

*Reference use**Ross N.*

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



THE
VICTORIAN
BAR INC

Annual Report

1 JULY 1996– 30 JUNE 1997



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BAR INC

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ANNUAL REPORT OF THE VICTORIAN BAR INC FOR THE YEAR ENDED 30 JUNE, 1997

To be presented to the Annual General Meeting of The Victorian Bar Inc to be held at 5.00 p.m on Monday, 15 September 1997 in the Bar Readers' Room, 2nd Floor, Douglas Menzies Chambers, 180 William Street, Melbourne.

VICTORIAN BAR COUNCIL

Elections: In the Annual Elections held in September 1996 the following members of counsel were elected:

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

Mr. A. Graeme Uren Q.C.
Mr. Robert F. Redlich Q.C.
Mr. Bernard D. Bongiorno Q.C.
Mr. Neil J. Young Q.C.
Mr. Stephen W. Kaye Q.C.
Mr. John E. Middleton Q.C.
Mr. John T. Rush Q.C.
Mr. David E. Curtain Q.C.
Mr. D. Mark B. Derham Q.C.
Mr. W. Ross Ray Q.C.
Mr. Robin A. Brett Q.C.

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

Mr. Michael J. Colbran
Mr. David F.R. Beach
Mr. Andrew J. McIntosh
Mr. Bruce N. Caine
Mr. Joseph Tsalanidis
Mr. Justin O'Bryan

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

Ms. Diana Bryant
Ms. Fiona M. McLeod
Mr. Peter J. Riordan
Mr. David J. Neal

CHAIRMAN'S REPORT

The past year has not been an easy one for the Victorian Bar. The Bar has faced many external challenges: those challenges have included, in particular, the introduction of the *Legal Practice Act* 1996, the legal aid crisis, and several recent state and federal law reform initiatives that would, if effected, have a marked impact upon the administration of justice. The Bar has also been required to address internal issues: the functioning of the Bar Council, the restructuring of the Bar Council secretariat, and the debt reduction strategy for Barristers' Chambers Limited. All of these matters have each required a great deal of careful attention from Bar Council members.

As a result of its efforts, however, the Bar has met with some real success. The Bar, now an incorporated association, has carefully negotiated the change into the new regulatory environment brought about by the commencement of the *Legal Practice Act* 1996 on 1 January 1997. The Act is not hostile to the Bar: the Act recognises, for example, the need for a large measure of professional self-regulation, the need for a sole practice rule, and the need for direct access rules. The Bar has been well represented on the governing regulatory body, the Legal Practice Board, by Susan Crennan Q.C., and I thank her for her work in that regard. The Board has recognised the standard of the Bar's professional indemnity insurance regulations. In recognition of the Bar's regulatory functions, the Board is returning the vast majority of funds raised through barristers' Practising Certificates to the Bar. Moreover, the Legal Practice Board has informed the Bar that the cost of Practising Certificates will, in 1998, be significantly decreased. I thank the many members of the Bar Council, of the Bar, and of the Council and BCL staff who have dedicated so much time and effort to this transition.

The other major external challenge has been the massive reduction in Commonwealth legal aid funding for Victoria Legal Aid. It has been widely recognised by the courts and the profession that these cuts have had, and will continue to have, a profound effect upon the public's access to justice. Moreover, many members of our criminal and family law Bar rely heavily on the modest VLA fee scales for their incomes, which unfortunately have been directly affected by the funding cuts. Over the course of the last year the Bar Council, the Criminal Bar Association and the Family Law Bar Association have made strenuous efforts to reverse these changes. The Council has been in continuous dialogue with State and Federal Attorneys-General, and with the Managing Director of VLA. The Council has lodged a submission with the Senate Legal Aid Inquiry, and has commissioned an accountant's study into barristers' incomes at the criminal Bar. The Council is also concerned that some of the policies introduced by VLA, including revised fee scales, are unreasonable and are not directly related to the funding cuts. While to date the Bar Council has not been able to bring about any immediate changes to VLA funding and VLA policy, we believe that the strong views expressed by the Bar, supported by detailed and persuasive empirical evidence, will over the

coming months impress upon VLA and government that it is both essential and a matter of public interest that reasonable rates of remuneration be paid to barristers performing VLA work. If this does not occur, and current VLA policies are maintained, the quality and efficiency of the administration of justice will be seriously prejudiced.

The Bar has also made submissions and expressed its views in relation to a number of law reform initiatives. Some of these initiatives include the Australian Law Reform Commission's Issues Paper on the adversarial system (Issues Paper 20), the ALRC's report on the awarding of costs in litigation (Report 75), the proposed but now abandoned increase in High Court fees, the suggested curtailment of common law rights for workers in Victoria, and the civil litigation reforms proposed by the County Court. The Bar has always supported law reform measures which would increase access to justice and the efficacy of the justice system, but some of these state and federal initiatives have not, in the Bar's view, taken adequate account of the importance of access to the courts and the importance of an independent, competitive profession in the administration of justice.

I am pleased to report success on some fronts. The Australian legal profession has united in making it plain to the ALRC that the adversarial system of justice should be improved, but should not be dismantled. The ALRC took into account the Bar's views in recommending an adherence to the principle that costs should continue to follow the event in federal litigation. The proposal for massive fee increases for companies litigating in the High Court was rejected by Federal Parliament. We have pointed out to the State government that the community would oppose the abolition of common law redress for workers seriously injured as a result of someone else's negligence, and are confident that the review of the Victorian WorkCover scheme will be successful. The Bar Council also believes that its representations to the Council of Judges regarding civil procedure reform in the County Court will be persuasive. The Bar Council is rightly sceptical of law reform proposals which appear to proceed from an assumption that all practitioners unnecessarily delay or prolong cases and escalate costs. The Bar Council has urged that the County Court review process should be co-ordinated with other reviews to civil procedure, including those conducted by the Department of Justice and by the Australian Institute of Judicial Administration. The prominent role which the Victorian Bar has played in addressing these law reform initiatives would not have been possible without the generous expert assistance voluntarily provided by members of the Bar Council and members of the Bar generally.

In the past year, the Bar Council has also addressed its own role in relation to its members, its Committees and its Associations. The Council recognises that, as a result of the *Legal Practice Act*, the Bar would be in great danger if it were to take its membership for granted. The Bar has always offered a range of services to its members, and this range is in the process of expansion. The Bar Council is actively working towards the position where it can offer to its members income disability insurance, discounted air travel, an improved telephone

system, an internet legal research service, and a larger library with better reading room facilities.

The Council is also seeking to improve its communication with the constituent Committees and Associations. As the Australian legal environment becomes progressively more complex, and as it becomes more and more critical that the Bar has a strong and coherent media presence, the Council will increasingly rely on the co-operation, advice and initiative of these bodies. For this reason, the Council is putting in place a system of regular consultation with the Bar's Associations, a system which builds upon the Bar Council portfolio system which was instituted under the chairmanship of John Middleton Q.C.. The Council has allotted to individual Bar Council portfolio holders responsibility for communicating to the Council the concerns of each of the Bar's Associations and, in turn, for communicating the Council's activities to each of the Associations.

The past year has also seen important changes in the Bar's secretariat. After long and distinguished service to the Bar, as its Executive Director and as Secretary of Barristers' Chambers Limited, Mr. Ed Fieldhouse retired on 4 July 1997. His replacement is Mr. David Bremner. Mr. Bremner came to us from Blake Dawson Waldron where he was Commercial Services Manager. Previously, Mr. Bremner was employed by Gadens Ridgeway, Solicitors, as Finance Manager and as the Administration Director of the Epworth Hospital in Melbourne. The Victorian Bar is very fortunate to have secured his services. Mr. Geoffrey Bartlett has been employed by BCL as its General Manager and Company Secretary, in place of Mr. Fieldhouse.

Since his appointment as Executive Director of the Bar, Mr. Bremner has taken a large measure of the responsibility for co-ordinating the Bar's regulatory mechanisms, for improving member services and for improving internal communication at Bar. These responsibilities each fall within the ambit of the Bar's new 'Strategy Plan', drawn up by Mr. Bremner, which the Bar Council ratified in June 1997. The Plan is a response to the Bar's new regulatory, political, and professional environment, and its objective is twofold: to maintain the Bar's position of influence in the system of administration of justice; and to provide an incentive for barristers to maintain their membership of the Bar.

