

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



VICTORIAN  
BAR  
COUNCIL

# ANNUAL REPORT

1st July, 1994 to 30th June, 1995



**ANNUAL REPORT  
OF THE VICTORIAN BAR COUNCIL  
FOR THE YEAR ENDED 30TH JUNE, 1995**

To be presented to the Annual General Meeting of the Victorian Bar to be held at 5.00 p.m on Monday, 18 September 1995 in the Coffee Lounge of the Essoign Club, 13th Floor, Owen Dixon Chambers East, 205 William Street, Melbourne.

**VICTORIAN BAR COUNCIL**

***Election: In the Annual Election held in September 1994  
the following members of counsel were elected:***

**Category A: Eleven (11) counsel who are of Her Majesty's Counsel or are of not less than fifteen (15) years' standing**

Mr. A.G. Uren Q.C.  
Mr. R.F. Redlich Q.C.  
Mr. D.J. Habersberger Q.C.  
Mr. R.C. Macaw Q.C.  
Mr. J.W.K. Burnside Q.C.  
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Mr. W.R. Ray  
Mr. P.D. Elliott

**Category B: Six (6) counsel who are not of Her Majesty's Counsel and are of not more than fifteen (15) nor less than six (6) years' standing**

Miss C.F. McMillan  
Mr. M.J. Colbran  
Mr. D.F.R. Beach  
Mrs. S.M.B. Morgan  
Mr. A.J. McIntosh  
Mr. J. Tsalanidis

**Category C: Four (4) counsel who are not of Her Majesty's Counsel and are not more than six (6) years' standing.**

Ms. J.E. Richards  
Mr. C.N. Kiliass  
Ms. E. Hollingworth  
Ms. F.M. McLeod

## *CHAIRMAN'S REPORT*

At the commencement of the year under review, it was the view of some that the future of the Victorian Bar was very grim. First, both the Federal and State Governments were proposing wide ranging legislation "to reform" the legal profession. Some of the proposals being discussed appeared to be directed towards destroying the concept of, and our ability to practise as members of, an independent Bar. Secondly, the difficulties associated with the rents being charged in Owen Dixon Chambers West and, to a lesser extent, other chambers, were threatening the viability of Barristers' Chambers Limited. More importantly, these pressures were increasing the likelihood that there would be a large scale movement out of Barristers' Chambers Limited owned or leased accommodation with a consequential fragmentation of the Bar. Whilst it is still early days, it is fair to say that by the end of the year it was clear that some of the fears were unlikely to be realised.

As a member of the Law Council of Australia, the Victorian Bar played its part in producing that body's blueprint for a National Legal Services Market. In particular, Middleton Q.C. and Michael Fleming were heavily involved in the drafting of the Advocacy Rules which formed part of the blueprint. By the end of the year, however, it was still not clear whether the Victorian profession would be regulated by National or by State legislation.

For the whole of the year under review the Victorian Attorney-General's Working Party on Reform of the Legal Profession has been preparing its report. The Bar has been active in discussing relevant issues with that body and responding to its queries. However, we still do not know precisely what its final recommendations are.

Notwithstanding the delay in finalising the Working Party's report, the Attorney-General announced in April 1995 that, on the recommendation of the Working Party, the Government would introduce legislation to abolish the rule requiring barristers to rent chambers from Barristers' Chambers Limited as a condition of membership of the Bar. Ironically, this statement apparently persuaded the lessor of Owen Dixon Chambers West of the sense of what had been repeatedly put by representatives of the Bar and Barristers' Chambers Limited during lengthy negotiations, and a variation of the existing arrangements was agreed upon which resulted in rents in Owen Dixon Chambers West being reduced by 40%. This reduction has meant that Owen Dixon Chambers West is now virtually full.

It is clear, however, that such changes in our rules, imposed on us by outsiders, will alter the structure of the Bar and its associated entities. Already, two small groups have purchased floors in a Lonsdale Street building and have set up their own chambers there. Others no doubt will follow. Without the protection offered by the compulsory rule, Barristers' Chambers Limited will be forced to change. It will probably seek to move to a situation where demand equals or outstrips supply, rather than seeking to anticipate demand by having chambers available for readers as and when they wish to tenant them. It is hoped that Barristers' Chambers Limited will remain the primary provider of chambers for barristers and that the forced changes will not cause the Bar to fragment, with the consequent affect on its corporate life and the standards of advocacy and ethical conduct of the members of the Bar.

Another important area for the strengthening of the future of Bar life has been the response of the Bar Council and the Bar as a whole to issues affecting women at the Bar. There is no doubt in my mind that the Bar must take positive steps to encourage women to come to, and to stay at, the Bar. Women now comprise about 50% of law graduates and are proportionately represented in the honours degrees. Whilst most intakes of readers have, in recent years, been approximately one-third women, too many women of ability have subsequently left the Bar. As an important part of the profession, we cannot afford to lose good lawyers for reasons unrelated to ability as an advocate.

The Bar Council has responded by introducing changes which, it is hoped, will go some way towards lessening the number of women leaving the Bar and encouraging more to start reading. The Bar

Council has introduced reduced subscriptions for members who have given up full-time practice for a limited period as a result of pregnancy or the birth of a child. At the time of writing, the Bar Council had also agreed in principle to recognise the right of barristers to preserve their tenancies in chambers during a limited absence as a result of pregnancy or the birth of a child upon payment of 25% of their normal monthly rent and on condition that the chambers be available for sub-tenancy.

The introduction of the Bar's Code of Conduct in respect of sexual harassment and vilification and the appointment of Castan Q.C. and Jane Patrick as conciliators is an important change. I hope that the real value of the Code will be educative. It has already generated a great deal of debate between barristers as to what is and is not appropriate professional behaviour. I regard this as a positive move. All barristers have the right to pursue their chosen profession free from harassment, which, by definition is unwelcome conduct.

With the spotlight on the "reform" of the legal profession, the Bar needs to be able to respond promptly to public and media criticism. We all suffer if barristers develop a poor public image. With the appointment of Elisabeth Wentworth as Director of Public Affairs, the Bar Council is now in a much better position with respect to communicating with "the outside world" and responding to issues which affect us. I am pleased that requests by the media for comments by barristers on legal issues have increased and thank those members who have been willing to give their time to speak in public on important issues.

As part of our response to greater demand for information about the Bar and barristers, the Victorian Bar Directory was officially launched by the Chief Justice, Mr. Justice Phillips, at a ceremony in November 1994. The Directory has been well received and our thanks go to the Committee, chaired by Martin Q.C., which was responsible for the preparation and promotion of it. The establishment of a Bar page on the Internet, the work of David Levin, has also increased the audience for information about the Bar.

The response from members of the Bar to our pro bono scheme, run in conjunction with the Public Interest Law Clearing House, has also been gratifying. There has always been, and continues to be, a strong tradition of barristers working without fee in needy cases. The introduction of a formal scheme has allowed us to document the numbers of referrals and track the areas where demand has been greatest.

It has been a great privilege to be the Chairman of the Bar Council. As the Bar increases in size and as its public role receives greater emphasis, the task of the Chairman becomes more onerous. Without the assistance of two groups it would be impossible to act as Chairman and carry on any sort of practice. The first group is the members of the Bar Council, in particular the Vice-Chairmen, and all of those unsung heroes who serve on Bar Committees or who respond to our many requests for assistance. The second group is constituted by Ed Fieldhouse, Anna Whitney and the other loyal and hard-working members of the Bar staff. My heartfelt thanks go to everyone in these two groups.

23 August 1995

**DAVID J. HABERSBERGER**  
Chairman

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Mr. D.J. Habersberger Q.C. and Mr. J.E. Middleton Q.C. (Alternate)

*Council of Law Reporting*

Mr. J.D. Merralls Q.C. and Mr. C. Gunst (5 year term to November 1997)

*Council of Legal Education*

Mr. M.J.L. Dowling Q.C., Mr. J.I. Fajgenbaum Q.C. and Mr. P.G. Nash Q.C.

*County Court Building Cases Users Group*

Mr. A.C. Neal and Mr. R.J. Manly

*County Court Civil Jurisdiction Sub-Committee*

Mr. S.W. Kaye Q.C. and Mr. D.M.B. Derham Q.C.

*County Court Complex Civil Cases Committee*

Mr. D.E. Curtain Q.C.

*County Court Computerisation Committee*

Mr. D.S. Levin

*County Court Rules Committee*

Mr. M.J. Corrigan and Mr. I.R. Jones (Alternate)

*Federal Court Users Committee*

Mr. G.T. Pagone

*La Trobe University Proctorial Board*

Mr. F.X. Costigan Q.C.

*Law Council of Australia - 1997 Australian Legal Convention Committee*

Mr. D.E. Curtain Q.C., Mr. A.J. McIntosh and Ms. F.M. McLeod

*Law Council of Australia - Young Lawyers Committee*

Ms. F.J. Story

*Law Faculty - University of Melbourne*

Mr. N.H.M. Forsyth Q.C. and Mr. J.E. Middleton Q.C.

*Lawyers Engaged in Alternative Dispute Resolution (LEADR)*

Mr. M.B. Phipps Q.C.

*Legal Aid Commission of Victoria*

Mr. R.F. Redlich Q.C. (to 13 February 1996) and Mr. W.R. Ray (Alternate) (to 13 February 1996)

*Legal Aid Review Committee and Reserve Members*

Committee No. 1 - Mr. J.D. Montgomery (to 30 April 1996); Committee No. 2 - Mr. M.V. McInnis (to 30 April 1996); Committee No. 3 - Ms. J.A. Perlman; Panel of Reserve Members - Ms. D. Bakos (to 30 April 1996)

*Leo Cussen Institute of Continuing Legal Education*

Mr. Justice Hampel (Chairman), Dr. I.J. Hardingham (Alternate), His Honour Judge McInerney and Mr. P.G. Nash Q.C. (Alternate).

*Magistrates' Court Civil Rules Committee*

Ms. F.M. McLeod and Ms. S.M.K. Borg (Alternate)

*Magistrates' Court - Pilot Mediation Program Steering Committee*

Mr. G.A. Devries

*Monash University Law Faculty Board*

Mr. P.A. Willee Q.C. and Mr. P.G. Nash Q.C. (Alternate)

*Public Interest Law Clearing House (PILCH)*

Ms. E. Hollingworth

*Salvation Army Court and Prison Advisory Committee*

Mr. A.B.J. Coombes

*Supreme Court of Victoria Building List Users Committee*

Mr. G.H. Golvan Q.C. and Mr. D.S. Levin

*Victorian Judicial Council Steering Committee*

Mr. D.J. Habersberger Q.C.

*Victoria Law Foundation (including Grants Committee)*

Mr. D.J. Habersberger Q.C.

## ***GENERAL MEETINGS OF THE BAR***

The last Annual General Meeting of the Bar was held on 19th September, 1994.

## ***BAR COUNCIL MEETINGS***

For the year ended 30th June, 1995 the Bar Council held 8 special meetings and 25 ordinary meetings.

## ***EXECUTIVE COMMITTEE MEETINGS***

For the year ended 30th June, 1995 a total of 22 Executive Committee meetings were held.

