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*Reference*

*Ross N.*

VICTORIAN BAR COUNCIL  
OWEN DIXON CHAMBERS  
205 WILLIAM STREET,  
MELBOURNE 3000

VICTORIAN BAR COUNCIL

# *ANNUAL REPORT*

1983-84

**ANNUAL REPORT OF THE  
VICTORIAN BAR COUNCIL  
1983-84**

To be presented to the Annual General Meeting of the Victorian Bar to be held on Monday, 24th September, 1984 at 5.00 p.m. on the 2nd Floor, Four Courts Chambers, 180 William Street, Melbourne.

**THE BAR COUNCIL**

**Elections:** In the Annual Election in September 1983 the following persons were elected:—

**Counsel of not less than 12 years' standing —**

Messrs. N. R. McPhee Q.C., J. E. Barnard Q.C., P. A. Liddell Q.C., J. H. Phillips Q.C., S. P. Charles Q.C., P. D. Cummins Q.C., M. J. L. Dowling Q.C., E. W. Gilliard Q.C., F. H. R. Vincent Q.C., A. C. Chernov Q.C. and R. K. J. Meldrum Q.C.

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

Messrs. P. Mandie Q.C., J. D. McArdle and D. L. Harper and Miss Rachelle Lewitan.

**Counsel of not more than 6 years' standing:—**

Messrs. M. B. Kellam, K. M. Liversidge and B. S. T. Vaughan.

Ex Officio Members: Senator, The Honourable G. J. Evans Q.C., M.P., (Federal Attorney-General)  
The Honourable J. H. Kennan M.L.C., (Victorian Attorney-General)

**Officers of the Bar Council**

Chairman — Mr. Stephen Charles Q.C.

Vice-Chairmen — Mr. Neil McPhee Q.C., Mr. John Barnard Q.C. (from November 1983)

Honorary Treasurer — Mr. Alex Chernov Q.C.

Assistant Honorary Treasurer — Mr. D. L. Harper

Honorary Secretary — Mr. D. J. Habersberger (to March 1984), Mr. R. A. Finkelstein (from March 1984)

Assistant Honorary Secretary — Mr. R. A. Finkelstein (to March 1984), Mr. P. R. Hayes (from March 1984)

Executive Director — Mr. E. T. Fieldhouse

Executive Officer — Miss D. M. Brennan

**YOUNG BARRISTERS' COMMITTEE**

Messrs. R. K. J. Meldrum Q.C. (Chairman), M. B. Kellam, K. M. Liversidge and B. S. T. Vaughan (Bar Council Nominees), Miss E. H. Curtain, Messrs. A. J. McDonald (Secretary), P. D. Elliott, S. R. Marshall, C. J. Ryan, M. W. Shand, Miss F. P. Foster, Messrs. G. M. Randall and A. N. Bristow.

Elections are held in August 1984 when the first five members retired but were eligible for re-election.

Following the August 1984 election the present members are:— Messrs. C. J. Ryan, M. W. Shand, Miss F. P. Foster, Messrs. G. M. Randall, A. N. Bristow, P. D. Trevorah, T. V. Hurley, H. A. Burchill, J. J. Isles and Miss R. Deborah Wiener.

## BAR COUNCIL ADMINISTRATIVE COMMITTEES

### EXECUTIVE COMMITTEE

Messrs. Charles Q.C. (Chairman), McPhee Q.C. and Barnard Q.C. (Vice-Chairmen), Cummins Q.C., Chernov Q.C., Mandie Q.C., Habersberger (to March 1984), Finkelstein (Secretary to March 1984) and Hayes (Secretary from March 1984).

#### Area of responsibility:

##### (a) **Joint Standing Committees**

###### **Joint Standing Committee of the Bar and Law Institute**

Messrs. Charles Q.C. and McPhee Q.C.

###### **Joint Standing Committee of the Bar and Law Institute on Remand Conditions**

Messrs. Bennett Q.C., G. J. Thomas and Champion

###### **Joint Standing Committee of the Bar and Law Institute on Town Planning**

Messrs. Buckner Q.C. and H. McM. Wright

###### **Joint Standing Committee of the Bar, Law Institute and A.M.A.**

Mr. Hulme Q.C.

###### **Joint Standing Committee on Legal Professional Privilege**

Messrs. Charles Q.C., Ormiston Q.C. (to November 1983), Cummins Q.C. and Chernov Q.C.

###### **Joint Standing Committee of the Bar and Law Institute on Legal Aid**

Messrs. Vincent Q.C., Joseph Kaufman, A. Shwartz, M. A. Adams, W. E. Stuart and Liversidge

###### **Joint Standing Committee of the Bar and Law Institute on Accident Compensation**

Messrs. Hanlon Q.C., Kendall Q.C., Hart Q.C., Stanley Q.C., Shannon, R. G. Williams, Bongiorno and McArdle

##### (b) **Standing Committees**

###### **Fee Proposal Committee**

Messrs. Cummins Q.C. (Chairman), Forsyth Q.C., Dalton Q.C., Ryan Q.C., Vincent Q.C. and Jessup (Secretary)

###### **Police/Lawyers Liaison Committee**

Messrs. Walker Q.C. (Chairman), James, Crossley, Rozenes and Tribe (emergency)

###### **Victorian Bar News — Editorial Board**

Messrs. Byrne Q.C. (Chairman), Cashmore, Henshall, D. J. Ross, McArdle, Gunst (to July 1984) and P. D. Elliott

###### **Bar Clerking Committee**

Messrs. Dowling Q.C. (Chairman to February 1984), J. H. Phillips Q.C. (Chairman from February 1984), McArdle (Secretary and Convenor) and the Chairman for the time being of each List Committee

###### **Committee on Legal Aid — Task Force**

Messrs. Vincent Q.C. (Chairman), Kirkham Q.C., Bongiorno, Tovey and M. R. B. Watt.

###### **Bar Clerking Fund — Trustees**

Messrs. Chernov Q.C., Cummins Q.C. and A. J. Myers

###### **Bar Fees Committee**

Messrs. Cummins Q.C. (Chairman), Dalton Q.C. (Vice-Chairman), Goldberg Q.C., Balfe Q.C., Shannon, R. P. Gorton, Watkins and Kellam

###### **Bar Library Committee**

Mr Ormiston Q.C. (Chairman and Bar Librarian to November 1983), Mr J. D. Phillips Q.C. (Chairman and Bar Librarian from November 1983), Messrs. M. A. Adams, Lynch, Tribe, Derham, T. P. Murphy, R. L. Brear and from June 1984, Messrs. Panna, M. J. Richards and Miss C. F. McMillan

###### **First Aid Committee**

Mr. P. R. A. Gray (Chairman to June 1984), Miss E. M. T. Murphy (S.R.N.) Chairman from June 1984 and Miss L. J. Evans (S.R.N.)

**Bar Centenary Committee (1984)**

Messrs. Berkeley Q.C. (Chairman), Hulme Q.C., Liddell Q.C., Cummins Q.C. and Gunst (to July 1984)

**Readers' Practice Course Committee**

Mr. Black Q.C. (Chairman), Mr. Justice Hampel, Messrs. Cummins, Q.C., Chernov Q.C., Habersberger (to March 1984), Vaughan and Finkelstein (from March 1984)

**Portraits Committee**

Mr. Justice Hampel, Messrs. Shaw Q.C., Guest Q.C. and M. A. Adams

**Bar Staff Committee**

Messrs. Hulme Q.C., Chernov Q.C., Harper and Myers (all from June 1984). (Messrs. Hulme Q.C. and Myers represent Barristers' Chambers Limited)

**Administration Committee**

Messrs. Charles Q.C. (Chairman), McPhee Q.C. (Vice-Chairman), Chernov Q.C., Harper, A. J. Myers, M. A. Adams, J. A. Magee, Habersberger (Ex officio — to March 1984) and Finkelstein (Ex officio — from March 1984)

**Computer Committee**

Messrs. Cummins Q.C. (Chairman), Willee, McLennan, Burnside, Emmerson and Levin.

**Legal Aid Committee**

Messrs. Vincent Q.C. (Chairman) (to August 1984), Joseph Kaufman, A. Shwartz, M. A. Adams, W. E. Stuart and Liversidge

**(c) Bar Appointees****Executive of Law Council of Australia**

Mr. Meldrum Q.C.

**Council of Australian Bar Association**

Messrs. Charles Q.C. and McPhee Q.C.