I thank Mr. Fieldhouse for his many years of service. I welcome Mr. Bremner to the Victorian Bar and Mr. Bartlett to BCL. I am confident that the Bar will benefit greatly from their involvement.

If the past year has been challenging for the Bar Council, it has probably been even more so for the Board of BCL. BCL has reported that there is currently a healthy rate of occupancy in BCL chambers, and that following planning permission granted by Melbourne City Council, there are improved prospects for the sale of unused BCL real estate. However the proposed BCL float early in 1997 was unsuccessful. As a result, BCL will have to focus on a program of debt reduction and rationalisation. It is unfortunate that BCL will be unable to sponsor any major capital improvements to its buildings in the

near future. However, provided that the Bar continues to support BCL and the accommodation policies which have made the Victorian Bar the most freely accessible and competitive Bar in Australia, as I am sure it will, BCL and the Bar Council are confident that these restrictions on BCL will continue only in the short term.

I would conclude this report by saying that each of these challenges, in the end, has served to underscore the great importance of a unified and independent Victorian Bar. The past year has been successful only because the Bar Council, and the Bar as a whole, has remained firmly committed to the Bar's collegiate ethos and to the Bar's continuing role in serving both the Victorian public and the administration of justice. It is a commitment which will always need to be adapted to meet the Bar's own ambitions and to meet the contingencies of a rapidly changing legal environment, but it is also a commitment which remains firmly anchored in the best traditions of the Victorian Bar.

Neil J. Young

Chairman

20 August 1997

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Mr. Neil J. Young Q.C. (Chairman from 20 March 1997 and Vice-Chairman to 20 March 1997)
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Mr. David E. Curtain Q.C. (Senior Vice-Chairman from 20 March 1997 and Honorary Treasurer to 20 March 1997)
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Mr. A. Graeme Uren Q.C.
Mr. Robert F. Redlich Q.C.
Mr. Bernard D. Bongiorno Q.C.
Mr. Stephen W. Kaye Q.C.
Mr. John T. Rush Q.C.
Mr. David E. Curtain Q.C.
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Mr. A. Chernov Q.C., Mr. J.W.K. Burnside Q.C., Mr. S.K. Wilson Q.C.,
Mr. T.J. North and Mr. S.M. Anderson

Commonwealth A.A.T. – (Melbourne) Liaison Committee

Mr. C. Gunst

Costs Co-ordination Committee

Mr. B.D. Bongiorno Q.C.

Council of Australian Bar Association

Mr. N.J. Young Q.C. and Mr. D.E. Curtain Q.C.

Council of Law Council of Australia

Mr. J.T. Rush Q.C. and Mr. N.J. Young Q.C. (Alternate)

Council of Law Reporting

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

Council of Legal Education

Mr. M.J.L. Dowling Q.C. and Mr. J.I. Fajgenbaum Q.C.

County Court Building Cases Users Group

Mr. R.J. Manly and Mr. L.M. Schwarz

County Court Computerisation Committee

Mr. D.S. Levin

County Court Reform to Civil Procedure Committees

Expert Evidence – Mr. B.D. Bongiorno Q.C.; Medical Negligence –
Mr. D.F.R. Beach; Multi-Party Actions – Mr. R.J. Manly; Interest, Offers
to Settle Costs – Mr. M.J. Corrigan; Trial Control –
Mr. I.C. Robertson Q.C.

County Court Rules Committee

Mr. M.J. Corrigan and Mr. P.T. Fox

Department of Justice – Supreme Court Library Steering Committee

Mr. G.A.A. Nettle Q.C.

Federal Court Users Committee

Mr. G.R. Ritter Q.C., Mr. S.W. Kaye Q.C., Mr. E.N. Magee Q.C.,
Mr. C. Gunst, Mr. R.A. Brett Q.C., Mr. A.K. Panna and Mr. T.J. North

Firearms Appeal Committee

Ms. C.H. Sparke

La Trobe University Law School – Legal Profession Consultative Council

Mr. R.C. Macaw Q.C.

La Trobe University Proctorial Board

Mr. F.X. Costigan Q.C.

Law Council of Australia – Access to Justice Committee

Mr. B.D. Bongiorno 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 – “Australian Lawyer” Editorial Committee

Mr. P.G. Nash Q.C.

Law Council of Australia – Young Lawyers Committee

Mr. S. McGregor

Law Faculty – University of Melbourne

Mr. N.J. Young Q.C. and Mr. A.J. Myers Q.C.

Lawyers Engaged in Alternative Dispute Resolution (LEADR)

Mr. W.J. Martin Q.C. and Dr. D.J. Cremean (Alternate)

Legal Practice Board

Mrs. S.M. Crennan Q.C.

Legal Profession Tribunal – Conciliators

(Appointed 24 February 1997 for a five year term)

Mr. N. Moshinsky Q.C., Mr. H. Jolson Q.C. and Ms. G. Grigoriou

Legal Profession Tribunal – Advocate Members

(Appointed 7 March 1997 to 31 December 1997)

Mr. F.X. Costigan Q.C., Mr. D.M. Bennett Q.C., Mr. I.G. Sutherland Q.C.,
Mr. L. Lasry Q.C., Mr. R.R.S. Tracey Q.C., Ms. R.A. Lewitan Q.C.,
Mr. J.W. Rapke, Mr. A.G. Southall, Mr. D.S. Levin, Mr. A. Garantziotis,
Mr. G.J. Maguire, Mrs. S.A. Winneke, Mr. C.J. Ryan, Ms. H.M. Symon and
Ms. M.E. Sexton

Leo Cussen Institute of Continuing Legal Education

Mr. Justice Hampel (Chairman), Ms. D. Bryant (Alternate),
Mr. J.W.K. Burnside Q.C. and Mr. P.G. Nash Q.C. (Alternate).

Magistrates' Court Civil Rules Committee

Mr. I.R. McEachern, Mr. G.L. McNamara and Mr. F.J. Holzer

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)

Mr. G. Cazalet and Ms. F.M. McLeod (Alternate)

Salvation Army Court and Prison Advisory Committee

Mr. A.B.J. Combes

Supreme Court of Victoria – Building List Users Committee

Mr. G.J. Digby Q.C., Mr. D.S. Levin and Mr. R.J. Manly

Supreme Court of Victoria – Court Management

Mr. S.W. Kaye Q.C. and Mr. R.A. Brett Q.C.

Supreme Court of Victoria – Legal Costs Committee

Mr. B.D. Bongiorno Q.C.

Supreme Court of Victoria – Long Cases Committee

Mr. D.E. Curtain and Mr. S.W. Kaye Q.C.

Supreme Court of Victoria – Probate Users Committee

Mr. R.R. Boaden and Mr. S.P. Newton

Victoria Law Foundation (including Grants Committee)

Mr. D.E. Curtain Q.C.

Victoria Legal Aid – Community Consultative Committee

Mr. R.F. Redlich Q.C.

Victoria Legal Aid – Legal Aid Review Committees and Reserve Members

Mr. J.A. Smallwood (to 30 April 1998); Panel of Reserve Members –
Ms. C.M. Burnside (to 30 April 1998)

GENERAL MEETINGS

GENERAL MEETINGS OF THE BAR

The last Annual General Meeting of the Bar was held on 16 September 1996. A General Meeting was held on 21 May 1997 on Barristers' Dress.

BAR COUNCIL MEETINGS

For the year ended 30 June 1997 the Bar Council held 4 special meetings and 25 ordinary meetings.

EXECUTIVE COMMITTEE MEETINGS

For the year ended 30 June 1997 a total of 17 Executive Committee meetings were held.

SUBSCRIPTIONS

For the period 1 September 1996 to 30 June 1997 the Bar Council fixed annual subscriptions for members of the Bar as follows:

Division A, Part I

Queen's Counsel	\$1,480.00
Over 10 years	\$ 990.00
Over 6 years, but under 10 years	\$ 645.00
Over 3 years, but under 6 years	\$ 520.00
Over 1 year, but under 3 years	\$ 395.00
Under 1 year	\$ 210.00
Readers (March 1996 intake)	\$ 95.00

Division A, Part II

Crown Prosecutors	\$ 260.00
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Division A, Part III

Interstate Queen's Counsel	\$ 340.00
Interstate and Overseas Juniors	\$ 260.00

Division B, Part III	
Ministers of the Crown and Members of Parliament	\$ 260.00
Division B, Part IV	
Solicitors-General and Directors of Public Prosecutions	\$ 260.00
Division B, Part VII	
Crown Counsel and Parliamentary Counsel	\$ 260.00
Division B, Part VIII	
Other Official Appointments	\$ 260.00
Division D	
Academics	\$ 260.00

PERSONALIA

Obituary:

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

Mr. Peter T.G. Sullivan on 27 November 1996
 Mr. Christopher A. Spence on 21 December 1996
 Mr. Denis J. Barritt O.A.M. on 15 February 1997
 Sir Thomas Sydney Frost on 20 April 1997
 Mr. Guy A.N. Brown on 27 April 1997
 Mr. M. Strathmore on 9 May 1997

Judicial Appointments:

Federal Court of Australia

On 3rd February 1997 The Honourable Justice Goldberg was appointed to the Bench of the Federal Court of Australia.

