

VICTORIAN BAR COUNCIL

ANNUAL REPORT

1977-78

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VICTORIAN BAR COUNCIL
1977 — 78

To be presented at the Annual General Meeting of the Victorian Bar to be held on 25th September 1978, 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 1977 the following persons were elected:—

D Counsel of not less than 12 years' standing:

Messrs. J.A. Gobbo Q.C., J.C. Davies Q.C., H.C. Berkeley Q.C., F.X. Costigan Q.C., G.R.D. Waldron Q.C., J.J. Hedigan Q.C., B.J. Shaw Q.C., J.H. Phillips Q.C., S.P. Charles Q.C., G. Hampel Q.C. and F. Walsh

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

Messrs. P.D. Cummins, E.W. Gillard, A. Chernov and P. Mandie.

Counsel of not more than 6 years' standing:

Messrs. M. Rozenes, R.C. Webster and M.A. Adams.

Ex Officio Member: The Honourable H. Storey Q.C., M.P. (Victorian Attorney-General).

(Note: Mr. J.D. Davies Q.C. resigned in May 1978 upon appointment to the Federal Court of Australia and Mr. J.A. Gobbo Q.C. resigned in July 1978 upon appointment to the Supreme Court Bench.

In a By-Election in June 1978 Mr. J.L. Sher Q.C. was elected. No By-Election was held to fill the vacancy caused by the appointment of Mr. J.A. Gobbo Q.C.).

Officers of the Bar Council:

Chairman — Mr. F. Costigan Q.C.

Vice-Chairman — Mr. H.C. Berkeley Q.C.

Honorary Treasurer — Mr. F. Walsh

Assistant Honorary Treasurer — Mr. A. Chernov

Honorary Secretary — Mr. Rex Wild

Assistant Honorary Secretary — Mr. P.C. Dane

Executive Officer — Miss D.M. Brennan

DIRECTORS OF BARRISTERS' CHAMBERS LTD.

Sir James Tait Q.C. (Chairman), Messrs. S.E.K. Hulme Q.C., H.C. Berkeley Q.C., P.A. Liddell Q.C., F. Walsh Q.C., J.M. Batt Q.C., N.H.M. Forsyth Q.C., R.A. Sundberg and M.J. Strong.

Secretary of Barristers' Chambers Ltd.

Mr. D.E. Edwards (to April 1978)

Mr. S.L. McGarrigle (from May to July 1978) — Mrs. P.M. Butler (from August 1978).

YOUNG BARRISTERS' COMMITTEE

Messrs. Hampel Q.C. (Chairman), M.A. Adams, Danos, Hillman, Watkins, Jacobson, P.J.M. Turner, Riordan, Beder, Wodak, D.B. Smith and McCabe (Secretary).

ADMINISTRATIVE COMMITTEES

Executive Committee Messrs. Costigan Q.C. (Chairman), Berkeley Q.C. (Vice-Chairman), Gobbo Q.C. (to July 1978), Davies Q.C. (to May 1978), Waldron Q.C. (from July 1978), Hedigan Q.C., Walsh Q.C., Wild and Dane (Secretary).

Area of responsibility:

(a) Joint Standing Committees

Joint Standing Committee of Bar and Law Institute
Messrs. Costigan Q.C. and Berkeley Q.C.

Joint Standing Committee on Public Relations
Messrs. Hansen (Chairman), Redlich and Freadman.

Joint Standing Committee on Fees and Costs
Messrs. Waldron Q.C., Hedigan Q.C. and Hampel Q.C.

Joint Standing Committee of Bar, Law Institute and A.M.A.
Mr. Hulme Q.C.

(b) Standing Committees

Bar Staff Committee
Messrs. Walsh Q.C. (Chairman), Kimm, Meldrum and Moorhead.

Bar Rules Committee
Messrs. Merralls Q.C., Forsyth Q.C., Henshall and Archibald.

Bar Standards of Practice Committee (incorporating Reading & Lectures Committee)
Messrs. Charles Q.C. (Chairman), Tadgell Q.C. (Vice-Chairman), Davies Q.C. (to May 1978), Ormiston Q.C., Tinney, Loewenstein, Redlich and North.

Police – Lawyers Liaison Committee
Messrs. Hampel Q.C., Flanagan Q.C., Walker and Rozenes.

Victorian Bar News – Editorial Board
Messrs. Chernov (Chairman), D.M. Byrne, D.J. Ross (Joint Editors), Coldrey and Burnside.

Bar Clerking Committee
Messrs. Phillips Q.C. (Chairman) and Cummins (Secretary and Convenor). One representative of the Committee of each clerking list.

Bar Clerking Fund – Trustees
Messrs. Walsh Q.C., Batt Q.C. and Cummins.

Bar Fees Committee
Messrs. Waldron Q.C., Marks Q.C., Dalton Q.C., Hase, Beaumont (Secretary), Archibald and M.A. Hammet.

Legal Education Advisory Committee
Messrs. Goldberg (Chairman), Dwyer, Castan, Coldrey, Fajgenbaum, Bongiorno, Golvan, M.A. Adams and Freadman.

Bar Library Committee
Messrs. Ormiston Q.C. (Chairman and Bar Librarian), Tadgell Q.C., Black, McArdle, Harper and G.A. Lewis.

Functions & Catering Committee
Messrs. Walsh Q.C. (Chairman), Crossley (from April '78), E.W. Gillard, P.M. Guest and M.A. Adams.

Wine Cupboard Committee (Sub-Committee of Functions & Catering Committee from April '78)
Messrs. Tolhurst (Chairman) and Crossley.

First Aid Committee
Mr. Willee (Chairman) and Miss Opas.

(c) Special Committees

Joint Commercial and Legal Studies Text Book Committee

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

Joint Committee on Circuit Fees

Messrs. Hedigan Q.C. and D.A. Kendall.

(d) Bar Appointees

Executive of Law Council of Australia

Mr. Costigan Q.C.

