reform agencies within Australia have full time staff doing research work. It is extremely difficult for busy practitioners to carry out the necessary research. Recently this Bar has been asked by the Australian Law Reform Commission to provide detailed material on various subjects of the law. This is extremely difficult to provide. It is the view of this committee that the best procedure to adopt is that adopted by the Victorian Law Reform Commissioner, the Honourable Mr. T.W. Smith Q.C. who forwards working papers to the Bar for its consideration. These working papers are the end product of much research and seek to recommend changes to the law. By this procedure the experience of the various members of the Bar who practice in that branch of the law is readily tapped and worthwhile suggestions are then made.

LAW OF RAPE

Much discussion has taken place in the last year relating to this branch of the law. It culminated in the Victorian Law Reform Commissioner preparing a working paper which was referred to the Crime Practice Committee for report. That Committee co-opted a number of Crown Prosecutors to assist and a report was forwarded to the Law Reform Commissioner. A feature of the Bar's contribution was the lack of unanimity amongst members of the Bar on the vexing subject of cross-examination of the prosecutrix.

HIGH COURT MAJORITIES

The Victorian Bar wrote to the Law Council of Australia relating to the anomalous situation which arose when the High Court was equally divided on an appeal from a single Justice of the Court. The Law Council of Australia referred the matter to its Court Administration Committee which has the matter presently under consideration.

AVAILABILITY OF WRITTEN JUDGMENTS

Redlich informed the Bar Council of the problem that appears regularly to arise where Crown Prosecutors and those appearing for the Crown on the return of an Order Nisi to review appear to have unreported decisions bearing on various matters raised. It was suggested that a Digest be kept of unreported judgments so that members of the Bar can ascertain whether there are any decisions on the topic. Approaches have been made and it is hoped that the unreported decisions can be the subject of a Digest which would be kept in the Supreme Court Library.

CRIMINAL APPEAL REPORTS

A letter was received from the Australian Institute of Criminology relating to the publication of criminal appeal reports in Australia and asking the opinion of the Bar as to the need for such reports. The Bar replied by saying that the printing of such reports would be of great benefit to the profession in Australia.

ACTION FOR CONSORTIUM

In a letter received from Hanlon the anomalous situation of the law of consortium was raised in a situation where the husband was badly injured and yet there was no compensation available to the wife in this State. The matter was referred to the Advisory Committee on Civil Law Reform for its consideration and the matter is presently under consideration. The matter has also been raised at the Chief Justice's Law Reform Committee which decided to defer further consideration of the matter until the Bar's sub-committee had reported on the matter.

LAW REFORM COMMISSION (COMMONWEALTH – BREATHALYZER LAWS)

The Australian Law Reform Commission sought the views of the Bar relating to breathalyzer laws. The matter was referred to the Advisory Committee on Criminal Law Reform which furnished a report which was forwarded to the Australian Law Reform Commission.

COURT ADMINISTRATION

The Law Council of Australia sought the views of the Bar in relation to judicial time and Court administration. The working papers of the Law Council's committee was referred to the committee on Court Procedures Reform. That committee provided a report which was forwarded to the Law Council.

DELAYS IN COURTS

The question of delays in the Courts was referred to a committee under the Chairmanship of Davies Q.C. A report was prepared and forwarded to the Attorney-General for the State of Victoria with certain recommendations.

MOTOR ACCIDENTS BOARD

A number of complaints were made in relation to the provisions of the Motor Accidents Board legislation. The matters of complaint have been referred to that Board. It appears that there are a number of anomalies in that legislation and the legislation is presently under review.

JUDICIARY AMENDMENT BILL 1976

The views of the Bar as to the proposed amendments to the Judiciary Act of the Commonwealth were sought both by the Australian Attorney-General and the Law Council of Australia. The matter was considered by the Law Reform Committee with the assistance of Aickin Q.C. (as he then was) and ultimately a report was forwarded by the Victorian Bar Council making recommendations relating to certain aspects of the proposed legislation.

EMPANELLING JURY

A letter was received from Wraith who complained about procedure adopted by a clerk instructing a Crown Prosecutor in a criminal trial. The complaint was that the clerk was standing aside prospective jurors for reasons other than they had come under the notice of the police. Application was made to the trial judge to discharge the jury and he did so. The complaint has been referred to the Criminal Practice Committee for consideration and report.

YOUNG BARRISTERS' COMMITTEE 1975–1976 SUMMARY REPORT

For this current year the Young Barristers' Committee attempted to hold regular fortnightly meetings but due to the combination of the need to attend to matters arising with some urgency and the general pressures of work and availability of members there has been more elasticity with meetings ranging from weekly to monthly in frequency.