## ***SUBSCRIPTIONS***

For the period from 1st September, 1994 the Bar Council fixed annual subscriptions for members of the Bar as follows:-

### ***Division A, Part I***

Queen's Counsel	\$1,410.00
At least 10 years	\$ 940.00
At least 6 years, but under 10 years	\$ 615.00
At least 3 years, but under 6 years	\$ 495.00
Over 1 year, but under 3 years	\$ 375.00
Under 1 year	\$ 200.00
Readers (March 1995 intake)	\$ 90.00

### ***Division A, Part II***

Crown Prosecutors	\$ 250.00
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### ***Division A, Part III***

Interstate and Overseas Queen's Counsel	\$ 325.00
Interstate and Overseas Juniors	\$ 250.00

### ***Division B, Part III***

Ministers of the Crown and Members of Parliament	\$ 250.00
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### ***Division B, Part IV***

Solicitors-General and Directors of Public Prosecutions	\$ 250.00
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### ***Division B, Part VII***

Crown Counsel and Parliamentary Counsel	\$ 250.00
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### ***Division B, Part VIII***

Other Official Appointments	\$ 250.00
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### ***Division D, Part I***

Academics	\$ 250.00
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## *PERSONALIA*

### *Obituary:*

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

The Right Honourable Sir Nigel Bowen, A.C., K.B.E on 27th September, 1994.

The Honourable Sir John Starke on 21st November, 1994.

Mr. Haslewood Ball on 7th February, 1995.

The Honourable Justice Brian Treyvaud on 3rd March, 1995.

On 7th December, 1994 at a ceremony held in the library of the Supreme Court of Victoria, members of the Bar paid tribute to the memory of the Late Sir John Starke, a retired Judge of the Supreme Court of Victoria.

### *Judicial Appointments:*

#### *Court of Appeal of the Supreme Court of Victoria*

On 7th June, 1995 The Honourable Mr. Justice Winneke was appointed President and Judge of the Court of Appeal of the Supreme Court of Victoria; The Honourable Mr. Justice Charles was appointed a Judge of the Court of Appeal of the Supreme Court of Victoria and The Honourable Mr. Justice Callaway was appointed a Judge of the Court of Appeal of the Supreme Court of Victoria.

The following members of the Supreme Court of Victoria were also appointed to the Court of Appeal of the Supreme Court of Victoria:

The Honourable Mr. Justice J.H. Phillips, The Honourable Mr. Justice Brooking, The Honourable Mr. Justice Tadgell, The Honourable Mr. Justice Ormiston, The Honourable Mr. Justice J.D. Phillips and The Honourable Mr. Justice Hayne.

#### *Family Court of Australia*

On 20th June, 1995 The Honourable Justice Dessau was appointed to the Bench of the Family Court of Australia.

#### *County Court of Victoria*

On 11th July 1994 Her Honour Judge Rizkalla was appointed to the Bench of the County Court of Victoria. On 16th August, 1994 His Honour Judge Wodak was appointed to the bench of the County Court of Victoria. On 28th February, 1995 His Honour Judge White was appointed to the Bench of the County Court of Victoria. On 21st March, 1995 His Honour Judge Duckett was appointed to the Bench of the County Court of Victoria. On 30th May, 1995 His Honour Judge Dove was appointed to the Bench of the County Court of Victoria.

### *Other Appointments:*

On 21st February, 1995 Mr. G.R. Flatman was appointed Director of Public Prosecutions for the State of Victoria.

On 3rd April 1995 Mr. F.W.D. Jones was appointed a Victorian Magistrate.

### *Queen's Counsel:*

On 29th November, 1994 the following members of the Victorian Bar were appointed Queen's Counsel in Victoria:

Mr. T.D. Wood, Mr. J.G. Santamaria, Mr. R.S. Osborn, Ms. R.A. Lewitan, Mr. D.M.B. Derham, Mr. M.R. Tittshall and Mr. M.R.B. Watt

### *Welcomes:*

On 9th June, 1995 the legal profession extended a welcome to The Honourable Sir Gerard Brennan A.C., K.B.E. and The Honourable Justice Gummow on the occasion of their first sitting in Melbourne since their respective appointments. Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council spoke on behalf of the Bar.

On 13th June, 1995 The Honourable Mr. Justice Winneke (President), The Honourable Mr. Justice Charles and The Honourable Mr. Justice Callaway were welcomed to the Bench of the Court of Appeal of the Supreme Court of Victoria by Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council.

On 3rd August, 1994 The Honourable Justice Mathews was welcomed on her appointment as President of Administrative Appeals Tribunal. Mrs. S.M. Crennan Q.C., the then Chairman of the Victorian Bar Council spoke on behalf of the Bar.

On 20th June, 1995 The Honourable Justice Dessau was welcomed to the Bench of the Family Court of Australia by Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council.

On 4th August, 1994 Her Honour Judge Rizkalla was welcomed to the Bench of the County Court of Victoria by Mrs. S.M. Crennan Q.C., the then Chairman, Victorian Bar Council.

On 18th August, 1994 His Honour Judge Wodak was welcomed to the Bench of the County Court of Victoria by Mrs. S.M. Crennan Q.C., the then Chairman, Victorian Bar Council.

On 2nd March, 1995 His Honour Judge White was welcomed to the Bench of the County Court of Victoria by Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council.

On 4th April, 1995 His Honour Judge Duckett was welcomed to the Bench of the County Court of Victoria by Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council.

On 6th June, 1995 His Honour Judge Dove was welcomed to the Bench of the County Court of Victoria by Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council.

On 6th April, 1995 Mr. F.W.D. Jones was welcomed to the Bench of the Magistrates' Court of Victoria by the Chief Magistrate, Mr. N. Papas. Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council spoke on behalf of the Bar.

### *Farewells:*

On 17th March, 1995 the legal profession met to pay tribute to The Honourable Sir Anthony Mason on the occasion of his final sitting in Melbourne as Chief Justice of the High Court of Australia. Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council spoke on behalf of the Bar.

On 28th June, 1995 a Ceremonial Sitting of a Full Court of the Federal Court of Australia was held to mark the retirement of The Honourable Justice Sweeney, C.B.E., as a Judge of the Federal Court of Australia. Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council spoke on behalf of the Bar.



On 11th April, 1995 representatives of the Bar and Law Institute met to pay tribute to The Honourable Justice Walsh on the occasion of his retirement from the Bench of the Family Court of Australia. Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council spoke on behalf of the Bar.

On 2nd August, 1994 representatives of the Bar and Law Institute met to pay tribute to His Honour Judge Just on the occasion of his retirement from the Bench of the County Court of Victoria. Mrs. S.M. Crennan Q.C., the then Chairman, Victorian Bar Council spoke on behalf of the Bar.

On 15th February, 1995 representatives of the Bar and Law Institute met to pay tribute to His Honour Judge Villeneuve-Smith on the occasion of his retirement from the Bench of the County Court of Victoria. Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council spoke on behalf of the Bar.

### *Special Sitzings:*

The Inaugural Ceremonial Sitting of the Court of Appeal of the Supreme Court of Victoria was held on 8th June, 1995 and Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council spoke on behalf of the Bar.

A special sitting of the Full Court of the Family Court of Australia was held on 8th March 1995 in honour of The Honourable Mr. Justice Treyvaud who died on 3rd March, 1995. Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council spoke on behalf of the Bar.

A Ceremony to mark the final sitting at the Magistrates' Court building, Cnr. Russell & Latrobe Streets, Melbourne was held on 2nd December 1994. Mr. D.J. Habersberger Q.C., Chairman, Victorian Bar Council spoke on behalf of the Bar.

## *ROLL OF COUNSEL*

### *DIVISION A, PART I -*

Victorian Practising Counsel - Queen's Counsel .....	122
Victorian Practising Counsel - Junior Counsel .....	1136

### *DIVISION A, PART II -*

Prosecutors for the Queen .....	15
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### *DIVISION A, PART III -*

Overseas and Interstate Counsel.....	263
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### *DIVISION B, PART I -*

Governors .....	2
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### *DIVISION B, PART II -*

Judges .....	133
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### *DIVISION B, PART III -*

Ministers of the Crown and Members of Parliament .....	9
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### *DIVISION B, PART IV -*

Solicitors-General and Directors of Public Prosecutions .....	7
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### *DIVISION B, PART V -*

Masters and Judicial Registrars.....	10
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### *DIVISION B, PART VI -*

Magistrates and Full Time Members of Statutory Tribunals .....	56
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### *DIVISION B, PART VII -*

Crown Counsel and Parliamentary Counsel .....	10
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### *DIVISION B, PART VIII -*

Other Official Appointments .....	5
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### *DIVISION C, PART I -*

Retired Judges and other Judicial Officers .....	39
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### *DIVISION C, PART II -*

Retired Holders of Public Office other than Judicial Officer.....	7
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### *DIVISION C, PART III -*

Retired Counsel .....	39
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### *DIVISION D, PART I -*

Academics .....	17
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TOTAL.....	1870
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***Between 1st July, 1994 and 30th June, 1995 the following 68 persons signed the Roll of Counsel:***

Nigel Mark Turner (re-signed)  
Howard George Draper (re-signed)  
The Honourable Justice Havard William Olney  
Laurence William Maher  
Ian Barton Stewart  
Danielle Susan Hunter-Smith  
Susan Carol Dowler  
Anthony John Lawrence  
Lucia Antonia Raponi  
Clement Arundel Newton-Brown  
Michael Peter Rhys Turner  
Christopher Thomas Corns  
Donald Frederick Kinder  
Michael Francis Curran  
Melanie Patricia Young  
Joseph Patrick Carney  
Aaron Abraham Eidelson  
Carol Rose McOmish  
Stephen John Ballek  
Peter James Morrissey  
Mirella Trevisiol  
Suzanne Sillitoe  
Malcolm McHugh Ramsey  
Douglas James Love

Richard Berian Phillips (re-signed)  
The Hon. Neil A. Brown QC (re-signed)  
Martin Anthony McDonogh  
David Bindon Blackburn (re-signed)  
David John Whitford (re-signed)  
Graham Bruce Powell (re-signed)  
Jacqueline Horan  
Nicholas Alexander Frenkel  
Kim Maree Pettigrew  
Richard Michael Niall  
Trevor Edwin Wraight  
Nicholas David Hopkins  
Dominic Peter Lay  
Matthew Pierre Barrett  
Shaun Leon Le Grand  
Christine Marie Clough  
Elizabeth Mary King  
Stuart John Wood  
Gerard Paul Butcher  
Garry John Fitzgerald  
Jane Marie Josephine Patrick  
Alan James Hebb  
John Malcolm Buxton  
Nicola Louise Hoobin

Peter Thomas Nugent  
Jane Hendtlass  
Georgina Lucy Schoff  
Christopher Mark Gamble  
Wendy Duncan  
Dermot Arthur Dann  
Gregory Thomas Connellan  
David Bramwell Ewart  
John Mexhit Selimi  
Kevin John Aloysius Lyons  
Gregory Joseph Meese  
James Patrick Watson  
Peter Surya Clarke  
Ian Robin Porter  
Paul Graham  
Gavan Frederick Meredith  
Grevis James Beard  
Joanne Laura Piggott  
Noah Matthew Eidelson  
Rima Elia

