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VICTORIAN BAR COUNCIL

Reference

Ross N.

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

ANNUAL REPORT

1ST SEPTEMBER 1988 - 31ST AUGUST 1989

**ANNUAL REPORT OF THE
VICTORIAN BAR COUNCIL
FOR THE YEAR ENDED 31ST AUGUST, 1989**

To be presented to the Annual General Meeting of the Victorian Bar to be held at 5.00 p.m. on Wednesday, 27th September, 1989 at
2nd Floor, Four Courts Chambers, 180 William Street, Melbourne.

BAR COUNCIL

Elections: In the Annual Election held in September 1988 the following persons were elected:-

Counsel of not less than 12 years' standing —

Mr. C.H. Francis Q.C.
Mr. J. S. Winneke Q.C.
Mr. E. W. Gillard Q.C.
Mr. A. J. Kirkham Q.C.
Mr. H. R. Hansen Q.C.
Mr. B. D. Bongiorno Q.C.
Mr. D. L. Harper Q.C.
Mr. R. A. Finkelstein Q.C.
Mr. D. J. Habersberger Q.C.
Dr. C. N. Jessup Q.C.
Mr. R. K. Kent Q.C.

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

Mr. M. A. Adams
Mr. M. B. Kellam
Mrs. S. M. Crennan
Mr. W. H. Morgan-Payler

Counsel of not more than 6 years' standing —

Mr. M. J. Colbran
Mr. P. X. Elliott
Mr. D. F. R. Beach
Mr. G. J. Barns

CHAIRMAN'S REPORT

The 1988 Bar Council Elections resulted in a radical change in the composition of the Bar Council. There were 10 new faces on the Council. This followed the 1987 elections which saw 14 new members elected to the Council. In 1987 and 1988 there were tickets. The danger of tickets is the risk of factions forming within the Bar and councillors voting in accordance with the wishes of a particular group. Fortunately this has not happened. The present Bar Council is a dedicated group who have worked hard, without division, and in the interests of the Bar. As Chairman, I am grateful to my team who have ably supported me throughout the last year.

The Victorian Bar, as an association of barristers, traces its modern history back to the year 1900. In that year, Mr. Box presided as the first Chairman of the association. By the end of the year 1900, there were 63 barristers at the Bar. When I came to the Bar in 1965, there were 275 barristers of whom 3 were women. Today, the Bar comprises 1106 barristers of whom 93 are Silks and 123 are women. This year has seen record numbers coming to the Bar. The March intake of Readers numbered 53 of whom 16 were women and the September intake numbers 45 of whom 14 are women.

Most members of the Bar are now housed in two buildings. Owen Dixon Chambers East is being renovated floor by floor in a bright tasteful fashion, which has given a new lease of life to the old building. The new building has been a great success and there are now only a few rooms vacant in that building. Barristers' Chambers Limited is looking for further accommodation to house the Bar. As at the end of this calendar year, we will have almost run out of space.

The establishment of both buildings with their substantial public areas means the Bar can display its history. Two tapestries donated by the Q.C.s were hung in the entrance to the new building and formally unveiled by Lady Delacombe in the presence of the Governor, Dr. McCaughey, in October 1988. The tapestries are indeed splendid works of art and record the history of the law and barristers in this State. The Bar Council has resolved to establish a memorial lecture to the late E. D. (Woods) Lloyd, Q.C. to be given each year on the subject of civil rights. The photographs of all the Chairmen going back to 1900 have been collected and will be displayed in the corridor between the two buildings. There are a number of paintings of eminent members of the Bar displayed. I would like to see portraits of other eminent members painted and hung in the public areas.

We can be justly proud of our Bar and its Chambers which rank among the best barristers' accommodation in the world.

At the Bar Dinner held in May this year, the wonderful service rendered by Michael Black, Q.C., as Chairman of the Bar Readers' Course Committee over some 10 years, was recognised with the presentation of a sterling silver platter. I hope the tradition of giving recognition to eminent members of the Bar and to those who rendered great service to the Bar, continues.

At times, last year, the relations between the Bar Council and the State Attorney-General became somewhat strained. I am pleased to report that the relations between the Bar Council and the Attorney have been extremely cordial and friendly. The Executive regularly meets with the Attorney to discuss matters of mutual interest. Recently the Attorney-General's Department issued a Discussion Paper on the Supreme Court in this State. It can be said that the Attorney-General, over the last few years, has ensured that the County Court and Magistrates' Court have been supplied with sufficient judicial officers and personnel, premises and facilities. However, the Supreme Court has been somewhat neglected. The Discussion Paper is aimed at remedying the situation. Unfortunately, the Court is undermanned and understaffed. There are insufficient courtrooms and Judges' Chambers. There is an urgent need for at least 4 new Supreme Court Judges and the appointment of a new Master. We do encourage the Attorney-General to appoint new Judges and a new Master as soon as possible. However, it must be borne in mind that the appointees must have back-up staff, suitable chambers and above all courts to sit in. The Bar Council responded to the Discussion Paper and, on behalf of the Council, I thank all members of the Bar who made significant contributions to what was an excellently prepared and meaningful response. I would like to pay tribute to David Harper, Q.C., whose job it was to organise and present the response Paper. He worked tirelessly in this task and the end result is excellent.

There is much theatrical talent at the Bar. Each intake of Readers puts on a revue at the Reader's Dinner. The revue is invariably witty, perspicacious and well presented. Invariably each intake of barristers throws up a couple of budding stars. The Bar Dinner saw the County Court Judges, led by His Honour Judge Strong, sing a song, which was well received. In the finest traditions of the Bar, a Bar Revue was held in December last year. The show was underwritten by the Bar Council. Called "Court in the Act" and produced by S. K. Wilson, the presentation was a great success. I hope these "spectaculars" continue.

The past year has seen the adoption of a Bar tie and a Bar diary. The business, Ravensdale, which is owned by two members of the Bar, has been extremely active in the area of promoting clothing and products for members of the Bar. We have seen the birth of a Bar diary.

Last year the Bar set up a Solicitors' Default List. This created a degree of friction with the solicitors and as a result the scheme became a pilot scheme. The present Bar Council has adopted a new scheme. The Bar Council, after much debate, adopted a scheme which was aimed at giving the solicitor in question every opportunity to pay outstanding fees before the complaint against him was fully investigated. Unfortunately, the new scheme appears to have provoked more friction than the previous scheme. It is unfortunate the Law Institute has misunderstood the purpose of the first letter, which is forwarded to the solicitor to enable the solicitor to put his house in order before a full investigation. The Bar Council believes the scheme is worthwhile. It is aimed at weeding out the solicitor who seeks to take advantage of the Bar by not paying fees within a reasonable time. The scheme will be closely monitored.

The Bar Council has resolved to reprint Gowans, Professional Conduct Practice and Etiquette, in a looseleaf form. At times it is difficult to find in Gowans an appropriate ruling to cover a particular situation. It is intended that the new edition should set out all the rules and regulations which govern the Bar in a simple and hopefully easily ascertainable style.

Another decision taken by the Bar Council was to permit advertising space in the Bar News.

The Bar Council has agreed, at the invitation of the I.B.A., to adopt the Papua New Guinea Law Society. The I.B.A. has established a series of "twinning" projects whereby an established Bar Association from a developed country offers assistance to a Bar Association or Law Society from a developing country. We have, over a number of years, invited lawyers from Papua New Guinea to attend the Readers' Course in Melbourne. The lawyers concerned enjoy the Course and benefit greatly from attendance. To further cement our relations with the P.N.G. Law Society, Andrew Kirkham, Q.C. and Robin Brett visited New Guinea at the beginning of August to confer with the Executives of the Law Society, members of the Judiciary and Executives of the Legal Training Institute with a view to ascertaining the feasibility of giving further assistance to the Law Society. One thing that emerged loud and clear from their visit, was the concern about

the standard of advocacy displayed by members of the profession in P.N.G. The P.N.G. Legal Training Institute has requested us to provide assistance to them with particular emphasis on advocacy. The Bar Council intends to provide that assistance, hopefully with help from the Australian Government.

The Executives of the Bar and Law Institute meet monthly for breakfast to discuss problems and issues that arise from time to time. Both Executives agree on most things and I am pleased to report that relations between both bodies are friendly and harmonious.

The Government proposed, earlier this year, amendment to the Magistrates' Court Act to exclude legal representation in cases where the demand was under \$5,000.00. Over many weeks, the matter was debated, mostly in the media, and both the Law Institute and the Bar Council vigorously fought the proposal.