Supreme Court of Victoria

On 8th May 1997 The Honourable Mr. Justice Gillard was appointed to the Bench of the Supreme Court of Victoria.

On 9 May 1997 The Honourable Mr. Justice Chernov was appointed to the Bench of the Supreme Court of Victoria.

Other Appointments

On 6 May 1997 The Honourable Mr. Justice Batt was appointed a Judge of Appeal.

Queen's Counsel:

On 26 November 1996 the following members of the Victorian Bar were appointed Queen's Counsel in Victoria:

Dr. C. Howard, Mr. I.C. Robertson, Mr. W.H. Morgan-Payler,
 Mr. J. Ruskin, Mr. D.N. Galbally, Mr. W.R. Ray, Mr. J. Udorovic,

Mr. R.A. Brett, Mr. P.J. Jopling, Mr. A.L. Cavanough, Mr. J.G. Judd, Ms. S.C. Kenny, Ms. F.P. Hampel, Mr. W.T. Houghton, Mr. G.T. Pagone, Mr. R.M. Garratt, Ms. C.E. Molyneux and Mr. B.A. Keon-Cohen.

Welcomes:

On 8 May 1997 the Honourable Mr. Justice Gillard was welcomed to the Bench of the Supreme Court of Victoria by Mr. N.J. Young Q.C., Chairman of the Victorian Bar Council.

On 9 May 1997 the Honourable Mr. Justice Chernov was welcomed to the Bench of the Supreme Court of Victoria by Mr. N.J. Young Q.C., Chairman of the Victorian Bar Council.

Farewells:

On 10 April 1997 the legal profession met to pay tribute to The Honourable Mr. Justice Southwell on the occasion of his retirement from the Bench of the Supreme Court of Victoria. Mr. N.J. Young Q.C., Chairman of the Victorian Bar Council spoke on behalf of the Bar.

On 14 April 1997 the legal profession met to pay tribute to The Honourable Mr. Justice Nathan on the occasion of his retirement from the Bench of the Supreme Court of Victoria. Mr. N.J. Young Q.C., Chairman of the Victorian Bar Council spoke on behalf of the Bar.

On 29 April 1997 the legal profession met to pay tribute to The Honourable Justice Jenkinson on the occasion of his retirement from the Bench of the Federal Court of Australia. Mr. N.J. Young Q.C., Chairman of the Victorian Bar Council spoke on behalf of the Bar.

On 27 May 1997 the legal profession met to pay tribute to The Honourable Judge McNab on the occasion of his retirement from the Bench of the County Court of Victoria. Mr. N.J. Young Q.C., Chairman of the Victorian Bar Council spoke on behalf of the Bar.

ROLL OF COUNSEL

Division A, Part I	
Victorian Practising Counsel – Queen’s Counsel	140
Victorian Practising Counsel – Junior Counsel	1156
Division A, Part II	
Prosecutors for the Queen	24
Division A, Part III	
Overseas and Interstate Counsel	242
Division B, Part I	
Governors	3
Division B, Part II	
Judges	137
Division B, Part III	
Ministers of the Crown and Members of Parliament	9
Division B, Part IV	
Solicitors-General and Directors of Public Prosecutions	6
Division B, Part V	
Masters and Judicial Registrars	12
Division B, Part VI	
Magistrates and Full Time Members of Statutory Tribunals	53
Division B, Part VII	
Crown Counsel and Parliamentary Counsel	11
Division B, Part VIII	
Other Official Appointments	5
Division C, Part I	
Retired Judges and other Judicial Officers	44
Division C, Part II	
Retired Holders of Public Office other than Judicial Officer	7
Division C, Part III	
Retired Counsel	48
Division D	
Academics	23
TOTAL	1920

Between 1st July 1996 and 30 June 1997 the following 92 persons signed the Roll of Counsel:

Patrick Indovino (re-signed), Leslie Michael Schwarz (re-signed), Frank Tallarida (re-signed twice), Stuart Adair Rowland, Gary Cazalet (re-signed), John Frederick Goldberg (re-signed), Ian Robert Miller (re-signed), John Thomas Tuck, Bernard Damien Smith, Patrick Anthony Lawler, Patricia Rose Riddell, Peter Robert D. Gray, James Charles Galatas, Fiona Gabrielle Phillips, Penny Jeanette Marcou, Richard Anthony Harris, Peter Graeme Lovell, Eugene Paul White, Warren Robert Swain, Rachel Louise Lloyd, Andrew Menzies Willis, Alan David Kornhauser, Stella Zapas, Geoffrey Rowan Dickson, John Mathew Sutton, Gerard Paul Mullaly, Colin Campbell, Ian Frederick Turnbull, Cornelia Fourfouris-Mack, Jamie Hamilton Shaw, Peter Fox, Lachlan Daryl Wraith, Margaret Mary Ryan, John Philip Grigg, Michael Hargreaves Whitten, Philip Andrew Tribe (re-signed), Genevieve Ellen Howse (re-signed), Michael Denis Hannan (re-signed), Robert Mario Lombardi (re-signed), Douglas William Parker (re-signed), Lindis Krejus (re-signed), Stephen John Ballek (re-signed), Norman Sydney Fowler (re-signed), Ann-Maree McDiarmid, Shane Keith Gardner, Christine Lethbridge, Stuart John Gibson, Patricia Ann Devlin, Ruxandra Lazarescu, Matthew Joseph Walsh, Kim Andree Galpin, Susan Peta Richardson, Anthony John Phillips, Teresa Mary Congiu, Anne Elizabeth Duggan, Paul Anthony Norris, David James Flynn, Fiona Thompson, Andrew Shane Dickenson, Justin Michael Baum, Trischa Mann, David Eric Risstrom, Rachel Rosa Irons, Thomas James Serra, David Bliss, Diane Margaret New, Philip Howard Solomon, Fiona Mary Ellis, Robert Michael Peters, Wendy Anne Harris, Bruce Robert McKenzie, Daniel David Gurvich, Rebecca Jane McDonald Smith, Mary Sevdalis, Mary Anne Hartley, John Andrew Tesarsch, Mark Gerald Rinaldi, Jeffery Goodwin Levine, Anthony David Lang, Frank Edward Thorogood, Mathew Robert Carey, Jan Maree Maclean, David Peter Lloyd, Julie Condon, Andrew Jonathan Field, Timothy Francis Sullivan, Sean Rory Derham, Margaret Lodge, Simon McGregor, Marko Cvjeticanin, Abraham Zali Kornblum

Between 1st July 1996 and 30 June 1997 the names of the following 8 Overseas and Interstate Counsel were entered on the Roll of Counsel:

Johannes Theodorus Schoombee (Western Australia), Michael William Duckett White (Queensland Q.C.), Graeme Frederick Little (New South Wales), David Claude Fitzgibbon (New South Wales), Peter Leslie Hanlon (Queensland), Julian Francis Gormly (New South Wales), Anna Judith Katzmann (New South Wales), Robert Winston Richardson (Western Australia)

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

Ms. B. Cosgrave, Mr. R.G. Mitchell, Mr. R.M.J. Lombardi, Miss L. Krejus, Mr. F.J. Davis, Mr. M.A. Carrazzo, Ms. A. Rubinstein, Mr. T.J. Knight, Mr. G. Beard, Ms. W.E. James, Mr. P.E. L'Estrange, Mr. P.D. Taranto, Ms. S. Dobra-Roglic, Mr. S.A. Rosenzweig, Mr. R.J. Gorey, Mrs. E.A. Harbour, Ms. L.P. Kline-Marantelli, Mr. P.G. Kovacs, Ms. A. Ziaras, Mr. A. De Silva, Mr. J.E. Lunn, Ms. E.L. Williamson, Mr. F. Tallarida, Hon.N.A. Brown Q.C., Mr. T.D.H. Mak, Ms. A. Eastman, Ms. J. Horan, Mr. P. Luke, Mrs. P. Hudson, Mr. C. Gamble, Ms. A. Glaister, Mr. L. Levy, Mr. S.R. Pica, Ms. A. Bolger, Mr. D. Whitford, Mr. C. Carmody

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

Mr. R.R. Vernon, Mr. J.C. Curthoys, Mr. P.G. Saywell, Ms. A. Bowne, Mr. M.R. Gracie, The Honourable W.M. Hodgman Q.C., M.P.