**Victorian Council of Professions**

Messrs. Cummins Q.C. and P. H. Kearney

**Chief Justice's Committee for Religious Observances**

Mr. R. M. C. Nankivell (to June 1984) and Mr. H. R. Hansen (from August 1984)

**Legal Aid Commission of Victoria**

Mr. Graham Q.C. (to June 1984), Mr. Kirkham Q.C. (from June 1984 to February 1986)

**Legal Aid Committee No. 1**

Mr. Kendall Q.C. (to March 1984), Mr. Dove Q.C. (from April 1984)

**Legal Aid Committee No. 2**

Mr. Hooper Q.C.

**Appeal Costs Board**

Mr. Hooper Q.C. (to 30/9/1985)

**Law Faculty — University of Melbourne**

Messrs. Hedigan Q.C. and Cummins Q.C.

**Monash University Law Faculty Board**

Messrs. Williamson Q.C. and Willee

**La Trobe University Proctorial Board**

Mr. Lloyd Q.C.

**Council of Legal Education**

Messrs. Dwyer Q.C. (to July 1984), Nash and Harper

**Australian Legal Education Council**

Mr. Goldberg Q.C. (nominee of Law Council)

**Victoria Law Foundation**

Mr. Charles Q.C., Mr. Barnard Q.C. acts as alternate

**Leo Cussen Institute for Continuing Legal Education**

His Honour Judge Ogden and Mr. Dwyer Q.C. (to August 1984)

**Board of Examiners**

Messrs. Hedigan Q.C. (to 31/12/1986), Dowling Q.C. (to 31/12/1985) and Bongiorno (to 31/12/1984)

**Chief Justice's Supreme Court Library Committee**

Messrs. Ormiston Q.C. (to November 1983), J. D. Phillips Q.C. (from November 1983), Graham Q.C. and Phipps.

**Superannuation Fund for Supreme Court Librarian — Bar Nominee on Board of Trustees**

His Honour Judge Hogg

**Supreme Court Ad Hoc Listing — Civil**

Mr. Black Q.C.

**Supreme Court Ad Hoc Listing Procedures**

Messrs. Ormiston Q.C. (to November 1983), J. D. Phillips Q.C. (from November 1983), Stanley Q.C. (from November 1983), M. A. Adams and Finkelstein.

**Council of Law Reporting**

Messrs. Merralls Q.C. and Gunst (both for a period of five years from November 1982)

**Attorney-General's Advisory Committee on Computerised Legal Information Retrieval**

Mr. Cummins Q.C.

**Leo Cussen Institute Consultants Committee**

Messrs. S. P. Charles Q.C., J. D. Merralls Q.C. and A. J. Myers (alternate)

(d) **Other****Victorian Bar Superannuation Fund Trustees**

Dr. Spry Q.C. (Chairman), Messrs. Hansen (to October 1983), Harper, Hayne and Robson.

**Directors of Barristers' Nominee Pty. Ltd.**

Messrs. Hansen, Hayne, Robson (to September 1983), J. A. Magee and A. J. Myers (both from October 1983)

**Applications Review Committee**

Messrs. Liddell Q.C. (Chairman), Hansen, B. A. Murphy, Habersberger (to March 1984), Finkelstein and Hayes (from March 1984)

**ETHICS COMMITTEE**

Messrs. Barnard Q.C. (Chairman), McPhee Q.C. (to July 1984), Hedigan Q.C., J. H. Phillips Q.C., Castan Q.C. (to December 1983), Uren Q.C., Mandie Q.C. (Secretary to December 1983), Hansen, B. A. Murphy and Vickery (Secretary from December 1983).

**LAW REFORM COMMITTEE**

Messrs. Gillard Q.C. (Chairman), Vincent Q.C. (to August 1984), J. Kay, Heerey, Nash, Miss Lewitan, Messrs. Hockley (Secretary) and Vaughan.

(a) **Law Reform Committee Panel**

Ryan Q.C.	(Supreme Court Practice)
Wheeler	(County Court Practice)
Bannister	(Magistrates' Courts Practice)
Griffith Q.C. (to February 1984)	(High Court)
Castan Q.C. (from February 1984)	(High Court)
Chernov Q.C.	(Federal Court)
Walker Q.C.	(Crime Practice)
Francis Q.C.	(Juries Practice)
Ormiston Q.C. (to November 1983)	(Causes Practice)
Merralls Q.C.	(Constitutional Law)
Fajgenbaum	(Administrative Law)

Opas	(Family Law)
Dalton Q.C.	(Industrial Law)
Fagan Q.C. (to August 1984)	(Town Planning)
Wright H. McM.	(Local Government)
Bourke, B. J.	(Liquor Control)
Ellis	(Workers' Compensation)
Merkel Q.C.	(Trade Practices)
Castan Q.C.	(Taxation)
Paterson Q.C.	(Companies)
Francis Q.C.	(Military Law)

(b) **Bar Appointments**

**Chief Justice's Law Reform Committee**

Messrs. Monester Q.C., Dwyer Q.C. (to August 1984) and Kennon

**Law Reform Advisory Council**

Mr. Gillard Q.C.

**Chief Justice's Rules Committee**

Messrs. Ormiston Q.C. (to November 1983), Batt Q.C. (from December 1983) and McDonald Q.C. (Observer)

**County Court Rules**

Mr. Wheeler

**Workers' Compensation Consultative Advisory Council**

Messrs. Hart Q.C. and R. G. Williams

**Attorney-General's Criminal Advisory Committee**

Mr. J. H. Phillips Q.C.

**Shorter Criminal Trials Committee**

Mr. Cummins Q.C. (to February 1984), Mr. Fagan Q.C. (from February 1984 to August 1984), Mr. Vincent Q.C. (to August 1984)

(c) **Criminal Bar Association**

**Executive**

Messrs. Vincent Q.C. (Chairman), Francis Q.C. (Vice-Chairman), Barnett (Secretary) and Lovitt (Treasurer)

**General Committee**

Messrs. Heliotis, Langton, Kayser, M. S. Weinberg, Maidment, Shwartz, Kellam, Tovey and Miss C. Douglas  
Ex-Officio — The Honourable J. H. Kennan M.L.C., Attorney-General

**ACCOMMODATION COMMITTEE**

Messrs. Chernov Q.C. (Chairman), Hansen and McArdle.

(a) **A.B.C. Development Sub-Committee**

Messrs. O'Callaghan Q.C. (Chairman), Liddell Q.C., Chernov Q.C., Byrne Q.C. (from August 1984), Finkelstein, and Gunst (to July 1984), Miss Lewitan and Mr. Isles

(b) **Directors of Barristers' Chambers Limited**

Messrs. Hulme Q.C. (Chairman), McPhee Q.C. (Vice-Chairman), O'Callaghan Q.C., Chernov Q.C., and A. J. Myers and Mr. E. T. Fieldhouse.

## HONORARY LIFE MEMBER

Sir Henry Winneke, K.C.M.G., O.B.E., Q.C.

## COUNCIL MEETINGS

There have been 24 ordinary meetings and 17 special meetings of the Bar Council during the period 1st September 1983 to 31st August 1984. Attendances from the first meeting of the new Council on 29th September 1983 to 31st August 1984 have been:—

S. P. Charles Q.C. ....	(4) 30	A. C. Chernov Q.C. ....	(4) 27
N. R. McPhee Q.C. ....	(3) 25	R. K. J. Meldrum Q.C. ....	(7) 17
J. E. Barnard Q.C. ....	36	P. Mandie Q.C. ....	34
P. A. Liddell Q.C. ....	30	J. D. McArdle ....	36
J. H. Phillips Q.C. ....	(5) 36	D. L. Harper ....	31
P. D. Cummins Q.C. ....	30	Rachelle Lewitan ....	33
M. J. L. Dowling Q.C. ....	(1) 31	M. B. Kellam ....	(9) 24
E. W. Gillard Q.C. ....	25	K. M. Liversidge ....	32
F. H. R. Vincent Q.C. ....	22	B. S. T. Vaughan ....	30

The Honourable J. H. Kennan M.L.C. Attorney-General attended 3 meetings of the Council.

(No.) Leave of absence for number of meetings indicated.