The right to representation is a fundamental right in a democratic society and no Government should be permitted to take it away. It is pleasing that the proposal was eventually defeated. The Bar Council and the Young Barristers' Committee are to be thanked for their efforts in opposing the change to the law.

The Attorney-General from time to time has raised the question of the appointment of Recorders or Acting Judges to assist in the County Court and Supreme Court. A meeting of Silks was called and the meeting overwhelmingly voted against the establishment of a Recorder system, or the appointment of Acting Judges. The Bar Council has made it clear that if the number of Judges were increased in both the County and Supreme Court to an acceptable number, the Bar Council would look favourably at the appointment of Acting Judges for a limited time to overcome a particular problem in any Court.

The Australian Senate has set up a committee to enquire into the cost of justice. This is a far reaching and extensive inquiry, and the Bar Council is busily collating material to assist the Law Council to place submissions before the Senate Inquiry.

The Bar Council is well served by a dedicated group of employees. In particular, I would like to thank Ed Fieldhouse, Anna Whitney, Barbara Walsh, and the staff employed in the office, for their work and support over the last year.

Finally, I would like to express my gratitude to the members of the Bar Council for their marvellous support, assistance, and dedication. In particular, I would like to thank my two Vice Chairmen, David Harper, Q.C. and Andrew Kirkham, Q.C., and the Honorary Secretary, Robin Brett, and his Deputy, Andrew McIntosh, who have worked extremely hard in ensuring the efficient and smooth operation of the Bar Council. I thank them for their dedication to the task and assistance given to me.

E. W. GILLARD
Chairman

OFFICERS OF THE BAR COUNCIL

Chairman — Mr. E. W. Gillard Q.C.

Vice-Chairmen — Mr. D. L. Harper Q.C.
Mr. A. J. Kirkham Q.C.

Honorary Treasurer — Mr. D. J. Habersberger Q.C.

Assistant Honorary Treasurer — Mr. M. B. Kellam

Honorary Secretary — Mr. R. A. Brett

Assistant Honorary Secretary — Mr. A. J. McIntosh

Executive Director — Mr. E. T. Fieldhouse

Executive Officer — Mrs. Anna Whitney

EXECUTIVE COMMITTEE OF THE BAR COUNCIL

Messrs. E. W. Gillard Q.C. (Chairman), Harper Q.C. (Senior Vice-Chairman),
Kirkham Q.C. (Junior Vice-Chairman), Francis Q.C., Winneke Q.C.,
Hansen Q.C. and Habersberger Q.C.

BAR COUNCIL ADMINISTRATIVE COMMITTEES

Area of Responsibility:

(a) Joint Standing Committees

Bar and Law Institute

Mr. E. W. Gillard Q.C.

Committee on Remand Conditions

Messrs. Redlich Q.C., Dunn, Dane and Morgan-Payler.

Committee on Town Planning

Messrs. Buckner Q.C., Hooper Q.C. and Wright Q.C.

Bar, Law Institute and AMA

Messrs. Kirkham Q.C. and Dane.

Joint Standing Committee on Legal Professional Privilege

Messrs. Chernov Q.C. and Pagone

Accident Compensation Committee

Messrs. Dove Q.C. (Chairman), Stanley Q.C. (Vice-Chairman), Kendall Q.C., Shannon Q.C., R.P. Gorton, L. H. Brear (to July 1989), Kellam and D. F. R. Beach.

Administrative Appeals Tribunal: Consultative (Heavy Users) Committee

Mr. Wright Q.C.

Administrative Law Committee

Messrs. Hooper Q.C., Moshinsky Q.C., Wright Q.C., Kemelfield, I. Miller, Garde, Austin, Rose and Mrs. R. Weinberg. Messrs. Hurley, Cavanough, Tracey, Green, Pagone and J. O'Bryan.

(b) Standing Committees

Academic Committee

Messrs. Byrne Q.C. (Chairman), Francis Q.C., Fajgenbaum Q.C., Forsyth Q.C., Black Q.C., Harper Q.C., Nash Q.C. and Dr. Jessup Q.C. Mrs. S. Crennan and Messrs. Cavanough, Pagone and Dr. Hardingham

Accommodation Committee

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

Applications Review Committee

Messrs. Kirkham Q.C. (Chairman), Costigan Q.C., Shannon Q.C., Kent Q.C., I. D. Hill, R. A. Brett, J. E. Middleton, P. J. Cosgrave and McIntosh (Secretary).

Bar Clerking Committee

Messrs. Harper Q.C. (Chairman), McArdle (Secretary and Convenor), Shand, A. J. Magee and Miss Wiener. Messrs. Pagone and J. D. Wilson.

Chairmen for the time being of each List Committee

Dr. Emmerson Q.C. (Chairman, List "B"). Messrs. Dove Q.C. (Chairman, List "D"), Winneke Q.C. (Chairman, List "F"), Dalton Q.C. (Chairman, List "H"), Richter Q.C. (Chairman, List "M"), K. T. Smith (Chairman, List "P"), Shand (Chairman, List "R"), Hayne Q.C. (Chairman, List "S") and Finkelstein Q.C. (Chairman, List "W").

Bar Fees Committee

Messrs. Winneke Q.C. (Chairman), Dalton Q.C. (Vice-Chairman), Meagher Q.C., Wright Q.C. and Dr. Jessup Q.C. Messrs. A. Shwartz, Wraith, Watt, Maxted, J. A. Magee, Colbran and Miss Sexton.

Bar Library Committee

Messrs. Phillips Q.C. (Chairman and Bar Librarian), Habersberger Q.C., M. A. Adams, Burnside, Derham, R. Downing, R. L. Brear, Panna and Miss C. F. McMillan. Messrs. Lynch and Denton.

Bar Staff Committee

Messrs. E. W. Gillard Q.C., Buckner Q.C., Bongiorno Q.C., Harper Q.C., Habersberger Q.C. and M. A. Adams.

Building Panel — Owen Dixon Chambers West

Messrs. O'Callaghan Q.C. (Chairman), Byrne Q.C., Harper Q.C., Zichy-Woinarski Q.C. and Phipps.

Company Law Committee

Messrs. Charles Q.C. (Chairman), Chernov Q.C., Finkelstein Q.C., Baker and N. J. Young.

Overdue Fees Committee

Messrs. Uren Q.C. (Chairman), Ruskin and Wicks.

Contingency Fees Committee

Messrs. Winneke Q.C. (Chairman), Merralls Q.C., Monester Q.C., Fox Q.C., Meagher Q.C. and Kent Q.C.

Ethics Committee

Messrs. Hansen Q.C. (Chairman), Fox Q.C., Shannon Q.C., Uren Q.C., Bongiorno Q.C., Rozenes Q.C., Kent Q.C. and Mrs. B. M. Hooper. Messrs. Colbran, C. J. Ryan and T. D. Wood (Secretary).

Fee Collection Committee

Messrs. Uren Q.C. (Chairman), Hooper Q.C., M. A. Adams, C. J. Ryan, Paul, Dane and Miss Wiener.

First Aid Committee

Ms. MacTiernan.

Human Rights Committee

Messrs. Costigan Q.C., Harper Q.C., Zichy-Woinarski Q.C. Miss Wiener and Mr. Condliffe.

Law Reform Committee

Messrs. Bongiorno Q.C. (Chairman), Heerey Q.C., Ashley Q.C., Wright Q.C., Riordan, Morgan-Payler, L. J. Hill (to July 1989) and Dr. Hockley (Secretary to June 1989). Mrs. S. Crennan, Mr. P. D. Santamaria (Secretary from July 1989) and Miss Warren.

Law Reform Committee Panel

Messrs. Larkins Q.C. (Supreme Court Practice), Wheeler (County Court Practice), Liversidge (Magistrates' Court Practice), Castan Q.C. (High Court), Chernov Q.C. (Federal Court), Walker Q.C. (Crime Practice), G. A. Lewis (Juries Practice), Hansen Q.C. (Causes Practice), Merralls Q.C. (Constitutional Law), Fajgenbaum Q.C. (Administrative Law), Guest Q.C. (Family Law) and Dr. Jessup Q.C. (Industrial Law). Messrs. Wright Q.C. (Town Planning and Local Government), B. J. Bourke (Liquor Control), V. F. Ellis (Workers Compensation), Williamson Q.C. (Trade Practices), Castan Q.C. (Taxation), Paterson Q.C. (Companies) and Morrow (Military Law).