Council of Australian Bar Association

Messrs. Costigan Q.C. and Berkeley Q.C.

Victorian Council of Professions

Messrs. O'Sullivan Q.C. and Morrow.

Chief Justice's Committee for Religious Observances

Mr. Chernov.

Legal Aid Committee

Messrs. Tadgell Q.C. (to 30/9/78), O'Callaghan Q.C. (to 31/3/78), Williamson Q.C. (from 1/4/78), Uren (to 30/6/78), Black (from 1/7/78), J.G. Meagher (to 31/12/77), and Dowling (from 1/1/78).

Appeal Costs Board

Messrs. Scurry Q.C. (to June '78) and A.E. Hooper (from July '78).

Law Faculty — Melbourne UniversityBar Council Appointees:

Messrs. Merralls Q.C. (to 31/12/77), Tadgell Q.C. and Cummins (from 1/1/78).

Monash University Law Faculty Board

Mr. Goldberg

Law Faculty — Monash University

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

La Trobe University Proctorial Board

Mr. Lloyd Q.C.

Council of Legal Education

Messrs. Charles Q.C., Goldberg and Kay.

Legal Education Committee

Messrs. Goldberg and Richter (alternate).

Australian Legal Education Council (Est. Feb. '78)

Mr. Goldberg.

Leo Cussen Institute for Continuing Legal Education

His Honour Judge Ogden and Mr. Freadman.

Board of Examiners

Messrs. Hedigan Q.C. (to 31/12/80), Flanagan Q.C. (to 31/12/79) and D.M. Byrne (to 31/12/78)

Chief Justice's Supreme Court Library Committee

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

Council of Law Reporting

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

Superannuation Fund for Supreme Court Librarian

His Honour Judge Hogg.

(e) Other

Victorian Bar Superannuation Fund Trustees

Sir James Tait Q.C. (Chairman), Messrs. Tadgell Q.C., Walsh Q.C., P.R. Jordan and Stevenson (Honorary Secretary).

Directors of Barristers' Nominee Pty. Ltd.

Sir James Tait Q.C., Messrs. Tadjell Q.C., Walsh Q.C. and P.R. Jordan.

Special Committee on Supreme Court Delays

Messrs. Davies Q.C. (Chairman to May 1978), Sher Q.C. (from July 1978), Hedigan Q.C. (Vice-Chairman), Waldron Q.C., E.W. Gillard (secretary), and Chernov.

Barristers' Benevolent Association of Victoria—Committee of Management

Messrs. Costigan Q.C. and Walsh Q.C.

Bar Secretariat

Messrs. Costigan Q.C., Berkeley Q.C., Wild, Dane and the Executive Officer.

Bar Employees

Company Secretary (Mr. Edwards to April '78), (Mr. S.L. McGarrigle from May to July '78) (Mrs. P. Butler — from August '78).

Executive Officer — (Miss Brennan).

Caretaker — (Mr. Melbourne).

Stenographer — (Mrs. Lambert).

Clerical Assistant — (Miss Hale).

Junior — (Miss Simpson).

Bar Librarian

Mr. Ormiston Q.C.

Co-Ordinator of Floor Committees

Mr. E.W. Gillard.

Applications Review Committee

Messrs. Davies Q.C. (to May 1978), Hampel Q.C. (Acting Chairman from May to July '78), Sher Q.C. (Chairman from July '78), Cummins, Chernov and Wild.

Ethics Committee

Messrs. Charles Q.C. (Chairman), Waldron Q.C. (Vice-Chairman), Hedigan Q.C., Hampel Q.C., Chernov (Secretary), Mandie and Webster (Asst. Secretary).

Law Reform Committee

Messrs. Shaw Q.C. (Chairman), Gobbo Q.C. (to July 1978), E.W. Gillard (Secretary), Mandie and M.A. Adams. (Costigan Q.C. and Berkeley Q.C. are ex officio.)

Area of Responsibility:

(a) Joint Standing Committees

Joint Standing Committee on Supreme Court Practice & Procedure

Messrs. Davies Q.C. (to May 1978), Ormiston Q.C. and D.M. Ryan.

Joint Standing Committee on County Court Practice & Procedure

Messrs. Fagan, Porter and Heerey.

Joint Standing Committee on Magistrates' Courts Practice & Procedure

Messrs. Richter, Finkelstein and Osborn.

(b) Standing Committees

Committee on Court Procedures Reform

Messrs. O'Sullivan Q.C. (Chairman), Davey, D.R. Meagher, Heerey, Loewenstein, Redlich, McTaggart, E.K. Evans (Shaw Q.C. ex officio).

Crime Practice Committee

Messrs. Hampel Q.C. (Chairman), J.C. Walker (Vice-Chairman), J.H. Phillips Q.C., Kelly Q.C., Dixon, Kayser, D. McLeod, Cummins, Barritt (to June 1978), Coldrey, Kirkham, Lopez, Moorfoot, Faris, Bey, Milte, Danos, Rozenes and Hinchliffe.

Juries Practice Committee

Messrs. Thomson Q.C. (Chairman), Francis Q.C. (Vice-Chairman), Colman, Nicholson, Meldrum, and P.R. Hayes.

Causes Practice Committee

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

Administrative and Constitutional Law Advisory Committee

Messrs. Tadgell Q.C. (Chairman), Fajgenbaum, Hayne, Garde, A.J. Myers and G.J. Evans.

Family Law Practice Committee

Messrs. Monester Q.C. (Chairman), Abraham, Miss Opas, Messrs. Kay, P.M. Guest, Gurvich, R.K. Davis and Mrs. B.M. Hooper.

Industrial Law Practice Committee

Messrs. Marks Q.C. (Chairman), Dalton Q.C. (Vice-Chairman), Dowling, N.A. Brown, D.M. Ryan, Riordan and Jessup.