D. J. Habersberger (Honorary Secretary to March 1984) .....	16
R. A. Finkelstein (Honorary Secretary from March 1984) .....	16
R. A. Finkelstein (Assistant Honorary Secretary to March 1984) .....	13
P. R. Hayes (Assistant Honorary Secretary from March 1984) .....	16

## COMMITTEE MEETINGS

During the period 1st September 1983 to 31st August 1984 the following Committee meetings were held:—

Executive Committee .....	31
Ethics Committee .....	33
Law Reform Committee .....	10

## SUBSCRIPTIONS

Under Rule 39, the Council fixed the following annual subscription for members of the Bar for the period 1st September 1983 to 31st August, 1984:—

Queen's Counsel .....	\$450.00
Over 10 years' standing .....	300.00
Over 3 but under 10 years' standing .....	200.00
Over 1 but under 3 years' standing .....	125.00
Under 1 year's standing .....	75.00
Interstate Queen's Counsel .....	60.00
Interstate Juniors .....	40.00
Solicitor General, Attorneys-General and Director of Public Prosecutions ...	65.00
Crown Prosecutors and Parliamentary Counsel .....	70.00
Retired Barristers (on Practising List) .....	10.00
Other Official Appointments .....	65.00

## PERSONALIA

**Obituary:** The Council records with deep regret the deaths since the last report, of the following members:—

Mrs. E. Selig                      D. J. Trickett                      Master E. N. Bergere

and

The Honorable Sir Oliver Gillard who passed away on 7th September 1984.

**Judicial Appointments:** In May 1984 the Honourable Mr. Justice P. R. A. Gray was appointed to the Federal Court Bench. In November 1983, the Honourable Mr. Justice Ormiston and the Honourable Mr. Justice Nathan were appointed to the Supreme Court Bench. In September 1983, November 1983 and May 1984 respectively His Honour Judge Ostrowski, His Honour Judge Rowlands and His Honour Judge Hassett were appointed to the County Court. In August 1984 His Honour Judge Fagan was appointed to the County Court. In February 1984 the Honourable Mr. Justice Vasta was appointed to the Bench of the Queensland Supreme Court.

**Other Appointments:**

September 1983	The Honourable J. H. Kennan M.L.C. — Attorney-General for Victoria
November 1983	Mr. B. C. Cooney (Chairman, Committee of Inquiry into the Workers' Compensation System)
January 1984	Dr. Gavin Griffith Q.C. — Solicitor-General for the Commonwealth
January 1984	Mr. M. N. O'Sullivan Q.C. — Deputy President, Repatriation Review Tribunal
January 1984	Mr. M. S. Weinberg, Dean of Faculty of Law, University of Melbourne
February 1984	The Hon. F. X. Connor Q.C. Chairman, Committee of Review of the Special Broadcasting Service
March 1984	Mrs. J. R. Dwyer — Senior Member of the Administrative Appeals Tribunal
May 1984	Mr. P. H. Clark — Deputy Director, Public Prosecutions — Federal
June 1984	Mrs. J. C. Miller — Member Equal Opportunity Board
July 1984	Mr. J. L. Dwyer Q.C. — National Crime Authority

**Queen's Counsel:** The following members of the Bar were appointed Queen's Counsel in November 1983:—  
Messrs. T. A. Neesham, B. H. Stott, D. J. Ashley, P. M. Guest, A. J. Kirkham, R. J. Stanley, G. W. Morrish, P. Mandle, Senator, the Honourable G. J. Evans and A. C. Archibald.

**Welcomes:** During September 1983 His Honour Judge Ostrowski was welcomed to the County Court Bench by Mr. B. J. Shaw Q.C., immediate past Chairman. During November 1983 the Honourable Mr. Justice Ormiston and the Honourable Mr. Justice Nathan were welcomed to the Supreme Court Bench. The Chairman welcomed the Honourable Mr. Justice Ormiston and the Vice-Chairman Mr. J. E. Barnard Q.C. welcomed the Honourable Mr. Justice Nathan. In the same month His Honour Judge Rowlands was welcomed to the County Court Bench by the Vice-Chairman Mr. J. E. Barnard Q.C. During May 1984 the Honourable Mr. Justice Gray was welcomed to the Federal Court Bench by the Chairman and His Honour Judge Hassett was welcomed to the County Court Bench by the Vice-Chairman Mr. J. E. Barnard Q.C. In August 1984 His Honour Judge Fagan was welcomed to the County Court Bench by the Vice-Chairman, Mr. J. E. Barnard Q.C.

**Farewells:** The Chairman and members of the Bar attended a farewell on 4th October 1983 to the Honourable Sir George H. Lush on the occasion of his retirement as a Judge of the Supreme Court of Victoria. The Chairman spoke on behalf of the Bar. On the 31st August 1984 the Chairman and members of the Bar attended a farewell to the Honourable Sir Kevin Anderson on the occasion of his retirement as a Judge of the Supreme Court of Victoria. The Chairman spoke on behalf of the Bar.

**Retirement:** During May 1984 Mr. John Finemore Q.C. retired as Victorian Chief Parliamentary Counsel, a position he had held since 1965.

**ROLL OF COUNSEL**

Between 1st September 1983 and 31st August 1984 the following 102 persons, 7 of whom are interstate barristers, signed the Roll of Counsel:—

Messrs. B. H. K. Donovan (N.S.W.), W. G. Hodgekiss (N.S.W.), I. F. Turley (re-signed), R. M. Garratt, L. M. F. Watts, G. G. McArthur, P. T. Power, P. J. Cosgrave, S. P. Gardiner, S. G. O'Bryan, R. J. Manly, M. T. Rush, S. A. Kenna, A. W. Middleton, J. W. St. John, I. A. Arnold, A. J. Tinney, T. P. Tobin, D. N. Galbally, E. J. Delaney, A. C. Marshall, S. R. McCredie, D. A. Doyle, J. G. Olle, E. K. O'Donnell, C. C. MacAulay and Miss F. Millane. Messrs. W. B. Linder and D. J. Staindl and Mrs. C. A. Keating (nee Heeley). Messrs. A. J. Moon, F. J. Davis, P. X. Elliott, P. D. Santamaria, L. A. Thompson and Miss R. D. Wiener. Messrs. M. R. Simon, G. A. V. Singer, P. A. Collins, I. W. J. Bowditch, G. J. Herbert, F. J. Ravidia, C. B. Thomson, J. Frontistas, F. P. Zemljak, B. Fox, R. S. Lancy, B. M. O'Brien, P. W. Bates (N.S.W.), B. J. Doyle (re-signed), T. J. O'Connell (Qld.), J. H. Gobbo, A. W. Sandbach, J. B. Saunders, Mrs. A. M. Malpas, Mr. I. D. McDonald and Miss F. M. Stewart. Messrs. P. H. Costello, A. P. S. Alston, A. Milshon, M. S. Kildea, N. A. James, E. J. Tanner, R. D. Curtain, D. J. Bamber, D. G. Collins and Miss H. M. Symon. Messrs. J. C. Conquest, A. D. Trood, M. J. Corrigan, J. A. Bell, P. B. Jens and Miss R. Stoikovska. Messrs. E. J. Trahair, G. W. Robertson, M. E. King, G. A. Bydder, K. D. MacFarlane, P. D. Sweeney and Mrs. P. Hudson. Messrs. D. M. Clarke, T. J. Margetts and Miss J. S. Elleray. Messrs. E. J. Lorkin, S. R. Molesworth, Miss C. E. Molyneux and Mrs. A. Richards. Messrs. P. Haag, J. W. DeWijn and Miss J. P. Spehr. Messrs. W. S. Cameron, R. A. Clark, J. T. Healy, J. J. Noonan, N. Y. Rattray, D. L. Allen, N. C. A. Franzi, G. M. Borchers, B. F. Murray (N.S.W. Q.C.), J. Lloyd-Jones (N.S.W. Q.C.) and V. Bruce (N.S.W. Q.C.).

**Transfers to Masters and Other Official Appointments List**

Messrs. M. N. O'Sullivan Q.C., G. Johnstone and Mrs. J. C. Nelson-Miller.



**Member who has retired from Active Practice**

Mr. I. G. L. Misso.

**Names removed at request of Counsel**

Messrs. B. J. Weyman, J. J. Perillo, G. L. Smolenski, R. C. W. Walker, Z. Zayler, B. Scarfo, R. C. Mackay, G. Thompson, B. L. Stafford, P. T. Maginn, A. J. Nolan, Z. Friedman, M. P. Green, N. B. Good, I. H. Gibson, B. Ross and P. Indovino.