*Between 1st July, 1994 and 30th June, 1995 the names of the following 23 Overseas and Interstate Counsel were entered on the Roll of Counsel:*

Paul Edwin Blackett (NSW)	Malcolm Alexander McLeod McGregor (NSW QC)
Gregory John Stanton (NSW)	Ann Marie Vanstone (SA QC)
Lawrence Robert Somosi (NSW)	Darlene Ann Skennar (QLD)
James David Edwardson (SA)	Robert John Weber (NSW)
Angela Helen Bowne (NSW)	John Gerard Fogarty (New Zealand QC)
John Gilmour (WA)	David Arthur Rhodes Williams (New Zealand QC)
David Anthony Chaikin (NSW)	Ian John Sampson (SA)
Gideon Super (NSW)	Jacqueline Sarah Gleeson (NSW)
Lional Philip Robberds (NSW QC)	Christopher Donald Curtain (NSW)
Ventry Rollo Wakefield Gray (NSW)	Patrick Peter Costello (NSW)
Robert Gabor Forster (NSW SC)	Julian Edward Sexton (NSW)
Rodney Stephen Litster (QLD)	

*Members whose names have been transferred from Division A, Part I (Victorian Practising Counsel) to Division A, Part II (Crown Prosecutors):*

Mr. J.D. McArdle, Mr. P.X. Elliott, Mr. B.M. Young, Mr. P.A. Coghlan, Mr. W.H. Morgan-Payler and Mr. G.R. Flatman

*Members whose names have been transferred from Division A, Part I (Victorian Practising Counsel) to Division A, Part III (Overseas and Interstate Counsel):*

Mr. K.D. Wilkinson, Mr. J.R.G. Weeramantry and Dr. J.J. Hockley

*Members whose names have been transferred from Division A, Part I (Victorian Practising Counsel) to Division B, Part II (Judges):*

The Honourable Mr. Justice Downing, His Honour Judge White, The Honourable Mr. Justice Winneke, The Honourable Mr. Justice Charles, The Honourable Mr. Justice Callaway, His Honour Judge Dove and His Honour Judge Wodak

*Members whose names have been transferred from Division A, Part I (Victorian Practising Counsel) to Division B, Part VI (Masters and Judicial Registrars):*

Ms. K.M. Parkinson and Ms. F. Millane

*Members whose names have been transferred from Division A, Part I (Victorian Practising Counsel) to Division B, Part VIII (Other Official Appointments):*

Mr. D. Trapnell and Mr. M. Dodson

*Members whose names have been transferred from Division A, Part I (Victorian Practising Counsel) to Division C, Part III (Retired Counsel):*

Mr. O.B. Green, Mr. D. Willshire, Mr. D. Thomas, Mr. G. McD. Harris and Mrs. J.D. Whitehead

*Member whose name has been transferred from Division A, Part I (Victorian Practising Counsel) to Division D, Part I (Academics):*

Dr. C.T. Corns

*Member whose name has been transferred from Division A, Part II (Prosecutors for the Queen) to Division B, Part VII (Crown Counsel & Parliamentary Counsel):*

Mr. R.S.L. Wild Q.C.

*Member whose name has been transferred from Division A, Part II (Prosecutors for the Queen) to Division B, Part IV (Solicitors General and Directors of Public Prosecutions):*

Mr. G.R. Flatman

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

The Honourable Justice Sackville, The Honourable Mr. Justice Hunter, The Honourable Mr. Justice Bruce and The Honourable Mr. Justice Sperling

*Member whose name has been transferred from Division A, Part III (Overseas and Interstate Counsel) to Division B, Part IV (Solicitors General and Directors of Public Prosecution)*

Mr. N. Cowdery Q.C.

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

Mr. C.F. Kilduff and Mr. F.D. Cumbrae-Stewart

*Members whose names have been transferred from Division B, Part II (Judges) to Division C, Part I (Retired Judges and other judicial officers):*

His Honour Judge Villeneuve-Smith, The Honourable Justice Sweeney CBE and His Honour Judge Just

*Members whose names have been transferred from Division B, Part II (Judges) to Division A, Part I (Victorian Practising Counsel):*

Mr. R.K. Kent Q.C. and Mr. R.M. Downing

*Member whose name has been transferred from Division B, Part IV (Solicitors General and Directors of Public Prosecution) to Division A, Part I (Victoria Practising Counsel):*

Mr. B.D. Bongiorno Q.C.

*Member whose name has been transferred from Division B, Part VI (Magistrates and Full Time Members of Statutory Tribunals) to Division B, Part II (Judges):*

The Honourable Justice Dessau

*Member whose name has been transferred from Division B, Part VII (Crown Counsel and Parliamentary Counsel) to Division B, Part II (Judges):*

His Honour Judge Duckett

*Member whose name has been transferred from Division B, Part VIII (Other Official Appointments) to Division A, Part I (Victorian Practising Counsel):*

Mr. P. Luke

*Member whose name has been transferred from Division D, Part I (Academics) to Division A, Part I (Victorian Practising Counsel):*

Ms. D.S. Mortimer

*Member whose name has been transferred from Division D, Part I (Academics) to Division C, Part III (Retired Counsel):*

Mr. S.W. Johnston

*Members whose names have been removed from Division A, Part I (Victorian Practising Counsel):*

Ms. S. Lindsey, Mr. W.D. Calanchini, Ms. J.L. Sparks, Mr. F. Ellis, Mr. J. Rutherford, Ms. D.M. Farlow, Ms. M.A.E. Schwartz, Mr. M. Gland, Mr. M.J. Tomasoni, Mr. R.J. Kemelfield, Ms. A.M. Boymal, Mr. J. Ginnane, Ms. G.E. Howse, Ms. M. Abriola, Mr. P.A. Tribe, Mr. E.A. Oxnevad, Mr. G.D. Holley, Mr. S.J. Winter, Mr. H.P. Kooter, Ms. M.C. Mangan, Mr. G.V. Laxon, Mr. M.J. Alexander, Mr. K.J. Stanton, Mr. J.T. Gaudion and Mr. W.P. Bechervaise.

*Members whose names have been removed from Division A, Part III (Overseas and Interstate Counsel):*

Mr. R.F. Margo, Mr. C.R. Darvall Q.C., Mr. G. Hiley Q.C., Mr. M.S. Blumberg, Mr. A.J. McQuillen, Mr. G.P.F. Rundle and Mr. M.R. Schamroth

*Member whose name has been removed from Division B, Part III (Ministers of the Crown and Members of Parliament):*

The Honourable A.R. Stockdale MP

*Member whose name has been removed from Division B, Part VI (Crown Counsel and Parliamentary Counsel):*

Ms. H.A.A. Holt

*Members whose names have been removed from Division D, Part I (Academics):*

Mr. R.M.C. Nankivell and Mr. B. St. Vaughan

## **FUNCTIONS**

### *Opening of the Legal Year:*

Religious Observances for the Legal Profession for the opening of the Legal Year were held on 30th January, 1995. The Services were held at St. Paul's Cathedral, St. Patrick's Cathedral and Temple Beth Israel.

### *Social Functions:*

On 27th July, 1994 the Chairman and members of the Victorian Bar Council held a reception in the Essoign Club for Victorian Magistrates.

On Wednesday, 31st August, 1994 a reception was held in the Essoign Club for Judges of The High Court of Australia, The Supreme Court of Victoria, The Federal Court of Australia, The Family Court of Australia and the County Court of Victoria.

At a function held in the Essoign Club on 1st September, 1994 Readers were welcomed to the Victorian Bar.

On 11th October, 1994 at a cocktail party held in the Essoign Club, the Chairman and members of the Victorian Bar Council entertained convention delegates who were attending the International Bar Association Conference being held in Melbourne.

At a dinner held in the Essoign Club on 20th October, 1994 the Chairman and Members of the Victorian Bar Council entertained the Past Chairman and retiring Members of the Victorian Bar Council.

A Readers and Masters dinner was held in the Essoign Club on 24th November, 1994 and the guest speaker was The Honourable Justice Gray of the Federal Court of Australia.

The Bar's Christmas Cocktail Party was held in the Essoign Club on 16th December, 1994. The function was well attended by Members of the Bench and Bar together with spouses and guests.

At a function held in the Essoign Club on 1st March, 1995 Readers were welcomed to the Victorian Bar.

On 2nd March, 1995 the Chairman and members of the Victorian Bar Council held a dinner at the Essoign Club in honour of The Right Honourable The Lord Nicholls of Birkenhead.

On 22nd March, 1995 at a function held in the Chairman's Room, the Chairman and members of the Victorian Bar Council entertained 20 members of the Indonesian Attorney-General's Department who were visiting Melbourne to attend a Business Laws Course at the Faculty of Law, University of Melbourne.

On 31st March, 1995 the Chairman and members of the Victorian Bar Council held a dinner at the Essoign Club in honour of the Presidents of the Country and Suburban Law Associations.

A Readers and Masters dinner was held in the Essoign Club on 25th May, 1995 and the guest speaker was Mr. Hartog C. Berkeley Q.C.

The 1995 Victorian Bar Annual Dinner was held on 27th May, 1995 at Leonda by the Yarra. The dinner was well attended by members of the Bench and Bar together with guests of the Bar.

Honoured guests were:-

His Excellency The Honourable Richard E. McGarvie, A.C., Governor of Victoria, The Honourable Sir Gerard Brennan, A.C., K.B.E., The Honourable Justice William Gummow, Rear-Admiral Mr. Justice A.R.O. Rowlands, A.O., R.F.D., R.D., R.A.N.R., His Honour Judge Campbell, His Honour Judge Morrow, His Honour Judge McInerney, Her Honour Judge Rizkalla, His Honour Judge Wodak, His Honour Judge White, His Honour Judge Duckett and Mr. Geoffrey R. Flatman, D.P.P.

Mr. D.J. Habersberger Q.C., Chairman of the Victorian Bar Council proposed the toast to the Queen. The Chairman welcomed Mr. B.K.C. Thomson Q.C. and Mr. C.H. Francis Q.C. as special guests. Mr. M. Tobias Q.C., Vice-President of the Australian Bar Association proposed the toast to the Australian Bars.

Mr. Habersberger Q.C., Chairman, Victorian Bar Council welcomed the honoured guests of the Bar and introduced Mr. Junior Silk, Mr. M.R.B. Watt Q.C. who addressed the honoured guests. The Honourable Sir Gerard Brennan, A.C., K.B.E. and His Honour Judge McInerney responded on behalf of the honoured guests.

#### *Other Functions:*

On 9th November, 1994 at a function held in the Chairman's Room, The Honourable Mr. Justice Phillips, Chief Justice of the Supreme Court of Victoria launched the Victorian Bar Directory. The function was well attended by representatives of the Bar and media organisations.

On 1st December, 1994 a debate was held on the proposition that "Being a Barrister is Not What it Used to Be." The debate was arranged under the auspice of the Victorian Bar Council and proved to be highly successful.

During the year under review the Chairman and members of the Victorian Bar Council at various functions entertained Members of Parliament from the State Government and Opposition.