Town Planning and Local Government Practice Committee

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

Liquor Control Practice Committee

Messrs. O'Callaghan Q.C. (Chairman), Walsh Q.C., Bourke and Wajsbrem.

Workers' Compensation Practice Committee

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

Trade Practice 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. (to May 1978), Spry, Ahearne, Castan and N.J. Webb.

Companies Committee

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

Military Law Committee

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

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

Messrs. Barnard Q.C. (Chairman), Hart, Bongiorno and R.C. Gillard.

Joint Committee on Family Law

Messrs. Monester Q.C. (Chairman), Kay and Mrs. B.M. Hooper.

Joint Committee on 3rd Party Premiums Inquiry

Messrs. Barnard Q.C., Ormiston Q.C. and Bongiorno.

Magistrates' Courts Rules Committee

Messrs. R.M. Read (Chairman) and McTaggart.

(d) Bar AppointeesChief Justice's Law Reform Committee

Messrs. Gobbo Q.C. (to July '78), Shaw Q.C. (from July '78), Fagan and T.H. Smith.

Law Reform Advisory Council

Mr. Gobbo Q.C. (to July '78).

Chief Justice's Rules Committee

Messrs. Ormiston Q.C. and 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. Magennis, Ashley, Ellis and Bingeman.

In addition to the above Committees there have been numerous ad hoc committees set up as well. The Bar Council has also been represented on many committees set up by the Law Council of Australia.

HONORARY LIFE MEMBERS

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

The Rt. Honourable Sir Robert Menzies, K.T., A.K., C.H., Q.C. (until his death on the 15th May 1978).

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 1977 to 31st August 1978 the following meetings were held:—

Bar Council	34
Executive Committee	20
Ethics Committee	17
Law Reform Committee	12

SUBSCRIPTIONS

Under Rule 39, the Council fixed the following annual subscriptions for members of the Bar for the period 1st September 1977 to 31st August 1978:—

Queen's Counsel	\$210.00
Over 10 years' standing	140.00
Over 3 but under 10 years' standing	85.00
Over 1 but under 3 years' standing	45.00
Under 1 year's standing	20.00
Interstate Queen's Counsel	35.00
Interstate Juniors	25.00
Solicitor-General & Attorney-General	35.00
Crown Prosecutors & Parliamentary Counsel	35.00
Non-Practising List	35.00

PERSONALIA

Deaths: The Honourable Sir John Spicer on the 3rd January 1978, His Honour Judge Rapke on the 21st January 1978; Miss Margaret Wimpole (Parliamentary Counsel) on the 4th April 1978; Mr. E.H. Wilson on the 7th May, 1978; The Right Honourable Sir Robert Menzies K.T., A.K., C.H., Q.C. on the 15th May 1978 the Honourable Mr. Justice Riley (Federal Court of Australia) on the 4th August 1978., and the Honourable Mr. Justice Harris on the 17th August 1978.

Appointments: In October 1977 the Honourable Mr. Justice Treyvaud was appointed to the Family Court of Australia. In May 1978 the Honourable Mr. Justice Davies was appointed to the Federal Court of Australia and the A.C.T. Supreme Court and a deputy president of the Federal Administrative Appeals Tribunal and in July 1978 the Honourable Mr. Justice Beach and the Honourable Mr. Justice Gobbo were appointed to the Supreme Court Bench.

On the 8th December 1977 Sir Zelman Cowen was sworn in as Australia's 19th Governor-General having been Governor-General designate for the previous five months.

In March 1978 the Honourable Sir Oliver Gillard was installed as the 15th Chancellor of Melbourne University.

In August 1978 Mr. R.K. Todd was appointed a full-time Senior Non-Presidential Member of the Administrative Appeals Tribunal.

Honours: In the New Year's Honours List the Right Honourable Sir Billy Snedden Q.C. was made a Knight Commander of the Order of St. Michael and St. George and the Honourable Sir Murray McInerney was made a Knight Bachelor.

In the Queen's Birthday Honours His Honour Chief Judge Whelan became a Commander of the Order of the British Empire and Mr. P.C. Wickens of Sydney became an Officer of the Order of the British Empire.

Queen's Counsel: The following members of the Bar were appointed Queen's Counsel in November 1977:—
Messrs. W.B. Frizzell, F. Walsh, L.W. Flanagan, W.M.R. Kelly, G.S.H. Buckner, J.D. Phillips, A.W. McDonald, B.W. Nettlefold, J.M. Batt, J.R. Hanlon, D.M. Bennett, E.F. Dunphy and N.H.M. Forsyth.

Welcomes: During 1977 the Honourable Mr. Justice Treyvaud was welcomed to the Family Court of Australia.

During 1978 the Honourable Mr. Justice Davies was welcomed to the Federal Court of Australia and the Honourable Mr. Justice Beach and the Honourable Mr. Justice Gobbo were welcomed to the Supreme Court of Victoria. On each occasion the Chairman made an address of welcome on behalf of the Bar.

Farewells: The Chairman and members of the Bar attended a farewell on the 12th May 1978 to the Honourable Sir Oliver Gillard when the Chairman spoke on behalf of the Bar.

Tributes: On the 2nd February 1978 members of the Bar attended a tribute to the late Judge Rapke which was held in the County Court, and on the 21st August 1978 a tribute to the late the Honourable Mr. Justice Harris which was held in the Supreme Court.