**THE ROLL**

	<b>1983</b>	<b>1984</b>	
Governor's List .....	1	1	—
Judges' List .....	122	131	+ 9
Practising List .....	1003	1074	+71
Masters and Other Official Appointments List .....	27	29	+ 2
	<u>1,153</u>	<u>1,235</u>	<u>+82</u>
*Council in active private practice .....	825	890	+65

\*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 1st February 1984 to mark the opening of the Legal Year, religious services were held at St. Paul's Cathedral, St. Patrick's Cathedral, East Melbourne Synagogue and St. Eustathus' Cathedral.

At St. Paul's Cathedral the lessons were read by the President of the Law Institute and the Chairman of the Bar Council. The sermon was preached by The Very Reverend T. W. Thomas, Dean of Melbourne.

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. who also preached the occasional sermon.

At the East Melbourne Synagogue the address was given by Rabbi M. Mandel.

At St. Eustathus' Cathedral the Service was conducted by His Eminence Archbishop Stylianos who also delivered the Sermon. All Clergy of Melbourne participated.

**Bar Entertainment**

On the 19th October 1983 the Victorian Bar at a function held in the Essoign Club entertained some 34 Victorian Stipendiary Magistrates.

On the 13th November 1983 the Presidents of the Country Law Associations, the Suburban Law Associations together with the President and Vice-President of the Law Institute of Victoria and their spouses were the guests of the Bar Council at a dinner held in the Essoign Club.

On the 1st September 1983 the new readers were welcomed to the Bar at a function held in the Essoign Club. In addition new readers were also welcomed on 1st March 1984 at a function held in the Essoign Club.

The Annual Christmas Cocktail Party was held in the Essoign Club on 16th December 1983. The function was well attended by members of the Bench and Bar together with wives and guests.

On the 7th March 1984 the Victorian Bar at a function held in the Essoign Club entertained a number of County Court Judges.

On the 12th April 1984 the Bar Council held a dinner in honour of the Victorian Attorney-General, the Honourable J. H. Kennan M.L.C. and Mrs Kennan.

On the 10th May 1984 the Bar Council entertained the immediate past Chairman and other retiring members of the Victorian Bar Council.

The Annual Bar Dinner was held on 2nd June 1984 at Moonee Valley Convention Centre. A record number of 350 members attended and heard Mr. Junior Silk, A. C. Archibald Q.C. propose the toast to the 11 honoured guests. Speeches in reply were made by the Honourable Sir Daryl Dawson, the Honourable Mr. Justice Nathan and His Honour Judge Rowlands.

Apart from the functions mentioned, Readers' Dinners were held in November 1983 and May 1984. Sir John Starke was the guest speaker at the November Dinner and in May last Sir Murray McInerney addressed the Readers.

**Sporting Functions**

In August 1983 a golf day was held at Yarra Yarra Golf Club between members of the Victorian Council of Professions. The Bar team was successful in winning the Shield and Mr. B. McTaggart collected the trophy for the best individual score.

In September 1983 the Annual Golf Match between the Bench and Bar and Combined Services was held at Metropolitan Golf Club. The Bench and Bar lost the Bruche Cup and the Combined Services retained the MacFarlan Trophy.

On 19th December 1983 the Annual Cricket Match between the Bench and Bar and the Solicitors was played at the Albert Ground. The Law Institute First XI retained the Sir Henry Winneke Cup with a victory by only 10 runs.

On the same day at Ross Gregory Oval the Law Institute Second XI defeated the Bar Second XI by 20 runs.

The Annual Tennis Match between the Bench and Bar and the Solicitors was played at the Albert Ground on 19th December 1983. The Law Institute team was successful in winning and retained the O'Driscoll Tennis Cup.

In February 1984 the Annual Golf Match between the Bench and Bar and the Solicitors was held at the Royal Melbourne Golf Club. The Institute won the Sir Edmund Herring Cup and the trophy was accepted on their behalf by Mr. Gordon Lewis.

During March 1984 the Annual Cricket Match was played between the Victorian Bar and the N.S.W. Bar. The N.S.W. Bar scored 8/152 defeating the Victorian Bar who made 96 runs. The trophy for this game was donated by Mr. G. E. Chancellor and the trophy will be held by the N.S.W. Bar for the next twelve months.

### **BAR CENTENARY CELEBRATIONS**

1. The Bar Centenary Revue was held in the two weeks after Easter. On the 24th August 1982 the Chairman of the Bar Centenary Committee sent a memorandum to the Bar Council which said; "A reasonable pre-estimate of staging the revue at today's prices will be between \$4,000 as a minimum and a maximum of \$6,000." The cost in fact was something of the order of \$24,000. Fortunately the revue was such a success that takings more than covered the expenses.
2. The Bar Centenary Oration was delivered by the Governor-General Sir Ninian Stephen on the 18th July 1984. It was followed by supper at which the Bar entertained about 500 guests from all sections of the community. Copies of the Oration are to be circulated to members of the Bar. A cassette recording of the proceedings is on sale for those who would like a copy.
3. A project is under-way to photograph all barristers floor by floor of each building occupied by members of the Bar. A start has already been made in Latham Chambers.
4. The Bar Centenary Dinner will be held at Moonee Valley Convention Centre on Monday the 5th November 1984. The toast to the Victorian Bar will be proposed by the Chief Justice of Australia Sir Harry Gibbs.
5. Bar Centenary Religious Observances will take place in the month of February 1985, so as to fall within the 150th Anniversary of the founding of the State of Victoria.

### **REPORT OF A.B.C. BUILDING SUB-COMMITTEE**

1. On the 7th day of September 1984 Barristers' Chambers Limited entered into Contracts, Agreements and Leases with Leighton and Schroder for the development of the A.B.C. Site by the construction thereon of a building capable of housing 550 barristers, and which the Bar will, and will be required to occupy for the next forty years.
2. Despite the many years of endeavour to bring this about, it is true to say that the real work of the Bar Council, Barristers' Chambers Limited and the various sub-committees referable to accommodation, only really now commences.
3. Let it be hoped that next year's report will be that the building is on schedule, and that by the time this report is made in 1986, the building will be completed and fully occupied.

### **REPORT OF THE CHIEF JUSTICE'S LAW REFORM COMMITTEE**

1. Since the last Annual Report of the Bar Council, there have been no formal meetings of this Committee. Meetings are usually held for the purpose of considering a report of a sub-committee appointed to consider a particular matter.
2. Matters currently under consideration and which in due course will be the subject of a report both by a sub-committee and the Chief Justice's Law Reform Committee are as follows:—
  - (a) **Unincorporated Associations.**
  - (b) **Habeas Corpus Act** as transcribed in the Imperial Acts Application Act 1923.
  - (c) **Supreme Court Act 1958**, ss. 142-159 (Foreign Attachment).
  - (d) **Wills for Mentally Disordered Persons.**
  - (e) **Exemption Clauses in Contract.**
  - (f) **Character and conduct.**
  - (g) **Prohibition of Publication of Reports of Proceedings in the Supreme Court.**
  - (h) **Wills Act 1958**, Amendment of.
  - (i) **Competence and Compellability of Witnesses:**

At its last meeting a report by a sub-committee on Competence and Compellability of Witnesses was adopted and will be forwarded to the Attorney-General after consideration has been given to the question of the wording of s. 400 of the **Crimes Act 1958** (Vic.), in the light of the recommendations contained in the Report.

### **REPORT OF THE POLICE/LAWYERS LIAISON COMMITTEE**

During the past year the Committee has acted on a number of occasions to assuage the emotions of conflict which inevitably arise from the day to day interaction of police and lawyers. Further, the Committee has in a practical way contributed to the consideration of a number of proposals which may facilitate the administration of justice in this State and promote good relations between police and lawyers.

The following are a number of the matters considered by the Committee:

1. The present mode of conducting identification parades and the difficulties engendered thereby to victims.
2. The formal training of court interpreters and the establishing of a register of interpreters.
3. A proposed amendment to the Crimes Act 1958 relating to the determination of questions of privilege attaching to documents seized by police under warrant.
4. A pilot listing scheme in the Magistrates' Courts. Several members of the Committee worked on a committee established to examine the listing procedure in the Magistrates' Courts. The Committee recommended the introduction of a pilot listing scheme at the Prahran and Moonee Ponds Magistrates' Courts. The essential elements of the scheme are the concepts of a 'mention day' and a 'notice to person charged'. The latter notice will have the effect of advising a person charged to seek legal advice prior to the mention day. The mention day is the day to which a person charged is bailed to appear upon which day a person may plead guilty to a charge and have it dealt with or avail himself of an automatic right of adjournment to a fixed date for hearing. It is anticipated that one benefit of the system will be that it will avoid needless court attendances by members of the legal profession, police and witnesses.