Due to the disappointing response in the previous year to forum meetings, that timetable has been abandoned. Members of the present Committee have kept an open mind on the prospect of recontinuation, particularly having regard to the extraordinary growth of the junior sector of the Bar and the potential usefulness of such a concept in dealing with problems peculiar to those of recent call.

For most of the year a sub-committee has deliberated on the problems of young barristers both of a practical and of a conceptual nature, and the relationship of young barristers as a group with the Bar as a whole as expressed through its various organs. With the report from that sub-committee now completed its recommendations will be the subject of appropriate consideration and action in the near future.

The Young Barristers' Committee has acted as the focus of complaints on a variety of subjects touching Magistrates' Court Delays, the problems facing the unrepresented, fees etc., and has been, as it is hoped it will continue to be, a useful barometer of the problems and attitudes of young barristers whenever matters touching that group have become the concern of the Bar Council.

THE VICTORIAN BAR
FINANCIAL STATEMENT FOR THE YEAR ENDED 31st AUGUST 1976

BALANCE in hand 31st August 1976			4,778.63
REVENUE RECEIPTS:			
Annual Subscriptions previous years	1,392.00		
" " current year	<u>34,710.00</u>	36,102.00	
Arrears for past functions		172.40	
Dividend on shares		1,304.00	
Interest:			
Commonwealth Bonds	90.00		
Short term deposits	<u>764.62</u>	854.62	
Copier receipts (net)		<u>1,124.80</u>	39,557.82
REVENUE EXPENDITURE:			
(a) Administrative expenses:			
Advert for barristers' clerk	137.36		
Auditors' remuneration	205.00		
Bank charges	67.06		
First Aid equipment	238.80		
Floral tributes	81.85		
Insurance premiums	397.19		
Maintenance	111.00		
Postages and Petty expenses	511.50		
Printing and Stationery	6,368.93		
Salaries	<u>19,267.00</u>	27,385.69	
(b) Affiliation fees:			
Australian Bar Association	533.00		
Council of Professions	50.00		
Law Council of Australia	<u>6,396.00</u>	6,979.00	
(c) Change of caterers — defective trading stock			48.00
(d) Photographs — past V.B.C. Chairmen	163.00		
(on hand \$9; owing \$14)			
Less sales	<u>87.00</u>	76.00	
(e) Presentation — Canadian Advocates' Society			109.00
(f) Functions & Entertainment:			
(against which \$106.25 is owing)			
For Catering, Hiring etc	15,035.04		
For Chairman's Fund	<u>600.00</u>		
	<u>15,635.04</u>		
Less members' payments	<u>10,334.97</u>	5,300.07	
(g) Income tax		<u>274.90</u>	<u>40,172.66</u>
Excess expenditure over revenue			<u>(614.84)</u>
			4,163.79
CAPITAL REVENUE:			
Sales (5) "A Multitude of Counsellors"		49.80	
Reduction of short term deposit with Commonwealth Bank of Australia		<u>2,000.00</u>	
		2,049.80	
CAPITAL EXPENDITURE		<u>nil</u>	<u>2,049.80</u>
			6,213.59

TRUST FUNDS:

Barristers' Benevolent Fund			
Receipts (including \$148.46 b/f.)	2,754.46		
Remitted	<u>2,764.46</u>	(10.00)	
††† Barristers' Clerking Fund			
Receipts	35,300.00		
Disbursements	<u>29,460.00</u>	<u>5,840.00</u>	<u>5,830.00</u>
BALANCE IN HAND 31st AUGUST 1976			<u>\$12,043.59</u>
††† Balance subsequently transferred.			

ASSETS AT 31st AUGUST 1976

1. Cash in bank			12,043.59
2. Investments at cost:			
(a) 8,150 Ordinary Shares of \$2 each in Barristers' Chambers Limited		16,300.00	
(b) Commonwealth Bonds		2,000.00	
(c) Short term deposit with Commonwealth Bank of Australia.		4,000.00	
(d) Short term deposit with Group Holding Limited.		<u>2,500.00</u>	24,800.00
3. Member debtors:			
(a) For subscriptions and Bar Clerking Fund:			
(i) Prior to 31-8-75	100.00		
(ii) Current	<u>3,689.00</u>	3,789.00	
(b) For Functions:			
(i) Prior to 31-8-76	82.10		
(ii) Current	<u>106.25</u>	<u>188.35</u>	3,977.35
4. Liquor at cost			3,750.00
5. Copies of "A Multitude of Counsellors" (163)			963.10
6. Portraits at cost			3,495.00
7. Honour Board of Past Chairmen of Victorian Bar Council			256.00
8. Gifts – Candelabra, etc, insured for			<u>1,276.00</u>
			<u>\$50,561.04</u>