ROLL OF COUNSEL

Between the 1st September 1977 and the 31st August 1978 the following 77 persons, 10 of whom were interstate barristers, signed the Roll of Counsel:—

Messrs. R.G. Webseter-Lawson, N.B. Chamings, Miss J.A. Campton, Messrs. J.D. Atkins, L.W.G. Hartnett, A.D. Robertson, R. Murugason, J.R. Champion, T. Sephton, D.M. Salek, P.J. Grey, L. Wengrow, R.C. Benkel, J.S. Bessell, D.S. Levin, R.C. Kenzie (N.S.W.), A.J. Rogers (N.S.W. Q.C.), D.D. Levine (N.S.W.), J.K. Bowen (A.C.T.), M.B. Kellam, A.C. Neal, T.R.H. Cole (N.S.W.), R.E. Cooper (Qld.), Miss C.D. Douglas, Messrs. P.A. Coghlan, B.J.D. Sutherland, C.R. Williams, J.G. Klestadt, Miss S.M. Frederico, Messrs. H.M. Knott, R.G. McIndoe, W.E. Stuart, R.J. Spicer, C.T.H. Chessun (re-signed), N.M. Jedwab, Mrs. J.R. Dwyer, Messrs. H.T. Mason, D.H. Gude, C.O. Duncan, P.T. Maginn, P.N. Vickery, M.J. Halliday (Qld), P.A. Tribe, G.P. Thompson, Mrs. T. Komesaroff, Messrs. I.H. Gibson, S.G.S. Collins, A. Garantziotis, M.J.L. Preston, A.R.S.A. Lovejoy, P. Luke, J.M. Salamanca, D. Shavin, S.N. Allston, N.T. Robinson, E.J. Read, M.J. Stiffe, J.H. Karkar, B.R. Geddes, G.L. Davies (Qld. Q.C.), A.J. McQuillen (N.S.W.), Mrs. E.F. Stuart, Miss C.R. McKenzie, Miss G.E.M. Morgan, Messrs. C.D. Johnson, C.J. Price, P.G. McGuinness, J.A. O'Brien, B.R. Wright, A.J.J. Renshaw (N.S.W.), G.I.K. Bromley, C.T. Corns, F.S. Zydower, Miss M.C. Mangan, Messrs. G.T. Chettle, S. Daley and F.T. Brennan.

Transfer to Governor's List: His Excellency the Governor-General Sir Zelman Cowen, C.M.G.

Transfer from Non-Practising List: Messrs. J.R. Perry, G.D. Johnstone, N.J. Williams (as from 1/1/79).

Transfer to Non-Practising List: Messrs. A.I. Ginnane, H. Segal, G.J. Davies, Miss J.L. Sparks, Messrs. K.L. Chenery, M. Munz, D.J. Barritt, A.J. Scurry Q.C., R. Schilling and Bruce Coles.

Names removed at request of Counsel: Mr. A.I.N. Deoki, Sir John Bloomfield Q.C., Miss M. Rosenbaum, Mrs. A. Shelton, Messrs. P.E. Bennett, M.A. McMullan, M.J.N. Atwill (N.S.W.), M.D. Croke and R.S. Hayes.

THE ROLL

	1977	1978	Change
Governor's List	1	2	
Judges' List	110	111	+ 1
Practising List	676	729	+ 53
Non-Practising List	38	44	+ 6
	<u>825</u>	<u>884</u>	+ 59
Counsel in active private practice	565	619	+ 54

i.e. Counsel keeping chambers in Victoria including all readers, but not including Crown Prosecutors or Parliamentary Counsel.

FUNCTIONS

Opening of the Legal Year

On the 1st February 1978 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 Cathedral the lessons were read by His Excellency the Governor, Sir Henry Winneke and Professor S.D. Clark, Dean of the Faculty of Law, University of Melbourne.

The sermon was preached by the Reverend Dr. J. Davis McCaughey, President of the Uniting Church of Australia.

At St. Patrick's Cathedral the Red Mass was celebrated by His Grace, the Archbishop of Melbourne the Most Reverend Sir Frank Little, D.D. The Occasional Sermon was preached by Reverend Father Austin Cooper, O.M.I., Provincial of the Oblate Fathers.

At the East Melbourne Synagogue the service was conducted by the Reverend M. Sher and the address was delivered by Rabbi Dr. I. Porush. O.B.E., Emeritus Chief Minister of the Great Synagogue, Sydney. At all Services commemoration was made of the 500th Anniversary of the birth of Sir Thomas More, Lord High Chancellor of England, scholar and saint.

Bar Entertainment

On the 9th September 1977 the Bar Council tendered a Dinner in the newly decorated Common Room in honour of Mr. Justice Marks and Mrs. Marks. The Bar Council has traditionally entertained its members who are appointed to high office.

On the 28th October 1977 a Cocktail Party was held to mark the opening of the first of a series of Art Exhibitions held on the 13th Floor. Several artists were present at the function.

On the 16th December 1977 the Christmas Cocktail Party was held in the Common Room and was, as usual, well attended.

At the end of April 1978 Mr. D.E. Edwards retired after being Secretary of Barristers' Chambers Ltd. for over 15 years and Registrar of the Bar for 11 years. A small Drinks function was held in the Common Room to say goodbye to him and wish him well. Shortly afterwards he left for an extended trip overseas and is presently touring the United States. The Company and the Bar have much to be grateful to David Edwards for his many years of loyal service.

On the 17th May 1978 a Drinks Function was held to mark the opening of the Exhibition of George Luke's Legal Sketches. This was a great success and most of the sketches and several bronze figures were sold. We hope George Luke will come back to Melbourne with another Exhibition in 1979.

On the 28th June a Mid Year Dining In Night was held after a lapse of one year. The evening was a great success thanks to "Smacka" Fitzgibbon and his band.

On the 19th July a Luncheon hosted by the Law Council of Australia, the Law Institute of Victoria and the Victorian Bar was held at the Hotel Australia when the guest of honour was the Honourable Griffin B. Bell, Attorney-General of the United States of America.

We were pleased to have the opportunity to hold a small Drinks function on the 31st July 1978 to entertain Mr. Justice Landau of the Supreme Court of Israel who was spending a short time in Melbourne.

On the 24th August the Bar Council entertained the Presidents of the Country & Suburban Law Associations together with members of the Law Institute of Victoria. This was a most enjoyable function.