The Victorian Bar was host to the Annual Dinner of the Police/Lawyers Liaison Committee held on the 7th August 1984 at the premises of the Essolign Club. The Chief Commissioner of Police Mr. Miller was the guest speaker. The dinner, like the meetings of the Committee, was characterised by a free and constructive exchange of views by those present.

### **REPORT OF THE VICTORIAN BAR COUNCIL AND AIJA COMMITTEE ON DELAYS IN CRIMINAL TRIALS SHORTER TRIALS COMMITTEE**

1. The following details of Committee activities, from 9th August 1983 to 24th July 1984, were prepared for a report to the Bar Council on matters dealt with by the Shorter Trials Committee during the stated period.

2. **Overview**

Since it was appointed in 1982 by the Victorian Bar Council, the Committee has met on 33 occasions. Meetings are held on every second and fourth Tuesday of each month.

3. **Summary**

The activities and related matters of the Committee from 9th August 1983 can be divided into the following categories:

- (a) Discussion areas.
- (b) Reports and papers.
- (c) Finance.
- (d) Extended Membership.
- (e) Interviews of Judges.
- (f) Membership generally.
- (g) Other information.

4. **Particulars**

- (a) Discussion areas.
  - (i) The presentment rules and related legislation (28th June 1983 to 22nd November 1983);
  - (ii) Plea Negotiations (14th February 1984 to 13th March 1984);
  - (iii) Mode of Trial (8th May 1984 to 26th June 1984);
  - (iv) Charge Negotiations (26th June and continuing).
- (b) Reports and Papers (since inception of the Committee).
  - (i) Consultative Document;
  - (ii) Shorter Trials Committee: Proposed Work Schedule;
  - (iii) Proposed Tentative Views on Presentments;
  - (iv) Tentative Views on Presentments;

- (v) April 1983 Progress Report;
- (vi) Issues Paper: Part 1 — Pre-Trial Process;
- (vii) Discussion Paper No. 1: Pre-Trial Discovery;
- (viii) Pre-Trial Disclosure Proposals;
- (ix) Discussion Paper No. 2: Plea Negotiations;
- (x) Discussion Paper No. 3: Mode of Trial.

Items (vi) to (x) were researched and prepared by the Committee's consultant, Mr. Peter Sallmann.

(c) Finance.

The Victorian Bar Council has a copy of the April 1983 Progress Report of the Committee. The information on page 4 concerning interviews of the judiciary has now changed. The Committee was advised by letter dated 21st October 1983 from the Chairman of the Commonwealth Legal Aid Council, that the Council guidelines did not contemplate a grant of funds for the purpose of judicial interviews. It was recommended that an application be made to the Federal Attorney-General's Department for a grant-in-aid. An application was sent to the Department on 19th December 1983. The Committee will learn at the time of the Federal Appropriation for 1984/85 whether or not the application has been successful. At its meeting on 27th March 1984, both Mr. Rozenes and Mr. Ginnane expressed an opinion that they would prefer not to be paid for the work being done by them in relation to judicial interviews.

(d) Extended Membership.

As a result of correspondence between the Chairman of the Committee and the Chairman of the Victorian Bar Council, the Committee resolved on 22nd May 1984 to extend its membership to include:

- (i) A member of the Victorian Police — Deputy Commissioner E. Mudge;
- (ii) A member of the Bar who practised regularly in County Court criminal trials — Mr. M. Tovey;
- (iii) An academic — Mr. M. Weinberg; and
- (iv) A Legal Aid representative who is customarily instructing in the County Court in criminal trials — Miss K. McPherson;

(e) Judicial Interviews.

When setting up the Committee the Bar Council contemplated that two members of the Committee, Mr. Rozenes and Mr. Ginnane, would undertake the task of interviewing Judges on a professional remunerated basis. Both have declined, as indicated in paragraph (c) above, to accept a fee. At the same time, practical assistance was sought by them. Mr. F. Vincent Q.C. agreed to put a request before a meeting of the Criminal Bar Association that assistance be given by other barristers on a volunteer basis. Five barristers have agreed to interview Supreme and County Court Judges on behalf of the Committee. They are:

Mr. C. Francis Q.C.  
 Mr. B. Kayser  
 Mr. R. Maidment  
 Mr. A. Shwartz  
 Mr. M. Weinberg

(f) Membership Generally.

- (i) The Committee received a letter dated 18th February 1984 from Mr. P. Cummins Q.C. advising of his resignation;
- (ii) Mr. W. Fagan Q.C. commenced as a member on 28th February 1984;
- (iii) Mr. J. Phillips Q.C. was granted full voting and decision rights on 25th October 1983.

(g) Other information.

- (i) At its meeting on 14th February 1984 the Committee resolved, in response to a letter from Dr. Jocelyne A. Scutt, Director of Research, Legal and Constitutional Committee, dated 6th February 1984 that it was agreeable to having the April Progress Report and the Consultative Document included as appendices in the 'Preliminary Report on Delays in Courts' of the Legal and Constitutional Committee.
- (ii) The consultant to the Committee, Mr. Peter Sallmann, has agreed to continue with his work for the Committee in 1984 on the same basis as the preceding year.

### **REPORT OF THE LAW COUNCIL OF AUSTRALIA FAMILY LAW COMMITTEE**

The Family Law Committee of the Law Council of Australia in the year ending 31st August 1984 met twice in full committee and once as a sub-committee. The Victorian Bar was represented by J. V. Kay and M. R. B. Watt (as alternate). Due to the appointment of Kay to the Family Law Council (as meetings generally overlapped with the Family Law Committee) it was necessary to have Watt in full time attendance at each meeting.

The Committee met in Adelaide between the 14th and 16th November 1983 and held a seminar for the Law Society of South Australia on Saturday, 19th November 1983. As has unfortunately been the position over the past three years, the Committee spent much time deliberating on the amendments to the Family Law Act (which were ultimately passed in November 1983). A wide range of other relevant topics were debated. These included the Maintenance Enforcement Agency enquiry, legal aid, separate representation of children, costs, fees, the Constitutional Convention Committee, and contempt of court.

A combined meeting was held with the Family Law Council to discuss matters of mutual interest. A luncheon was attended by the Chief Judge and the members of the Judge's Rules Committee.

The second full committee meeting was held at the Chairman's home in Bowral in January 1984. This meeting spent three days considering the draft Family Law Rules. Submissions were then put to Emery J as convener of the Judge's Rules Committee. It is understood about half the recommendations made by the committee will be accepted.

Finally, a sub-committee of the Law Council of Australia Committee met in Sydney on the 14th and 15th July 1984. The committee discussed, at length, the current tragic circumstances in the Family Court of Australia. Additional items included the future composition and financing of the committee (it being the view of the Law Council of Australia that funding will not be extended past June 1985). The Commonwealth Attorney-General has asked the committee to meet with the Family Law Council to consider whether there should be accreditation for specialists in the Family Court. These matters are presently under consideration.

The Family Law Committee has planned the first National Law Council of Australia Family Law Convention which will be held in Hobart on the 16th and 17th November 1984. Speakers will include members of the committee, members of the Family Law Council and Judges of the court.

### **RICHARD GRIFFITH LIBRARY ANNUAL REPORT 1984**

This year saw the appointment to the Supreme Court of the Honourable Mr. Justice Ormiston, who for many years was Bar Librarian. His Honour became Bar Librarian in June 1975 when the late Mr. Justice Griffith became a Judge. For nearly ten years, His Honour had the care and management of the Bar Library. In that period, not only was the collection in Owen Dixon Chambers maintained, but the Sir Edmund Herring collection in Four Courts Chambers was established to the great advantage, in particular, of the younger members of the Bar. The Bar as a whole owes a great debt to His Honour for his careful, thorough and conscientious work in connection with the Library.

While there have been no significant additions made this year to the collection, some re-organisation has occurred both in Owen Dixon Chambers and in Four Courts. In the former, the large number of back copies of Hansard were, for the sake of space, moved to the Chairman's room on the 12th floor. Access is here maintained, but the move has provided much needed space in the Library on the 13th floor. The growing proliferation of Australian reports and journals continues to place heavy demands on Library space, but the move of Hansard should overcome the difficulty for a few years at least.