Legal Aid Committee

Messrs. Bongiorno Q.C. (Chairman), Byrne Q.C., Kirkham Q.C., Redlich Q.C., Willee, Garde, Watt and Morgan-Payler.

Police/Lawyers Liaison Committee

Messrs. Morrish Q.C., Rozenes Q.C., Dunn, Hicks, Ray and Miss Douglas. Mrs. Hampel and Miss Feely.

Portraits Committee

Mr. Shaw Q.C. (Chairman), Mr. Justice Hampel and Messrs. Francis Q.C., Guest Q.C. and M. A. Adams.

Readers' Practice Course Committee

Mr. Charles Q.C. (Chairman), Mr. Justice Hampel and Mr. Justice Vincent. Messrs. Black Q.C., Kent Q.C., R. Downing and Mrs. Hampel. Ms. Symon, Messrs. M. D. Hennessy and R. A. Brett (Honorary Secretary).

Salvation Army Correctional Services Committee

Mr. Whiting.

Building Security Committee

Messrs. Kirkham Q.C., Dane, Tatarka and Miss Wiener.

Victorian Bar News — Editorial Board

Messrs. Heerey Q.C. (Editor), P. D. Elliott (Editor), Coldrey Q.C., Nash Q.C. and G. Thompson.

Victorian Bar News — Staff

Messrs. Burnside, Pagone, Lithgow, Clark, R. L. Brear and Devries. Mrs. J. Hendrick and Mrs. A. Whitney.

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

Messrs. Harper Q.C. and Kirkham Q.C. (Alternate).

Council of Australian Bar Association

Messrs. F. W. Gillard Q.C., Francis Q.C. (Alternate) and Harper Q.C. (Treasurer appointed by A.B.A.).

Victorian Council of Professions

Messrs. Dalton Q.C. and Digby.

Legal Aid Commission of Victoria

Messrs. Dove Q.C. (to 13/2/92) and Bongiorno Q.C. (Alternate).

Appeal Costs Board

Mr. Hooper Q.C. (to 30/9/91).

Law Faculty — University of Melbourne

Messrs. Forsyth Q.C. and Byrne Q.C.

Monash University Law Faculty Board

Messrs. Williamson Q.C. and Willee (Alternate).

La Trobe University Proctorial Board

Mr. Hedigan Q.C.

Council of Legal Education

Messrs. Fajgenbaum Q.C., Harper Q.C., Nash Q.C. and Dowling Q.C. (Alternate).

Academic Course Appraisal Committee

Mr. Fajgenbaum Q.C.

Victoria Law Foundation

Mr. E. W. Gillard Q.C.

Leo Cussen Institute for Continuing Legal Education

Mr. Justice Hampel (Chairman) and Dr. Hardingham (Alternate). Messrs. Black Q.C. and Nash Q.C. (Alternate).

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

His Honour Judge Hogg.

Council of Law Reporting

Messrs. Merralls Q.C. and Gunst (both to November 1992).

Leo Cussen Institute Consultants Committee

Messrs. Liddell Q.C., Merralls Q.C. and Hayes Q.C. (Alternate).

County Court Computerisation Committee

Mr. Levin.

County Court Rules

Messrs. Corrigan and Turley.

Attorney-General's Criminal Advisory Committee

Mr. Redlich Q.C.

Attorney-General's Court Monitoring Committee

Messrs. Kendall Q.C. and Ruskin.

Commercial Causes Users Committee

Messrs. Chernov Q.C., Burnside and S. K. Wilson.

Chief Justice's Committee for Religious Observances

Mr. Hansen Q.C.

Chief Justice's Civil Listing Committee

Mr. Stanley Q.C.

Board of Examiners (Appointed by Chief Justice)

Messrs. Hedigan Q.C. (Chairman to 31/12/89), Costigan Q.C. (Deputy), Dowling Q.C. (to 31/12/89), Black Q.C. (Deputy), Finkelstein Q.C. (to 31/12/89) and Castan Q.C. (Deputy).

Chief Justice's Supreme Court Library Committee

Messrs. Phillips Q.C., Phipps and Nettle.

Chief Justice's Law Reform Committee

Messrs. Bongiorno Q.C., Dwyer Q.C. and Kennon.

Chief Justice's Rules Committee

Mr. Phillips Q.C.

Chief Justice's Supreme Court Computer Committee

Mr. Burnside.

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

Dr. Spry Q.C. (Chairman), Messrs. Hayne Q.C., Habersberger Q.C. and Robson Q.C.

Barristers' Benevolent Association of Victoria — Committee of Management

Messrs. E. W. Gillard Q.C. and Habersberger Q.C.

Directors of Barristers' Chambers Limited

Messrs. Buckner Q.C. (Chairman), O'Callaghan Q.C. Drs. Spry Q.C. and Emerson Q.C. Messrs. Harper Q.C., Myers Q.C., Habersberger Q.C. Miss Gaynor and Mr. Barns

Young Barristers' Committee

Mr. Kent Q.C. (Chairman — Bar Council Nominee) and Mrs. S. Crennan (Alternate — Bar Council Nominee). Messrs. Colbran (Representative — Bar Council Nominee), Barns (Alternate — Bar Council Nominee), McIntosh (Secretary — Bar Council Nominee), Goetz and Ms. Sexton. Mr. Glover and Ms. Simons. Messrs. G. D. Friedman, Spence and Ms. Feely. Messrs. S. R. Horgan and Andrews.

Criminal Bar Association

Executive Committee: Messrs. Lovitt Q.C. (Chairman), Kent Q.C. (Vice-Chairman), Lasry (Secretary) and Papas (Treasurer).

Committee: Messrs. Richter Q.C., Rozenes Q.C., Hore-Lacy, Barnett, Shwartz, Punshon, Ray, Coghlan, Morgan-Payler, Silbert (representing Prosecutors for the Queen) (from January 1989) and Miss Sexton. Miss King (representing Prosecutors for the Queen) (to January 1989).

Constitutional Law Committee

Messrs. Hulme Q.C., Merralls Q.C., Hayne Q.C. and Fajgenbaum Q.C.

Defamation Law Committee

Messrs. Winneke Q.C., E. W. Gillard Q.C. and Uren Q.C.

Family Law Committee

Mr. Monester Q.C. and Mrs. B. M. Hooper.

Industrial Law Committee

Messrs. Dalton Q.C., Dowling Q.C. and Dr. Jessup Q.C. Messrs. T. J. Ginnane, Hinkley and Giudice.

Legal Aid Committee

Messrs. Bongiorno Q.C. and McArdle (Alternate).

COUNCIL MEETINGS

There have been 25 ordinary meetings and 1 special meeting of the Bar Council from the first meeting of the new Bar Council on 30th September, 1988 to 31st August, 1989.

Attendances have been as follows:-

Mr. E. W. Gillard Q.C. (Chairman)	(4) 20	Mr. M. A. Adams	24
Mr. D. L. Harper Q.C. (Senior Vice-Chairman)	25	Mr. M. B. Kellam	21
Mr. A. J. Kirkham Q.C. (Junior Vice-Chairman)	23	Mrs. S. M. Crennan	15
Mr. C. H. Francis Q.C.	24	Mr. W. H. Morgan-Payler	18
Mr. J. S. Winneke Q.C.	16	Mr. M. J. Colbran	24
Mr. H. R. Hansen Q.C.	22	Mr. P. X. Elliott	17
Mr. B. D. Bongiorno Q.C.	24	Mr. D. F. R. Beach	25
Mr. R. A. Finkelstein Q.C.	18	Mr. G. J. Bams	25
Mr. D. J. Habersberger Q.C.	23		
Dr. C. N. Jessup Q.C.	23		
Mr. R. K. Kent Q.C.	(1) 21		

(Leave of absence for stated number of meetings is indicated in brackets.)

Mr. R. A. Brett (Honorary Secretary)	24
Mr. P. J. Cosgrave (Assistant Honorary Secretary to October 1988)	2
Mr. A. J. McIntosh (Assistant Honorary Secretary from October 1988)	20

It is recorded that the State Attorney-General, The Honourable Mr. Andrew McCutcheon, MP, was in attendance at the Council meeting held on 24th November, 1988.