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

Ms. D.M. Fagan

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

Mr. A.R. Monteith, Ms. D.C. Phelan, Mr. R.R. Vernon, Ms. A.C. Thacker

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

The Honourable Justice Goldberg, The Honourable Mr. Justice Gillard, The Honourable Mr. Justice Chernov

**Member whose name has been transferred from Division A, Part I
(Victorian Practising Counsel) to Division B, Part III (Ministers of
the Crown and Members of Parliament):**

Senator B.C. Cooney

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

Mr. K.J. Burgess, Mr. K.F. Whiting

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

Mr. G.B. Johnston, Mr. T. Lindsey, Ms. S.V. MacCallum, Mr. R.N. Douglas, Mr. M.F. Curran

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

Mr. C. Howard Q.C.

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

Mr. K.J. Oderberg, Mr. A.R. Monteith, Mr. S.A. Rowland

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

His Honour Judge David, The Honourable Mr. Justice Lloyd, The Honourable Mr. Justice Emmett

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

Mr. T.L. Buddin

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

Mr. L.C. Gruzman Q.C., Mr. J.D. Evans

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

The Honourable Justice Keely, The Honourable Mr. Justice Bannon, His Honour Judge Read, The Honourable Mr. Justice O'Bryan, The Honourable Mr. Justice Southwell, The Honourable Mr. Justice Nathan, The Honourable Justice Jenkinson, His Honour Judge McNab

Member whose name has been transferred from Division B, Part III (Ministers of the Crown and Members of Parliament) to Division C, Part III (Retired Counsel):

The Honourable H. Storey Q.C.

Member whose name has been transferred from Division B, Part VI (Magistrates and Full-Time Members of Statutory Tribunals) to Division A, Part I (Victorian Practising Counsel):

Ms. C.M. Morfuni

Member whose name has been transferred from Division B, Part VI (Magistrates and Full-time Members of Statutory Tribunals) to Division C, Part III (Retired Counsel):

Mr. R.K. Todd A.M.

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

Miss. B.J. King Q.C.

FUNCTIONS

Opening of the Legal Year:

Religious Observances for the Legal Profession for the opening of the Legal Year were held on 3rd February, 1997. The Services were held at St. Paul's Cathedral, St. Mary's Star of the Sea, Temple Beth Israel and St. Eustathios Cathedral.

Social Functions:

On 24 July 1996 the then Chairman and members of the Victorian Bar Council held a reception in the Essoign Club for Victorian Magistrates.

On 28 August 1996 the then Chairman and members of the Victorian Bar Council held a reception for the Judiciary in the Essoign Club.

At a function held in the Essoign Club on 2 September 1996 Readers were welcomed to the Victorian Bar.

On 24 October 1996 the then Chairman and members of the Victorian Bar Council held a dinner in honour of the retiring members of the Bar Council and other members of the Bar in the Essoign Club.

A Readers and Mentors dinner was held in the Essoign Club on 21 November 1996 and the guest speaker was Mr. Rowan McIndoe, Magistrate.

On 25 February 1997 the then Chairman and members of the Victorian Bar Council held a lunch for High Court judges in the Essoign Club.

On 28 February 1997 a media reception was held in the Chairman's Room.

At a function held in the Essoign Club on 3 March 1997 Readers were welcomed to the Victorian Bar.

On 23 April 1997 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.

At a dinner held in the Essoign Club on 15 May 1997 the Chairman and Members of the Victorian Bar Council entertained the Past Chairman and retiring Members of the the Barristers' Disciplinary Tribunal, new Statutory Office Holders and others.

A Readers and Mentors dinner was held in the Essoign Club on 22 May 1997 and the guest speaker was The Honourable Justice Balmford, of the Supreme Court of Victoria.

On 6 June 1997 the Chairman and members of the Victorian Bar Council held a lunch for High Court judges and others.

The 1997 Victorian Bar Annual Dinner was held on 14th June, 1997 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:

The Honourable Sir James Gobbo A.C.

The Honourable Justice Goldberg

The Honourable Justice Gillard

The Honourable Justice Chernov

Harold R. Hallenstein A.M.

Mr. N.J. Young Q.C., Chairman of the Victorian Bar Council proposed the toast to the Queen.

Mr. C. Pullin Q.C., President of the Australian Bar Association proposed the toast to the independent Bars of Australia.

Mr. N.Y. Young Q.C. welcomed the honoured guests of the Bar and introduced Mr. Junior Silk, Mr. B. Keon-Cohen Q.C. who addressed the honoured guests. The Honourable Mr. Justice Gillard responded on behalf of the honoured guests.

Other Functions:

On 5 March 1997 a luncheon was held in the Chairman's Chambers in honour of Sheriff David Bogie, a member of the Faculty of Advocates and Sheriff of Grampian Highlan and Islands, Aberdeen, and his wife Joan. The luncheon was hosted by Mr. J.E. Middleton Q.C., Chairman of the Victorian Bar Council.

During the year under review the Chairman and members of the Victorian Bar Council entertained guests at various functions.

SPORTING EVENTS

Cricket:

On 16 December 1996 two cricket matches were played against teams from the Law Institute of Victoria. At the match played at Albert Ground the Law Institute defeated the Victorian Bar. Scores were Law Institute 3/165 (off 26 overs) and the Bar 9/156 (off 40 overs).

On 5 April 1997 a cricket match was played at the University of Sydney against the NSW Bar Association. The NSW Bar Association defeated the Victorian Bar.

Hockey:

At a match played at the State Hockey Centre on 24 October 1996 the Law Institute team defeated the Victorian Bar team by 5 goals to 1. The Law Institute regained the Scales of Justice Cup.

In another match played on 17 October 1996 against R.M.I.T., the R.M.I.T. team won by 4 goals to 2.

Tennis:

On 17 December 1996 the Annual Tennis match against the Law Institute of Victoria for the Judge O'Driscoll Perpetual Trophy was held at the Kooyong Lawn Tennis Courts in Malvern. The Law Institute won the match by only one set in a very close match.

On 19 December 1996 the Annual Royal Tennis Tournament between the Bench, the Bar and the Law Institute of Victoria was held at the Royal Tennis Court in Richmond. The Law Institute won the tournament, thus retaining the Judge Box Cup.

Golf:

The Annual Golf Tournament between the Bench and Bar against the Law Institute of Victoria was held at Kingston Heath Golf Club on 17 December 1996. The Victorian Bar won the tournament and regained the Sir Edmund Herring Trophy.

ANNUAL REPORTS

ANNUAL REPORT OF THE ETHICS COMMITTEE

On 1 January 1997 the *Legal Practice Act* 1996 ("the Act") came into operation. This had the immediate effect, subject to the transitional provisions contained in Schedule 2, of repealing the *Legal Professional Practice Act* 1958 ("the old Act"). The Bar Council has delegated all of its powers under Part V of the Act to the Committee. Part V is concerned with disputes with, and complaints about, legal practitioners. The transitional provisions provide that the provisions of the old Act continue with respect to allegations received by the Committee prior to 1 January 1997. This has meant the Committee has held four summary hearings pursuant to s.14E of the old Act. The details of those four hearings are set out below and at the time of preparation of this report there were two more hearings to be conducted.

The terms of the Act have resulted in some major changes to the role of the Ethics Committee and to the investigation and determination of allegations against barristers. The Committee no longer has any summary hearing power. Under Division 2 of Part 5 of the Act, complaints may be made about the conduct of a barrister. Section 137 defines the conduct under consideration by reference to definitions of "misconduct" and "unsatisfactory conduct". Then, subject to the allegations being dismissed as "frivolous, vexatious,

misconceived or lacking in substance” the Committee must investigate and, if, of the view that there is a reasonable likelihood the Legal Profession Tribunal could find the barrister guilty of misconduct must bring a charge before the Tribunal; and if satisfied the Tribunal would find the barrister guilty of unsatisfactory conduct the Committee may bring a charge before the Tribunal. A complainant may lodge a complaint with the Committee or the Legal Ombudsman. Either body may refer the complaint to the other for investigation.