Sporting Functions

The annual Cricket Match between the Bar and the Solicitors was played on the 19th December 1977 when the Sir Henry Winneke Cup was yet again retained by the Solicitors. On the same day the annual Tennis Match was held between the Bar and the Solicitors when the Bar won the Judge O'Driscoll Cup. Mr. Thomson Q.C. organised the Tennis Match and Mr. Dove the Cricket Match.

The annual Golf Match between the Bench and Bar and Combined Services was played at Metropolitan Golf Club on the 29th September 1977. Both the Bruche and McFarlan Cups were won by the Services.

On the 28th April 1978 the annual Golf Match between the Bench and Bar and the Solicitors was held at Royal Melbourne Golf Club. The Sir Edmund Herring Shield was won by the Solicitors and many of the players attended a pleasant dinner in the Clubhouse afterwards. Mr. Cashmore organised the golf matches on behalf of the Bench and Bar.

EXECUTIVE COMMITTEE

The Executive Committee is responsible for action in respect of matters requiring urgent attention. With respect to routine matters it makes decisions and answers day to day correspondence. With respect to other matters it either refers them to the Bar Council together with a recommendation or directs them to one of the Bar Council Committees for consideration.

1. Recommended Purchases

(a) It was resolved that a volume of the Legal Resources Handbook be purchased and placed in the Bar Library.

(b) It was resolved that a copy of a video tape of a lecture given by Hampel Q.C. on "How to Make a Plea" be purchased and made available to members of the Bar.

2. Treasurer's Report

At each alternative Executive Meeting the Treasurer informed the Committee of the details of the past month's accounts and following scrutiny of same, payment was approved.

As from 1st July 1978 Barristers' Chambers Limited will make payment for expenditure in relation to services provided to members of the Bar.

3. Law Council of Australia

The Law Council of Australia continues its work and keeps the Committee fully informed of all its activities.

4. County Court Rules Committee

A Committee consisting of Waldron Q.C., Davies Q.C., Ormiston Q.C. (alternate to Davies Q.C.) and Rozenes with power to co-opt was appointed to meet with His Honour Judge Southwell to discuss proposed amendments to the County Court Rules.

5. Law Institute of Victoria

Regular informal discussions between the Chairman and Vice-Chairman of the Bar and the President and Chairman of the Institute continued throughout the year.

In addition to these informal discussions on matters of joint interest a series of joint discussion groups with the Law Institute were established. Five groups in all were formed, each consisting of two members of the Bar and two members of the Institute in order that reports on matters of joint concern might be submitted to the respective bodies.

A Recommendation of the Committee, that a Gift to the Law Institute Library be made by the Bar, was adopted by the Bar Council.

6. Trade Practices Act

An opinion of Hulme Q.C. entitled "The Victorian Bar Re The Trade Practices Act" was received by the Committee.

7. Gift to the Bar

His Honour Judge Lazarus presented to the Bar a mahogany lectern. The Bar is most grateful to His Honour for this generous gift.

RICHARD GRIFFITH LIBRARY

The Richard Griffith Library contains a comprehensive collection of reports from all parts of Australia, New Zealand and England. In addition, we have been grateful to receive from B.J. Shaw, Q.C., the ten volumes of Campbell's 'Lives of the Chancellors'.

Unfortunately, a small minority of the Bar persist in misusing it. It is difficult to believe that members of this profession should leave the library and the books contained in it in the disgraceful state which has appeared all too frequently during the last year. Members are reminded that books MUST be replaced on the shelves in their correct positions after use, and not left on the tables for others to clear up.

We are grateful again to Mr. E.W. Lawn and to J.V. Kay for their Summaries of Unreported Cases of the Supreme Court and the Family Court respectively. In addition, we are grateful to Miss V.L. Fitzgerald who has taken over the duties of Miss Carmody in relation to the receipt of new books, reports and journals, and their placing in the library.

ACCOMMODATION COMMITTEE REPORT

This special committee on accommodation has been concerned with the provision of short term accommodation and long term accommodation for members of the Victorian Bar.

1. Short Term Accommodation

The demand for accommodation consequent upon the continuing numbers signing the Bar Roll has been maintained. The present accommodation position is as follows —

(a) Owen Dixon Chambers:	340
Tait Chambers:	38
Hooker Building:	16
Equity Chambers:	31
Hume House: (2 Floors)	30
Four Courts Chambers: (7 Floors)	112
TOTAL:	<u>567</u>

(b) The Bar has recently taken a lease of one floor of National Bank House which will accommodate 48 barristers.

2. Long Term Accommodation

Between 1st September 1977 and June 1978 the leasing by the Bar of twelve floors of National Bank House was examined and considered in great detail. Ultimately, this proposal was rejected because of its prohibitive costs and this rejection was confirmed by the Bar in general meeting on 12/6/78. That meeting was also informed of the efforts of the committee with respect to purchasing appropriate sites for development by the Bar and the feeling of the meeting was to encourage this approach.

3. Pursuant to the above, the Committee has investigated several alternative sites with a view to acquiring same and erecting appropriate buildings thereon thereby allowing the Bar to be housed in such additional building and Owen Dixon Chambers.

4. The sites under consideration which are appropriate to be mentioned in this report are as follows —

Goldsborough Mort Building — 152 William Street

Liddell, Q.C., particularly, and other members of the Bar, engaged in an exhaustive examination of this proposal. Members of the Bar were invited to participate in the acquisition of this building pursuant to the obtaining of an option. However, by memorandum dated 23rd February 1978, it was resolved by the Bar Council that the proposal was not a viable one and that accordingly the Bar Council would not give its financial support to the proposal. This resolution of the Bar Council has effectively prevented any pursuit of the proposal for acquisition and development of this site. Nonetheless, because of the difficulty which appears to exist in the obtaining of any suitable alternative sites, the Goldsborough Mort building should remain a potential site for acquisition and development by the Bar.