COMMITTEE MEETINGS

During the period 1st September, 1988 to 31st August, 1989 the following number of Committee Meetings were held:

Executive Committee	23
Ethics Committee	24
Law Reform Committee	5

SUBSCRIPTIONS

Under Rule 39, the Council fixed the following annual subscription for members of the Bar for the period 1st September, 1988 to 31st August, 1989:-

	\$
Queen's Counsel	545.00
Over 10 years' standing	360.00
Over 3 but under 10 years' standing	240.00
Over 1 but under 3 years' standing	150.00
Under 1 year's standing	85.00
Readers	40.00
Crown Prosecutors, Crown Counsel and Parliamentary Counsel	85.00
Interstate Queen's Counsel	100.00
Interstate and Overseas Juniors	75.00
Ministers of the Crown and Members of Parliament	85.00
Solicitors-General and Directors of Public Prosecutions	85.00
Other Official Appointments	85.00
Academics	85.00

PERSONALIA

Obituary: The Bar Council records with deep regret the deaths since the last Report of the following members:-

- Mr. T. Topham on 14th September, 1988.
- Mr. R. L. Gilbert on 2nd October, 1988.
- The Honourable Sir Murray McNemey on 23rd November, 1988.
- His Honour Judge Martin on 23rd August, 1989.

Judicial Appointments: On 6th September, 1988 His Honour Judge Meagher and His Honour Judge Strong were appointed to the Bench of the County Court of Victoria. On 8th November, 1988 His Honour Judge Ross was appointed to the Bench of the County Court of Victoria.

Other Appointments: On 2nd November, 1988 Mr. H. J. Harber and Mr. J. C. Myers were appointed as Victorian Magistrates. On 7th November, 1988 Mr. M. S. Weinberg Q.C. was appointed Director of Public Prosecutions for the Commonwealth of Australia. In December, 1988 Mr. K. P. O'Connor was appointed Privy Commissioner for the Commonwealth of Australia. On 1st July, 1989 Mr. P. Faris Q.C. was appointed as Chairman, National Crimes Authority and on the same date Mr. J. P. Leckie was appointed as Victorian Member of the National Crimes Authority. On 26th July, 1989 Mr. B. B. Braun, Mr. L. J. Hill and Mr. L. H. Brear were appointed as Victorian Magistrates.

Queen's Counsel: On 29th November, 1988 the following members of the Bar were appointed Queen's Counsel:-

Messrs. G. W. Colman, N. A. Moshinsky, J. P. Dickson, D. J. Ross, C. L. Lovitt, R. K. Kent, R. McK. Robson, R. C. Macaw and P. R. Hayes.

Welcomes: On 8th September, 1988 His Honour Judge Strong was welcomed to the Bench of the County Court of Victoria by Mr. J. S. Winneke Q.C. On 9th September, 1988 His Honour Judge Meagher was welcomed to the Bench of the County Court of Victoria by Mr. H. W. Fox Q.C. and on 10th November, 1988 His Honour Judge Ross was welcomed to the Bench of the County Court of Victoria by the Chairman of the Bar Council, Mr. E. W. Gillard Q.C.

Farewells: On 16th September, 1988 representatives of the Bar and Solicitors met to pay tribute to Master Brett on the occasion of his retirement from the Supreme Court of Victoria. The then Chairman of the Bar Council, Mr. C. H. Francis Q.C., spoke on behalf of the Bar. On 14th December, 1988 representatives of the Bar and Solicitors met to pay tribute to His Honour Judge Ogden on the occasion of his retirement from the County Court of Victoria. Mr. E. W. Gillard Q.C., Chairman of the Bar Council, spoke on behalf of the Bar. On 23rd February, 1989 Dr. P. H. N. Opas O.B.E., Q.C., retired as Deputy President of the Planning Division of the Administrative Appeals Tribunal. To mark the occasion, representatives of the Bar and Solicitors met at a special hearing of the Tribunal to pay tribute to Dr. Opas and Mr. E. W. Gillard Q.C. spoke on behalf of the Bar.

ROLL OF COUNSEL

Between 1st September, 1988 and 31st August, 1989, the following 119 persons, 28 of whom are Interstate Counsel, signed the Roll of Counsel:

Mr. M. G. Rudge (NSW)	Mr. N. Rosenbaum	Ms. G. L. Thompson
Mr. L. D. S. Waddy (NSW)	Mr. H. G. Draper	Mr. G. R. Doran
Mr. G. M. Thomas (NSW)	Mr. J. J. Gajewicz	Mr. M. P. McDonald
Mr. R. D. Cogswell (NSW)	Mr. G. D. Cullen	Mr. I. G. Waller
Mr. A. J. L. Bannon (NSW)	Mr. G. J. Grabau	Ms. K. L. Bourke
Mr. T. A. Gray (SA)	Mr. J. Casson	Mr. P. A. Ryan
Mr. D. E. J. Ryan (NSW)	Mr. R. A. Edmunds	Mr. M. D. Norbury
Mr. A. R. Emmett (NSW)	Mr. P. M. Donohoe	Mr. G. A. Cazalet
Mr. B. J. Salmon (ACT)	Mr. R. A. Mackay	Mr. S. P. Cash
Mr. M. L. D. Einfeld (NSW)	Mr. A. J. Sullivan (NSW)	Ms. A. H. Sango
Mr. P. Webb	Mr. R. J. Wright (NSW)	Mr. D. Hickey
Ms. J. A. Dodds	Mr. B. W. Walker (NSW)	Mr. W. L. Friend
Mr. M. G. Sexton (NSW)	Mr. E. M. Heenan (WA)	Mr. P. D. Burchardt
Mr. N. G. Rochow (SA)	Mr. P. E. King (NSW)	Mr. P. S. Reynolds
Mr. S. Lindner	Mr. D. R. Williams (WA)	Ms. J. E. Williams
Mr. W. G. Meehan	Mr. B. S. Heathershaw	Mr. R. J. Young
Mr. B. A. Hutchinson	Mr. M. S. Blumberg (SA)	Mr. M. H. Tinney
Mr. C. D. Golvan	Mr. W. T. McMillan (Qld)	Ms. R. F. Garfield
Ms. J. A. Dixon	Mr. L. G. Vatousios	Mr. R. T. Taranto
Mr. A. D. B. Ingram	Ms. J. E. Richards	Mr. P. M. Taft
Ms. G. M. Hopkins	Mr. D. S. Benvenuto	Mr. G. L. Purcell
Mr. C. W. Beale	Ms. E. A. Strong	Mr. J. R. Weir
Mr. N. Hanos	Ms. D. S. Mortimer	Mr. D. F. Hyde
Ms. A. E. L. MacTiernan	Mr. O. P. Holdenson	Mr. J. W. Bailey
Mr. G. S. M. Harvey	Ms. S. L. Kirwan-Hamilton	Mr. N. J. Francis
Mr. S. E. Grant	Ms. K. A. Peterson	Mr. A. M. Donald
Mr. J. T. W. Henry	Mr. A. G. Hooper	Mr. M. L. Sifris
Mr. R. N. Hoult	Mr. F. J. Holzer	Ms. R. L. Gillespie
Mr. D. J. McSteen	Mr. C. N. Kiliias	Mr. P. D. Page
Ms. R. A. R. Rajadurai	Ms. E. Wentworth	Ms. M. Stavrakakis
Mr. G. J. Lyon	Mr. A. L. Hands	Mr. A. W. Ellis
Mr. M. J. Garnham	Mr. J. C. Billings	Mr. G. P. Miller (WA)
Mr. D. A. Hewitt	Mr. T. J. Seccull	Mr. R. R. Stitt (NSW-QC)
Mr. C. J. Carmody	Mr. G. J. E. Steward	Mr. J. R. Sackar (NSW-QC)
Mr. R. J. R. Cleary	Mr. J. D. Searle	Ms. A. C. Bennett (NSW)
Ms. C. M. Coburn	Ms. A. C. Ben-Simon	Mr. J. D. Harris (NSW)
Ms. V. J. Bennett	Ms. L. A. Fleming	Mr. J. C. Campbell (NSW)
Mr. A. D. Halse	Mr. C. G. Triscott	Mr. M. G. Skinner (NSW)
Mr. I. R. L. Freckelton	Mr. A. McK. Flower	Mr. K. J. Crispin (ACT-QC)
Mr. J. K. Pilkington	Mr. A. A. De Silva	

Member whose name has been transferred from Division A, Part II (Prosecutors for the Queen) to Division A, Part I (Victorian Practising Counsel):

Mrs. B. J. King

Member whose name has been transferred from Division A, Part III (Overseas and Interstate Counsel) to Division A, Part I (Victorian Practising Counsel):

Mr. G. M. Eames

Members whose names have been transferred to Division A, Part II (Prosecutors for the Queen):

Mrs. B. J. King and Mr. T. Gyorffy

Members whose names have been transferred to Division A, Part III (Overseas and Interstate Counsel):

Mr. C. F. Kilduff and Mr. A. P. S. Alston

Members whose names have been transferred from Division A, Part III (Overseas and Interstate Counsel) to Division B, Part II (Judges):

The Honourable Mr. Justice Gleeson (NSW) and The Honourable Mr. Justice Cole (NSW)

Members whose names have been transferred to Division B, Part III (Ministers of the Crown and Members of Parliament):

Mr. H. Storey Q.C., M.L.C., Mr. J. V. C. Guest, M.L.C., The Honourable Mr. N. A. Brown Q.C., M.P. and Mr. R. F. Shipton, M.P.