Under the old Act the Committee only had jurisdiction with respect to conduct matters. Now, Division 1 of Part 5 of the Act gives the Committee jurisdiction with respect to “disputes”. A dispute concerns legal costs not exceeding \$15,000 (“costs dispute”), or a claim for pecuniary loss as a result of an act or omission by a barrister in provision of legal services, or any other genuine dispute, arising out of, or in relation to, the provision of legal services to a person by a barrister. The Act requires the Committee to attempt to settle the dispute, and if agreement cannot be reached the Committee must advise the person making the claim that the dispute may be referred to the Tribunal.

The Table setting out the numbers of complaints received demonstrates the changes brought about by the new Act. Complaints are no longer referred to the Committee by the Chairman of the Bar Council. The Table also makes provision for “disputes”. Additionally, the Table draws a distinction between those matters being investigated by the Committee and those by the Legal Ombudsman.

The Act has now been in force for over six months and it has been an interesting time for the Committee. However, and unfortunately, it is already clear that there are some problems with the drafting of provisions of the Act as well as the transitional provisions. Through the Bar Council, the Committee has suggested some amendments to the Act.

The Committee expresses its gratitude to the following members who have resigned from the Committee over the past twelve months:-

The Honourable Justice Kenny, Mr. J.T. Rush Q.C., Mr. G.T. Pagone Q.C. and Ms. Rozeta Stoikovska.

During the period 1 July 1996 to 30 June 1997 the Ethics Committee has conducted 28 meetings.

The Committee has held 4 summary hearings pursuant to Section 14E of the *Legal Profession Practice Act* 1958.

First Hearing

Subject of Hearing:

The Committee was of the opinion that the barrister may have committed a disciplinary offence or offences in that:

- (i) he failed to act in the cause of the client for whom he was briefed according to the instructions given to him by the client; and
- (ii) he settled a matter involving the taxation of costs between solicitor and client without instructions from the client for whom he was briefed to appear.

Determination: The Committee found that the evidence in its totality was very unsatisfactory which included the evidence of the barrister, but the onus of proof to the requisite degree was upon those laying the charge, namely the Committee and as such it was not able to come to the view that either or both the charges were made out.

The Committee dismissed both charges.

Second Hearing

Subject of Hearing: The Committee was of the opinion that the barrister may have committed an offence or offences in that he:

- (i) exerted improper pressure on the client to settle a matter against her expressed wishes; and
- (ii) refused to accept instructions to appear and uphold the interest of the said client in the said proceedings.

Determination: The Committee determined, on the evidence, that the barrister was prepared to appear in court and to represent his client and therefore the second allegation could not be made out.

As to the first allegation concerning exertion of improper pressure, it was the Committee's view that what occurred on this occasion did not amount to exerting improper pressure on the client to settle.

The Committee dismissed both charges.

Third Hearing

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

- (i) he failed to appear in accordance with instructions and uphold the interests of his client;
- (ii) he failed to return the brief and/or any other papers relating to the said client when requested to do so; and
- (iii) he failed to reply to letters from the Ethics Committee.

Determination: The Committee found the following charges proven:

- (a) he had failed to return his brief and/or papers relating to the said client when requested by the client to do so, in breach of Rules 1.2(a) and (c) of the Rules of Professional Conduct and Practice; and
- (b) he had failed to reply to letters from the Ethics Committee when asked to do so, in breach of Rule 14.2(a) of the Rules of Professional Conduct and Practice.

The Committee determined that a fine of three penalty units for each charge be imposed, a total of \$600.00 and

further, the Chairman sought an undertaking from the barrister that the brief would be returned to the client immediately with a letter to the effect that the brief was lost and to apologise for the delay in returning it and provide a copy of the letter to the Committee.

Fourth Hearing

Subject of Hearing:

The Committee was of the opinion that the barrister may have committed a disciplinary offence in that:

- (i) by a written agreement made between the barrister and the client he agreed to take and did take a transfer of property from the client in consideration of his fees owing and to be rendered in the future;
- (ii) he had been retained by a solicitor to confer, advise and appear in the proceedings;
- (iii) prior to the making of the agreement or at any time, he did not seek or obtain the permission of the Ethics Committee to recover his fees directly from the lay client;
- (iv) he thereby without the permission of the Ethics Committee, sought to recover fees directly from the lay client;
- (v) he thereby accepted, in lieu of fees, a transfer of property from the lay client.

Determination:

The Committee dismissed the charges.

COMPLAINTS/DISPUTES	1/7/94 to 30/6/95 (12 months)	1/7/95 to 30/6/96 (12 months)	1/7/96 to 31/12/96 (6 months)	1/1/97 to 30/6/97 (6 months)
Number of matters referred by the Chairman of the Victorian Bar Council to the Ethics Committee under the provisions of the <i>Legal Profession Practice Act 1958</i> which <i>disclosed</i> complaints of disciplinary offences	12	12	10	—
Number of matters referred by the Chairman of the Victorian Bar Council to the Ethics Committee under the provisions of the <i>Legal Profession Practice Act 1958</i> which <i>did not disclose</i> complaints of disciplinary offences	62	65	39	—
Number of matters pending a determination of whether a disciplinary offence was disclosed within the provisions of the <i>Legal Profession Practice Act 1958</i>	6	10	—	—
Number of matters of disciplinary offences investigated of the Committee's own motion under the provisions of the <i>Legal Profession Practice Act 1958</i>	1	1	—	—
Number of complaints of misconduct or unsatisfactory conduct received by and investigated by the Ethics Committee under the provisions of the <i>Legal Practice Act 1996</i>	—	—	—	19
Number of complaints of misconduct or unsatisfactory conduct referred by the Legal Ombudsman to the Ethics Committee under the provisions of the <i>Legal Practice Act 1996</i>	—	—	—	1

COMPLAINTS/DISPUTES	1/7/94 to 30/6/95 (12 months)	1/7/95 to 30/6/96 (12 months)	1/7/96 to 31/12/96 (6 months)	1/1/97 to 30/6/97 (6 months)
Number of requests for dispute resolution received by the Ethics Committee either directly or referred by the Legal Ombudsman under the provisions of the <i>Legal Practice Act 1996</i>	—	—	—	15
Number of complaints of misconduct or unsatisfactory conduct referred by the Ethics Committee to the Legal Ombudsman for investigation under the provisions of the <i>Legal Practice Act 1996</i>	—	—	—	1
Total number of complaints and disputes dealt with by the Ethics Committee during the reporting period.	81	88	<u>49</u>	<u>36</u> 85
Number of notifications of investigations received from the Legal Ombudsman	—	—	—	11

ANNUAL REPORT OF THE BARRISTERS' BENEVOLENT ASSOCIATION OF VICTORIA

The Barristers' Benevolent Association provides funds to assist barristers in necessitous circumstances. A very important aspect of membership of the Bar is the willingness of barristers to help their colleagues, and in particular their colleagues who through no fault of their own, have need for financial assistance. Members of the Bar are therefore encouraged to make donations to the Association. The amount is, of course, in the discretion of the donor, but the following is recommended:

Queen's Counsel	\$500.00
10 year's call and above	\$300.00
All other members of the junior Bar	\$100.00

Members may look to the Association for assistance when the occasion requires. All applications are dealt with expeditiously and in confidence.

Subscriptions received during the twelve months to 30 June 1997 amounted to \$52,355. Interest from investments received during the year amounted to \$42,962.

During the year the sum of \$28,136 was advanced to three persons. One of the advances was by way of a repayable interest free loan with all other advances being by absolute grant.

At 30 June 1997 the capital fund which is represented by investments in trustee securities, stood at \$665,850 and outstanding loans totalled \$57,000.

During the year one loan was repaid in full.

ANNUAL REPORT OF THE VICTORIAN BAR READERS' COURSE

Each year two intakes of readers complete the Readers' Course. The September 1996 intake comprised 27 readers, one practitioner from Papua New Guinea, one practitioner from the Solomon Islands and one practitioner from Indonesia. The March 1997 intake comprised 46 readers. There were two practitioners from Vanuatu and one from Papua New Guinea. The September 1997 intake will comprise 33 readers and four practitioners from Papua New Guinea.

The Readers' Course is the Bar's most important Continuing Legal Education activity.

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.