### **SPORTING EVENTS**

#### *Hockey:*

During the year the Bar's hockey team played matches against teams from R.M.I.T. and the Law Institute. In the first match the R.M.I.T. won by 4 goals to 1. In the second match the solicitors won by 4 goals to 2, thus retaining the Scales of Justice Cup.

#### *Cricket:*

On 19th December, 1994 cricket matches were played against teams from the Law Institute.

At the match played at the Albert Cricket Ground the Law Institute 1st XI defeated the Bar's 1st XI. Scores were Law Institute 7/170 at compulsory close, with the Bar reaching 6/143 at stumps.

At the match played at the Old Scotch Ground the Law Institute 2nd XI defeated the Bar's 2nd XI. Scores were Law Institute 8/161 at compulsory close, with the Bar all out for 60.

On 19th March 1995 the 6th annual cricket matches between the Bar and Mallesons Stephen Jaques were played at Wesley College Ground. The Bar's 1st XI defeated Mallesons 1st XI and won the inaugural Phil Opas Q.C. trophy. The Bar's 2nd XI were defeated by Mallesons and Mallesons won the Phil Opas Q.C. 2nd XI shield.

*Sailing:*

On 16th December, 1994 the Wigs and Gowns Squadron conducted its 10th Regatta. The Regatta was held at the Royal Yacht Club of Victoria, Williamstown.

*Tennis:*

On 20th December, 1994 the annual tennis tournament between the Bench and the Bar and the Law Institute was played at Kooyong Lawn Tennis Courts. The Law Institute team won the tournament and retained the Judge O'Driscoll trophy.

On 20th December, 1994 and for the first time a Royal Tennis Tournament was played between members of the Bench and Bar against the Law Institute. The solicitors won the Tournament and won the inaugural Judge Box Cup. The Cup was kindly donated by His Honour Judge Kellam.

*Golf:*

The annual golf match between members of the Bench and Bar against the Law Institute was played at the Royal Melbourne Golf Club on Monday, 19th December, 1994. The Bench and Bar successfully defended the Sir Edmund Herring trophy.



## *ANNUAL REPORT OF THE ETHICS COMMITTEE*

Since the last Annual Report, the Ethics Committee has conducted 24 meetings and held 8 summary hearings pursuant to Section 14E of the *Legal Profession Practice Act* 1958. The Committee found that disciplinary offences had been committed by three of the barristers concerned.

### *First Hearing*

Subject of Hearing: The Committee was of the opinion that Counsel may have committed a disciplinary offence or offences by revealing to a journalist, who was interviewing Counsel in the capacity as Treasurer of an Association, information which Counsel knew, or believed, would be published, and which would have the effect of disseminating to the public, or to a section of the public:

- (a) an account of proceedings within a Court (in which proceedings Counsel was briefed to appear); and
- (b) the identity of a party or parties to those proceedings.

Determination: The Committee determined that having regard to the matters put to it, that the conduct complained of did not reach the standard of falling short required to constitute a disciplinary offence, and therefore the complaint was dismissed.

### *Second Hearing*

Subject of Hearing: The Committee was of the opinion that Counsel may have committed a disciplinary offence or offences by:

- (a) disclosing to the Court information received by Counsel in the course of a discussion between Counsel and opposing Counsel, namely that the person to whom Counsel had been speaking by telephone was the complainant; and
- (b) stating to the Court that Counsel knew that the complainant had been informed in the course of a telephone conversation between him and opposing Counsel of an invitation by the Judge to the parties to express any concerns about the Judge hearing the matter in order that arrangements could be made for another Judge to hear the matter if there were such concerns, when at most Counsel inferred from the information referred to in (a) above that the complainant had been informed of that invitation by opposing Counsel.

Determination: The Committee determined that the allegation in paragraph (b) should be dismissed. As to the allegation in paragraph (a), a disciplinary offence had been committed pursuant to Section 14F(5)(a) of the Act, and the Committee determined that no further action should be taken.

### *Third Hearing*

- Subject of Hearing: The Committee was of the opinion that Counsel may have committed a disciplinary offence or offences arising from the following facts:
- (a) during the course of a hearing before the Court, Counsel said to the Magistrate, "Outrageous, I have never come across a defendant more outrageous than this defendant" or words to that effect;
  - (b) that during the course of the same hearing Counsel said to the Court, "I will not be bullied by this pathetic individual" or words to that effect; and
  - (c) that in the course of the same hearing Counsel said to the complainant "I would punch your head in too if I was owed \$12,000.00 over..." or words to that effect.

Determination: The Committee determined that the matters set out in paragraph (a) did not form part of the findings of the Committee.

As to the matters referred to in paragraphs (b) and (c), the Committee was satisfied that a disciplinary offence had been committed because of the manner of speaking to a defendant appearing in person.

The Committee took the view that the conduct at the summary hearing indicated that Counsel was fully aware of the mistake, was truly sorry and it was unlikely that such an offence would be committed again. Therefore, the Committee resolved to take no further action.

### *Fourth Hearing*

The fourth hearing was conducted over three evenings.

Subject of Hearing: The Committee was of the opinion that Counsel may have committed a disciplinary offence or offences by acting for the complainant when in a position of conflict of interest.

Determination: The Committee was of the view that the conduct under consideration did not amount to a disciplinary offence and the complaint was dismissed.

### *Fifth Hearing*

Subject of Hearing: The Committee was of the opinion that Counsel may have committed a disciplinary offence by:

- (a) in breach of Rule 4.6(h) Rules of Professional Conduct and Practice, accepting more than one court brief for that day when Counsel knew or ought to have known that justice could not be done to each of them without interfering with the disposal of court business; or
- (b) contrary to Rule 1.2(c) Counsel's conduct was such as was likely to diminish public confidence in the legal profession or in the administration of justice or otherwise bring the legal profession into disrepute.

Determination: The Committee was of the view that Counsel was not in breach of Rule 1.2(c) and Rule 4.6(h), the matters were not proven and the complaint was dismissed.

### *Sixth Hearing*

Subject of Hearing: The Committee was of the view that a disciplinary offence or offences may have arisen from the following:-

- (a) Counsel was unable to attend to a matter in which Counsel was briefed for a substantial part of the morning; and
- (b) Counsel failed to put a counter-offer when specifically instructed by the client to do so.

Determination: The Committee agreed to accept a no case submission in relation to paragraph (a) and after further consideration the Committee dismissed the complaint in paragraph (b).

### *Seventh Hearing*

Subject of Hearing: The Committee was of the view that Counsel may have been in breach of Section 14(B)(a)(b) and (c) in that:-

1. Counsel accepted a brief to appear in a Family Court long defended matter.
2. At the time of accepting the brief, Counsel failed to inform the instructing solicitor that Counsel had a long standing commitment which precluded Counsel appearing in a long defended matter.
3. After commencement of the hearing and without prior warning to the instructing solicitor, Counsel refused to further conduct the matter and withdrew from the case on the basis of a long standing prior commitment which required Counsel's attendance in priority to the matter in which Counsel had been briefed.

Determination: The Committee found that Counsel was instructed to apply for an adjournment in the proceedings and therefore the Committee resolved that the complaint be dismissed.

### *Eighth Hearing*

Subject of Hearing: The Committee was of the opinion that Counsel may have committed an offence in that contrary to Rules 1.2(b) or 1.2(c) and/or 3.10 Rules of Professional Conduct and Practice, failed within a reasonable time after the hearing date, and after being specifically requested by the instructing solicitor to do so, to return to the instructing solicitor a copy of the terms of settlement agreed to by the parties.

Determination: At the hearing the charge was amended to one of "failing to promptly answer telephone calls and correspondence of an instructing solicitor. The Committee found that the amended charge had been proven.

The Committee took into account that Counsel was prepared to admit to the charge. The Committee further resolved to take no further action.

At the time of preparing this report there were two summary hearings scheduled to take place.

In addition to the eight summary hearings, one matter was heard by the Barristers' Disciplinary Tribunal on 5 December 1994.

Two charges were laid by the Ethics Committee of the Victorian Bar Council under Section 14B(a)(b) & (d) of the *Legal Profession Practice Act 1958* against the barrister that he did engage in professional misconduct in that in the course of acting as Counsel at a compulsory conference in the Industrial Relations Commission he read words to the following effect:

- that if the matter was not settled within 14 days by the payment to his client of \$30,000.00, his client had grave concerns as to whether she would be able to prevent a third party from forwarding to the appropriate authorities financial records relating to the other party's years of tax evasion.

And at the conclusion of the compulsory conference he said words to the effect

- "the 14 days starts to run now".

The Tribunal determined:

that the barrister had committed a disciplinary offence within the meaning of Section 14B(a) of the *Legal Profession Practice Act 1958*.

The Tribunal ordered:

that Russell George Mitchell be suspended from practice until 5 March 1995 and further ordered that the barrister pay the costs and expenses of the Victorian Bar Council in the proceeding and the costs incurred by the Tribunal and that a statement containing the name of the barrister, the substance of the charge found proved and the Order of the Tribunal be published in the Annual Report of the Victorian Bar Council pursuant to Section 14H (1) (vii) of the *Legal Profession Practice Act 1958*.

The members of the Ethics Committee are:

Mr. W.B. (Brind) Zichy-Woinarski Q.C. (Chairman)

Mr. John F. Lyons Q.C.

Mr. Paul M. Guest Q.C.

Mr. H. McM. (Michael) Wright Q.C.

Mr. Ross C. Macaw Q.C.

Mr. J.T. (Jack) Rush Q.C.

Mr. E.N. (Noel) Magee Q.C.

Mr. Christopher J. Ryan

Mr. Michael J. Crennan

Miss Rozeta Stoikovska (Secretary)

Mrs. Susan M.B. Morgan

Mr. G.T. (Tony) Pagone

Ms. Jennifer Davies

Mr. Rodney J. McInnes

Ms. Katharine M. Williams (Assistant Secretary).

<b>COMPLAINTS</b>	<b>01/09/91</b>	<b>01/09/92</b>	<b>01/09/93</b>	<b>01/07/94</b>
	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>
	<b>31/08/92</b>	<b>31/08/93</b>	<b>30/6/94</b>	<b>30/6/95</b>
	<b>12 Months</b>	<b>12 Months</b>	<b>10 Months</b>	<b>12 Months</b>

Number of matters referred by the Chairman of the Victorian Bar Council to the Ethics Committee which disclosed complaints of disciplinary offence

71 72 30 12

Number of matters referred by the Chairman of the Victorian Bar Council to the Ethics Committee which did not disclose complaints of disciplinary offences

N/A N/A 35 62

Number of matters which are yet to be determined whether they disclose complaints of a disciplinary offence

N/A N/A 08 6

Number of matters of disciplinary offences investigated of the Committee's own motion

06 10 — 1

Number of complaints under consideration at commencement of reporting period (i.e. 1/7/94)

26 28 37 21

Number of complaints under consideration at date of report (i.e. 30/6/95)

28 37 21 13

Number of matters concluded during the reporting period

75 73 89 89

<b>SOURCE OF COMPLAINTS</b>	<b>01/09/91</b>	<b>01/09/92</b>	<b>01/09/93</b>	<b>01/07/94</b>
	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>
	<b>31/08/92</b>	<b>31/08/93</b>	<b>30/6/94</b>	<b>30/6/95</b>
	<b>12 Months</b>	<b>12 Months</b>	<b>10 Months</b>	<b>12 Months</b>

Clients	43	49	43	50
Solicitors	16	10	20	14
Judicial	05	03	02	04
Counsel	05	04	05	05
Police	02	03	01	01
Others	01	03	02	06
Own Motion	05	10	—	
	01			

## *ANNUAL REPORT OF THE EXECUTIVE COMMITTEE OF THE VICTORIAN BAR COUNCIL*

While the Chairman, Vice-Chairmen, Honorary Secretary and Assistant Honorary Secretary meet most mornings in the Chairman's Room, the full Executive Committee meets fortnightly, and more frequently when necessary. All members of the Executive Committee are members of the Bar Council.