The A.B.C. Building – 525-529 Lonsdale Street

This building has the very significant advantage of proximity to Owen Dixon Chambers. However, negotiations which have taken place with respect to the acquiring of an option to purchase this property have as yet been unsuccessful. It is not appropriate or desirable to report in greater detail as to these negotiations, save to say nothing therein should warrant much optimism that this building will be able to be acquired. Given that the building could be acquired, it would be subject to a lease which will almost certainly expire no earlier than the 1st May 1981.

Other Proposals

At the time of this report, other proposals for the acquisition of a site and development thereof are being considered. For obvious reasons, it is quite inappropriate to detail in a document which will have wide circulation the nature and extent of these negotiations.

4. Conclusion

The committee is of the view that notwithstanding the great but nonetheless unsuccessful efforts which have been expended in the past to acquire alternative and additional accommodation for the Bar, the search must continue. If and when a concrete proposal is available, the matter can be considered by the Bar in general meeting.

YOUNG BARRISTERS' COMMITTEE 1977-78 SUMMARY REPORT

During this year the Young Barristers' Committee has held regular monthly meetings all of which have been well attended.

On December 12th, 1977 a General Meeting of barristers under six years' call was convened to discuss Accommodation and the then proposed move to Capital Towers which was supported in principle by those present.

The General Meeting also discussed the payment of Magistrates' Courts Fees and recommended to the Bar Council that its resolution of 27th November 1975, namely that its policy would be that Magistrates' Courts fees be paid within 30 days, be implemented. The matter of Magistrates' Courts fees has continued to be a subject for discussion throughout the year. A working party has been examining interim adjustments of the party/party scale for Parts I and II of the Third Schedule of the Magistrates' Courts (Amendment) Act 1978 and its recommendations for scale fees have been adopted by the Bar Council and forwarded to the Law Department.

Three members of the Young Barristers' Committee have been nominated to a joint committee with the Law Institute to form a sub-committee of the Young Lawyers Committee with the object of looking into the inability of graduates to obtain articles. The sub-committee has met on several occasions the last being early in August.

The Committee has also been instrumental in having daily lists displayed in buildings outside Owen Dixon Chambers.

There are a number of matters presently under consideration and the Committee hopes that action will be taken in respect of them in the near future.

REPORT OF THE TRUSTEES OF THE BAR CLERKING FUND

1. As at the commencement of the current year the Trustees had executed guarantees of the overdraft accommodation of each of the new clerks to the extent of \$20,000 subject to the provision that the total amount payable by the trustees in respect of the two guarantees should not exceed \$40,000 or the sum available to the Trustees as Trustees from time to time whichever was the lesser amount.

2. As at the 31st August, 1977 the Fund was as follows:—

(a) On deposit with the Commonwealth Trading Bank:	
— for 3 years at 9.5% p.a. (due 18/12/1978)	\$15,000.00
— for 2 years at 9.25% p.a. (due 18/12/1977)	4,400.00
(b) Invested in Australian Savings Bonds — Series 2 at 9.5% (due 1/11/1983)	5,000.00
(c) Savings Investment Account with the Commonwealth Savings Bank	9,389.56
(d) Credit in Current Account No. 121-208	1,313.06

3. As at 31st August 1978 the Fund is as follows:—

(a) On deposit with the Commonwealth Trading Bank:	
— for 3 years at 9.5% (due 18/12/1978)	\$15,000.00
— for 2 years at 9% (due 18/12/1979)	4,400.00
(b) Invested in Australian Savings Bonds	
— Series 2 at 9.5% (due 1/11/1983)	5,000.00
— Series 11 at 9% (due 1/9/1985)	8,000.00
(c) Invested in Australian Government Bonds at 9% (due 1/9/1985)	1,200.00
(d) Savings Investment Account with the Commonwealth Savings Bank	3,339.74
(e) Credit in Current Account No. 121-208	1,463.51

4. The Trustees have continued to have regular discussions with the two clerks in relation to the state of their accounts, their weekly expenses, their weekly clerking fee accruals and their financial position generally. Bank records have been made available and inspected regularly. During the year further consolidation has taken place in the businesses of both new clerks and the overdraft of each clerk has been held at a level well below the guarantee limit. No additional subsidies or loans have been necessary during the year. No alteration in the guarantee arrangements has so far been made.

ETHICS COMMITTEE

Between 1st September 1977 and 31st August 1978 the Ethics Committee has met on seventeen occasions, generally during the lunch hour.

During the twelve month period, some forty-five new matters have come before the Committee. (There were also, perhaps, half a dozen matters which were commenced prior to that twelve month period and which were concluded within that term). Twenty-four of these were requests for rulings by members of the Bar as to what was the correct course of conduct in the particular situation in which the barrister found himself. The Committee also resolved to clarify the ethical rules of its own motion in four areas and there was one request each from the Solicitor-General and a Judge for similar clarification.

Fifteen matters concerned complaints relating to the conduct of members of the Bar. Of these, six were complaints by counsel about the conduct of fellow barristers, four were complaints by solicitors and five were complaints by lay clients. In the case of one complaint brought by a lay client, the complaint was referred to the Bar Council which found that the complaint was made out. It cautioned the particular member of the Bar and fined him the sum of \$300.

Set out below is a summary of the more important decisions of the Ethics Committee made during the twelve months period ended 31st August 1978 which were concerned with the proper conduct of counsel. These decisions are set out under relevant headings.

1. Accepting, declining or returning briefs.

- (a) The primary obligation of counsel is to accept a brief marked at a fee proper for counsel practising in the particular jurisdiction.
- (b) Counsel can properly decline a brief on the basis of embarrassment where he is a close personal friend of the lay client's spouse.
- (c) Counsel can properly return a brief where his instructions as to the presentation of the case have been deliberately ignored by his instructing Solicitors and the lay client.
- (d) Where counsel is instructed by a Solicitor who is also a lay client he is entitled to insist upon the appointment of an independent instructing Solicitor before accepting the brief.
- (e) Counsel can properly decline a brief where his past experience of the particular client is such as to give him good reason to believe and he did in fact believe that his performance in the conduct of the case would adversely be affected.