The Bar Council will soon have to consider appointing an assistant to Barb Walsh, if we are to maintain the present quality of the Readers' Course.

The Course continues to develop. With each intake, we modify aspects of the Course structure. Several of the most dedicated teachers in the Course attended the first international Symposium of Advocacy Teachers, in London in January 1997. There, they were gratified to learn that our teaching standards are among the highest in the world.

ANNUAL REPORT OF THE COMMERCIAL BAR ASSOCIATION

The Commercial Bar Association has been engaged in a series of continuing legal education seminars conducted by the Chairman and Secretary of each section of the Association. During the course of the past year, arrangements have been entered into between the Commercial Bar Association and the Victorian Bar whereby the Victorian Bar now provides the administrative support necessary to enable the activities of the Commercial Bar Association to be completed. The office bearers of the Association are:

President	Alan Myers Q.C.
Vice President (Convenor)	David Denton
Treasurer	Melanie Sloss

Chairmen of Sections:

Alternative Disputes Resolution:	David Bennett Q.C.
Banking and Finance Law:	Michael Shatin Q.C.
Constitutional and Administrative Law:	Nathan Moshinsky Q.C.
Construction Law:	John Digby Q.C.
Corporations and Securities Law:	Neil Young Q.C.
Environmental, Planning and Local Government Law:	Greg Garde AM RFD Q.C.
Insolvency Law:	Mark Derham Q.C.
Intellectual Property and Trade Practices Law:	David Shavin Q.C.
Property Law:	Nimal Wikrama
Revenue Law:	Ada Moshinsky Q.C.

Secretaries to Section Chairman:

Alternative Disputes Resolution:	Michael Shand
Banking and Finance Law:	Michael Sifris
Constitutional and Administrative Law:	Ragu Appudurai
Construction Law:	Richard Manly
Corporations and Securities Law:	Albert Monichino
Environmental, Planning and Local Government Law:	Stephen Jones
Insolvency Law:	Nunzio Lucarelli
Intellectual Property and Trade Practices Law:	Graeme Clarke
Property Law:	Richard Phillips
Revenue Law:	Alexandra Richards

In December 1996, the Commercial Bar Association and the Commercial Law Association of Australia combined to hold a joint Annual Dinner. The dinner was attended by Members of Counsel, Corporate Lawyers, Solicitors in private practice specialising in Corporate Law, Academic Lawyers and Lawyers involved in Corporate Activity.

Generally the format of Section activities has revolved around monthly or bi-monthly seminar meetings held in the coffee lounge of the Essoign Club or the Readers Seminar Room at Douglas Menzies Chambers. Recent cases have been analysed and discussed and panel members have taken questions on the subject matter. Generally, the evenings have served a principal purpose of ensuring a mixing of counsel of all seniorities in an informal setting allowing members of counsel to acquaint themselves with each other and to participate and express their own considerations of the matter being reviewed. As such, the Association has achieved its primary aim of being a forum for meetings of barristers who practise in or have an interest in commercial law and it also fosters a closer working and social relationship between them.

The Association notes with great pleasure the appointment of Alan Goldberg Q.C., the inaugural President of the Association, as a Justice of the Federal Court of Australia. Further, the former Senior Vice President of the

Association, Ray Finklestein Q.C. was also appointed a Justice of the Federal Court of Australia.

Any enquiries in relation to the activities of the Commercial Bar Association should be directed to David Denton, Clerk 'A' on 9608 7020.

ANNUAL REPORT OF THE FAMILY LAW BAR ASSOCIATION

The 1996/97 year has been one of difficulty in family law. A chronic shortage of legal aid funds combined with an under-resourced Court has led to an appreciable deterioration in the standard of justice available to litigants.

The Association has been called upon by the Court and the Bar Council to provide its views on matters such as the procedures at the Court, legal aid and proposed legislation for the transfer of proceedings between the Courts of the Commonwealth and the Australian States and those of New Zealand. Submissions were also made concerning appropriate Regulations for a scheme of Conciliation. Such a scheme was adopted by the Court. Despite strong support from the members of the Association, and publicity by the Court, the response to date has been disappointing.

The Association is pleased to report that virtually all members of Counsel active in the area of family law are within its membership. Meetings held by the Association throughout the year were strongly supported.

Our most important social occasion was the Christmas Cocktail Party held at the Australian Club on the 16th December 1996. It was well attended by members of the Association and its guests, including members of the judiciary and Registrars of the Court.

ANNUAL REPORT OF THE VICTORIAN BAR ALTERNATIVE DISPUTE RESOLUTION COMMITTEE

Throughout the Bar's year the Committee has met monthly to consider relevant business, the most important of which was planning for and the establishment of the Bar's Mediation Centre foreshadowed in last year's Annual Report.

The task of transforming an allocated area of space to a staffed, equipped, decorated and operative Centre was tackled with the usual enthusiasm exhibited by members of the Committee. The Bar Council and Barristers' Chambers Limited need to be mentioned because it was their respective decisions to provide the facility for members of the Bar. In the end, the results are pleasing.

After operating from October 1996 during the course of the renovations to the Old Four Courts Building, the Centre was officially opened on 30 April 1997 by the Chief Justice of the Supreme Court who, in addition to the Chief

Judge of the County Court, continues to lead dispute resolution by alternative means in the context of traditional Court systems. The opening and following reception were well-attended and the Centre received much favourable comment.

The Committee has been continually concerned with one aspect of the Mediation Centre. It was anticipated that the initial opening phase of the Centre before ideal occupancy rates were achieved would take some time. This was especially so since the renovations were incomplete and the Centre was operating amid building chaos. Since April 1997 the occupancy rates have been encouraging but it is now time for barristers, whether they are mediating or appearing, to use every available opportunity to support the Centre by making bookings. The Bar Council have kept the charges as low as feasibly possible, \$375 for a Boardroom and 2 Conference Rooms or \$275 for 2 Conference rooms. It must be remembered that the premises are staffed, local telephone charges and all facilities are included. For its part the Committee proposes to continue all efforts to maximise utilization of the Centre.

The Committee has organized well attended Seminars, one given by Professor John Wade on 19 September 1996 with the assistance of Gerald Lewis, Paul Scanlon and David Bennett Q.C. and on 15 May 1997 given by the well-credentialed and extremely popular Joanna Kalowski, now mediating in the Native Title Tribunal. The present thinking of the Committee is that there is no demand for basic mediation courses, given the number of Bar – accredited mediators but it proposes to hold similar seminar-type functions subject to interest.

Special thanks need to be extended for work during the year. Barbara Harrington from October 1996 to May 1997 organized all aspects of the bookings for the Centre and set in train all the necessary systems and forms. Pauline Hannan and Helen Henry have staffed the Centre superbly, and often all day and late into the night. Wendy McPhee has assiduously maintained the Bar's list of mediators and Rebecca Smith who now manages bookings.

The Chairman of the Committee thanks the members for their assistance and continued support in dealing with all manner of administrative business, not just the more important aspects mentioned in this report. The Committee will continue to work to ensure that the Bar's profile and its position as one of, if not, the leading provider of mediators in Australia remains unassailed.

ANNUAL REPORT OF THE CHILD CARE FACILITIES COMMITTEE

The Committee's major project since the last Annual Report has been the provision of "parents room facilities" throughout Barristers' Chambers.

The provision of these facilities is still unresolved though considerable work has been done by members of the Committee.

ANNUAL REPORT OF THE EQUALITY BEFORE THE LAW COMMITTEE

Once again, the Equality before the Law Committee has had a very active year. It obtained funding from the Victorian Bar Council to undertake a study of the progress of women at the Victorian Bar to investigate whether there are any barriers that may prevent women barristers from equal participation in the profession. The study is presently being conducted by Ms. Helen McKelvie (socio-legal researcher) and Ms. Rosemary Hunter, senior lecturer with the Centre for Employment and Labour Relations Law at the University of Melbourne.

A Steering Committee has been appointed to oversee the study. The Steering Committee is chaired by Mr. Justice Charles A.J. Other members of the Steering Committee include Justice Brown, Professor Neave, Mr. Ian Dunn (Chief Executive Officer Victorian Law Institute), Bongiorno Q.C., Howard Q.C., Lewitan Q.C., Pettigrew and Phillips.

The study will involve the collection of empirical data on briefing patterns in several courts and tribunals in Victoria over a 3 month period and a series of interviews with members of the legal profession, barristers' clerks, judges and judicial officers.