The members of the Executive Committee are 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.

Each month the members of the Executive Committee meet with the Executive of the Law Institute of Victoria to discuss matters of mutual interest.

The time of the Executive has been occupied largely by matters touching upon changes to the legal profession and the practice of barristers.

## *ANNUAL REPORT OF THE ESSOIGN CLUB*

In the previous Annual Report the Committee adverted to the re-opening of the Essoign Club on 4 August 1994, stating that "it has been pleased to find that changes to the standard and price of food, the service and the ambience of the dining room have been warmly received". The Committee is pleased to report that, as is shown by the number of members regularly attending, acceptance of these changes has continued.

Since our previous report, the number of members regularly attending the Club has steadied at a level sufficient to ensure the continuation of the Club. However, that level is not such as to permit the Committee to become complacent and discard caution, either by abandoning its attempts to ensure greater use of the Club's facilities or by permitting the standards of service to be reduced.

The fact that since August 1994 there have been only a limited number of staff changes, is indicative of the growing acceptance of Club members of the staff. This acceptance has resulted in a boost in the level of the service provided to members. It is hoped that this will continue to the further benefit of the Club.

It has been one of the aims of the Committee to pay close attention to the need to maintain variety in the menu, without sacrificing the standard of the food provided and without the need of price increases to enable such variety to be achieved. This is no easy task and the Committee is thankful for the dedication of the Manager to help achieve this aim.

The Bar Manager continues to assist the Club Committee in the selection of wines for consumption by Members, either by the glass or by the bottle. Of necessity there has been a reduction in the extensive range of wines previously available. However, this has not resulted in a reduction of the quality of product available in the Club. The Bar Manager is to be complimented on his efforts.

Due to increased patronage the trading results of the Club have improved. On the other hand the number of members of the Club has decreased in line with the reduction in membership of the Victorian Bar. A further decline in Club membership has occurred following the Committee's decision to discontinue the membership of any person whose membership fee was not paid by 30 June 1995. As a result approximately 100 names have been removed from the list of members.

Several initiatives, which recently have been taken by the Manager, indicate that in the ensuing year we will see a further boost in the use of the Club, accompanied by an increase in the already high standards of service presently enjoyed by members.

## ANNUAL REPORT OF THE CRIMINAL BAR ASSOCIATION

The International Criminal Law Congress will be held in Melbourne next year, between 9th and 13th October. A committee consisting of Hampel J., Woinarski Q.C., Lovitt Q.C., Perlman and David Grace Q.C. is currently liaising to organize the conference. Members of the Criminal Bar Association will also be represented on the Papers Committee when it is established shortly. It is hoped that all members of the Bar, in particular those who practise in the Criminal Law will play a part in these proceedings.

On 28th August 1994 a joint seminar organized with the Criminal Bar Association and the Law Institute of Victoria was held at the Leo Cussen Institute in relation to discussion papers produced by the Model Criminal Code Officer's Committee concerning "*Theft, Fraud and Related Matters*" and "*Blackmail, Forgery, Bribery and Secret Commissions*". The Seminar was organized by Dr. David Neal, a member of the Committee and the Criminal Bar Association.

In the course of the year an enquiry was conducted into the Legal Aid Commission by Mr. Don Cooper. The Criminal Bar Association made submission to Mr. Cooper concerning those aspects of legal aid which affect those who practise criminal law.

Following the establishment of the Office of the Public Prosecution negotiations have taken place with the new Director of Public Prosecutions, Mr. G.R. Flatman and the Solicitor for Public Prosecutions, Mr. P.C. Wood concerning fees payable to those members of the Private Bar who appear as Prosecuting Counsel and in particular the reduction of fees in some instances. Those negotiations are continuing and it is hoped that there will be an increase in those fees by the end of the calendar year. A General Meeting of the Criminal Bar Association was held on 29th March 1995 to discuss these and associated matters.

A number of legislative incentives from both the State and Federal Governments were the subject matter of submissions made by members of the Criminal Bar Association. They included:

- Crimes (Procedures) Regulations 1994
- Crimes Amendment Bill (1994) (Commonwealth)
- Crimes and Other Legislation Amendment Bill 1994 (Commonwealth)
- A Review of the Mutual Assistance in Criminal Matters Act 1987 (Commonwealth)
- The Model Mental Impairment Bill, The Model Forensic Procedures Bill; both produced by the Model Criminal Code Officer's Committee
- Magistrates' Court Media Access Guidelines

Members of the Committee of the Criminal Bar Association appeared before the Parliament of Victoria Law Reform Committee to make submissions concerning the Review of Juries and Jury Service in Victoria.

The Criminal Bar Association has co-operated with the County Court Listing Initiative under the supervision of Judges Keon-Cohen and Meagher which took place earlier this year.

On 23rd February 1995 a seminar was held on Appellate Advocacy. This event was well attended. The Association wishes to record its thanks to Justices Southwell and Hampel for their assistance.

On 12th October 1994, a dinner was held by the members of the Criminal Bar Association to coincide with International Bar Association Conference held in Melbourne and on 12th April, 1995 the Annual Dinner of the Bar Association was held at Jacques Reymond At Allisons Restaurant in Armadale. In early December 1994 approximately 110 members attended a Christmas Party held by the Criminal Bar Association.

At the Annual General Meeting held on 31st August 1994 the following Executive was elected:

Brind Zichy-Woinarski Q.C.	Chairman
Bill Morgan-Payler	Vice-Chairman
John McArdle	Secretary
Bill Stuart	Treasurer
Colin Lovitt Q.C.	Membership Secretary

On 31st May 1995 Bill Morgan-Payler resigned as Vice-Chairman. Subsequently the following were elected to the Committee:

Remy Van de Weil  
Roy Punshon  
Douglas Salek  
David Drake  
Richard Maidment  
Mark Dean  
Janine Perlman  
Sean Grant  
David Neal

During the year, Honorary Membership was extended to Her Honour Judge Rizkalla and Mr. G.R. Flatman, DPP.

## *ANNUAL REPORT OF THE ACADEMIC AND CONTINUING LEGAL EDUCATION COMMITTEE*

The main achievement of the Committee during the year has been the organising of seminars. The seminars are of a high standard (and only a very modest fee of \$10.00 is charged). The Committee is very much indebted to those who have given seminars. This year they include Peter Crofts and his assistants from Deloitte Touche Tohmatsu (two seminars), Smith J., Robin Brett and Elizabeth Hollingworth on the new Evidence Act (Cth.) (three seminars), Castan Q.C., Jessup Q.C., Greenberger and Howard Q.C.. The Committee pays tribute (in words, and not money) to the vast amount of work these speakers put in to their assignments.

Whilst the Bar rightly says that it has always been a most competitive place, it is clear that it is in the course of becoming more competitive, and plainer by the day that **expertise** and **knowledge** and probably increased **specialisation** are an important part of the Bar's role, and an essential bulwark against incursions by others. Members of the Bar are encouraged (indeed exhorted) to keep learning. Reference to "my learned friend" should not be just custom or politeness - it should be no more than the truth.

## *ANNUAL REPORT OF THE COMMON LAW BAR ASSOCIATION*

In August 1994 the Secretary of the CLBA for the last eight years was appointed to the Bench of the County Court. Tom Wodak's very significant contribution to the Association over this period is well known to members and greatly appreciated. David Martin has taken over the secretarial duties.

Over the past 12 months a considerable amount of time was devoted to addressing the problems associated with the County Court Lists. Notwithstanding the appointment of four additional judges, the number of cases waiting to be heard and the time between setting down and trial, continued to increase. The most significant factor in this accumulation of actions awaiting hearing was the Victorian WorkCover Authority's conferencing procedures which precluded settlement negotiations subsequent to Section 135B(4) conferences. It became apparent to the Association that the appointment of more judges would not solve the problem, and that the only answer was to convince



the VWA that its policy should be changed. Representations to this end were made to a number of Parliamentarians and also to the Department of Justice. On 20th December 1994 the Minister issued further directions designed to facilitate the resolution of listed cases. This led to a further round of pre-trial conferences and ultimately to the establishment, in May 1995, of the Independent Expert Panel. It is believed that these steps will cause a significant reduction in the Lists. However, the volume of litigation generally in the County Court has increased and the Court has now taken steps to assist in the disposal of the large number of miscellaneous causes now awaiting trial.

The Transport Accident (General Amendments) Bill 1994 proposed abolition of the right to recover damages for loss of services provided by a deceased and to the right to interest on judgment in Wrongs Act actions. Submissions were made to several Parliamentarians who took up the matter on behalf of the CLBA. Some success was achieved in that the right to recover interest on judgment has been retained.

During the past year consideration has also been given to the Law Reform Committee "Discussion Paper on Jury Service in Victoria", Fiona Tito's "Review of Professional Indemnity Arrangements for Health Care Professionals" and the Industry Commission's report on "Worker's Compensation in Victoria".

The forthcoming year will see continued monitoring of the County Court List situation and attention will be directed to the work of the Supreme Court and the listing of cases in that jurisdiction.

### *ANNUAL REPORT OF THE EQUALITY BEFORE THE LAW COMMITTEE*

The Equality before the Law Committee has had an active year. As a result of its activities -

- (a) the Bar Council has amended the Rules of Conduct by providing that sexual harassment and vilification are unacceptable conduct - a confidential procedure for conciliation of complaints was established;
- (b) the Bar Council has been requested to engage Keys Young to investigate gender discrimination at the Bar and to take appropriate corrective steps in respect of that discrimination;
- (c) consultative steps have been undertaken with a view to redressing the significant gender imbalance in recent appointments - eighteen of the last nineteen appointments to the Magistrates' Court has been of a male and no female judicial appointments have been made to the Supreme Court; and
- (d) Kathy Mack will be giving a CLE lecture relating to Women and the Law.

The members of the Committee have been dedicated to ensuring that equality before and under the law is regarded as a matter of fundamental importance to the due administration of the law rather than as merely a matter of philosophical or jurisprudential interest. In that regard the Bar has a critical role to play in seeking that outcome.

### *ANNUAL REPORT OF THE FAMILY LAW BAR ASSOCIATION*

The Association continues to have a strong level of membership amongst those practising in the area of family law.