2. County Court Reserve List.

It is not proper for counsel to accept a brief in both the Reserve List of the County Court and any other list in that Court on the same day.

3. Visiting Solicitors' offices.

- (a) It is not improper for counsel to attend a Solicitor's Christmas party held in premises hired for the purpose separate from the Solicitor's office.
- (b) Permission was given to counsel engaged in full-time academic work and practising only part-time as a barrister to attend a Solicitor's office for a luncheon discussion regarding the problems of new graduates obtaining employment.
- (c) Permission was given to counsel to conduct a conference in his instructing Solicitor's board room where there was a considerable number (approximately 25) of lay clients and witnesses to be interviewed.

4. Retainer Rules

- (a) Counsel can not properly enter into an arrangement where for a substantial fee from a lay client he would agree not to act against that client for a period of twelve months and to give his special consideration in the event of any possible clash of hearings between a case in which it will be involved and any other case.
- (b) Similarly, a silk can not properly enter into an arrangement whereby for a substantial fee from an insurer he would agree not to act in cases against Defendants who were indemnified by that insurer including cases where the insurer did not intend to retain a silk in the case but intended to brief a junior only.

5. Broadcasting, Lectures and Addresses

- (a) Clause 4C(1) of the Broadcasting, Lectures and Addresses Rules (set out in 1973-74 Annual Report at p.9) requires counsel who propose to broadcast, lecture or address to provide such details of the same as the Bar Council may from time to time require to the Secretary of the Council. The Bar Council resolved that the following details must be provided to the Secretary by counsel who intend making a broadcast or delivering a lecture or address —
 "The place of the broadcast, lecture or address, its proposed date, its title, its sponsors, its intended audience, its proposed publicity, the substance thereof, the nature of counsel's participation therein and the number of broadcasts, lecture or addresses given by such counsel since the 1st January last preceding."
- (b) Permission was given to the video-taping of an address by counsel to a seminar of Solicitors on an aspect of practice.
- (c) Permission was given to counsel to occupy the position of a Moot Master.
- (d) Permission was given to counsel to participate in a television programme which involved him being identified as counsel and commenting upon the legal implications of certain fact situations enacted on the programme.
- (e) Permission was given to counsel to act as an interviewer on a television programme in a not strictly legal field which was of interest to the counsel where he was not identified as counsel and received no fee therefor.

6. Disciplinary proceedings

In November 1977 the Bar Council heard a complaint which was referred to it by the Ethics Committee against a member of the Bar in respect of the following matters —

- (a) that shortly prior to the hearing of a charge against his client in the Magistrates' Court, counsel intimidated or attempted to intimidate a policeman into withdrawing a charge against the client.
- (b) that after the hearing of a (different) matter in which the same counsel was engaged and while robed and in the vicinity of the County Court that counsel addressed in abusive language a witness whom he had cross-examined a short time earlier.

The Bar Council found that the first charge was not proved. As to the second charge, the Bar Council ruled that counsel be cautioned and imposed a fine in the sum of \$300 to be paid within six months.

7. Lectures

The Reading and Lectures Committee arranged the following lectures for readers in the last year:

Procedure — practical aspects of interrogatories and answers to interrogatories — advice on evidence.	D.M. Byrne
Procedure — pleadings	S.P. Charles Q.C.
Procedure — practical aspects of originating and other process	W.F. Ormiston Q.C.
Ethics	A. Chernov
Relations between Barristers and Solicitors	P.R. Jordan
Trial — opening, final address, making a submission	E.D. Lloyd Q.C.
Trial — examination and cross-examination	N.R. McPhee Q.C.
Criminal Trials	J.C. Walker
Conduct of proceedings in different Jurisdictions — Practice Court, Masters, County Court Chambers & Magistrates Courts	J.D. Loewenstein
Ethics — Criminal Trials	P.R. Mullaly Q.C.

LAW REFORM COMMITTEE

The Law Reform Committee meets once per month to consider all matters referred to the Bar Council from various sources relevant to law reform. Such sources include, inter alia, the Law Council of Australia, the Australian Law Reform Commission and members of this Bar. The number of law reform projects has increased considerably over the past few years and places a strain on the resources of this Bar to cope with the matters referred to it. Fortunately the Law Reform Committee is ably assisted by a number of sub-committees and members of the Bar. Much good work is done by these sub-committees. Sometimes references are made on law reform to this Bar in subjects requiring a complete examination of all the law pertaining to the particular subject and recommendations for its reform. To attempt to research and recommend on such topics is a practical impossibility and the Bar's contribution in relation to such topics must necessarily be limited. Members of the Bar do come across instances crying out for law reform during the course of their practice and these matters should be referred to this committee for consideration. It is in these circumstances that the Law Reform Committee can do something which is worthwhile and positive.

An appeal was made to the members of the Bar for volunteers for law reform work and a number of members of the Bar indicated their willingness to assist in various areas of law reform proposals. It is proposed to use such persons in their particular fields in the future as well as using the various sub-committees.

During the past 12 months the Law Reform Committee either itself or through its sub-committees dealt with the following matters:—

Listing of Full Court Business

As a result of approaches made to the Chief Justice, the Chief Justice has introduced a system of listing Full Court appeals by reference to an approximate date thereby avoiding inconvenience to the parties and their legal representatives.

Law Reform Proposals in Judgments

The editors of the Commonwealth Law Reports and the Victorian Reports were requested to inform the Law Reporters that they bring to the attention of the Law Reform Committee any references made by Judges in their judgments to law reform.

Unreported Judgments of Court of Criminal Appeal

As a result of representations made a system has been set up whereby the unreported judgements of the Court of Criminal Appeal are filed in the Supreme Court Library. A summary of the cases is prepared by Redlich and a number of assistants and is placed in the Bar Library.