Member whose name has been transferred to Division B, Part IV (Solicitors-General and Directors of Public Prosecutions):

Mr. M. S. Weinberg Q.C.

Member whose name has been transferred from Division B, Part IV (Solicitors-General and Directors of Public Prosecutions) to Division B, Part VIII (Other Official Appointments):

Mr. I. D. Temby Q.C. (NSW)

Member whose name has been transferred from Division B, Part V (Masters) to Division C, Part II (Retired Holders of Public Office Other than Judicial Office):

Master G. S. Brett

Members whose names have been transferred to Division B, Part VI (Magistrates and Full-Time Members of Statutory Tribunals):

Mr. H. J. Harber, Mr. J. G. Myers, Mr. P. H. Maloney, Mr. B. B. Braun, Mr. L. J. Hill and Mr. L. H. Brear

Member whose name has been transferred from Division B, Part VII (Crown Counsel and Parliamentary Counsel) to Division A, Part I (Victorian Practising Counsel):

Mr. J. S. Bessell

Members whose names have been transferred to Division B, Part VIII (Other Official Appointments):

Mr. P. Faris Q.C. and Mr. J. P. Leckie

Members whose names have been transferred to Division C, Part III (Retired Counsel):

Mr. J. R. Guy and Mr. J. P. Hennessy

Members whose names have been transferred to Division D, Part I (Academics):

Mr. S. W. Johnson, Mr. B. O'Brien, Mr. R. M. C. Nankivell and Mr. C. R. Williams

Names removed at request of Counsel:

Mr. P. V. Batros (W.A.), Mr. A. J. McDonald, Mr. I. D. Temby Q.C. (NSW), Mr. G. R. Barr (NSW), Mr. J. A. Murphy, Dr. P. N. Opas Q.C., Mr. J. F. E. Turner, Mrs. M. T. Milverton, Mr. R. H. Lunzer and Mr. A. Moisisdis

THE ROLL

Division A Part I	Victorian Practising Counsel	1,095
Division A Part II	Prosecutors for the Queen	15
Division A Part III	Overseas and Interstate Counsel	175
Division B Part I	Governors	1
Division B Part II	Judges	121
Division B Part III	Ministers of the Crown and Members of Parliament	6
Division B Part IV	Solicitors-General and Directors of Public Prosecutions	4
Division B Part V	Masters	6
Division B Part VI	Magistrates and Full-Time Members of Statutory Tribunals	37
Division B Part VII	Crown Counsel and Parliamentary Counsel	19
Division B Part VIII	Other Official Appointments	3
Division C Part I	Retired Judges	30
Division C Part II	Retired Holders of Public Office other than Judicial Office	7
Division C Part III	Retired Counsel	21
Division D Part I	Academics	4

FUNCTIONS

Opening of the Legal Year

Religious Observances for the Legal Profession for the opening of the Legal Year were held on 31st January, 1989. The Services were held at St. Paul's Cathedral, St. Patrick's Cathedral, St. Eustathios' Cathedral and Temple Beth Israel.

Bar Entertainment

On 17th November, 1988 the Chairman and members of the Bar Council held a dinner in honour of the Past Chairman, Mr. C. F. Francis Q.C. and retiring members of the Bar Council.

On 16th December, 1988 the Bar's Annual Christmas Cocktail Party was held in the Lobby of Owen Dixon Chambers West. The function was well attended by members of the Bench and Bar together with spouses and guests.

On 15th March, 1989 the Chairman and members of the Bar Council at a function held in the Essoign Club entertained a number of Judges of the Victorian Supreme Court and the Federal Court of Australia.

On 26th April, 1989 the Chairman and members of the Bar Council at a function held in the Essoign Club entertained a number of Judges of the County Court of Victoria.

On 27th May, 1989 the Annual Bar Dinner was held at the Leonda Function Centre. Members of the Bar and Bench and guests attended. Honoured guests were The Honourable Sir John Young, A.C., K.C.M.G., The Right Honourable Sir Ninian Stephen, A.K., G.C.M.G., G.C.V.O., K.B.E., The Honourable Sir Daryl Dawson, A.C.T., K.B.E., C.B., Their Honours Judge Smith, Lewis, Keon-Cohen, Strong, Meagher and Ross.

Mr. Junior Silk, Mr. P. R. Hayes Q.C. proposed the toast to honoured guests and speeches in reply were made by The Honourable Sir John Young A.C., K.C.M.G. and His Honour Judge Smith. The toast to the Bench, the Bar and the Solicitors of England was proposed by The Right Honourable Sir Ninian Stephen, A.K., G.C.M.G., G.C.V.O., K.B.E.

On 21st June, 1989 the Chairman and members of the Bar Council at a function held in the Essoign Club entertained a number of Judges of the Family Court of Australia.

On 26th June, 1989 at a function held at the Law Institute of Victoria, the Chairman and members of the Bar Council were entertained at a dinner given by the President and members of the Council of Law Institute of Victoria and held in honour of The Right Honourable Sir Ninian Stephen, A.K., G.C.M.G., G.C.V.O., K.B.E. to mark the occasion of his retirement as Governor-General of the Commonwealth of Australia.

On 26th July, 1989 the Chairman and members of the Bar Council at a function held at the Essoign Club entertained a number of Victorian Magistrates.

Readers' Dinners were held in November, 1988 and May, 1989. The Honourable Sir Daryl Dawson, A.C.T., K.B.E., C.B. was the guest speaker at the November dinner and The Honourable Justice Nicholson, Chief Justice, Family Court of Australia, was guest speaker at the May dinner.

Readers were welcomed to the Bar at functions held in September, 1988 and March, 1989.

Sporting Events

On 13th October, 1989 a hockey match was held between the Bar and the Law Institute of Victoria. The Law Institute retained the "Scales of Justice Cup" with a 3-2 victory.

In December, 1988 the one-day Annual Cricket matches against the 1st XI and 2nd XI of the Law Institute of Victoria resulted in wins to the Solicitors.

In December, 1988 the Annual tennis match against the Law Institute of Victoria resulted in a win to the Solicitors, thus retaining the "O'Driscoll Cup".

The Annual Golf Tournament between members of the Bench and Bar and the Law Institute of Victoria was held on 20th December, 1988 at Kingston Heath Golf Club. The Solicitors regained the Sir Edmund Herring Trophy.

In December, 1988 members of the Bar participated in the Annual Legal Fun Run which was held on the Tan Track, Melbourne.

In March, 1989 the Annual Cricket Match between the Victorian Bar and the New South Wales Bar was played at Mosman. The game resulted in a 58 run win to the New South Wales Bar.

ANNUAL REPORT OF THE LAW COUNCIL OF AUSTRALIA FAMILY LAW SECTION

One of the Section's most important activities has always been continuing legal education. This year the Section has conducted seminars on cross-vesting throughout Australia, one and a half day seminars in Adelaide and Darwin (the latter with the Northern Territory Law Society and the Business Law and General Practice Sections) and a residential seminar at Terrigal, N.S.W. With major changes in family law about to come into effect that program will continue. In particular, there is to be a residential seminar at Marysville on 27th-28th October, 1989 and extensive seminars on pleadings in which members of the judiciary will be heavily involved.

Arrangements are well under way for the Fourth National Family Law Conference which is to be held on the Gold Coast from 18th-21st July, 1990. The conference will be attended by a number of international delegates and speakers together with many notable Australian participants.

The Section continues to have excellent relations with the Chief Justice and all other judges of the Family Court of Australia who involve the Section in constant consultation. Similarly, the Section's views are regularly expressed to the Federal Government and Opposition, the Family Law Council and the Law Council of Australia.