The year has seen proposals for significant statutory change to important areas of family law, including the role and responsibilities of estranged parents and that of property division (specifically superannuation). Whilst no such changes have yet been made it seems likely that they will be pressed by the Parliament in the near future.

Discussion also continues in the endeavour of the Family Court to simplify and streamline court forms and procedures. Lengthy delay has taken place in its deliberations and that which was planned to come into effect on 1st January, 1995 at the time of our last Report is now scheduled for 1st January, 1996.

This year has seen, as in other areas of practice, a drive by the Legal Aid Commission of Victoria for a change in the basis upon which Family Law matters are to be funded. For what are basically described as reasons of administrative convenience, the Commission is actively contemplating payment to Solicitors of a "lump sum" fee (inclusive of the cost of retaining counsel) for many applications, particularly interlocutory applications. Moreover, the Commission is contemplating increased provision of salaried legal officers. Representations were made on behalf of the Bar by its Chairman, Habersberger Q.C., Burnside Q.C. as Chairman of the Fees Committee and by a representative of the Association to representatives of the Commission, including the Director, Mr. Gandolfo. A constructive exchange of views took place and the Commission indicated a preparedness to re-examine its attitude in the light of submissions put. No substantive response has as yet been received.

Increasing pressure upon the Legal Aid Commission can be expected both because of the necessary community demand for assistance in family matters, exacerbated by the greatly increased frequency of separate representatives being appointed to represent the interests of children. The Commission reports that calls upon it for provision of separate representation have increased by some 1200% in the current year.

The year has also seen ongoing pressures upon the Family Court to "personalise" court procedures, apparently arising from frequent complaint from litigants that they do not understand the court procedures as they have not had them adequately explained to them by the Court itself or by those representing them. Whilst proper explanation and information is essential for litigants, some steps undertaken by the Court have not met with the full approval of the Association. In recent times, for example, counsel has been required in the Registrar's Court to have their client sit with them at the bar table and to have the presiding Registrar then explain to the client orders made or proposed to be made. This practice was adopted without prior consultation with the Association, which has requested consultation with the Court as to this new practice.

On 3rd March, 1995 The Honourable Justice Brian Treyvaud died suddenly. His Honour was a friend of the Bar and of the Association. His courtesy, good humour and common sense were hallmarks of his approach both to the profession and to litigants. He was an honoured guest of the Association at many of its functions. The affection and respect he commanded was well evidenced by the overflowing attendance at his funeral, attended by many members of the judiciary, a very large number of members of the Association and leading members of the profession in other jurisdictions.

The end of the year also saw the retirement of The Honourable Justice Geoffrey Walsh. His Honour was appointed following long and distinguished service as a solicitor including a term as President of the Law Institute. His Honour similarly was a friend of the Association and attended many of its annual functions. Many members of the Association were at the farewell to congratulate him upon his achievements and to wish him well in his retirement.

The period leading up to the 30th June saw the appointment of Justice Linda Dessau. Whilst Her Honour had practised relatively briefly at the Bar in the family law jurisdiction before a period in Hong Kong as a Crown Prosecutor and, upon her return to Australia, her appointment as Magistrate, Her Honour maintained throughout an interest in the jurisdiction.

The Association has continued to be well served by Ron Curtain who has represented it at meetings convened at the Dandenong Registrar.

The social side of the Association cannot be ignored and particular mention must be made of the annual dinner held at "The Botanical" on the 1st September 1994. A gathering of approximately 70 experienced "new age" food in trendy surroundings. The hard work of those responsible was evidenced by the number of those in attendance.

## *ANNUAL REPORT FOR THE HUMAN RIGHTS COMMITTEE*

The Human Rights Committee of the Victorian Bar met regularly during the course of the year and its meetings were generally very well attended. The Committee was able to continue its work which included giving consideration to a number of issues. These included allegations concerning treatment of Irish political prisoners; the arrest of human rights activists including lawyers in Angola, Egypt and Turkey; the intimidation and death threats in Haiti and the arrest of a lawyer of the Indonesian Legal Aid Institute in Indonesia. Appropriate letters of concern were written by the Committee in each instance. The Committee continued its co-operation with Amnesty International and the Human Rights Committee of the International Bar Association. A number of local issues were debated including the United Nation's Human Rights Committee's criticism of Tasmania's criminal law.

An exciting initiative developed and currently being implemented by the Committee is the Human Rights Lawyers Training Project. Under this project the Committee with the assistance of the Readers' Course Committee will sponsor a human rights lawyer from the Asia Pacific region to participate in the Bar Readers' Course. The Committee hopes that each year it will be able to sponsor at least one lawyer in this way and thereby improve the legal resources available for the protection and promotion of human rights in the region. With the co-operation and assistance of the Indonesian Legal Aid Institute, the first student is expected to begin the Bar Readers' Course in September 1995.

## *ANNUAL REPORT OF THE LAW REFORM COMMITTEE*

During the past year the Law Reform Committee has continued to operate in the manner described in last year's report. The Chairman of the Committee is N. Moshinsky Q.C., the Deputy Chairman is P. Golombek and the Secretary is S. Davis.

The Committee receives requests for comment from the Chairman of the Bar Council and assigns to members of its panel the subject matter of the enquiry. The panel is composed of members of the Bar who have expressed an interest in providing a comment with respect to selected topics. Sometimes a member of the Committee undertakes the task of providing a commentary.

Once completed the reports are reviewed by members of the Committee and then they are forwarded to the Bar Council for consideration. The Committee monitors the progress of assignments to ensure that they are completed within a reasonable time.

The subject matter of reports usually emanates from reference from the Scrutiny of Acts and Regulations Committee of the State Parliament, as well as material from Commonwealth sources.

During the course of the year reports have been completed with respect to the following topics:-

The reform of Personal Property, Security Law & Book Debts legislation, an enquiry into the desirability and feasibility of altering the present rules of Joint and Several liability, the Legislative Instruments Bill (Clth), the possible reform of the Carriers & Innkeepers Act 1958, reform the law with respect to "Whistle Blowers", the Power of Attorney Act, the Housing Guarantee Act, the Corporation Law Simplification Bill, the Bankruptcy Amendment Bill, the review of legislation under which persons are detained at the Governor's pleasure in Victoria and the Reform of Judicial Review in Victoria.

## *ANNUAL REPORT OF THE READERS' COURSE*

Each year two intakes of readers complete the Readers' Course. The September 1994 intake comprised 21 readers, one practitioner from Papua New Guinea and one practitioner from Vanuatu. The March 1995 intake comprised 38 readers. There were unfortunately no PNG practitioners in the March 1995 intake, due to administrative problems in PNG. The September 1995 intake will comprise 26 readers and four practitioners from PNG.

The course continues to develop. With each intake, we modify aspects of the Course structure. In the past 12 months, we have removed several Course components which were capable of being provided in written form, thus increasing the time available for practical advocacy exercises.

The Readers' Course is guided by the Committee, but the real work of the Course is done by the Administrator, Barbara Walsh and by the instructors. Barb Walsh performs an almost impossible task, co-ordinating the diverse resources of the course and reassuring fragile new readers. We could not possibly manage without her. Members of the Bar and Bench give hundreds of hours of unpaid time to instruct in the Readers' Course. Their efforts have made the Victorian Bar Readers' Course the standard by which other Bars in Australia, UK and Singapore judge themselves.

## *ANNUAL REPORT OF THE WOMEN BARRISTERS' ASSOCIATION*

The Women Barristers' Association has continued to grow and expand in its second year since being formed. It has strengthened its links with all levels of the judiciary and established contact and dialogue with various legal associations.

The Association's activities are conducted by its Committee and the Committee meets at approximately three week intervals.

The office bearers of the Association are:

Frances O'Brien	– Convenor
Jenny Davies and Julie Dodds-Streeton	– Assistant Convenors
Georgina Grigoriou	– Secretary
Karin Emerton	– Assistant Secretary
Joy Elleray	– Treasurer

The Association has also formed:

- A "Law Reform" sub-committee chaired by Alexandra Richards
- A "Hard Facts" sub-committee chaired by Francis O'Brien
- A "Code of Conduct" sub-committee chaired by Rachelle Lewitan Q.C.
- An "Interstate Liaison" sub-committee chaired by Felicity Hampel

### *In the period 1 July 1994 to 30 June 1995*

- (a) The Women Barristers' Association organised the following educational functions to which all members of the Bar and the Judiciary were invited:
  - (i) on 16 August 1994 Julie Dodds-Streeton, Barrister and Teacher in the Masters LL.M. of Melbourne University spoke on the topic "Gender Issues in Insolvency Law";
  - (ii) on 9 September 1994 Chief Justice Nicholson of the Family Court spoke on the topic "The Supervision of Medical Treatment of Children".
- (b) The Women Barristers' Association continued its meetings with the justices of the Federal Court at the request of Chief Justice Black, to discuss discrimination issues in the context of the operation of the Federal Court.
- (c) A sub-committee of the Women Barristers' Association and Equality before the Law Committee drafted a "Code of Conduct" on sexual harassment and vilification which was passed by the Victorian Bar Council and now forms part of the Rules of the Victorian Bar;

- (d) In addition, the Women Barristers' Association:
- (i) finalised and launched its constitution;
  - (ii) established contact with the Federal Minister for Justice, The Honourable Duncan Kerr, and the Federal Attorney-General, The Honourable Michael Lavarch;
  - (iii) established contact with Dr. Jane Munro, Convenor of the Victorian Women's Council and attended the inaugural lecture of the Victorian Women's Council given by The Honourable Jan Wade, Attorney-General and Minister for Women's Affairs;
  - (iv) established contact with Sandra Yates, Chairperson, Australian Council for Women (Federal);
  - (v) established an "interstate liaison" sub-committee to liaise with women barristers and women legal organisations in other States;
  - (vi) wrote to Dr. Carmen Lawrence, Minister for Human Services and Health to oppose any move by the Federal Government to consider a proposal made by the Department of Finance of means testing the childcare cash rebate and setting out the reasons why such a proposed move would have a particular impact upon women;
  - (vii) considered and discussed proposed procedural and substantive changes to the Crimes Compensation legislation and is organising a seminar with Magistrates to identify problems with a view to formulating agreed guidelines:
- (e) The Women Barristers' Association has continued to conduct a variety of functions, including small social functions and more formal functions. In particular:
- (i) On 9 December 1994 the Association held its Annual Christmas Cocktail party which was highly successful with substantial attendance by barristers and a diverse range of members of the judiciary and solicitors.
  - (ii) On 15 March 1995 the Association's Constitution was launched by Chief Justice Black of the Federal Court and Judge Balmford of the County Court. Over 180 people attended including members of the judiciary, barristers and solicitors.
  - (iii) Regular lunches have been organised with members of the judiciary, magistrates and more recently with solicitors from prominent law firms.