Further consideration is presently being given to having available all unreported judgments including those in the civil fields.

Report to Committee on Compensation

The Town Planning and Local Government Practice Committee (a sub-committee of the Law Reform Committee) prepared a submission which was forwarded to the Gobbo Committee on Compensation.

Family Law

The Family Law Practice Committee considered the question of possible repeal of Section 64(1)(b) of the Family Law Act which is concerned with the views of a child of 14 years being considered on questions of custody and access and it was recommended that this sub-section be repealed. This matter was referred to the Victorian Bar Council which in turn informed the Family Law Council that the Committee was in favour of repealing the sub-section.

Human Rights Commission Bill

The Law Reform Committee was requested pursuant to a request by the Law Council of Australia to consider the Bill. T.H. Smith prepared a report which was received and forwarded to the Law Council of Australia.

Majority Verdicts in Criminal Trials

The Attorney-General informed the Bar Council that consideration was being given to bringing in majority verdicts in criminal trials and sought the views of the Bar Council. The matter was referred to the Crime Practice Committee and it resolved that the present law should not be changed. The recommendation was considered by the Bar Council and the views of that committee were adopted and forwarded to the Attorney-General.

Prisoners Access to Legal Representation

Letters were received from the Social Welfare Department concerning the present system of legal representation being given to prisoners. The matter was considered by the Crime Practice Committee and it recommended that some of the facilities could be improved. The Law Institute Council also considered the matter and it forwarded a report. The Crime Practice Committee agreed with the substance of the report of the Law Institute.

Unsworn Statements and Counsel's Role

A letter was received from the Solicitor-General dated 20th January 1978 concerning the ethical position of Counsel assisting accused persons to prepare a statement to be given from the dock. The matter was considered by the Crime Practice Committee. It made certain recommendations which were forwarded

to the Ethics Committee. Discussions are presently continuing between the Bar Council and the Solicitor-General and the Bar will be advised in due course.

Matters currently being considered by sub-committees and members of the Bar include consideration of the role of the State and Federal Courts in Family Law, advisory opinions of the High Court, Regulation of Take-overs in the field of Company Law, draft Report on Innocent Misrepresentation, Parliamentary scrutiny of rules of Court, Privacy Law and Defamation, Australian Law Reform Commission's consideration of Lands Acquisition Law and Crown Debts in Bankruptcy.

THE VICTORIAN BAR
FINANCIAL STATEMENT FOR THE YEAR ENDED 31ST AUGUST 1978

BALANCE in hand 31st August, 1977			10,006.97	
BALANCE in Savings Bank			78.61	
BEQUEST from Estate J.N. Bennett			<u>11,867.27</u>	21,952.85
REVENUE RECEIPTS:				
Annual Subscriptions previous years		825.00		
Annual Subscriptions current year		58,145.50		
Dividend on Shares		1,304.00		
Interest — Commonwealth Bonds	90.00			
Short Term Deposits	1,321.25			
Savings Bank Accounts	<u>629.81</u>	2,041.06		
Binder and Copier receipts (Net)		<u>921.50</u>	63,237.06	
REVENUE EXPENDITURE:				
(a) Administration Expenses:—				
Accounting Fees	475.00			
Bank Charges	84.31			
Floral Tributes	53.70			
General Expenses —				
Court Recording Services	292.50			
Refund of Loss	250.00			
Honour Board Lettering	28.60			
Purchase —				
“The Bar List of U.K.”	<u>20.52</u>	591.62		
Insurance Premiums		154.02		
Postage & Petty Expenses		680.00		
Printing & Stationery	10,576.35			
Salaries	20,452.93			
Travelling Expenses (Staff)	<u>750.00</u>	33,817.93		
(b) Affiliation Fees:—				
Australian Bar Council	614.00			
Law Council of Australia	8,222.50			
Victorian Council of Professions	70.00			
International Bar Association	<u>67.41</u>	8,973.91		
(c) Donations & Subscriptions:—				
Sir Thomas More Fund	250.00			
Law Institute of Victoria	<u>6,500.00</u>	6,750.00		
(d) Travelling Expenses:—				
Fares & Expenses of Representatives at Local and Interstate Assemblies, Conferences and Meetings		854.12		
(e) Functions and Entertainment:—				
For Catering, Hiring Etc.	12,008.96			
For Chairman's Fund	<u>800.00</u>			
	12,808.96			
Less: Members' Payments	<u>12,498.55</u>	<u>310.41</u>	<u>50,706.37</u>	
Excess Receipts over Expenditure				<u>12,530.69</u> 34,483.54

CAPITAL REVENUE:

(a) Sales — "Multitude of Counsellors"	57.30	
(b) Sale of Assets — Four Portraits	3,505.00	
Spinex Binding Machine	<u>400.00</u>	3,962.30

CAPITAL EXPENDITURE:

Investments — Short Term Deposits	25,000.00	
Excess Capital Expenditure over Capital Revenue		<u>21,037.70</u>
BALANCE of Cash in hand 31st August, 1978		<u><u>13,445.84</u></u>

TRUST FUNDS:

Barristers' Benevolent Fund:

Receipts	1,278.00	Nil
Remitted	<u>1,278.00</u>	

Bar Clerking Fund:

Receipts	255.00	Nil
Remitted	<u>255.00</u>	

BALANCE IN HAND 31ST AUGUST, 1978		<u>\$13,445.84</u>
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ASSETS AS AT 31ST AUGUST, 1978

1. Cash in Bank — Savings Account		12,575.69
Cheque Account		870.15
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	<u>29,000.00</u>	47,300.00
3. Member Debtors		1,670.00
4. Liquor at cost		4,050.00
5. Copies of "A Multitude of Counsellors"		871.70
6. Honour Board of Past Chairmen of the V.B.C.		256.00
7. Gifts — Candelabra etc. insured for		<u>1,276.00</u>
		<u><u>\$67,593.54</u></u>