The Steering Committee has applied for and obtained additional funding from the Victorian Law Foundation which will enable more interviews to be conducted. The Beijing Conference Committee of the International Commission of Jurists (Vic) has also indicated its support, and will contribute additional funding for the project.

Other initiatives undertaken by the Equality before the Law Committee include the preparation of submissions to the Equal Opportunity Commission on same sex relationships. The Committee is also giving further consideration to the recommendations made by the New South Wales Law Reform Commission on people with an intellectual disability and the Criminal Justice system.

Representatives of the Committee attended a meeting organised by the Commonwealth Attorney-General on sexual offences and the model criminal code and a discussion on human rights and womens rights with the secretary of the Judicial Commission of Nepal.

ANNUAL REPORT OF THE WOMEN BARRISTERS' ASSOCIATION

The Women Barristers' Association was established in 1993. Its purposes are:

- (a) To promote awareness, discussion and resolution of issues which particularly affect women;
- (b) To identify, highlight and eradicate discrimination against women in law and in the legal system;

(c) To advance equality for women at the Bar and in the legal profession generally; and to

(d) Provide a professional and social network for women barristers.

There is a need for an association with these purposes. Whilst significant advances have been made for women in and before the law, there is still discrimination and inequality affecting women in and before the law.

Consistently with its aims, the Women Barristers' Association has held regular committee meetings, a regular series of lectures and seminars and formal and informal dinners and other gatherings. It has also continued to liaise with the Bar Council, and to be consulted by the Bar Council on issues particularly affecting women. It has become a foundation member of Australian Women Lawyers.

The Association has worked closely with the Bar Equality before the Law Committee on the recommendation to establish and the terms of reference for the survey on gender bias within the profession.

The Association has continued to make representations to the Bar Council in relation to issues including representation of women on Bar committees, particularly committees such as the Ethics Committee, the appointment of alternates to Ron Castan Q.C. and Jane Patrick as conciliators appointed under the Bar Code of Conduct in relation to sexual harassment, and the provision of a parents room.

The communication between the Association and the Bar Council, particularly the Chairman is good. The Association still considers women are under represented on Bar committees including the ethics committee, and regrets that a parent's room has still not been made available, despite the recommendations of the WBA and the Bar Childcare committee.

The educational and social activities of the association have included:

- The annual dinner, at which Justice Margaret Beazley of the Court of Appeal of New South Wales spoke;
- The annual cocktail party to mark the opening of the legal year, at which Justice Morgan toasted the appointment of the three women who had been appointed silk at the end of 1996;
- A lunch to mark International Womens Day was held with Justice Brown and Moira Rayner as guest speakers;
- An address by Kim Rubenstein of Melbourne University about the Constitution and the Constitutional Convention;
- A seminar conducted by George Beaton on Business Planning for Barristers; and
- In June the first of two sessions concerning the evaluation report by Melanie Heenan and Helen McKelvie on the Crimes Rape Act 1991.

The Women Barristers' Association has resolved to become a foundation member association of Australian Women Lawyers. Alexandra Richards, a member of the committee of the Women Barristers' Association is the inaugural President of Australian Women Lawyers. Its patron is Justice Gaudron and it will be launched at the Australian Legal Convention on the 19 September

1997. The Women Barristers' Association applauds the formation of a National Women Lawyers Association and looks forward to a long and fruitful association with it.

ANNUAL REPORT OF THE NEW BARRISTERS' COMMITTEE

The New Barristers' Committee is currently undergoing a restructure with a new constitution being prepared. The Committee felt that there was a need to change the structure as the Committee was no longer adequately serving a function nor achieving a specific purpose. It was felt that many of the issues which were of concern to the junior Bar were also issues that concerned the entire Bar and the Bar Council was addressing those issues. The restructure is designed to encourage more participation in the Committee from the junior Bar by seeking a representative from each Readers' group. The Committee was also of the view that there needed to be a shift in emphasis as to the purpose of the Committee with more consideration being given to social functions in an attempt to encourage a degree of camaraderie amongst the junior Bar.

ANNUAL REPORT OF THE ESSOIGN CLUB

The Committee is pleased to report that over the past year the Club continued to trade profitably although it did not equal the splendid result of the previous year. There was an increase in the number of members dining at the Club at lunchtime but this was offset by a decline during 1996 of catering for private functions. The Committee is pleased to note that the results from the early part of this year indicate a reversal of that trend and many more private functions are now being catered. The Club welcomes this opportunity to provide service to members of the Bar and the catering manager is always ready to discuss any requirements which members may have for private functions.

Another area in which performance has been somewhat disappointing is the liquor division. Since reopening in 1995 the Committee has pursued a policy of seeking to improve and consolidate the catering side of its activities. The Committee intends over the next year to concentrate more attention upon the liquor division. Members will recall that some years ago the list of wines offered by the Club was of exceptional quality including many lines which were hard to procure elsewhere. The Committee sees this is a valuable service to members and intends to take several initiatives to promote the sale of packaged wines and spirits.

Last year the Committee hosted some highly successful functions. There was the Calcutta on the eve of the Melbourne Cup, an art exhibition-game night and the Alternative Bar Dinner. The last two functions were over subscribed and, importantly, each of the functions appears to have been enjoyed by all who attended. The Committee looks forward to hosting the alternative

Bar Dinner again this year and we also intend a wine dinner similar to the Macedon Ranges Showing which was highly successful in 1995. The Committee regards the opportunity to hold such events as an important part of its role in fostering and maintaining the collegiate spirit of the Bar.

The Club has continued to provide services to the Bar Council both in the form of the provision of catering for subcommittee meetings and also providing the venue for Bar Council dinners. It is noted that these services are provided at a significant discount.

The Committee has reintroduced art exhibitions holding five since last October and intend to continue to hold exhibitions over the coming year.

The Committee recognises the importance of maintaining membership and ensuring the use of the Club by all members of the Bar and particularly its newer members. To this end we acquaint new barristers, during the Reader's Course, with the facilities of the Club. Over the coming year the Committee will seek to improve liaison with the New Barristers Committee in the hope of promoting greater use of the Club by more junior members of the Bar.

Once again the Manager and staff of the Club are to be congratulated on their fine efforts throughout the past year.

Staff morale is high. The only change in staff has been the resignation of the Bar Manager to take up a position with a major wine retailing group. The Committee decided not to appoint a new Bar Manager but rather employ a barman and to increase the duties of other members of staff.

The Committee recognises that it is important to members that wine service at tables during lunch hour be prompt. The Committee is considering the employment of a further casual barman to assist during lunch hours.

The quality of food and liquor remain high and, save for a marginal increase in the cost of liquor served at table, prices have remained stable over the past 12 months.

The Committee encourages all members to avail themselves of the unique facilities provided by the Club. The recent changes to the organisation of the profession underscore the importance of the Club to the continued vitality of the Bar as a whole. As always the Committee welcomes suggestions from members with a view to improving the quality of service provided.

**SPECIAL PURPOSE FINANCIAL REPORT
THE VICTORIAN BAR INC**

**PROFIT AND LOSS ACCOUNT FOR THE
YEAR ENDED 30 JUNE 1997**

	1997 \$	1996 \$
Operating Profit before abnormal items	181,350	260,242
Abnormal item	<u> </u>	<u> </u>
OPERATING PROFIT AFTER ABNORMAL ITEM	<u>181,350</u>	<u>260,242</u>
Accumulated Funds at the beginning of the financial year	<u>1,527,995</u>	<u>1,267,753</u>
ACCUMULATED FUNDS AT THE END OF THE FINANCIAL YEAR	<u>1,709,345</u>	<u>1,527,995</u>

The accompanying notes form part of these accounts.