Submissions have been made on child sexual abuse, matrimonial property, costs agreements, counsel's fees, Child Support Stage 2, subpoenas, pleadings, the role of separate representatives, Decrees Nisi, international custody, the Family Law Rules and contempt. Further submissions are in the course of preparation.

RICHARD GRIFFITH LIBRARY ANNUAL REPORT 1989

The Library continued to operate from the main reading room on the 13th Floor, Owen Dixon Chambers East, from the Library Annexe on the 12th Floor and, as to the Herring Collection, from the 2nd Floor, Four Courts Chambers. The collection lacks many journals which members of the Bar might reasonably expect to find now in such a library, but lack of space remains a continuing constraint. Neither the Bar Council nor Barristers' Chambers Ltd. has yet made a decision about the future location of the Library.

On the credit side, the Library was fortunate to receive a set of the Australian Tax Review from the Honourable the Chief Justice of Victoria. The Bar is grateful to Sir John Young for his gift. On the debit side, books are still being lost from Library through unauthorised removal. For instance, the set of Australian Law Reports was recently made complete by the purchase of missing volumes. Only shortly thereafter, Volume 58 was missing from the shelves. It has not yet been replaced.

Members of the Bar are again reminded that removal of books for any purpose from the Library is prohibited without the express authority of the Librarian or one of the Committee members. Members of the Bar are asked to search their own rooms and replace any books that they might find, belonging to the Library. Similarly, it would be appreciated if those using the Library took the time to replace books on the shelves after use. Only by such means can the Library remain a useful tool for members of the Bar generally.

ANNUAL REPORT OF LAW REFORM COMMITTEE 1988-89

In the course of this year the Law Reform Committee has been deluged with Law Reform Papers and Reports from an ever-increasing number of sources. Not only does the Law Reform Commission of Victoria send discussion papers and reports, but similar material arrives from the Federal body, Parliamentary Committees and various other State Law Reform Commissions. Often the material is extensive and requires considerable work to absorb and comment upon.

Among matters considered this year, or still being considered, are papers on class actions (especially at Federal level), occupational regulation, the format of Victorian legislation, the law relating to Charitable Trusts and various forms of reform of land law.

The Law Reform Committee acknowledges the work done for it by various members of the bar in reading material and appreciates that this task is almost always an onerous one. It is constantly exploring ways to make the work easier and less of a burden on its own members as well as upon those other members of counsel conscripted to help.

During the year the Committee lost its Secretary, Dr. John Hockley, who has gone to the United States. Its new Secretary is Paul Santamaria. It looks forward to attracting some new members in the coming year to try to improve its overall efficiency and perhaps even to enable it to act on law reform issues, rather than simply react to material placed before it.

ANNUAL REPORT OF THE YOUNG BARRISTERS' COMMITTEE

The Young Barristers' Committee has since its inception been the only elected sub-committee of the Bar Council. Until February 1989 however, the Committee had no formal rules governing election procedures, voting rights or eligibility for election. A Constitution has now been adopted clarifying these matters which had long been shrouded by the passage of time in the memories of those who have long ceased to require the intercession of the Young Barristers' Committee. All members of counsel under six years' call as at the 28th February each year are entitled to both stand and vote in the election.

Submissions were made to the Bar Council regarding the problem of cases not being reached, particularly in the Magistrates' Court. The Committee notes that the transfer of the Melbourne Magistrates' Court civil jurisdiction to 471 Bourke Street and improvements in listing have made considerable inroads into the problem that existed in that Court.

The substantial reduction in Professional Indemnity Insurance is welcomed. The introduction of the Default List will be of particular assistance to young barristers in dealing with the problem of slow payers.

Oral submissions were made to The Honourable Mr. Justice McGarvie, Chairman of the Academic Course Appraisal Committee regarding the areas of legal education considered necessary for admission to practice.

The Committee this year was afforded the opportunity of direct consultation with the Executive of the Bar Council, an approach which is greatly appreciated by the Committee.

The matter which caused great concern was the re-emergence of the Magistrates' Courts Bill. A great deal of time was spent by the Committee in preparing submissions and working in conjunction with the Bar Council on this most important matter. Whilst it was considered that there were many undesirable features of this Bill, the Committee, as indeed did the Bar Council, believed that provisions excluding lawyers from the court in civil claims under \$5000 was a denial of the fundamental right of persons to be represented. The debate was protracted but the result was that the Bill finally preserved the right of representation. It is believed that the input of the Committee was of appreciable assistance towards this end.

ANNUAL REPORT OF THE BAR COUNCIL EXECUTIVE COMMITTEE

The Executive Committee meets fortnightly and sometimes more frequently when necessary. It is responsible for overseeing the implementation of the decisions of the Bar Council and dealing with urgent matters which do not require the making of final policy determinations. Some matters not considered of sufficient importance to merit the attention of the Bar Council are also dealt with; but otherwise all matters, and particularly those which raise questions of policy, are referred to the Bar Council.

All members of the Executive Committee are, of course, members of the Bar Council. The following are some of the matters which have occupied the Executive Committee in the past year.

1. Courts Administration and the plight of the Judiciary in this State.
2. The implementation of a "default list" to improve the system of collecting fees for the Junior Bar.
3. Formulating a response to the Attorney-General's Discussion Paper on the Higher Court System in Victoria.
4. Opposing the proposal to prevent legal representation for litigants in the Magistrates' Court in respect of claims of less than \$5,000.

ANNUAL REPORT OF THE ETHICS COMMITTEE

Following the last Bar Council Election, Hansen Q.C. was appointed Chairman of the Committee.

Since the last Annual Report the Committee has held seven summary hearings concerning six barristers pursuant to Section 14E of the Legal Profession Practice Act. At the time of writing this report a further summary hearing is scheduled. The Committee found that disciplinary offences had been committed by four of the six barristers concerned.

In the first case Counsel was reprimanded for making an improper remark to an opposing lay client and another member of Counsel in the presence of members of the public.

In the second case Counsel was fined \$500 and \$600 for two offences of failing to be in court when his case was called on. The Committee found that Counsel had breached Counsel Rule 14, which provides that:

"A barrister who has accepted a brief to appear on his own which brief has not been returned shall be present in court ready to represent his client on each occasion that the case is called on for hearing."

In the third case a complaint by a police informant concerning an alleged breach of an undertaking was dismissed.

In the fourth and fifth cases Counsel was fined \$200 for each of two offences of failing to respond to correspondence from the Ethics Committee, a complaint against him for improper remarks was dismissed and another complaint for improper remarks did not proceed following an apology. Counsel Rule 9 provides:

"A barrister shall not act in any proceedings in which it is likely that he will have a direct or indirect interest (other than as counsel) in the outcome of the proceedings."

In the sixth case Counsel was fined \$400 for behaving in an aggressive manner to a litigant in the precincts of the court.

In the final case the Committee investigated a complaint concerning the removal by Counsel of a document from the brief of opposing Counsel. The complaint was dismissed.

A charge was laid before the Barristers' Disciplinary Tribunal against Geoffrey T. Chettle. The substance of the charge was that whilst appearing to prosecute in a criminal trial Chettle failed properly to disclose to the Defence the contents of a taped conversation involving a principal Crown witness which was in direct conflict with the sworn evidence of that witness upon critical matters.

The charge was heard by the Barristers' Disciplinary Tribunal which on 27 February 1989 determined that Chettle had committed a disciplinary offence within the meaning of Section 14(B)(b) of the Legal Profession Practice Act and ordered that he be reprimanded. The Tribunal further ordered that there be published pursuant to Section 14(H)(c) of the said Act in the Annual Report of the Victorian Bar Council a statement of the substance of the charge, the name of the defendant and the order made by the Tribunal.

From 1 November 1988 until the time of this Report the Ethics Committee had conducted 24 meetings (excluding summary hearings).