In Four Courts Chambers, the Herring collection (which is under the supervision of Mr. Michael Adams) moved from the 5th floor to a larger and greatly enhanced home on the 2nd floor, in premises adjacent to the room used for the Readers' Course. Again the move has provided much needed space and it is hoped now to make available on a more regular basis to those in Four Courts many of the publications which are duplicated in the main library area when a bound volume is supplied in addition to loose parts. As in Owen Dixon Chambers, the front door key of Four Courts opens also the Library door.

With the prospect of a start to construction on the A.B.C. site, submissions have been made to the Building Committee in relation to the Library. The location of the Library when the new building is constructed, the space needed in future, and access to such computerised systems of legal reference as emerge are questions that must be addressed. On a less grand scale, it is hoped in the near future to have a photocopier for use in the Library in Owen Dixon Chambers.

The main difficulty in maintaining the Library continues to be the flagrant disregard of the rules by a few members of the Bar. No books may be removed from the Library for any purpose whatsoever, without the express permission of the Librarian. Nevertheless, books are removed and only some of them are later returned. The loss of single volumes from sets is now the greatest difficulty to be overcome. Co-operation of all members of the Bar is needed if the Library is to be maintained as a satisfactory working tool.

### **REPORT OF THE AD HOC LISTING COMMITTEE**

This Committee was appointed by the Bar Council in mid-1983 to watch and review the system of listing civil cases for hearing in the Supreme Court. Its first Chairman was Mr. Ormiston Q.C. (now the Honourable Mr. Justice Ormiston), who with a good deal of patience monitored attempts made by the Court in the later part of

1983 to improve the listing system. In part, as a result of His Honour's careful reporting, modifications to the system were made in 1984; and now, at least in respect of civil causes other than claims for personal injury, the listing system is working well — so well that the Miscellaneous Causes List was recently abolished as a separate list.

The listing system now incorporates two new ideas, the availability of a pool of Judges to hear causes in a given month and the rule that if a case is not reached on the day listed or the following day it is put over (with priority) to the next callover. This has produced some certainty in the listing system and as a direct result many cases are settled and the others are in the main reached as anticipated.

Obviously, the system depends in part upon the skill of the Listing Master in judging the number of cases to list; it depends also on having a sufficiently large pool of Judges to accommodate the vagaries inherent in any listing system. For the first seven months of 1984, some 5 or more Judges have been available to hear causes and the system has worked well. In September, only two are listed and whether the system will continue to work remains to be seen.

As for personal injury cases, significant changes have been made in other directions. The jurisdiction of the County Court has been substantially increased and compulsory pre-trial conferences introduced. Both steps have done something to reduce the number of such cases awaiting trial in the Supreme Court. But difficulties continue in finding a satisfactory listing system for those that remain, particularly jury cases. This has been under review by an informal sub-committee chaired by Mr. Stanley Q.C. (who is also the Bar's representative on the Chief Justice's Listing Committee), but the problem may now justify the appointment of a specialist committee concerned in particular with jury trials.

### **REPORT OF THE YOUNG BARRISTERS' COMMITTEE**

During 1983/84 the Young Barristers' Committee conducted fortnightly meetings and sought to take action on a number of issues concerning the Junior Bar.

A just and fair allocation of the clerks to new members of the Bar was a prime concern for the Committee. Thus, it initiated a questionnaire which, on the motion of a General Meeting of the Bar, was circulated to all members of Counsel. The questionnaire canvassed the acceptability of the present system and invited comments on the suitability of alternative systems.

The Committee prepared submissions at the invitation of the Victorian Attorney-General and Bar Council on a wide range of topics. These included amendments to the Magistrates' Courts Rules, the Scale of Fees applicable in Magistrates' Courts and the Interpretation of Legislation Bill 1984. The Committee was otherwise generally in support of numerous amendments to the Magistrates' (Summary Proceedings) Act 1975 and the Magistrates' Court Act 1971 — it was opposed to the appointment of "Chamber Magistrates" to deal with interlocutory procedures.

In a submission on scale of costs for the substantially increased jurisdiction of the Magistrates' Court the Committee recommended the alteration of the existing scale to incorporate Scales B and C of the former (December 1981) County Court Scale of Fees. It sought to maintain monetary levels and prevent a monetary reduction in costs at the expense of the Legal Profession for cases heard in the Magistrates' Court instead of the County Court. Nevertheless its submission was consistent with what it contemplated was the Attorney-General's desire to utilise the change of jurisdiction between the County Court and the Magistrates' Court to achieve a reduction in the cost of litigation to the parties.

During Easter 1984 the Committee sponsored a Conference on Computers and the Law in Ball. The conference was well attended by a wide range of interested groups. Such was the interest in the topics discussed that extra seminars were held during the convention. All participants enjoyed themselves and it is proposed that another convention be held early in 1985.

The high cost of accommodation is an issue of perennial concern to the Committee. It has been the policy of consecutive Young Barristers' Committees that the expansion of chambers in Owen Dixon Chambers, by barristers removing dividing walls to provide larger, fewer rooms be prohibited. This has become the policy of the Bar Council. Nevertheless, the Committee seeks to ensure that the policy is upheld. Further in an attempt to ensure fairness in the sub-letting of chambers in Owen Dixon Chambers the Committee has requested the Bar Council to prohibit the sub-letting of chambers unless the sub-letting is done in accordance with principles of seniority or is for less than 6 months' duration.

### **EXECUTIVE COMMITTEE**

The Executive Committee meets fortnightly and sometimes more frequently when necessary. It is responsible for action in respect of matters requiring urgent attention. In addition it makes decisions on some routine matters. More important matters are referred to the Bar Council. The following are some of the matters of significance or interest that have been dealt with by the Executive Committee in the past year.

1. There were discussions with the Attorney-General and where appropriate the Chief Judge of the County Court regarding fees.

2. There was lengthy discussion of the Attorney-General's proposed working paper on the Legal Profession Practice Act.
3. It was resolved that the Centenary Oration given by Sir Ninian Stephen be published together with the Introduction by the Chairman of the Bar Council.
4. It was resolved to make enquiries about the feasibility of one of the clerks, Mr. Peter Roberts, moving to Aickin Chambers.
5. Much time was spent dealing with the resignation by Mr. Bloomfield as a Barristers' Clerk and his temporary replacement.
6. The Executive Committee dealt with a number of matters arising out of the Bar's Centenary. Investigations were made as to the feasibility of writing the history of the Supreme Court.

### ETHICS COMMITTEE — ANNUAL REPORT

Although the number of complaints coming before the Ethics Committee has not increased in the 1983/84 year, the statistics are not a matter for complacency because the Lay Observer receives and investigates complaints from persons who may not have complained to the Bar Council. In his Report for the year ended 31st December 1983 the Lay Observer comments:

"Although it is difficult for complaints to produce acceptable evidence of such things as rudeness and impatience I have now listened to the investigation of many such complaints and am satisfied that some barristers do treat their clients impatiently and dismissively over the discussion of such things as settlements at the door of the court."

The Ethics Committee endorses his view that there is a need for some Counsel to be more understanding and considerate in the treatment of their clients.

The statistics of complaints and the manner of their disposal in the past year and the two prior years are set out below:—

	1981/82	1982/83	1983/84
No. of Complaints	38	32	32
Complaints Not Upheld	22	15	20
Hearings	9	10	12
Complaints Dismissed after Summary Hearing	3	5	5
Complaints Upheld after Summary Hearing	6	5	7
Under Investigation	7	7	16
<b>Source:</b>			
Client	11	18	23
Solicitor	12	7	6
Judicial	3	1	3
Counsel	5	2	4
Other	7	4	3

The reasons for the apparent increase in matters currently under investigation by the Committee are that six complaints are recent, two matters have been adjourned because of civil proceedings, and in the others the Committee is waiting on further information from complainants and other persons.

The Committee has had 21 ordinary meetings and has conducted 12 summary hearings, several of which took more than one night's meeting to complete.

The results of the summary hearings where complaints have been upheld are briefly summarised as follows:—

- (a) Approaching an opponent's client direct without the consent of the opponent — Reprimand.
- (b) Using language which was insulting, disparaging and derogatory of a fellow practitioner — Fine \$250.
- (c) Using offensive language directed to a policeman in a Magistrates' Court — Caution.
- (d) Using offensive language directed to members of the Police Force in the Supreme Court — Caution.
- (e) Misleading Counsel for a co-accused in a manner which could have acted to the detriment of the co-accused — Reprimand.
- (f) Failing to attend a Magistrates' Court in time for the hearing — No penalty.
- (g) Accepting and holding a brief or briefs to appear before a Workers' Compensation Board in circumstances where Counsel was holding briefs before another Workers' Compensation Board thereby putting himself in a situation which could have operated to the prejudice of one or more of counsel's clients — Fine \$500.