### *ANNUAL REPORT OF THE CHILD CARE FACILITIES COMMITTEE*

Since the last Annual Report, the Committee has concluded the survey it conducted with the federally funded Work and Child Care Advisory Service to determine the child care needs of barristers and their employees. A needs survey had been distributed to 1,500 barristers, their employees and other staff in March 1994. There was a 39% response rate. Focus groups were held in August 1994. The primary options recommend by the Work and Child Care Advisory Service were:-

- (1) That the Victorian Bar Council consider possibilities of establishing a child care centre as a joint venture with other organisations within the central business district.
- (2) That the Victorian Bar Council assess and implement flexible work practices and additional assistance measures that would best suit barristers in balancing work and family responsibilities. This process should include clarification and consideration of rules concerning the accommodation entitlements and requirements of members of the Bar when they are absent because of child birth. The existing and newly implemented "family friendly" policies and additional assistance be widely publicised and promoted so that all barristers are aware of how they can make use of them.

- (3) That the Victorian Bar Council should establish an Advice and Referral Service to inform barristers and their support staff of long day, occasional, emergency and vacation child care options.

The Committee has held preliminary discussions with various persons who intend to establish child care centres in the CBD. The Committee held discussions with representatives from The Age with respect to their proposal to establish a child care centre in the central business district.

Representatives from the Child Care Facilities Committee attended the CAD child care forum meetings conducted monthly by the Melbourne City Council.

The Committee has advertised the availability of places at child care centres in the CBD from time to time.

The Committee negotiated a discount rate for places at Camp Windsor during the summer holidays.

Members of the Committee attended a meeting with the Chief Justice of the Federal Court of Australia concerning the provision of child care facilities for members of the Court, the Court employees and litigants. The Committee also discussed provision of child care facilities in the new Federal Court complex.

The Child Care Facilities Committee circulated each of the clerks to obtain information concerning the number of barristers who have had a child within the last two years and the number of barristers who are expecting a child in the near future.

The Committee has made submissions to Barristers' Chambers Limited and the Bar Council for the provision of a parents' room to be used as a facility for barristers to feed and change their babies.

The Bar Council referred the question of parental leave, subscription rebates and accommodation to the Committee for recommendations to the Bar Council. The Committee consulted widely with barristers having the substantial full time personal responsibility for the care of a child and made several recommendations to the Bar Council for the amendment of the Rules of Conduct. Some of the recommendations have been passed and implemented by the Bar Council.

## *ANNUAL REPORT OF THE VICTORIAN BAR PROPERTY LAW ASSOCIATION*

The Victorian Bar Property Law Association has continued to grow steadily over the past year. Since its formation in May 1993 it has provided a forum for the discussion of the law and practice relating to property and securities law.

The format has remained essentially the same with the Property Law Association meeting every six weeks for lunch and discussion. The Property Law Association now boasts 45 registered members and is fortunate that a number of its members have been involved in the leading recent decisions relating to property and securities law. As a result the papers that have been presented have been informative and most beneficial. The meetings commence at 1.05p.m. and conclude at 1.55p.m. with sandwiches being served so that counsel in Court could attend.

At all meetings papers have been presented which include decisions on such topics as the latest developments in retail tenancies, removal of restrictive covenants, indefeasibility and volunteers, unconscionability and the recent authorities involving *Barclays Bank* and *Amadio* and many other recent developments.

There has also been discussion as to recent unreported decisions concerning the law generally.

In addition the Property Law Association has liaised on an informal basis with the Law Institute Property Law Committee.

The Property Law Association has continued from the sound foundation established 2 1/2 years ago and has provided a forum for informative and constructive discussion regarding property and securities law and recent developments in these areas.

## *ANNUAL REPORT OF THE COMMERCIAL BAR ASSOCIATION*

On the evening of 24 November, 1994 a meeting of Counsel held at the Essoign Club resolved to form the Commercial Bar Association at the Victorian Bar. Alan Goldberg Q.C. was elected as the inaugural President of the Association. The objects of the Association are:-

1. To provide a forum for meetings of barristers who practise in or have an interest in commercial law and to foster closer working and social relationships between them.
2. To bring to the attention of members, through the medium of regular meetings, matters of concern or interest or both relating to commercial law and to conduct discussions and formulate position statements or recommendations or both for submission to such person or body as the Committee may deem proper.
3. To establish communications and actively liaise with Courts, Tribunals, authorities, government departments and instrumentalities and other associations and bodies concerned with, or interested in, commercial law.
4. To seek representation on, and liaison with, committees of the Victorian Bar in areas of practice of concern to members.
5. To liaise with the Bar Council of the Victorian Bar in relation to matters of concern to members of the Association and to ensure that, as far as practicable, consultation between the Bar Council and the Committee takes place before the Bar Council formulates policies or makes decisions on commercial law matters.
6. To encourage participation by members in continuing legal education programmes, conferences and other outlets whereby the legal profession, other interested professional groups and the public may increase their knowledge and understanding of commercial law.

The Association has established thirteen specialist working sections in order to provide practical information for barristers concerning recent cases and practice and procedure. The Association also provides such assistance as is requested from time to time by the Bar Council.

During the year the Executive of the Association has made contact with the executive of the Commercial Law Association of Australia Limited. This body comprises not only lawyers but company secretaries and directors involved in the operation and development of corporate law in this state and nationally. It is expected that the Commercial Bar Association and the Commercial Law Association of Australia Limited will co-operate in areas of mutual interest.

During its first year of operation the Association has conducted, through its sections, a number of seminars on topical areas of law and practice. The impetus for action in each section is predominantly influenced by the Secretary of the Section. Each Secretary has been appointed by the respective Section Chairman.

During the year the Alternative Dispute Resolution Section has made contact with other similar committees and works closely with the LEADR Group. The Banking and Finance Law Section has conducted a seminar on the influence of *Yerkey v. Jones* (1939) 63 CLR 649 in the light of the development of the general law of unconscionability.

The Construction Law Section has met several times to discuss matters of mutual concern relating to the Building Cases Lists in the Supreme and County Courts and has promoted materials from other organisations concerning Construction Law.

The Corporations and Securities Law Section has convened several meetings during the year. Most notably the High Court decision of *Gambotto v. W.C.P. Limited* (1995) 16 ACSR 1, was analysed at a well attended meeting chaired by Neil Young Q.C. During the course of the year the Victorian Bar has referred for consideration by this Section, the requests of the Corporate Law Simplification Task Force. These references have been received and acted upon by Albert Monichino. The Section has also conducted a very successful and entertaining seminar in conjunction with the Commercial Law Association of Australia Limited in August, 1995. The presentation took the form of a lecture and theatrical performance. The presentation was held at the head office of the National Australia Bank and was attended by approximately 100 registrants. The presentation was delivered by David Denton and involved an analysis of three topics involving directors duties: the non-executive director, directors and insolvent trading, and, directors of "phoenix" companies. The principles outlined in the paper were then reinforced by a highly amusing and informative series of sketches performed by Simon Wilson Q.C., as cross-examining Counsel, and Dr. Timothy Lindsey appearing as a series of three hapless directors. The whole presentation was received very warmly and it is expected that it may well receive requests for further appearances before other bodies in the future.

The Environmental, Planning and Local Government Law Section under the Chairmanship of Greg Garde Q.C. has been active and innovative. The Section produces an Information Bulletin on matters coming to the attention of section members in each of these areas of practice. The Bulletin has become so successful that firms of solicitors have subscribed to receive the bulletin. The Section has convened a number of breakfast meetings throughout the year and continues to acquire importance to members of Counsel practising in these specialist areas.

The Insolvency Law Section has convened several meetings under the Chairmanship of Mark Derham Q.C. A number of seminars have been presented in relation to directors liability for insolvent trading, liquidators duties and responsibilities and matters relating to voidable preferences. The Section meets on the first Tuesday of each month and has been well received by its section members.

The Intellectual Property and Trade Practices Law Section has conducted a seminar on aspects of the Trade Marks Act the discussion being led by Ross Macaw Q.C. Further seminars are planned before the end of the year.

The Property Law Section has convened a meeting to consider the implications of the decision in *Classic Heights Pty. Ltd. v. Blackhole Enterprises Pty. Ltd.* (1994) V Conv R 54-50. This Section is well served by its Chairman, John Middleton Q.C. and its principal secretary Nimal Wikrama.

The Revenue Law Section meets for lunchtime seminar meetings on a monthly basis and has discussed a number of issues dealing with Capital Gains Tax and its implications on damages awards and stamp duty changes.

Generally, it may be stated that the activities of the Association have been warmly welcomed by members of Counsel attending section meetings which have either provided them with further information on areas they were already familiar with or acted as a means of meeting other members of Counsel involved in similar areas of practice. The Association has otherwise served as a means of providing information to members of Counsel in areas of law and practice with which they are less familiar. The activities of the Association are co-ordinated by David Denton as Vice-President (Convenor). The Association has responded to a request from the Commercial List Judges of the Supreme Court for views in respect of contemplated changes to the operation of the Commercial List.



The First Committee, Section Chairmen, and the Secretaries of each Section are as follows:-

President	Alan Goldberg Q.C.
Senior Vice-President	Ray Finkelstein Q.C.
Vice-President (Convenor)	David Denton
Treasurer	Melanie Sloss
Committee Member	Dr. Susan Kenny
Committee Member	Graeme Clarke
Committee Member	Stewart Anderson

*Chairmen of Sections:*

Alternative Dispute Resolution	Henry Jolson Q.C.
Banking & Finance Law	S.E.K. Hulme Q.C.
Commercial Practice & Procedure	Simon Wilson Q.C.
Constitutional & Administrative Law	Jack Fajgenbaum Q.C.
Construction Law	John Digby Q.C.
Corporations & Securities Law	Neil Young Q.C.
Environmental, Planning & Local Government Law	Greg Garde Q.C.
Insolvency Law	Mark Derham Q.C.
Insurance Law	Dr. Peter Buchanan Q.C.
Intellectual Property & Trade Practices Law	Ross Macaw Q.C.
International Law	Alan Archibald Q.C.
Property Law	John Middleton Q.C.
Revenue Law	Ada Moshinsky Q.C.

*Secretaries (and \*Assistant Secretaries) to Section Chairmen:*

Alternative Dispute Resolution	Marc Bevan-John
Banking & Finance Law	Michael Sifris
Commercial Practice & Procedure	William Lye
Constitutional & Administrative Law	Dr. Susan Kenny
Construction Law	Richard Manly
Corporations & Securities Law	Albert Monichino
Environmental, Planning & Local Government Law	Stephen Jones
Insolvency Law	*Ragu Appudurai
Insurance Law	Nunzio Lucarelli
Intellectual Property & Trade Practices Law	Peter Cawthorn
International Law	Graeme Clarke
Property Law	Brendan Griffin
Revenue Law	Nimal Wikrama
	*Richard Phillips/*Tony Schlicht
	Terry Murphy

The Association presently has a membership of 250 members of Counsel. Its future looks promising. Any enquiries in relation to the activities of the Commercial Bar Association should be directed to David Denton, Clerk "A".