**SPECIAL PURPOSE FINANCIAL REPORT
THE VICTORIAN BAR INC
BALANCE SHEET AS AT 30 JUNE 1997**

	NOTES	1997 \$	1996 \$
Current Assets			
Cash		271,338	27,558
Investments	3.	1,034,139	950,000
Receivables	4.	<u>97,819</u>	<u>23,790</u>
Total		<u>1,403,296</u>	<u>1,001,348</u>
Non Current Assets			
Investments	5.	16,300	16,300
Property Plant and Equipment	6.	692,691	524,485
Loan to Essoign Club		<u>62,351</u>	<u>62,351</u>
Total		<u>771,342</u>	<u>603,136</u>
Total Assets		<u>2,174,638</u>	<u>1,604,484</u>
Current Liabilities			
Provisions	7.	62,023	17,391
Creditors		83,125	40,277
Subscriptions in Advance		<u>309,721</u>	<u>—</u>
Total		<u>454,869</u>	<u>57,668</u>
Non Current Liabilities			
Provisions	8.	<u>10,424</u>	<u>18,821</u>
Total Liabilities		<u>465,293</u>	<u>76,489</u>
Net Assets		<u>1,709,345</u>	<u>1,527,995</u>
Accumulated Funds		<u>1,709,345</u>	<u>1,527,995</u>

The accompanying notes form part of these accounts

**SPECIAL PURPOSE FINANCIAL REPORT
THE VICTORIAN BAR INC**

**NOTES TO AND FORMING PART OF THE
FINANCIAL STATEMENTS FOR THE
YEAR ENDED 30 JUNE 1997**

1. Accounting Policies

Summary of Significant Accounting Policies

This "Special Purpose Financial Report" has been drawn up so as to comply with the The Victorian Bar Inc'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 five 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.

Changes in accounting policies

In respect of the current year, the Bar Council has resolved that the library be depreciated over its expected useful life. Depreciation is calculated on a straight line basis so as to write off the net cost of the library over ten years thereby incurring a depreciation charge of \$19,000 in the current year. The library was purchased last year and it was intended to revalue it to its recoverable amount on an annual basis by way of Council valuation in accordance with applicable accounting standards. The change in accounting policy is considered appropriate as the depreciation charge

recognises the decrease in the value of the library stock due to technical obsolescence without incurring the cost of revaluing the book stock.

2. Tax Status

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

	1997 \$	1996 \$
3. Investments		
Cash at call	334,139	50,000
Commonwealth Bank of Australia – Bank Bills	<u>700,000</u>	<u>900,000</u>
Total Investments	<u>1,034,139</u>	<u>950,000</u>
4. Receivables		
Sundry Debtors	87,943	–
Subscriptions in Arrears	<u>9,876</u>	<u>23,790</u>
Total Receivables	<u>97,819</u>	<u>23,790</u>
5. Non Current Assets		
Shares in Barristers' Chambers Limited at Cost	<u>16,300</u>	<u>16,300</u>
6. Property, Plant and Equipment		
Office Equipment	156,196	103,183
Provision for Depreciation	<u>(48,243)</u>	<u>(17,171)</u>
Total Equipment	<u>107,953</u>	<u>86,012</u>
Office Furniture	43,256	12,081
Provision for Depreciation	<u>(4,637)</u>	<u>(2,396)</u>
Total Office Furniture	<u>38,619</u>	<u>9,685</u>
Art Works	22,224	22,224
Provision for Depreciation	<u>(7,577)</u>	<u>(5,355)</u>
Total Art Works	<u>14,647</u>	<u>16,869</u>

	1997 \$	1996 \$
Library	190,000	190,000
Provision for Depreciation	<u>(19,000)</u>	<u>—</u>
Total Library	<u>171,000</u>	<u>190,000</u>
Refurbishment – Douglas Menzies Chambers	390,658	221,919
Provision for Depreciation	<u>(30,186)</u>	<u>—</u>
Total Refurbishment	<u>360,472</u>	<u>221,919</u>
7. Current Liabilities		
Provision for Annual Leave	40,554	17,391
Provision for Long Service Leave	<u>21,469</u>	<u>—</u>
	<u>62,023</u>	<u>17,391</u>
8. Non Current Liabilities		
Provision for Long Service Leave	<u>10,424</u>	<u>18,821</u>

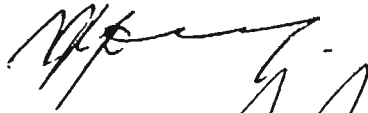
**SPECIAL PURPOSE FINANCIAL REPORT
THE VICTORIAN BAR INC
STATEMENT BY OFFICERS**

As detailed in Note 1 to the accounts, The Victorian Bar Inc 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.

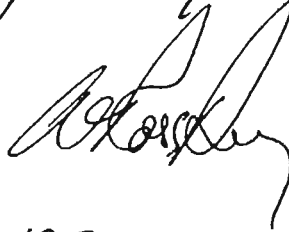
In the opinion of the officers below:

- (a) the accompanying Profit and Loss account is drawn up so as to present fairly the financial results for The Victorian Bar Inc for the year ended 30 June, 1997.
- (b) the accompanying Balance Sheet is drawn up so as to present fairly the state of affairs of The Victorian Bar Inc at 30 June 1997.
- (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 Inc will be able to pay its debts as and when they fall due.

Chairman:



Honorary Treasurer:



Dated:

28/8/97

THE VICTORIAN BAR INC

DETAILED PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED 30 JUNE 1997

	1997 \$	1996 \$
INCOME		
Subscriptions	1,111,432	1,073,715
Sale of Publications	61	67
Other Income	1,289	1,356
Commercial Bar Association	—	3,688
RPA Reimbursement	162,473	—
Seminars	(340)	2,229
Interest	49,212	47,605
Total Income	<u><u>1,324,127</u></u>	<u><u>1,128,660</u></u>
EXPENSES		
Australian Securities Commission	445	185
Audit and Accounting Fees	7,880	8,600
Archival Costs	7,840	4,940
Bank Charges	2,864	2,004
Bar Conference	552	150
Bar News Expenses	81,487	84,928
Bar News Advertising Income	(21,055)	(16,225)
Directory Expenses	—	250
Directory Income	(163)	(341)
Donations	2,285	2,057
Depreciation	84,721	12,244
Bar Dinner and Other Functions	78,852	74,705
Members Receipts	(30,199)	(33,763)
Ethics	13,029	7,672
Fees	—	62,187
Floral Tributes	524	831
Insurance	6,280	1,785
Incorporation Costs	42,203	—
Library	53,020	53,391
Mediation Workshop Expense	26,798	110,267
Mediation Receipts	(48,438)	(127,513)
Miscellaneous	7,577	1,458
Postage	11,843	6,831
Printing and Stationery	101,462	52,078
Publications	3,490	4,328

	1997 \$	1996 \$
Readers' Course	66,085	57,949
Readers' Course Receipts	(66,376)	(56,301)
Rent to Barristers' Chambers Limited	190,068	162,774
Research Studies	22,443	
Salaries, Employee Provisions, Superannuation and Workcover Costs	322,332	240,528
Lay Observer's Salary	9,353	16,289
Travel Expense	24,012	20,164
Telephone	2,967	290
Australian Bar Association	25,340	24,980
International Bar Association	576	—
Law Council of Australia	109,395	87,727
Lawasia	1,320	660
PILCH Membership	1,575	—
Leadr	390	309
Total Expenses	<u>1,142,777</u>	<u>868,418</u>
OPERATING PROFIT	181,350	260,242
Abnormal Item	—	—
PROFIT AFTER ABNORMAL ITEM	<u>181,350</u>	<u>260,242</u>
Accumulated Funds at the beginning of the financial year	<u>1,527,995</u>	<u>1,267,753</u>
ACCUMULATED FUNDS AT THE END OF THE FINANCIAL YEAR	<u>1,709,345</u>	<u>1,527,995</u>
<i>Barristers' Benevolent Fund Receipts</i>	52,355	35,562
<i>Barristers' Benevolent Fund Remittances</i>	52,355	35,562

The accompanying notes form part of these accounts



INDEPENDENT AUDIT REPORT TO THE MEMBERS

OF THE VICTORIAN BAR INC.

Scope

We have audited the attached special purpose financial report as set out on pages 43 to 48 of The Victorian Bar Inc. for the year ended 30 June 1997. 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 accounting policies used are consistent with the financial reporting requirements of the Bar's constitution and are appropriate to meet the needs of the members. We have conducted an independent audit of the financial report in order to express an opinion on it to the members of The Victorian Bar Inc.. No opinion is expressed as to whether the accounting policies used are appropriate to the needs of the members.

The financial report has been prepared for distribution to members for the purpose of fulfilling the Bar Council's financial reporting requirements under the Bar'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 whether, in all material respects, the financial report is presented fairly in accordance with the accounting policies described in Note 1 to the financial statements. These policies do not require the application of all Accounting Standards and UIG 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 in accordance with the accounting policies described in Note 1 to the financial statements the financial position of The Victorian Bar Inc. as at 30 June 1997 and the results of its operations for the year then ended.

DELOITTE TOUCHE TOHMATSU

J C BRANT

Partner

Chartered Accountants

Melbourne, 28 August, 1997