General rulings of the Ethics Committee adopted by the Bar Council have included:—

- (a) In relation to a posed head and shoulders photograph:— that the advertising rules of the Bar be altered to permit a posed head and shoulders photograph of the author of a learned article to be published in association with the publication of the article.

- (b) Counsel may use business cards of normal size and style bearing their name, qualifications, business address and telephone number and "barrister" or "Q.C.". The card may not be distributed generally but may be supplied to a witness, client or solicitor where necessary. Counsel may also for normal purposes use a "with compliments" slip bearing the above information. A business card or "with compliments" slip should not be used in any circumstance which would constitute or could appear to constitute touting.

### REPORT OF TRUSTEES OF BAR CLERKING FUND

Since the last report of the Trustees of the Bar Clerking Fund in the 1982/83 Annual Report, the following relevant changes have taken place in the administration and position of the Fund.

1. Mr. Bloomfield resigned as Clerk "C" and has entered into arrangements with the Bar Council and Mr. P. Roberts (Clerk "P"), the result of which is that his indebtedness to the Bar has been paid out and the Bar's guarantee with respect to his former overdraft with the Commonwealth Trading Bank has been discharged.
2. The Bar continues to guarantee Mr. Howells' overdraft and has entered into a new agreement to guarantee the overdraft of the new clerk, Mr. Roberts, upon terms substantially similar to the guarantees that have in recent times been provided by it in respect of other clerks when they commenced acting as clerk.
3. In accordance with the agreement between Mr. Howells and the Trustees, Mr. Howells continued to pay off the loan which was made to him by the Bar when he commenced acting as Clerk R.
4. The assets of the fund as at 31st August 1984 were as follows:—

	1984	1983
(a) Invested in Australian Savings Bonds		
— Series 11 @ 9% (due 1/9/85) .....	9,200.00	9,200.00
— Series 25 @ 12.25% (due 1/2/91) .....	5,000.00	5,000.00
		(re-invested)
(b) Savings Investment Account with Commonwealth Savings Bank .....	31,816.87	20,459.51
(c) Credit in Current Account — No. 121-208 .....	4,541.23	3,322.11

### REPORT OF THE ACCOMMODATION COMMITTEE

Since the last report the number of Counsel in active practice has increased by 65 bringing the total membership of the Bar to 890. In addition, 27 readers will commence reading in September 1984.

Currently the Victorian Bar is housed as follows:—

Building	No. of Chambers
Owen Dixon Chambers	312
Tait Chambers	36
Equity Chambers (inc 3rd fl)	66
Latham Chambers	84
Aickin Chambers	150
Four Courts Chambers	143
Seabrook Chambers	19
	810

The 1983 Annual Report detailed the number of Chambers at 718. Since then, extra chambers have been obtained in Equity Chambers, Aickin Chambers, Four Courts Chambers and Seabrook Chambers.

It is hoped that in October 1984, the Bar will lease Stawell Chambers in Little Bourke Street, immediately to the east of Four Courts Chambers, being a building which housed the firm of Messrs. Nicholas, O'Donohue & Co. This will provide accommodation for approximately 20 barristers. On the other hand, Tait Chambers will be lost to the Bar during December 1984 because the owners wish to take possession of the building at the end of this year.

Preliminary discussions have been held with the Managing Agents of the former Hume House which is currently being refurbished and it may be that some accommodation will be available there during early 1985.

The Bar Council policy of allowing Counsel under five years to share chambers with Counsel also under five years has in some small way assisted with the accommodation problem.

### REPORT OF THE READERS' COURSE

Two Readers' Courses are now conducted each year, one beginning in March and the other in September.

The courses which commenced in September 1983 and March 1984 were completed by 43 and 47 readers respectively. 27 readers are undertaking the course that commenced on 3rd September 1984.

Nearly 100 members of the Bar assisted with each of the last two courses. The Course also receives generous assistance from members of the Judiciary and from members of Tribunals, Commissions and Boards.



Since March 1984 the Course has had permanent premises on the Second Floor of Four Courts Chambers.

Each Course is of approximately twelve weeks' duration. The emphasis is on practical training in advocacy by means of moots and mock trials. Lectures and some written exercises, particularly pleading exercises, are given. Emphasis is also placed upon the traditions and standards of the Bar. The content of the Course has changed from time to time, particularly in response to suggestions made by readers and other members of the Bar. All such suggestions are welcomed.

Miss Anne Slattery resigned as full-time co-ordinator in March, after having made a very valuable contribution to the Course. Her resignation was accepted with regret. Her position has been ably filled by Mrs. Anna Whitney.

### **THE ESSOIGN CLUB LIMITED**

The Club has now completed its second year of operation as a fully licensed Club and boasts 750 members. There has been no alteration to the staff of the Club, the Nominee being Mr. Michael Christian and the full-time Bar Manager Mr. Patrick Gilbert. It is anticipated that because of the catering duties which Mr. Christian has to attend to, Mr. Gilbert will shortly be appointed as the Club's Nominee. The hours of trade of the Club on each week day, except Fridays, are between 12.30 p.m. and 2.30 p.m. and 4.30 p.m. and 7.30 p.m.; Fridays from 12.30 p.m. to 8.30 p.m. Members may introduce visitors (in accordance with the Rules) on any evening and at any time on Friday.

The Third Annual General Meeting of the Club was held on the 26th day of April 1984. The committee was elected unopposed and consists of Shaw Q.C. (Chairman), Chernov Q.C. (Treasurer), McInerney (Secretary), Berkeley Q.C., M. A. Adams and Lee.

The number of special functions conducted on the Club premises has increased. Such functions may be held on any night other than a Thursday or Friday, these nights being retained for the use of Club members only. There have been receptions for the County Court bench and the Metropolitan Magistrates together with other receptions, drinks and dinners given by members of the Club and associates. During the year a number of successful dining-in nights have been conducted by the Club.

The number of Barristers of all ages patronizing the Club continues to increase. The average numbers in the dining room for lunch is 32 persons. On Friday it is in the region of 60. This no doubt reflects the high standard of food and wine that is provided. Total wine sales now account for 40 percent of turnover, with take away wines being the highest contributor to turnover. The Wine Committee has provided high standard but reasonably priced wines for members, and the figures indicate acceptance of the wines being provided. At the end of June of 1984, the stock of wine held by the Club amounted to \$22,000.00.

The policy of the Club remains that of providing its services at the cheapest possible prices. The annual subscription remains at \$10.00. Any funds accumulated are put back into the purchase of wines for the general benefit of all members. It is to be hoped that members of the Club continue to patronize the Club for dining and drinking, and most importantly for purchases of their wine.

It is again noted with pleasure by the Committee of the Club that a number of Judicial members of the Club patronize it on a regular basis.

The Club is well on its way to achieving the objective of mixing members of the Bar regardless of seniority.

### **LAW REFORM COMMITTEE**

The Law Reform Committee of the Bar has been extremely active for the past 12 months, due in part to the unprecedented volume of legislation and law reform proposals emanating from the State Attorney-General's office.

The Chairman, E. W. Gillard Q.C. and his Committee, ably assisted on occasions by the Criminal Bar Association, have done their best to provide the Attorney-General with the views of members of the Bar on the various law reform proposals.

The Bar has not always seen eye to eye with the Attorney-General on some law reform proposals, the most notable examples being the controversial section in the new Interpretation of Legislation Act permitting the use of extrinsic materials in the interpretation of Statutory instruments and the new Occupiers Liability legislation. Time will tell whether the fears of the Bar are well founded or not in relation to these two pieces of legislation.

The present Attorney-General for the State on assuming office, was critical of the Bar's lack of contribution in law reform areas. As a result, new procedures have been adopted in order to provide speedy replies to law reform proposals, although it has been necessary on occasions to point out to the Victorian Attorney-General that the Bar will not make comments on law reform proposals which depend solely on policy and that it is not possible in most law reform matters to give the views of the Bar as a whole. The Committee now refers the particular law reform proposal to a senior member of Counsel and requests such Counsel to form his own committee and to report back to the Law Reform Committee. The report and any recommendations are then considered by the Law Reform Committee and forwarded to the referring Law Reform body as representing the views of those

members of Counsel who considered the matter and/or the Law Reform Committee. On occasions, if time permits and the matter is of sufficient importance, it will be referred to the Bar Council for consideration. By adopting these procedures, the Law Reform Committee has been able to respond expeditiously and in a meaningful way to the Law Reform references.