The following table gives statistics of complaints received, their source and the manner of their disposal during the year covered by this Report and the previous two years:

	1985-86	1986-87	1987-88	1988-89
No. of complaints received	43	42	24	40
No. of complaints under consideration at commencement of reporting period	21	26	20	17
No. of complaints under consideration at date of report	26	20	16	16
No. of investigations concluded during the reporting period	38	48	27	41
Complaints not upheld after preliminary investigation	33	40	25	34
Summary Hearings during reporting period	4	7	4	7
Complaints upheld after hearing	3	5	2	5
Complaints dismissed after hearing	1	2	2	2
Complaints resulting in charges laid before the Barristers' Disciplinary Tribunal during reporting period	1	1	1	1
Source of Complaint				
Clients	23	22	8	21
Solicitors	12	9	6	10
Judicial	2	3	3	3
Counsel	2	2	2	1
Police	3	—	1	4
Other	1	6	4	1

CRIMINAL BAR ASSOCIATION REPORT FOR YEAR ENDED AUGUST 1989

Executive and Committee

The Executive and Committee this year was made up as follows:

Robert Richter Q.C. — Chairman

Colin Lovitt Q.C. — Vice-Chairman

Lex Lasry — Secretary

Nick Papas — Treasurer

Graeme Morrish Q.C., Michael Rozenes Q.C., John Barnett, Bill Morgan-Payler, Aaron Shwartz, Gavin Silbert, Roy Punshon and Ross Ray

Gavin Silbert represents the Prosecutors for the Queen. The committee invited him to join after Betty King resigned from the committee on 20 January 1989 consequent upon her resignation as a Prosecutor for the Queen.

Activities:

The Committee or its members have been involved in a number of matters during the last year. The Committee has met approximately once every month during that time. Issues in relation to fees, particularly payable by the Legal Aid Commission are a regular topic of discussion. Through Aaron Shwartz, the Association maintains a regular contact with the Bar Fees Committee now chaired by John Winneke Q.C.

Apart from regular discussions about fee-related topics, matters considered, discussed and actioned during the period include the following (essentially in chronological order):

- (a) The Committee responded to requests for comment by the National Crime Authority on the effectiveness of committals. A letter strongly in favour of the retention of committal proceedings was sent referring to the report of the Coldrey Committee on the topic.
- (b) Following visits arranged by Graeme Thomas and Roy Punshon the Committee made representations to the authorities about client access at the new Melbourne Remand Centre. The difficulties raised referred to the high level of security which prevented effective communication and rapport between counsel and client.
- (c) The committee has made several representations about the entirely inadequate facilities at the Geelong Court complex. Security and lack of proper facilities were described to the Attorney General. That has prompted some promise of action of a temporary nature pending the construction of new facilities.
- (d) Representations were made in relation to homicide committals. The Committee is of the view that the prosecution of those matters should be taken over by the office of the Director of Public Prosecutions. The police would appear to be resisting any move in that direction. We were also concerned to procure transcripts of video taped interviews prior to the committal with a view to saving Court time playing the interviews unnecessarily.
- (e) John Barnett has represented the Association on the Steering Committee in relation to Court delays in criminal trials. A seminar was organised by the Association some weeks ago so that members would have input into the changes which are proposed but the attendance was very disappointing notwithstanding the fact that the Chief Judge of the County Court and Mr. Ted Wright set aside time to attend and discuss the matter.
- (f) From time to time members of the Executive have made public statements on matters of interest to the Association. Executive members take such steps after a clearance from the Bar Council and some indication as to what is proposed to be said. The Association does not purport to speak for the Bar as a whole but simply expresses opinions on matters of interest.
- (g) The Association has considered the prospect of the appointment of Recorders or part time Judges. A motion that the Association approve such a concept was lost in committee discussion. Ultimately, the Bar's attitude to this matter will be expressed by the Bar Council. The Association sees its role as advisory to the Bar as a whole.
- (h) In March 1989 the international organisation "The Society for the Reform of the Criminal Law" conducted a conference in Sydney on the topic of police powers. Several members of the Association attended and the conference was very successful.
- (i) Members of the Committee continue to make themselves available to lecture at the Victoria Police Detective Training School on the topic of "The role of Defence Counsel". The committee is of the view that these lectures are an important means of communication with the police even if the subject matter is treated with some scepticism from time to time. To deliver this lecture is, on any view, a challenging exercise!
- (j) Our Vice-Chairman Colin Lovitt, former committee member and Bar Council member Bob Kent and David Ross took silk in the past year and are congratulated by the Association.
- (k) The Committee noted with pleasure the appointment of two of its members to the National Crime Authority. Peter Faris Q.C. is a former committee member of the Association. He has been appointed as the Authority's Chairman. Julian Leckie has been appointed to the Melbourne office. The Association has communicated its best wishes to both members. The Committee also congratulates Mark Weinberg Q.C. upon his appointment as Director of Public Prosecutions for the Commonwealth of Australia.
- (l) The Coldrey Committee: Lex Lasry was the Bar's representative on the Coldrey Committee which has now prepared a summary of recommendations for the Attorney General. The Bar has requested the Association's views on those recommendations and as a result they have been circulated to all members for discussion. Any recommendations will be immediately passed on to the Bar Council and to the Attorney General.

One of the issues which occupied the Committee's time was the discussion about how an order for the taking of a sample would be enforced. The Committee was evenly divided between the subsequent use of the adverse inference or the use of reasonable force to secure the sample. Alternative models have thus been proposed. Lasry was in the camp of the adverse inference option and that view has already been communicated to the Bar Council.

ANNUAL REPORT OF THE ACADEMIC COMMITTEE

Throughout the last year the committee has been concerned with two major projects:-

Legal knowledge for admission to practice

The Academic Course Appraisal Committee chaired by Mr. Justice McGarvie, has been investigating those areas of legal knowledge which ought to be required as prerequisites for admission to practice. A draft proposal was submitted to the Bar Council for comment. The Academic Committee discussed the draft proposal and has prepared a submission for the Victorian Bar Council, recommending that a number of practical subjects be added to the list. It recommended that Taxation, Company Law and Family Law be added to the areas of knowledge which the course should cover. It suggested that greater emphasis be placed on a familiarity with the statutory consumer protection provisions of the Trade Practices Act and the Fair Trading Act.

National Legal Aid Advisory Committee Discussion Paper on Legal Aid

The Academic Committee was charged with the duty of examining the extensive discussion paper on Legal Aid prepared by the Advisory Committee. They prepared a lengthy submission for inclusion in the submission presented to the Federal Government on behalf of the Law Council of Australia.

The Academic Committee comprises Byrne QC, Chairman, Francis QC, Fajgenbaum QC, Forsyth QC, Black QC, Harper QC, Nash QC, Jessup QC, S. Crennan, Cavanough, Pagone and Hardingham

THE ESSOIGN CLUB LIMITED ANNUAL REPORT

In all the past year was a most satisfactory year for the Club. At the time of the last General Meeting the Committee expressed serious concern about the viability of the coffee lounge in the light of marked decrease in demand for sandwich bar and coffee lounge services. That concern has now been alleviated by rationalisation of staff and improvement of facilities, which has resulted in a return of trade. The Committee and the Club Manager, Pat Gilbert, have been at pains to ensure that a high standard of service is provided at the lowest possible cost. We believe that we have attained a high degree of success in that regard. We are now pleased to report that all of the services provided for members and their employees will continue for the foreseeable future.

The Dining Room has continued to provide first class lunches. The standard of food, liquor and service is a credit to Patrick Gilbert and his staff, all of whom have given diligent and efficient service throughout the year for which we express our appreciation and thanks.

A number of improvements have been made since the last Annual Report. The basement liquor store has been enlarged which has facilitated a more satisfactory (and less troublesome for the staff) system of liquor storage. New espresso machines have been installed in the coffee lounge and Dining Room which will provide better beverages for members. Substantial work has been done on the electrical circuits and the airconditioning system has been overhauled. All of this has resulted in substantial improvement in the services offered by the Club.

The usual social and cultural functions have been conducted in the Club and, as has been the case for many years, have been a great success.

The standard of wines provided by the Club has been lauded each year. This year is no exception. Pat Gilbert and Howard Duncan take the credit for the continued provision to members of better and more varied wines. Members have taken advantage of this as is shown by the growth in the sale of wines. We congratulate Pat and Howard on their achievement and thank them for continuing to provide to members the facility to purchase excellent wines at very competitive prices.

The audited accounts show the finances of the Club are satisfactory. Preparation of accounts and financial data is done by Ed Fieldhouse and we wish to record the Club's gratitude for all his work.

Similarly, Anna Whitney devotes a lot of time to the Club's affairs and is a great help to the Committee and the Staff. We thank her also.

REPORT OF THE SILKS' TAPESTRIES COMMITTEE

On Wednesday, 2 November 1988 Lady Delacombe, the wife of a former Governor of the State of Victoria, unveiled a pair of tapestries in the Lonsdale Street foyer of Owen Dixon Chambers West. The unveiling took place in the presence of His Excellency, the Governor and Mrs. McCaughey. The tapestries were provided by subscription from the Silks of the Victorian Bar - 88 of the Silks contributing a sum in excess of \$100,000 to have them designed by Murray Walker and woven by the Victorian Tapestry Workshop throughout the years 1987-1988.