# SPECIAL PURPOSE FINANCIAL REPORT

## VICTORIAN BAR COUNCIL

### PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED 30TH JUNE, 1995

	12 Months 1995 \$	10 Months 1994 \$
<b>INCOME</b>		
Subscriptions	1,003,995	995,396
Sale of Publications	75	75
Readers' Course	57,022	25,397
Other Income	377	64
Commercial Bar Association	4,084	—
Royalties	—	2,797
Seminar	11,769	6,330
Interest	21,032	9,609
<b>Total Income</b>	<b><u>1,098,354</u></b>	<b><u>1,039,668</u></b>
<b>EXPENSES</b>		
Australian Securities Commission	250	—
Audit Fees	10,530	5,080
Archival Costs	5,460	4,910
Bank Charges	1,808	1,733
Bar Conference	—	737
Bar News Expenses	102,482	71,928
Bar News Advertising Income	(14,255)	(12,665)
Clerking Expenses	-	532
Directory Expenses	44,463	1,000
Directory Income	(15,023)	(2,650)
Donations	2,500	1,590
Depreciation	6,720	5,958
Entertainment Expenses	76,628	61,284
Members Receipts	(30,642)	(27,884)
Ethics	6,255	8,816
Fees	26,320	15,213
Floral Tributes	442	91
Insurance	1,983	1,605
Library	46,657	32,895
Mediation Workshop Expense	17,330	15,132
Mediation Receipts	(22,500)	(22,950)
Miscellaneous	5,244	483
Postage	6,820	2,738
Printing and Stationery	52,280	30,336
Publications	2,050	2,102
Readers' Course	57,330	50,251
Rent to Barristers' Chambers Limited	155,940	155,940
Refurbishment Costs	—	64,000

# SPECIAL PURPOSE FINANCIAL REPORT

## VICTORIAN BAR COUNCIL

### PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED 30TH JUNE, 1995

(continued)

	12 Months 1995 \$	10 Months 1994 \$
Salaries, Employee Provisions, Superannuation and Workcover Costs	259,377	213,345
Lay Observer's Salary	15,031	14,553
Trade Practice Commission Costs	8,000	14,676
Travel Expense	15,821	9,808
Telephone	615	430
Australian Bar Association	25,000	25,720
International Bar Association	272	289
Law Council of Australia	88,702	1,527
Lawasia	860	—
Leadr	125	—
<b>Total Expenses</b>	<b><u>960,875</u></b>	<b><u>748,553</u></b>
<b>OPERATING PROFIT</b>	<b>137,479</b>	<b>291,115</b>
Abnormal Item		
Loan Waiver to Barristers' Chambers Limited	<u>(828,000)</u>	<u>—</u>
<b>PROFIT (LOSS) AFTER ABNORMAL ITEM</b>	<b><u>(690,521)</u></b>	<b><u>291,115</u></b>
Accumulated Funds at the beginning of the financial year	<u>1,958,274</u>	<u>1,667,159</u>
<b>ACCUMULATED FUNDS AT THE END OF THE FINANCIAL YEAR</b>	<b><u>1,267,753</u></b>	<b><u>1,958,274</u></b>
<i>Barristers' Benevolent Fund Receipts</i>	46,888	41,015
<i>Barristers' Benevolent Fund Remittances</i>	46,888	41,015

*The accompanying notes form part of these accounts*

# **SPECIAL PURPOSE FINANCIAL REPORT**

## ***VICTORIAN BAR COUNCIL BALANCE SHEET AS AT 30TH JUNE, 1995***

	NOTES	1995 \$	1994 \$
<b>Current Assets</b>			
Cash		73,246	58,498
Investments	3.	650,000	351,000
Receivables	4.	<u>456,098</u>	<u>1,510,946</u>
Total		<u>1,179,344</u>	<u>1,920,444</u>
<b>Non Current Assets</b>			
Investments	5.	16,300	16,300
Property Plant & Equipment	6.	65,070	53,628
Loan to Essoign Club	7.	<u>67,351</u>	<u>10,000</u>
Total		<u>148,721</u>	<u>79,928</u>
<b>Total Assets</b>		<u>1,328,065</u>	<u>2,000,372</u>
<b>Current Liabilities</b>			
Provisions	8.	14,704	15,111
Creditors	9.	25,293	9,876
Unearned Income	10.	<u>3,032</u>	<u>—</u>
Total		<u>43,029</u>	<u>24,987</u>
<b>Non Current Liabilities</b>			
Provisions	11.	<u>17,283</u>	<u>17,111</u>
<b>Total Liabilities</b>		<u>60,312</u>	<u>42,098</u>
<b>Net Assets</b>		<u>1,267,753</u>	<u>1,958,274</u>
<b>Accumulated Funds</b>		<u>1,267,753</u>	<u>1,958,274</u>

*The accompanying notes form part of these accounts*

**SPECIAL PURPOSE FINANCIAL REPORT**  
**VICTORIAN BAR COUNCIL**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30TH JUNE, 1995**

**1. Accounting Policies**

Summary of Significant Accounting Policies

This "Special Purpose Financial Report" has been drawn up so as to comply with the Victorian Bar Council's constitution to keep accounts.

The accounts have been prepared using the historical cost convention. The accounts have been prepared in accordance with the requirements of Australian Accounting Standards. AAS 22 Related Party Disclosures, AAS 24 Consolidated Accounts and AAS 28 Statement of Cash Flows have not been adopted.

Accounting policies which have been significant in the preparation and presentation of the accounts

- (a) Depreciation -  
Depreciation is based on the straight line method. The rates used are those necessary to depreciate each asset over its estimated useful life.
- (b) Expenses and Revenue -  
Expenses and revenue are recognised on an accrual basis and are allocated into functional categories dependent upon the ultimate purpose of the expenditure.
- (c) Investments -  
Investments are recorded at cost.
- (d) Employee Benefits -  
Annual leave liability is provided for all employees and long service leave liability is provided only for those employees who have longer than 5 years' continuous service with the Council. This policy is believed to provide an estimate of the long service liability which is not materially different from the estimate provided by using the present value basis of measurement.

**2. Tax Status**

Annual subscriptions paid by members of the Victorian Bar to the Victorian Bar Council are non-taxable through the mutuality principle. Other receipts are regarded as assessable for purposes of taxation.

	1995 \$	1994 \$
<b>3. Current Investments</b>		
Bank Bills -		
Commonwealth Bank of Australia	<u>650,000</u>	<u>351,000</u>
<b>4. Current Receivables</b>		
Unsecured Loan - Barristers' Chambers Limited	394,603	1,475,436
Subscriptions in Arrears	<u>61,495</u>	<u>35,510</u>
<b>Total Current Receivables</b>	<u>456,098</u>	<u>1,510,946</u>

# SPECIAL PURPOSE FINANCIAL REPORT

## VICTORIAN BAR COUNCIL

### NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE, 1995 (CONTD.)

	1995 \$	1994 \$
<b>5. Non Current Assets</b>		
Shares in Barristers' Chambers Limited at Cost	<u>16,300</u>	<u>16,300</u>
<b>6. Property, Plant and Equipment</b>		
Office Equipment	44,303	37,300
Provision for Depreciation	<u>(7,920)</u>	<u>(3,730)</u>
<b>Total Office Equipment</b>	<u><b>36,383</b></u>	<u><b>33,570</b></u>
Office Furniture	12,081	6,922
Provision for Depreciation	<u>(1,611)</u>	<u>(692)</u>
<b>Total Office Furniture</b>	<u><b>10,470</b></u>	<u><b>6,230</b></u>
Art Works	21,364	15,364
Provision for Depreciation	<u>(3,147)</u>	<u>(1,536)</u>
<b>Total Art Works</b>	<u><b>18,217</b></u>	<u><b>13,828</b></u>
<b>Total Property, Plant and Equipment</b>	<u><b>65,070</b></u>	<u><b>53,628</b></u>
<b>7. Loan to Essoign Club</b>	<u>67,351</u>	<u>10,000</u>
<b>Total Non-Current Assets</b>	<u><u>148,721</u></u>	<u><u>79,928</u></u>
<b>8. Current Liabilities</b>		
Provision for Annual Leave	<u>14,704</u>	<u>15,111</u>
<b>9. Creditors</b>	<u>25,293</u>	<u>9,786</u>
<b>10. Unearned Income</b>	<u>3,032</u>	<u>—</u>
<b>Total Current Liabilities</b>	<u><u>43,029</u></u>	<u><u>24,987</u></u>
<b>11. Non Current Liabilities</b>		
Provision for Long Service Leave	<u>17,283</u>	<u>17,111</u>

12. During the previous period the Bar Council changed its financial year end from 31 August to 30 June. The financial accounts for the period to 30 June 1994 are therefore for a ten month period.

## **SPECIAL PURPOSE FINANCIAL REPORT**

### **VICTORIAN BAR COUNCIL**

#### **STATEMENT BY OFFICERS**

As detailed in Note 1 to the accounts, the Bar Council is not a reporting entity because in the opinion of the officers there are unlikely to exist users of the accounts who require information that will be useful for making and evaluating decisions about the allocation of scarce resources.

In the opinion of the officers below:-

- (a) the accompanying Profit and Loss account is drawn up so as to present fairly the financial results for the Victorian Bar Council for the year ended 30th June, 1995.
- (b) the accompanying Balance Sheet is drawn up so as to present fairly the state of affairs of the Victorian Bar Council at 30th June, 1995.
- (c) the accounts have been made out in accordance with Australian Accounting Standards.
- (d) at the date of this statement there are no known circumstances which would render any particulars in the statements to be materially misleading or inaccurate.
- (e) there are, when this statement is made, reasonable grounds to believe that the Victorian Bar Council will be able to pay its debts as and when they fall due.

Chairman:

*D. J. Habersberger.*

Honorary Treasurer:

*David Cuntain*

Dated:

*21st August, 1995*



**INDEPENDENT AUDIT REPORT TO THE MEMBERS OF**  
**THE VICTORIAN BAR COUNCIL**

**Scope**

We have audited the attached special purpose financial report comprising the balance sheet, profit and loss account and notes to and forming part of the financial statements of The Victorian Bar Council for the year ended 30 June 1995. The Victorian Bar Council's Officers are responsible for the preparation and presentation of the financial report and the information contained therein, and have determined that the basis of accounting used is appropriate to the needs of the members. We have conducted an independent audit of the financial report in order to express an opinion to the members of The Victorian Bar on the preparation and presentation thereof. No opinion is expressed as to whether the basis of accounting used is appropriate to the needs of the members.

The financial report has been prepared for distribution to members for the purpose of fulfilling the council's accountability requirements under The Victorian Bar Council's constitution. We disclaim any assumption of responsibility, for any reliance on this report or on the financial report to which it relates, to any person other than the members, or for any purpose other than that for which it was prepared.

Our audit has been conducted in accordance with Australian Auditing Standards. Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report and the evaluation of significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial report is presented fairly in accordance with the basis of accounting described in Note 1 to the financial statements. These policies do not require the application of all Accounting Standards and other mandatory professional reporting requirements (Urgent Issues Group Consensus Views).

The audit opinion expressed in this report has been formed on the above basis.

**Audit Opinion**

In our opinion the financial report presents fairly the financial position of The Victorian Bar Council as at 30 June 1995 and the results of its operations for the year then ended in accordance with the basis of accounting described in Note 1 of the financial statements.

DELOITTE TOUCHE TOHMATSU

J C BRANT  
Partner  
Chartered Accountants

Date: 21 August 1995