The Committee thanks those members of Counsel who have assisted, and in particular, those members who agreed to chair a reference. In particular, Messrs. Merralls Q.C., Uren Q.C., Byrne Q.C., Stott Q.C., Fowler, Vaughan and Liversidge, are thanked for their considerable assistance.

Any member of the Bar who would like to assist the Law Reform Committee should contact the Secretary, Mr. Hockley.

Some of the matters dealt with by the Committee over the last 12 months include:—

### **State Government Proposals**

The Committee has been continually involved in commenting on various aspects of proposed State legislation. In particular, members of the Criminal Bar Association through their Chairman, Vincent Q.C., have been actively involved in many reforms over the past year. The Committee was actively involved in the drafting of the Penalty Interest Rates Act 1983.

In addition to the Interpretation of Legislation Act 1984, and the legislation relating to Occupiers Liability, the Committee has also considered proposals relating to permitting persons to record evidence in Courts, proposals relating to the Magistrates' Courts, proposals relating to Coronial Inquests and Defamation law.

The Bar Council recently informed the Victorian Attorney-General that it did not agree with the Uniform Defamation Bill in its present form and is opposed to its enactment in this State. The Law Council's Defamation Committee which is based in Melbourne, has been extremely critical of the Uniform Defamation Bill in its present form. These criticisms were made known to the Victorian Attorney-General.

### **Jurisdiction of State and Federal Courts**

The Law Reform Committee and members of the Bar have commented on proposed changes to the jurisdiction of State and Federal Courts. These proposals include the remitting of some matters under Part V of the Trade Practices Act 1978 to the State Courts and the transfer of taxation appeals and intellectual property matters to the Federal Court.

### **Limitation of Actions**

The problems raised by **Pirelli's Case** (1983) 2 A.C. 1 have been considered by the Law Reform Committee which in turn informed the State Attorney-General that consideration should be given to amending the law to overcome the effect of that case. Byrne Q.C., and Golvan have considered the matter and discussion has taken place at Law Reform Committee meetings. The implications of Pirelli's Case have attracted the attention of Law Reform Commissions in Australia, see (1984) 58 A.L.J. 119. The Law Reform Committee has not finally formulated its proposals in relation to reform and would welcome the views of any members of Counsel in relation to the limitation period where damage is caused to property.

### **Arbitration Act and the Commercial Arbitration Bill**

Proposals to amend the Arbitration Act have been forwarded by the Law Reform Committee to the Attorney-General. Byrne Q.C., and Golvan have also made detailed comments on the Commercial Arbitration Bill.

### **Family Law Issues**

The Law Reform Committee and in particular, its member Joseph Kay, have been active in considering discussing and suggesting reforms in this area of the law. Matters which have been considered by the Committee include violence in the Family Court, the Adoption Bill, Children (Custody and Guardianship) Bill, and law reform proposals concerning de facto relationships.

### **Part IV of the Administration and Probate Act**

A senior member of Counsel raised the question concerning the reform of the Testators' Family Maintenance Provisions of the Administration and Probate Act 1958, with particular reference to the reforms enacted in New South Wales. The question of law reform in this area has been referred to a senior member of Counsel to form a committee.

If any member of Counsel during the course of his practice ascertains that the law is producing unjust or anomalous results, then he or she is requested to raise the matter for consideration by the Law Reform Committee. The Law Reform Committee recognises that it is not easy for Counsel to devote much time to law reform matters, accordingly, the Committee seeks to spread the workload around members of the Bar. Any junior members of Counsel who are willing to do research work for the Law Reform Committee, are requested to contact the Secretary.

**VICTORIAN BAR COUNCIL**  
**STATEMENT OF RECEIPTS AND PAYMENTS**  
**FOR YEAR ENDED 31ST AUGUST 1984**

	\$	\$	\$	\$
Cash Balance as at 1st September 1983				61,589.75
<b>Add Receipts for Period:</b>				
Annual Subscriptions (previous years)			14,080.00	
Annual Subscriptions (current year)			<u>177,603.00</u>	
Total Subscriptions Received				191,683.00
Interest Received:				
Short Term Deposits			32,001.20	
Commonwealth Bonds			90.00	
Savings Investment Account			2,145.28	
Savings Bank Deposit			4.09	
Loan to Barristers' Chambers Ltd.			<u>15,000.00</u>	
Total Interest Received				49,240.57
Investment Redemption				30,000.00
Sales — A Multitude of Counsellors				74.50
Gowans				18.00
Repayment of Readers' Course Expenses				8,000.00
Readers' Practice Courses —				
Income for Period			58,006.65	
Pre-paid September 1984			<u>13,800.00</u>	
				71,806.65
Royalties — Sir Gregory Gowans' Book				1,002.67
Repayment of Loan — Bar Clerking Fund				7,400.00
Repayment of Advance — Bar Revue			6,800.00	
less 1983/84 Advance — Bar Revue			<u>5,300.00</u>	
				1,500.00
Bar Revue Surplus				<u>3,133.90</u>
<b>TOTAL FUNDS AVAILABLE</b>				<b>425,449.04</b>
<b>Less Payments:</b>				
Auditors Remuneration		770.00		
Bank Charges/Deposit Duty		185.84		
Printing		405.00		
Freight		26.00		
Publications		118.30		
Photocopying expenses		990.80		
First Aid Supplies		<u>164.22</u>		
Total Administration Expenses			2,660.16	
Income Tax Payment			28,872.59	
Capitation & Affiliation Fees:				
Law Council of Australia (1983/84-1984-1985)		47,949.00		
Australian Bar Association (1983/84-1984-1985)		9,030.00		
International Bar Association		92.09		
Lawasia		300.00		
Selden Society		25.00		
Victorian Council of Professions		<u>300.00</u>		
Total Fees Paid:			<u>57,696.09</u>	<u>89,228.84</u>
Excess of Receipts over Payments C/F				336,220.20

	\$	\$	\$	\$
Balance				336,220.20
Travelling Expenses			2,833.20	
Functions & Entertainment		26,508.77		
<b>Less</b> Members Payments		<u>13,435.60</u>	13,073.17	
Transcripts			1,091.90	
Share of Lay Observer's Remuneration			3,128.33	
Essoign Club — Capital Contribution			15,000.00	
Consultancy & Other Fees			16,298.89	
Centenary Orator Expenses			5,054.86	
Loan to Barristers' Chambers Limited			65,000.00	
Costs of High Court Appeal			14,730.90	
Capitalization of List "C" Expenses		55,481.09		
<b>Less</b> amounts repaid to date		<u>16,671.51</u>	38,809.58	
Readers' Course: Repayment to Bar Council			8,000.00	
Readers' Course Expenses			<u>63,656.37</u>	<u>246,677.20</u>
Balance of Cash as at 31st August 1984				<u>\$ 89,543.00</u>

**TRUST FUND**

Barristers' Benevolent Fund		
Receipts	15,270.00	
Remitted	<u>15,270.00</u>	

**VICTORIAN BAR COUNCIL**  
**ASSETS AS AT 31ST AUGUST 1984**

	\$	\$	\$
1. Cash in Bank — Savings Bank Account		114.08	
Trading Accounts		58,153.03	
Savings Investment Account		<u>31,275.89</u>	89,543.00
2. Investments at Cost:			
(a) 8,150 Ordinary Shares at \$2 each in Barristers' Chambers Limited	16,300.00		
(b) Commonwealth Bonds	2,000.00		
(c) Short Term Deposits with Commonwealth Bank of Australia	249,000.00		
(d) Barristers' Chambers Limited — Unsecured Loan — 10%	150,000.00		
Capital Works Loan	65,000.00		
(e) Wine for Bar Centenary 1984	<u>2,370.00</u>		484,670.00
3. Members and Other Debtors			32,270.00
4. List "C" Expenses Prepaid			38,809.58
5. Candelabra and other gifts			1,276.00
6. Honour Board of Past Chairmen of Victorian Bar Council			<u>256.00</u>
<b>Total Assets</b>			<u>\$646,824.58</u>

**ACCUMULATED FUNDS**

Accumulated Funds, 1st September 1983	579,314.67
Net Income for the Year	<u>67,509.91</u>
Accumulated Funds as at 31st August 1984	<u>\$646,824.58</u>

N.B. All costs associated with the establishment of the Essoign Club have been offset against accumulated funds.