The tapestry on the west wall shows the various homes of the Bar - Selborne Chambers, Owen Dixon Chambers and Owen Dixon Chambers West. That on the east wall shows the long association between the Bar and the Supreme Court of Victoria.

The Committee of Silks charged with the administration of the project comprised Berkeley QC, Shaw QC, Charles QC and Byrne QC.

BARRISTERS' CLERK

In March, 1989 Mr. H. D. Muir celebrated the 50th anniversary of his employment as a Barristers' Clerk. For many years Mr. Muir was with Mr. Foley's List and for the past 15 years he has had his own List (M).

To mark the occasion a dinner was held in honour of Mr. Muir on 3rd August, 1989.

The Victorian Bar Council extends its congratulations to Mr. Muir on his achieving this special 50th anniversary.

REPORT ON THE READERS' COURSE

Two Readers' Courses, each of approximately twelve weeks duration, have been conducted since the last Annual Report. A total of 86 readers attended the two courses, 11 more than in the corresponding period in the previous year.

The Bar and its Readers have continued to benefit from the generous contributions of time and effort to the Readers' Course by practising members of the Bar, members of the judiciary, and many others also. More than 130 people assisted with both of these intakes, a number which indicates the consistency of the level of assistance received for the Readers' Course over the last few years. The course has maintained the high standard of previous years and many of the contributors have assisted on numerous occasions and for lengthy periods.

The connection between the Victorian Bar and the profession in Papua New Guinea has developed further with the attendance of Kelly Naru and David Liosi in the September 1988 intake. In the September, 1989 course, PNG will be represented by Karo Gamoga. The Course Committee welcomes the continuing participation of PNG lawyers and the fact that two young lawyers from South Australia participated in part of the September 1988 course, as did Allen Hogan, a Canberra barrister.

The Committee hopes to strengthen the video and moot Court aspects of the course by embarking on a series of sessions designed to teach the teachers themselves with the aid of training materials brought back from the NITA (National Institute for Trial Advocacy) course conducted at Harvard Law School earlier in 1989.

As always, the mainstay of the course has been the Course Co-Ordinator, Miss Barbara Walsh, who continues to run the course, the Committee, and the Readers, to everyone's satisfaction and with great efficiency.

**VICTORIAN BAR COUNCIL
STATEMENT OF RECEIPTS AND PAYMENTS
FOR YEAR ENDED 31ST AUGUST, 1989**

1988		\$	\$	\$
63,572.32	Cash Balance as at 1/9/88			105,133.82
	Add Receipts for Period:			
6,000.00	Annual Subscriptions (prior periods)		55.00	
284,849.92	Annual Subscriptions (current period)		308,463.50	
—	Annual Subscriptions (prepaid)		400.00	
<u>290,849.92</u>	Total Subscriptions Received		<u>308,918.50</u>	308,918.50
	Interest Received:			
20,974.15	Short Term Deposits		4,983.70	
533.39	Savings Investment Account		675.67	
4.76	Savings Bank Deposit		5.80	
<u>21,512.30</u>	Total Interest Received		<u>5,665.17</u>	5,665.17
6,147.17	Bar Clerking Fund Transfer		—	
45.21	Sale of Publications		110.10	
286.50	Recovery of Costs		—	
654.34	Repayment of List "C" expenses		219.78	
—	Loan Repayment — Barristers' Chambers Limited		95,000.00	
338,854.54	Redemption of Investments		397,692.35	
1,000.00	Royalties		1,425.46	
67,316.00	Readers' Course Income		78,862.85	
—	Miscellaneous Income		124.93	
<u>414,303.76</u>	Total Other Income		<u>573,435.47</u>	573,435.47
<u>790,238.30</u>	Total Funds Available			<u>993,152.96</u>
	Less Payments for Period:			
1,798.00	Audit Fee	1,200.00		
9,769.83	Bar News	1,998.34		
398.08	Bank Charges and Deposit Duty	700.61		
96.50	Floral Tributes	324.00		
2,207.80	Insurance			
1,260.90	Printing	5,202.47		
711.25	Publications	1,612.74		
19,322.89	Salaries and Payroll Costs	72,907.14		
<u>35,565.25</u>	Total Administration Expenses		<u>83,945.30</u>	83,945.30
<u>12,029.24</u>	Income Tax		7,842.96	7,842.96
	Capitation and Affiliation Fees —			
55,759.00	Law Council of Australia 1989/1990	64,268.00		
—	Lawasia	600.00		
10,220.00	Australian Bar Association	9,970.00		
—	International Bar Association	286.61		
475.00	Victorian Council of Professions	475.00		
<u>66,454.00</u>	Total Capitation and Affiliation Fees		<u>75,599.61</u>	75,599.61
<u>114,048.49</u>	Sub total of payments			<u>167,387.87</u>
676,189.81	Balance carried forward			825,765.09

1988		\$	\$	\$
676,189.81	Balance brought forward			825,765.09
	Less:			
844.00	Law Council of Australia	—		
10,000.00	Caseflow Management Workshop	—		
40,386.37	Entertainment and Functions	52,646.77		
(26,217.44)	Members' Payments	<u>(27,715.46)</u>	24,931.31	
144,046.66	Investments (at cost)		397,692.35	
1,184.40	Transcripts		5,029.10	
300,000.00	Loans to Barristers' Chambers Limited		200,000.00	
68,333.10	Readers' Course Expenses		77,510.80	
1,038.00	Travelling Expenses		6,629.35	
488.57	Share of Salary - Lay Observer		3,967.39	
29,047.33	Professional Consulting Fees		44,085.93	
155.00	Corporate Affairs Commission		125.00	
165.00	Melbourne University Law Students		—	
500.00	Donations — Doxa Fun Run		—	
	Donations — Monash Law Society		1,000.00	
1,000.00	Donations — Court Network		—	
85.00	Bar Memento, Portraits and Photographs		5,536.16	
—	Fees Other		30,856.00	
—	Signwriting and purchase of Lectern		<u>2,497.00</u>	
(571,055.99)				<u>799,860.39</u>
<u>105,133.82</u>	Cash Balance as at 31st August, 1989			<u>\$25,904.70</u>
	Trust Fund			
	Barristers' Benevolent Fund			
11,470.00	Amounts Received	12,020.00		
<u>11,470.00</u>	Amounts Remitted	<u>12,020.00</u>		

**VICTORIAN BAR COUNCIL
ASSETS AS AT 31ST AUGUST, 1989**

1988		\$	\$	\$
132.13	1. Cash in Bank Accounts:			
99,000.62	Savings Bank Account		—	
6,001.07	Trading Accounts		25,904.70	
	Savings Investment Account		—	
<u>105,133.82</u>			<u> </u>	25,904.70
	2. Investments at Cost:			
16,300.00	(a) 8,150 Ordinary shares at \$2 each in Barristers'		16,300.00	
	Chambers Limited			
1,150,000.00	(b) Barristers' Chambers Limited - Unsecured Loans		1,255,000.00	
<u>1,166,300.00</u>			<u> </u>	1,271,300.00
2,325.00	3. Subscriptions in Arrears			1,150.00
2,801.23	4. List "C" Expenses Prepaid			2,581.45
1,276.00	5. Candelabra, Photographs, Portraits and Lectern			9,309.16
256.00	6. Honour Board of Past Chairman of Victorian Bar Council			256.00
<u>1,278,092.05</u>	TOTAL ASSETS			<u>1,310,501.31</u>
	ACCUMULATED FUNDS			
1,140,727.77	Accumulated Funds as at 1st September, 1988			1,278,092.05
137,364.28	Net increase in Funds			<u>32,409.26</u>
<u>1,278,092.05</u>	Accumulated Funds as at 31st August, 1989			<u>1,310,501.31</u>
	NET INCREASE IN FUNDS			
	Represented by:			
41,561.50	Increase in Cash at Bank		—	
105,492.12	Increase in Investments (at cost)		105,000.00	
—	Portraits and Photographs		8,033.16	
<u>147,053.62</u>			<u> </u>	113,033.16
	Less decreases —			
(654.34)	"List C" Prepaid Expenses	219.78		
(9,035.00)	Subscriptions in Arrears	1,175.00		
—	Cash at Bank	79,229.12		80,623.90
<u>137,364.28</u>	Net increase in Funds		<u> </u>	<u>\$32,409.26</u>